2 CFR PART 200, APPENDIX XI

COMPLIANCE SUPPLEMENT

November 2025

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

TABLE OF CONTENTS

Title	Page
PART 1 – BACKGROUND, PURPOSE, AND APPLICABILITY	**1-1**
Background	1-1
Purpose and Applicability	1-1
Overview of this Supplement	1-4
Technical Information	1-8
How to Obtain Additional Guidance	1-9
PART 2 – MATRIX OF COMPLIANCE REQUIREMENTS	**2-1**
PART 3 – COMPLIANCE REQUIREMENTS	**3-1**
Introduction	**3-1**
Part 3.1 – Compliance Requirements – Under 2 CFR 200 before October 1, 2024	3.1-A-1
A. Activities Allowed or Unallowed	3.1-A-1
B. Allowable Costs/Cost Principles	3.1-B-1
2 CFR Part 225/OMB Circular A-87	3.1-B-10
2 CFR Part 220/OMB Circular A-21	3.1-B-27
2 CFR Part 230/OMB Circular A-122	3.1-B-40
C. Cash Management	3.1-C-1
D. [Reserved]	3.1-D-1
E. Eligibility	3.1-E-1
F. Equipment and Real Property Management	3.1-F-1
G. Matching, Level of Effort, Earmarking	3.1-G-1
H. Period of Performance	3.1-H-1
I. Procurement and Suspension and Debarment	3.1-I-1
J. Program Income	3.1-J-1
K. [Reserved]	3.1-K-1
L. Reporting	3.1-L-1
M. Subrecipient Monitoring	3.1-M-1
N. Special Tests and Provisions	3.1-N-1
Part 3.2 – Compliance Requirements – Under 2 CFR 200 on/after October 1, 2024	3.2-A-1
A. Activities Allowed or Unallowed	3.2-A-1
B. Allowable Costs/Cost Principles	3.2-B-1
2 CFR Part 225/OMB Circular A-87	3.2-B-14
2 CFR Part 220/OMB Circular A-21	3.2-B-31
2 CFR Part 230/OMB Circular A-122	3.2-B-43
C. Cash Management	3.2-C-1
D. [Reserved]	3.2-D-1
E. Eligibility	3.2-E-1
F. Equipment and Real Property Management	3.2-F-1
G. Matching, Level of Effort, Earmarking	3.2-G-1
H. Period of Performance	3.2-H-1
I. Procurement and Suspension and Debarment	3.2-I-1
J. Program Income	3.2-J-1
K. [Reserved]	3.2-K-1
L. Reporting	3.2-L-1
M. Subrecipient Monitoring	3.2-M-1
N. Special Tests and Provisions	3.2-N-1
PART 4 – AGENCY PROGRAM REQUIREMENTS	
Introduction	**4-1**
10 United States Department of Agriculture (USDA)	
10.181-Pandemic Relief Activities: Farm and Food Worker Relief Grant Program	4-10.181

Title	Page
10.182-Pandemic Relief Activities: Local Food Purchase Agreement with States, Tribes, and Local Governments	4-10.182
10.185-Local Food for Schools Cooperative Agreement Program	4-10.185
10.186-Regional Food Business Centers	4-10.186
10.190-Resilient Food System Infrastructure Program	4-10.190
10.331-Gus Schumacher Nutrition Incentive Program	4-10.331
10.551-Supplemental Nutrition Assistance Program	4-10.551
10.553-School Breakfast Program	4-10.553
10.555-National School Lunch Program	4-10.553
10.556-Special Milk Program for Children	4-10.553
10.557-WIC Special Supplemental Nutrition Program for Women, Infants, and Children	4-10.557
10.558-Child and Adult Care Food Program	4-10.558
10.559-Summer Food Service Program for Children	4-10.553
10.561-State Administrative Matching Grants for the Supplemental Nutrition Assistance Program	4-10.551
10.565-Commodity Supplemental Food Program	4-10.568
10.566-Nutrition Assistance for Puerto Rico	4-10.566
10.568-Emergency Food Assistance Program (Administrative Costs)	4-10.568
10.569-Emergency Food Assistance Program (Food Commodities)	4-10.568
10.582-Fresh Fruit and Vegetable Program	4-10.553
10.606-Food for Progress	4-10.606
10.646-Summer Electronic Benefit Transfer Program for Children (new)	4-10.646
10.665-Schools and Roads-Grants to States	4-10.665
10.666-Schools and Roads-Grants to Counties	4-10.665
10.760-Water and Waste Disposal Systems for Rural Communities	4-10.760
10.766-Community Facilities Loans and Grants	4-10.766
11 Department of Commerce (DOC)	
11.028- Connecting Minority Communities Pilot Program	4-11.028
11.029- Tribal Broadband Connectivity Program	4-11.029
11.032- State Digital Equity Planning and Capacity Grant	4-11.032
11.033- Middle Mile (Broadband) Grant Program	4-11.033
11.035- Broadband Equity, Access, and Deployment Program	4-11.035
11.300-Investments for Public Works and Economic Development Facilities	4-11.300
11.307-Economic Adjustment Assistance	4-11.300
11.611- Manufacturing Extension Partnership	4-11.611
12 Department of Defense	
12.400-Military Construction, National Guard	4-12.400
12.401-National Guard Military Operations and Maintenance (O&M) Projects	4-12.401
14 Department of Housing and Urban Development (HUD)	
14.157-Supportive Housing for the Elderly	4-14.157
14.181-Supportive Housing for Persons with Disabilities	4-14.181
14.195-Project-Based Rental Assistance (PBRA)	4-14.195
14.218-Community Development Block Grants/Entitlement Grants	4-14.218
14.225-Community Development Block Grants/Special Purpose Grants/Insular Areas	4-14.218
14.228-Community Development Block Grants/State's program and Non-Entitlement Grants in Hawaii	4-14.228
14.231-Emergency Solutions Grants Program	4-14.231
14.239-Home Investment Partnerships Program	4-14.239
14.241-Housing Opportunities for Persons with AIDS	4-14.241
14.249-Section 8 Moderate Rehabilitation Single Room Occupancy	4-14.195
14.256-Neighborhood Stabilization Program (Recovery Act Funded)	4-14.256

Title	Page
14.267-Continuum of Care Program	4-14.267
14.269-Hurricane Sandy Community Development Block Grant Disaster Recovery Grants (CDBG-DR)	4-14.269
14.272-National Disaster Resilience Competition	4-14.269
14.275- Housing Trust Fund	4-14.275
14.850-Public Housing Operating Fund	4-14.850
14.856-Lower Income Housing Assistance Program Section 8 Moderate Rehabilitation	4-14.195
14.862-Indian Community Development Block Grant Program	4-14.862
14.866-Demolition and Revitalization of Severely Distressed Public Housing	4-14.866
14.867-Indian Housing Block Grants	4-14.867
14.871-Section 8 Housing Choice Vouchers	4-14.871
14.872-Public Housing Capital Fund	4-14.872
14.873-Native Hawaiian Housing Block Grant	4-14.873
14.879-Mainstream Vouchers	4-14.871
14.881-Moving to Work Demonstration Program	4-14.881
14.888-Lead-based Paint Capital Fund Program	4-14-888
14.889-Choice Neighborhoods Implementation Grants	4-14.866
15 Department of the Interior (DOI)	
15.000-BIA/BIE Cross-Cutting Section	4.15.000
15.021-Consolidated Tribal Government	4-15.021
15.022-Tribal Self Governance	4-15.022
15.025-Services to Indian Children, Elderly and Families	4-15.025
15.026-Indian Adult Education	4-15.025
15.030-Indian Law Enforcement	4-15.030
15.042-Indian School Equalization	4-15.042
15.047-Indian Education Facilities, Operations, and Maintenance	4-15.047
15.113-Indian Social Services Welfare Assistance	4-15.025
15.114-Indian Education Higher Education Grant	4-15.025
15.130-Indian Education-Assistance to Schools	4-15.025
15.252-Abandoned Mine Land Reclamation (AMLR)	4-15.252
15.504- Water Recycling and Desalination Construction Program	4-15.504
15.507-WaterSMART (Sustain and Manage America's Resources for Tomorrow)	4-15.507
15.605-Sport Fish Restoration	4-15.605
15.611-Wildlife Restoration and Basic Hunter Education and Safety	4-15.605
15.614-Coastal Wetlands Planning, Protection and Restoration	4-15.614
15.615-Cooperative Endangered Species Conservation Fund	4-15.615
15.623-North American Wetlands Conservation Fund	4-15.623
15.626-Enhanced Hunter Education and Safety	4-15.605
15.635-Neotropical Migratory Bird Conservation	4-15.635
16 Department of Justice (DOJ)	
16.034-Coronavirus Emergency Supplemental Funding Program	4-16.034
16.710-Public Safety Partnership and Community Policing Grants	4-16.710
16.738-Edward Byrne Memorial Justice Assistance Grant Program	4-16.738
16.922-Equitable Sharing Program	4-16.922
17 Department of Labor (DOL)	
17.207-Employment Service/Wagner-Peyser Funded Activities	4-17.207
17.225-Unemployment Insurance	4-17.225
17.235-Senior Community Service Employment Program	4-17.235
17.245-Trade Adjustment Assistance	4-17.245
17.258-WIOA Adult Program	4-17.258
17.259-WIOA Youth Activities	4-17.258
17.264-National Farmworker Jobs Program	4-17.264

Title	Page
17.265-Native American Employment and Training	4-17.265
17.278-WIOA Dislocated Worker Formula Grants	4-17.258
17.801-Jobs for Veterans State Grant	4-17.207
20 Department of Transportation (DOT)	
20.001-Wage Rate Requirements Cross-Cutting Section	4-20.001
20.106-Airport Improvement Program, Infrastructure Investment and Jobs Act Programs, and COVID-19 Airports Program	4-20.106
20.205-Highway Planning and Construction	4-20.205
20.218-Motor Carrier Safety Assistance	4-20.218
20.219-Recreational Trails Program	4-20.219
20.223-Transportation Infrastructure Finance and Innovation Act (TIFIA) Program	4-20.223
20.224-Federal Lands Access Program	4-20.224
20.237-Motor Carrier Safety Assistance High Priority Activities Grants and Cooperative Agreements	4-20.218
20.319-High-Speed Rail Corridors and Intercity Passenger Rail Service – Capital Assistance Grants	4-20.319
20.326-Federal-State Partnership for Intercity Passenger Rail	4-20.326
20.327-Railroad Crossing Elimination	4-20.327
20.500-Federal Transit-Capital Investment Grants	4-20.500
20.507-Federal Transit-Formula Grants	4-20.500
20.509-Formula Grants for Rural Areas and Tribal Transit Program	4-20.509
20.513-Enahnced Mobility of Seniors and Individuals with Disabilities	4-20.513
20.516-Job Access and Reverse Commute Program	4-20.513
20.521-New Freedom Program	4-20.513
20.525-State of Good Repair Grants Program	4-20.500
20.526-Buses and Bus Facilities Formula, Competitive, and Low or No Emissions Programs	4-20.500
20.527-Public Transportation Emergency Relief Program	4-20.527
20.532-Passenger Ferry Grant Program, Electric or Low-Emitting Ferry Pilot Program, and Ferry Service for Rural Communities Program	4-20.532
20.533-All Stations Accessibility Program	4-20.533
20.534-Community Project Funding Congressionally Directed Spending	4-20.534
20.600-State and Community Highway Safety	4-20.600
20.616-National Priority Safety Programs	4-20.600
20.708-Natural Gas Distribution Infrastructure Safety and Modernization Grant Program	4-20.708
20.816-United States Marine Highway Grant	4-20.816
20.823- Port Infrastructure Development Program	4-20.823
23 Appalachian Regional Commission (ARC)	
23.003-Appalachian Development Highway System	4-23.003
21 Department of the Treasury	
21.011- Capital Magnet Fund	4-21.011
21.012-Native Initiatives	4-21.012
21.016- Equitable Sharing	4-21.016
21.020-Community Development Financial Institutions Program	4-21.020
21.023-Emergency Rental Assistance Program	4-21.023
21.025- Small Dollar Loan Program	4-21.025
21.026-Homeowner Assistance Fund	4-21.026
21.027-Cornavirus State and Local Fiscal Recovery Funds	4-21.027
21.029-Coronavirus Capital Projects Fund	4-21.029
21.032-Local Assistance and Tribal Consistency Fund	4-21.032
32 Federal Communications Commission (FCC)	
32.006-COVID-19 Telehealth Program	4-32.006

Title	Page
32.009- Emergency Connectivity Fund Program	4-32.009
45 National Endowment for the Humanities (NEH)	
45.129-Promotion of the Humanities-Federal/State Partnership	4-45.129
59 Small Business Administration (SBA)	
59.075-Shuttered Venue Operators Grant Program	4-59.075
66 Environmental Protection Agency (EPA)	
66.458- Clean Water State Revolving Fund	4-66.458
66.468- Drinking Water State Revolving Fund	4-66.468
66.957-Greenhouse Gas Reduction Fund: National Clean Investment Fund	4-66.957
66.959-Greenhouse Gas Reductions Fund: Solar for All	4-66.959
66.960-Greenhouse Gas Reduction Fund: Clean Communities Investment Accelerator	4-66.960
81 Department of Energy (DOE)	
81.041-State Energy Program	4-81.041
81.042-Weatherization Assistance for Low-Income Persons	4-81.042
84 Department of Education (ED)	
84.000-Cross-Cutting Section	4-84.000
84.002-Adult Education-Basic Grants to States	4-84.002
84.010-Title I Grants to Local Educational Agencies	4-84.010
84.011-Migrant Education-State Grant Program	4-84.011
84.027-Special Education-Grants to States	4-84.027
84.032-Federal Family Education Loans (Guaranty Agencies)	4-84.032-G
84.032-Federal Family Education Loans (Lenders)	4-84.032-L
84.041-Impact Aid	4-84.041
84.042-TRIO Student Support Services	4-84.042
84.044-TRIO Talent Search	4-84.042
84.047-TRIO Upward Bound	4-84.042
84.048-Career and Technical Education-Basic Grants to States	4-84.048
84.066-TRIO Educational Opportunity Centers	4-84.042
84.126-Rehabilitation Services Vocational Rehabilitation Grants to States	4-84.126
84.173-Special Education Preschool Grants	4-84.027
84.181-Special Education-Grants for Infants and Families	4-84.181
84.217-TRIO McNair Post-Baccalaureate Achievement	4-84.042
84.282-Charter Schools	4-84.282
84.287-Twenty-First Century Community Learning Centers	4-84.287
84.365-English Language Acquisition State Grants	4-84.365
84.367-Supporting Effective Instruction State Grants (formerly Improving Teacher Quality State Grants)	4-84.367
84.424-Student Support and Academic Enrichment Program	4-84.424
84.425-Education Stabilization Fund	4-84.425-Intro
84.425-ESF Section 1 – Elementary and Secondary Education	4-84.425-ESF
84.425A-Education Stabilization Fund–State Educational Agency (Outlying Areas)	4-84.425-ESF
84.425C-Governor’s Emergency Education Relief Fund	4-84.425-ESF
84.425D-Elementary and Secondary School Emergency Relief Fund	4-84.425-ESF
84.425H-Education Stabilization Fund–Governors (Outlying Areas)	4-84.425-ESF
84.425R-Coronavirus Response and Relief Supplemental Appropriations Act, 2021–Emergency Assistance for Non-Public Schools (CRRSA EANS)	4-84.425-ESF
84.425U-American Rescue Plan–Elementary and Secondary School Emergency Relief (ARP ESSER)	4-84.425-ESF
84.425V-American Rescue Plan–Emergency Assistance to Non-Public Schools (ARP EANS)	4-84.425-ESF
84.425X-American Rescue Plan–Outlying Areas State Education Agency (ARP-OA-SEA)	4-84.425-ESF

Title	Page
84.425-ESF Section 2– Higher Education (Higher Education Emergency Relief Fund (HEERF)	4-84.425-HEERF
84.425E-HEERF Student Aid	4-84.425-HEERF
84.425F-HEERF Institutional Aid	4-84.425-HEERF
84.425J-HEERF Historically Black Colleges and Universities (HBCUs)	4-84.425-HEERF
84.425K-HEERF Tribally Controlled Colleges and Universities (TCCUs)	4-84.425-HEERF
84.425L-HEERF Minority Serving Institutions (MSIs)	4-84.425-HEERF
84.425M-HEERF Strengthening Institutions Program (SIP)	4-84.425-HEERF
84.425N-HEERF Fund for the Improvement of Postsecondary Education (FIPSE) Formula Grant	4-84.425-HEERF
84.425P-HEERF Institutional Resilience and Expanded Postsecondary Opportunity (IREPO) Program	4-84.425-HEERF
84.425S-HEERF Supplemental Assistance to Institutions of Higher Education (SAIHE) Program	4-84.425-HEERF
84.425T-HEERF Supplemental Support under American Rescue Plan (SSARP) Program	4-84.425-HEERF
87 Gulf Coast Ecosystem Restoration Council (RESTORE Council)	
87.051-Gulf Coast Ecosystem Restoration Council Comprehensive Plan Component Program	4-87.051
87.052-Gulf Coast Ecosystem Restoration Council Oil Spill Impact Program	4-87.052
93 Department of Health and Human Services (HHS)	
93.044-Special Programs for the Aging-Title III, Part B, Grants for Supportive Services and Senior Centers	4-93.044
93.045-Special Programs for the Aging, Title III Part C, Nutrition Services	4-93.044
93.053-Nutrition Services Incentive Program	4-93.044
93.090-Guardianship Assistance	4-93.090
93.153-Coordinated Services and Access to Research for Women, Infants, Children, and Youth	4-93.153
93.210-Tribal Self-Governance Program: IHS Compacts/Funding Agreements	4-93.210
93.217-Family Planning-Services	4-93.217
93.224-Health Center Program (Community Health Centers, Migrant Health Centers, Health Care for the Homeless, and Public Housing Primary Care)	4-93.224
93.268-Immunization Cooperative Agreements	4-93.268
93.356-Head Start Disaster Recovery	4-93.600
93.423- 1332 State Innovation Waivers	4-93.423
93.441-Indian Self-Determination	4.93.210
93.472-Title IV-E Prevention Program (new)	4-93.472
93.489-Child Care Disaster Relief	4-93.489
93.498-Provider Relief Fund and American Rescue Plan (ARP) Rural Distribution	4-93.498
93.527-Grants for New and Expanded Services under the Health Center Program	4-93.224
93.556-MaryLee Allen Promoting Safe and Stable Families Program	4-93.556
93.558-Temporary Assistance for Needy Families	4-93.558
93.563-Child Support Services	4-93.563
93.566-Refugee and Entrant Assistance State/Replacement Designee Administered Programs	4-93.566
93.568-Low-Income Home Energy Assistance	4-93.568
93.569-Community Services Block Grant	4-93.569
93.575-Child Care and Development Block Grant	4-93.489
93.594-Tribal Work Grants	4-15.025
93.596-Child Care Mandatory and Matching Funds of the Child Care and Development Fund	4-93.489
93.600-Head Start	4-93.600

Title	Page
93.645-Stephanie Tubbs Jones Child Welfare Services Program	4-93.645
93.658-Foster Care-Title IV-E	4-93.658
93.659-Adoption Assistance	4-93.659
93.667-Social Services Block Grant	4-93.667
93.671-Family Violence Prevention and Services/Domestic Violence Shelter and Support Services	4-93.671
93.676-Unaccompanied Children Program	4-93.676
93.686-Ending the HIV Epidemic: A Plan for America – Ryan White HIV/AIDS Program Parts A and B	4-93.686
93.767-Children's Health Insurance Program	4-93.767
93.775-State Medicaid Fraud Control Units	4-93.778
93.777-State Survey and Certification of Health Care Providers and Suppliers (Title XVIII) Medicare	4-93.778
93.778-Grants to States for Medicaid	4-93.778
93.870-Maternal, Infant, and Early Childhood Home Visiting Grant Program	4-93.870
93.914-HIV Emergency Relief Project Grants	4-93.914
93.917-HIV Care Formula Grants	4-93.917
93.918-Grants to Provide Outpatient Early Intervention Services with Respect to HIV Disease	4-93.918
93.958-Block Grants for Community Mental Health Services	4-93.958
93.959-Block Grants for Prevention and Treatment of Substance Abuse	4-93.959
93.994-Maternal and Child Health Services Block Grant to the States	4-93.994
94 Corporation for National and Community Service (CNCS)	
94.006-AmeriCorps State and National 94.006	4-94.006
94.011-AmeriCorps Seniors Foster Grandparent Program (FGP) 94.011	4-94.011
94.016-AmeriCorps Seniors Senior Companion Program (SCP) 94.016	4-94.011
96 Social Security Administration (SSA)	
96.001-Social Security Disability Insurance	4-96.001
96.006-Supplemental Security Income	4-96.001
97 Department of Homeland Security (DHS)	
97.036-Disaster Grants-Public Assistance (Presidentially Declared Disasters)	4-97.036
97.039-Hazard Mitigation Grant	4-97.039
97.067-Homeland Security Grant Program	4-97.067
98 U.S. Agency for International Development (USAID)	
98.007-Food for Peace Development Assistance Program (DAP)	4-98.007
98.008-Food for Peace Emergency Program (EP)_	4-98.007
PART 5 – CLUSTER OF PROGRAMS	
Introduction	**5-1-1**
Research and Development	**5-2-1**
Student Financial Assistance includes the following:	**5-3-1**
84.007-Federal Supplemental Educational Opportunity Grants (FSEOG)	
84.033-Federal Work-Study Program (FWS)	
84.038-Federal Perkins Loan (FPL)	
84.063-Federal Pell Grant Program	
84.268-Federal Direct Student Loans (Direct Loan)	
84.379-Teacher Education Assistance for College and Higher Education Grants (TEACH Grants)	
84.408-Postsecondary Education Scholarships for Veteran's Dependents (Iraq and Afghanistan Service Grant (IASG))	
93.264-Nurse Faculty Loan Program (NFLP)	
93.342-Health Professions Student Loans, Including Primary Care Loans and Loans for Disadvantaged Students (HPSL/PCL/LDS)	
93.364-Nursing Student Loans (NSL)	

Title		Page
93.925-Scholarships for Health Professions Students from Disadvantaged Backgrounds-Scholarships for Disadvantaged Students (SDS)		
Other Clusters		**5-4-1**
PART 6 – INTERNAL CONTROL		**6-1**
PART 7 – GUIDANCE FOR AUDITING PROGRAMS NOT INCLUDED IN THIS COMPLIANCE SUPPLEMENT		**7-1**
PART 8 – APPENDICES		
I	Federal Programs Excluded from the A-102 Common Rule and Portions of 2 CFR Part 200	8-I
II	Federal Agency Codification of Government-wide Requirements and Guidance for Grants and Cooperative Agreements.	8-II
III	Federal Agency Single Audit, Key Management Liaison, and Program Contacts	8-III
IV	Higher Risk Designation	8-IV
V	List of Changes for the Compliance Supplement	8-V
VI	Program-Specific Audit Guides	8-VI
VII	Other Audit Advisories	8-VII
VIII	Examinations of EBT Service Organizations	8-VIII
IX	Compliance Supplement Core Team	8-IX

PART 1 – BACKGROUND, PURPOSE, AND APPLICABILITY

BACKGROUND

The Single Audit Act of 1984 established requirements for audits of states, local governments, and Indian tribal governments that administer federal financial assistance programs. The Single Audit Act Amendments of 1996 extended the statutory audit requirement to non-profit organizations and substantially revised various provisions of the 1984 Act. (31 USC Chapter 75).

On December 26, 2013, OMB issued 2 CFR Part 200, Subpart F, which among other things, increased the audit threshold to $750,000 for auditee fiscal years beginning on or after December 26, 2014. On April 22, 2024, OMB issued revisions to 2 CFR Part 200, Subpart F, which, among other things, increased the audit threshold to $1,000,000 for auditee fiscal years beginning on or after October 1, 2024.

The Compliance Supplement (Supplement) is based on the requirements of 31 USC Chapter 75 and 2 CFR Part 200, Subpart F.

The Supplement is a document that identifies existing compliance requirements that the federal government expects to be considered as part of an audit required by the 1996 Amendments to the Single Audit Act. Without the Supplement, auditors would need to research many laws and regulations for each program under audit to determine which compliance requirements are important to the federal government and could have both a direct and material effect on a program. Providing the Supplement is a more efficient and cost-effective approach to performing this research. The Supplement provides information for auditors to understand Federal program's objectives, procedures, and requirements subject to the audit.

2 CFR Part 200, Subpart F, provides that federal agencies are responsible for annually informing OMB of any updates needed to the Supplement and working with OMB to ensure that the Supplement focuses the auditor's testing on the compliance requirements most likely to cause improper payments, fraud, waste, or abuse, or generate audit findings for which the Federal awarding agency will impose sanctions. (2 CFR 200.513(c)(4)). The agency responsibility includes submitting to OMB in a timely manner the necessary updates to program objectives, procedures, and compliance requirements that are to be subject to the audit (including statutory and regulatory citations).

Throughout the Supplement, when addressing auditor responsibilities, the term "must" means something that the auditor is required to do and the term "should" means a recommended action or approach. See Part 3 of the Supplement for use of terminology in that part, which addresses compliance requirements for auditees as well as auditor responsibilities.

PURPOSE AND APPLICABILITY (Part 1)

Purpose

This 2025 Supplement is effective for audits of fiscal years beginning after June 30, 2024 and

supersedes the 2024 Compliance Supplement (dated May 2024). It adds, deletes, and modifies prior Supplement sections.

This 2025 Supplement continues the practice adopted in 2019 of limiting the number of compliance requirements subject to the audit to six, with the exception of the Research and Development cluster, which identifies seven requirements. (Note that agencies may choose fewer than six compliance requirements.) Requirements (A) Activities Allowed and Unallowed and (B) Allowable Costs and Cost Principles are treated as one requirement. Programs not included in this Supplement, are not subject to the six-requirement maximum. The Part 2 matrix and the related program sections in Parts 4 and 5 reflect the six selected compliance requirements. For single audits, the Supplement replaces agency audit guides and other audit requirement documents for individual federal programs.

2 CFR Part 200, Subpart F, describes the non-federal entity's responsibilities for managing federal assistance programs (2 CFR 200.508) and the auditor's responsibilities (2 CFR 200.514 through 200.520). Auditors are required to follow 2 CFR Part 200, Subpart F, and this Supplement.

Applicability

General

Auditors must consider the Supplement, the referenced laws, regulations, OMB Circulars, and 2 CFR Part 200 in determining the compliance requirements subject to the audit that could have both a direct and material effect on the programs. The use of the Supplement is mandatory; accordingly, adherence to the Supplement satisfies the requirements of 2 CFR Part 200, Subpart F.

For program-specific audits performed in accordance with a federal agency's program-specific audit guide, the auditor must follow such program-specific audit guide.

Finally, for major programs not included in the Supplement, the auditor must follow the guidance in Part 7 and use the types of compliance requirements in Part 3 to identify the applicable compliance requirements that could have both a direct and material effect on the program.

Update of Requirements

2 CFR 200.513(c)(4) provides that federal agencies are responsible for annually informing OMB of any needed updates to the Supplement. However, auditors must recognize that laws and regulations change periodically and that delays will occur between such changes and revisions to the Supplement. Moreover, auditors must recognize that there may be provisions of grant agreements and contracts, that are not specified in law or regulation and, therefore, are not included in the Supplement. For example, the grant agreement may specify a certain matching percentage or set a priority for how funds should be spent (e.g., a requirement not to fund certain size projects) or a federal agency may impose additional requirements on a recipient (see 2 CFR

200.208 regarding use of specific award conditions). Consequently, the auditor should perform reasonable procedures to ensure that compliance requirements identified as subject to the audit are current and determine whether there are any additional provisions of federal awards relevant to the compliance requirements subject to the audit that should be covered by an audit under 2 CFR Part 200, Subpart F. Reasonable procedures would include an inquiry of recipient or subrecipient management and a review of the federal awards for programs selected for testing (i.e., major programs).

For example, if a program entry in the Part 2 matrix indicates that Procurement and Suspension and Debarment compliance requirement is subject to the audit, then the auditor should follow the guidance in the previous paragraph and perform the reasonable procedures described therein. However, if a program entry in the Part 2 matrix indicates that Procurement and Suspension and Debarment compliance requirement is not subject to the audit, then the procedures described in the previous paragraph would not be required by the auditor.

Similarly, as it relates to provisions of grant agreements and contracts, if a program entry in the Part 2 matrix indicates that the Activities Allowed and Unallowed compliance requirement is subject to the audit and that the grant agreement for that program sets a priority for how funds can be spent (e.g., a requirement to not fund certain size projects), then the auditor would be expected to consider the grant agreement provisions. However, if a program entry in the Part 2 matrix indicates that the Matching, Level of Effort, Earmarking compliance requirement is not subject to the audit and that the grant agreement for that program specifies a certain matching percentage requirement for the same program, then the auditor is not expected to consider the grant agreement provisions related to matching in the audit.

For this 2025 Supplement, auditors must recognize that OMB updated its Guidance for Federal Financial Assistance contained in 2 CFR, including 2 CFR Part 200. See 89 Fed. Reg. 30046 (Apr. 22, 2024).

Although the government-wide effective date for the 2024 UG revisions was October 1, 2024, federal agencies were permitted to implement the revisions at varying times, including as early as June 21, 2024, for new awards and through amendments to existing awards, or as late as October 1, 2025. In addition, the Department of Health and Human Services only adopted specific sections of the 2 CFR on October 1, 2024, with the remaining guidance to go into effect on October 1, 2025. Thus, during the period covered by this Supplement, non-Federal entities may have Federal awards expended that are subject to the UG requirements that were in effect prior to October 1, 2024, and awards expended that are subject to the 2024 UG revisions.

Auditors must not apply compliance requirements from the 2024 revisions in circumstances in which the Federal agency has not implemented the 2024 revisions to the Federal award subject to audit.

Safe Harbor Status

Because the suggested audit procedures were written to apply to many different programs administered by many different entities, they are general in nature. Auditor judgment is

necessary to determine whether the suggested audit procedures are sufficient to achieve the stated audit objectives or whether alternative audit procedures are needed. Therefore, the auditor cannot consider the Supplement to be a "safe harbor" for identifying the audit procedures to apply in a particular engagement.

The requirement matrices in the Supplement indicate with a "Y" which types of compliance requirements are subject to the audit. The auditor can consider the Supplement a "safe harbor" for identification of those compliance requirements for the programs included if, as discussed above, the auditor: (1) performs reasonable procedures to ensure that the requirements subject to the audit in the Supplement are current and to determine whether there are any additional provisions of federal awards relevant to the compliance requirements subject to the audit that should be covered by an audit under the 1996 Amendments; and (2) augments the requirements contained in the Supplement, as appropriate.

For compliance audit purposes, an "N" in a requirement matrix indicates that a type of requirement is not subject to the audit and is not expected to be tested. Although a requirement may not be subject to the audit for compliance audit purposes, auditors have a responsibility under GAAS and GAGAS related to noncompliance with (1) provisions of laws, regulations, contracts, and grant agreements that may have a direct and material effect on the financial statements and (2) the requirements related to the auditor's consideration of fraud and abuse.

OVERVIEW OF THE SUPPLEMENT

Matrix of Compliance Requirements (Part 2)

The Matrix of Compliance Requirements (Matrix) identifies the federal programs and 12 types of compliance requirements addressed in the Supplement and associates the programs with the applicable compliance requirements. A maximum of six requirements, with A and B counting as one requirement, may be identified as subject to audit. (As noted in the Purpose section above, the Research and Development Cluster is not subject to this limit and instead has seven requirements.) The Matrix also identifies the applicable federal agency and the Assistance Listing number (*ALN*) for each program in the Supplement. (The entry for each program/cluster also is included in the program/cluster in Part 4 or Part 5 of the Supplement.)

Compliance Requirements (Part 3)

The auditor's use of Part 3 may differ from recent past years depending on each non-federal entity's array of federal financial assistance. This is because, as indicated above, the 2024 UG revisions were applied by federal agencies at differing times between June 1, 2024 and October 1, 2024 (except for the Department of Health and Human Services, which only adopted specific sections in 2024). For this reason, the 2025 Supplement includes a Part 3.1 to be used by auditors when testing awards subject to the former UG and Part 3.2 to be used by auditors when testing awards subject to the 2024 UG revisions. Part 3 provides more detail about the timing of the implementation of the 2024 UG revisions, the compliance requirement changes made, and information on how Parts 3.1 and 3.2 are to be used by auditors. It also includes links to resources auditors may refer to for assistance in understanding the changes made by the 2024

UG revisions and in determining which version of the UG applies for compliance testing purposes.

In general, Part 3 describes the 12 types of compliance requirements and, except for Special Tests and Provisions, the related audit objectives that the auditor must consider, as applicable, in every audit conducted under 2 CFR Part 200, Subpart F, with the exception of program-specific audits performed in accordance with a federal agency's program-specific audit guide. The auditor is responsible for achieving the stated audit objectives for the applicable compliance requirements.

Suggested audit procedures are provided to assist the auditor in planning and performing tests of recipient or subrecipient compliance with the requirements of federal programs. The suggested audit procedures are, as the name implies, only suggested. Auditor judgment is necessary to determine whether the suggested audit procedures are sufficient to achieve the stated audit objectives and whether alternative audit procedures are needed. Determining the nature, timing, and extent of the audit procedures necessary to meet the audit objectives is the auditor's responsibility.

The compliance requirements for Special Tests and Provisions are unique to each federal program; therefore, compliance requirements, audit objectives, and suggested audit procedures for those Special Tests and Provisions—other than the audit objectives and suggested audit procedures for internal control—are not included in Part 3.

Consistent with the requirements of 2 CFR Part 200, Subpart F, Part 3 includes audit objectives and suggested audit procedures to test internal control. However, the auditor must determine the specific procedures to test internal control on a case-by-case basis, considering factors such as the recipient or subrecipient's internal control, the compliance requirements, the audit objectives for compliance, the auditor's assessment of control risk, and the audit requirement to test internal control as prescribed in 2 CFR Part 200, Subpart F.

Agency Program Requirements (Part 4)

For each federal program included in the Supplement, Part 4 discusses program objectives, program procedures, and compliance requirements that are specific to the program. With the exception of section III.N, "Special Tests and Provisions," the auditor must refer to Part 3 for the audit objectives and suggested audit procedures that pertain to the program-specific compliance requirements associated with the programs. Because Special Tests and Provisions are unique to each program, the specific audit objectives and suggested audit procedures for each program are included in Part 4.

The description of program procedures is general in nature. Some programs may operate somewhat differently than described due to: (1) the complexity of governing federal and state laws and regulations; (2) the administrative flexibility afforded recipients and subrecipients; and (3) the nature, size, and volume of transactions involved. Accordingly, the auditor must obtain an

understanding of the applicable compliance requirements and program procedures in operation at the recipient or subrecipient to properly plan and perform the audit.

For some programs, a separate section (section IV, "Other Information") is included to communicate additional information concerning the program. For example, when a program allows funds to be transferred to another program, the "Other Information" section provides guidance on how those funds are to be treated on the Schedule of Expenditures of Federal Awards and in major program determinations.

Clusters of Programs (Part 5)

A cluster of programs is a grouping of closely related programs that have similar compliance requirements. Although the programs within a cluster are administered as separate programs, a cluster of programs is treated as a single program for the purpose of meeting the audit requirements in 2 CFR Part 200, Subpart F (see definition at 2 CFR 200.1).

The types of clusters included in Part 5 are: Research and Development (R&D), Student Financial Assistance (SFA), and other clusters. "Other clusters" are as identified in the Supplement or designated in a state award document. Part 5 provides compliance requirements, audit objectives, and suggested audit procedures for the R&D and SFA clusters, and lists other clusters included in Part 4.

In planning and performing the audit, the auditor can determine whether programs administered by the recipient are part of a cluster by referring to both the provisions of Part 5 of the Supplement and the state award documents.

Internal Control (Part 6)

To receive federal awards, non-federal entities must agree to comply with laws, regulations, and the provisions of grant agreements and contracts, and to maintain internal control to provide reasonable assurance of compliance within these requirements. 2 CFR Part 200, Subpart F requires auditors to obtain an understanding of the recipient or subrecipient's internal control over federal programs sufficient to plan the audit to support a low assessed level of control risk for major programs, plan the testing of internal control over major programs to support a low assessed level of control risk for the assertions relevant to the compliance requirements for each major program, and, unless internal control is likely to be ineffective, perform testing of internal control as planned. Part 6 addresses the objectives, principles, and components of internal control based on the "Standards for Internal Control in the Federal Government," ("Green Book"), issued by the Government Accountability Office, and the "Internal Control Integrated Framework" (revised 2014), issued by the Committee of Sponsoring Organizations of the Treadway Commission. It also includes appendices that include illustrations of entity-wide internal controls over federal awards (Appendix 1) and illustrations of internal controls specific to each type of compliance requirement (Appendix 2).

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

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

Federal Programs Excluded from Portions of 2 CFR Part 200 (Part 8, Appendix I)

Appendix I lists block grants and other programs excluded from the requirements of the "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," which still may be in effect for some awards/funding and specified portions of 2 CFR Part 200.

Federal Agency Codification of Governmentwide Requirements and Guidance for Grants and Cooperative Agreements (Part 8, Appendix II)

Appendix II includes regulatory citations for federal agencies' codification of the OMB guidance on (1) "Uniform Administrative Requirements, Cost Principles, and Audit Requirements" (in 2 CFR Part 200) and (2) non-procurement suspension and debarment in 2 CFR Part 180.

Federal Agency Single Audit, Key Management Liaison, and Program Contacts (Part 8, Appendix III)

Appendix III identifies federal agency-level contacts—single audit and, separately, management liaisons—from whom auditors can request information about the agency's programs generally or the audit requirements of 2 CFR Part 200, Subpart F. It also includes, for each program/cluster listed in parts 4 and 5 of the Supplement, the name of an individual who can be contacted about the program/cluster.

Higher-Risk Designation (Part 8, Appendix IV)

Appendix IV provides a listing of "higher-risk" designated programs by the Federal agencies per 2 CFR 200.519(c)(2).

List of Changes for the 2024 Compliance Supplement (Part 8, Appendix V)

Appendix V provides a list of changes from the 2024 Compliance Supplement.

Program-Specific Audit Guides (Part 8, Appendix VI)

Appendix VI includes a list of program-specific guides maintained by the federal agencies and indicates where to obtain them.

Other Audit Advisories (Part 8, Appendix VII)

Appendix VII provides information on: (1) the 2024 revisions to the Guidance for Federal Financial Assistance (including the UG at 2 CFR Part 200); (2) exceptions to the Guidance in 2 CFR Part 200; (3) Novel Coronavirus (COVID-19); (4) the effect of changes to compliance requirements and other clusters; (5) the due date for submission of audit reports and low-risk auditee criteria; (6) audit sampling; (7) the treatment of National Science Foundation and National Institutes of Health Awards; (8) Single Audit extensions; and (9) the transition of FSRS to SAM.gov.

Examinations of EBT Service Organizations (Part 8, Appendix VIII)

Appendix VIII provides guidance on audits of state electronic benefits transfer (EBT) service providers (service organizations) regarding the issuance, redemption, and settlement of benefits under the Supplemental Nutrition Assistance Program (Assistance Listing 10.551) in accordance with the American Institute of Certified Public Accountants (AICPA) Statement on Standards for Attestation Engagements (AT-C) section 320, *Reporting on an Examination of Controls at a Service Organization Relevant to User Entities' Internal Control Over Financial Reporting.*

Compliance Supplement Core Team (Part 8, Appendix IX)

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

TECHNICAL INFORMATION

Page Numbering Scheme

The following page numbering scheme is used in the Supplement:

a. Each page included in parts 1, 2, 3 (Introduction), 6, and 7 is identified by the part number followed by page number. A hyphen (-) separates the part number from the page number. Part 1 is numbered as follows: 1-1, 1-2, 1-3, etc.

b. Part 3 is divided into twelve compliance areas 3-A-1, 3-B-1, 3-C-1, etc.

c. Each page included in parts 4 and 5 (other than the Introductions to those parts) is identified by the part number, the section number identifier, and the page number. The section number identifier for Part 4 represents the Assistance Listing number of the applicable program. For example, the Department of Labor's Unemployment Insurance program, Assistance Listing 17.225, is numbered 4-17.225-1, 4-17.225-2, 4-17.225-3, etc.

Code of Federal Regulations (CFR)

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

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

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

To obtain the most current regulations, the user should consult the latest version of the CFR and the LSA issued in the current month. The Federal Digital System website (http://www.gpo.gov/fdsys/) has links to the *Federal Register* and the CFR. An electronic CFR (e-CFR) is available at http://www.ecfr.gov. The e-CFR is a compilation of CFR material and *Federal Register* amendments. It is a current, daily updated version of the CFR; however, it is not an official legal edition of the CFR.

HOW TO OBTAIN ADDITIONAL GUIDANCE

Guidance to assist auditors in performing audits in accordance with 2 CFR Part 200, Subpart F, can be obtained from the following sources.

Office of Management and Budget

Under the grants management heading on the Office of Federal Financial Management's home page.

- OMB publications and the recent Supplement for audits under 2 CFR Part 200, Subpart F.

- *Council on Federal Financial Assistance (COFFA)*- The COFFA.gov website provides information and resources regarding the Uniform Guidance (2 CFR 200), including the recent 2024 revision.

General Services Administration (GSA)

- Assistance Listing Number (ALN)

  A searchable copy of the Assistance Listing and a pdf version are available at https://sam.gov. If the Assistance Listing indicates under a program entry (Compliance Requirements-Policy Requirements) that Subpart F, Audit Requirements are excluded,

the auditee should contact the federal agency single audit office/official indicated in Appendix III of the Supplement for any questions or clarification.

Government Accountability Office (GAO)

- Government Auditing Standards, July 2018 Revision (GAO-18-568G). (http://www.gao.gov/yellowbook)

- Standards for Internal Control in the Federal Government, September 2014 Revision (GAO-14-704G) (https://www.gao.gov/assets/gao-14-704g.pdf)

Inspectors General

The Council of the Inspectors General on Integrity and Efficiency website (http://www.ignet.gov) contains an Inspector General Directory and the Inspector General Act.

Federal Audit Clearinghouse

The Federal Audit Clearinghouse (FAC): (1) maintains a government-wide database of single audit results and related federal award information; (2) serves as the federal repository for single audit reports; and (3) distributes single audit reports to federal agencies.

The FAC site is located at the website https://fac.gov. For Data Collection Form (SF-SAC) and single audit submission questions, contact the FAC by e-mail at https://fac.gov and submit a request to the FAC Help Desk.

The provider of the FAC is the U.S. General Services Administration (GSA). All single audit submissions are made through the FAC hosted by GSA.

PART 2 – MATRIX OF COMPLIANCE REQUIREMENTS

INTRODUCTION

This Part identifies the compliance requirements that the federal government has determined are subject to audit for the programs included in this Supplement. Because Part 4 (Agency Program Requirements) and Part 5 (Clusters of Programs) do not include guidance for all types of compliance requirements that pertain to the program (see introduction to Part 4 for additional information), the auditor must use this Part 2 to identify the types of compliance requirements that have been identified as subject to the audit. Note that comparable information is included in each program/cluster in parts 4 and 5 of the Supplement. The box for each type of compliance requirement either contains a "Y" (for "Yes" if the type of compliance requirement is subject to audit for the program) or "N" (for "No" if the requirement is not subject to audit for the program).

Even though a "Y" indicates that the compliance requirement is subject to audit, it may not apply to a particular nonfederal entity, either because that entity does not have activity subject to that type of compliance requirement or the activity could not have a direct and material effect on a major program. For example, even though Equipment and Real Property Management may be identified as being subject to audit for a particular program, it would not apply to a nonfederal entity that did not acquire or dispose of equipment or real property during the audit period or have existing equipment acquired under Federal awards that is subject to inventory management requirements. Similarly, a "Y" may be included to identify Procurement and Suspension and Debarment as subject to audit; however, the audit would not be expected to address this type of compliance requirement if the nonfederal entity charges only small amounts of purchases to a major program. The auditor should exercise professional judgment when determining which compliance requirements marked "Y" needs to be tested at a particular nonfederal entity.

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

When a compliance requirement is shown in the matrix as "N," it has been identified by the federal government as not being subject to audit. Auditors are not expected to test requirements that have been noted with an "N." However, the auditor is not prohibited from expanding audit procedures if the terms of a grant award document specify that the additional compliance requirements are material to the administration of the program or if the auditor is aware of additional information that would lead the auditor to believe there are increased risks of fraud, waste, or abuse of federal program funds.

Legend to Matrix

Legend: Y - Yes, this type of compliance requirement is subject to audit for the federal program; N - No, this type of compliance requirement is not subject to audit for the federal program. **Those requirements that were changed from a "Y" to an "N" or from an "N" to a "Y" since the last Supplement are shown in bold (and highlighted in yellow) in the A-N matrix columns.** Any changes shown with a blue highlight are corrections to this table only (not a change in the requirements in Part 4). Note: Requirements D and K are reserved and therefore not shown in this chart.

Requirement	A	B	C	E	F	G	H	I	J	L	M	N
Program Number	Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment Real Property Management	Matching, Level of Effort, Earmarking	Period of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
10.181	Y	Y	N	Y	N	N	Y	N	N	Y	Y	N
10.182	Y	Y	N	N	N	N	N	N	N	N	N	N
10.185	Y	Y	N	N	N	N	N	N	N	N	N	N
10.186	Y	Y	N	Y	N	N	Y	N	N	Y	Y	N
10.190	Y	Y	N	Y	N	Y	N	N	N	Y	Y	N
10.331	Y	Y	Y	N	N	Y	N	N	N	Y	Y	N
10.542 (delete)												
10.551/10.561 (SNAP Cluster)	Y	Y	N	N	N	Y	N	Y	N	N	Y	Y
10.553/10.555/10.556/ 10.559/10.582 (Child Nutrition Cluster)	Y	Y	N	Y	N	N	N	Y	N	Y	N	Y
10.557	Y	Y	Y	Y	N	N	Y	Y	N	N	N	N
10.558	Y	Y	**N**	Y	N	N	N	Y	N	N	Y	Y
10.565/10.568/10.569 (Food Distribution Cluster)	Y	Y	Y	Y	Y	N	N	Y	N	N	N	Y
10.566	Y	Y	N	Y	N	N	Y	N	N	Y	N	Y
10.606	Y	Y	Y	N	Y	N	N	N	Y	Y	N	Y
10.646 (new)	Y	Y	N	Y	N	Y	N	Y	N	Y	N	Y
10.649 (delete)												
10.665/10.666 (Schools and Roads Cluster)	Y	Y	Y	N	N	Y	Y	N	N	Y	N	Y
10.760	Y	Y	N	N	Y	Y	N	Y	N	Y	N	N
10.766	Y	Y	N	N	N	N	Y	N	N	N	N	Y

Requirement	A	B	C	E	F	G	H	I	J	L	M	N
Program Number	Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment Real Property Management	Matching, Level of Effort, Earmarking	Period of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
11.028	Y	Y	N	N	Y	Y	Y	N	N	Y	Y	N
11.029	Y	Y	N	N	Y	Y	Y	N	N	Y	Y	N
11.032	Y	Y	N	N	N	Y	Y	N	N	Y	Y	N
11.033	Y	Y	N	N	Y	Y	N	N	N	Y	Y	N
11.035	Y	Y	N	N	Y	Y	N	Y	N	Y	Y	N
11.300/11.307 (Economic Development Cluster)	Y	Y	N	N	N	Y	N	N	Y	Y	Y	Y
11.611	Y	Y	Y	N	N	Y	N	N	Y	Y	Y	N
12.400	Y	Y	Y	N	N	Y	Y	Y	N	Y	N	N
12.401	Y	Y	Y	N	N	Y	Y	N	N	Y	N	N
14.157	Y	Y	Y	Y	N	N	N	N	N	**Y**	N	Y
14.181	Y	Y	Y	Y	N	N	N	N	N	**Y**	N	Y
14.195 /14.249/ 14.856 (Section 8 Project- Based Cluster)	**Y**	**Y**	Y	Y	N	N	N	N	N	Y	N	Y
14.218/14.225 (CDBG–Entitlement Cluster)	Y	Y	N	N	Y	N	Y	N	Y	Y	N	Y
14.228	Y	Y	N	N	Y	**Y**	**N**	N	Y	Y	N	Y
14.231	Y	Y	N	N	**N**	Y	**Y**	Y	N	N	**Y**	Y
14.239	Y	Y	N	Y	N	N	N	N	Y	N	Y	Y
14.241	Y	Y	N	Y	N	N	N	N	N	Y	N	Y
14.256	Y	Y	N	N	N	N	Y	N	Y	Y	N	Y
14.267	**Y**	**Y**	N	N	Y	Y	Y	Y	**N**	N	N	Y
14.269/14.272 (CDBG-Disaster Recovery Cluster)	Y	Y	N	N	N	Y	N	N	Y	Y	N	Y
14.275	Y	Y	N	Y	N	Y	N	N	Y	**Y**	N	Y
14.850	Y	Y	N	Y	N	N	N	Y	N	N	N	Y
14.862	Y	Y	Y	N	Y	N	N	Y	N	Y	N	Y
14.866/14.889 (HOPE VI Cluster)	Y	Y	N	N	N	Y	N	Y	Y	Y	N	Y
14.867	Y	Y	N	Y	N	N	N	Y	N	Y	N	Y
14.871/14.879 (Housing Voucher Cluster)	Y	Y	N	Y	N	N	N	N	N	Y	N	Y
14.872	Y	Y	Y	N	N	N	Y	N	N	Y	N	N
14.873	Y	Y	N	Y	N	N	Y	Y	N	Y	N	Y
14.881	Y	Y	Y	Y	N	N	N	N	N	Y	N	Y
14.888	Y	Y	Y	N	N	N	Y	N	N	Y	N	N

Requirement	A	B	C	E	F	G	H	I	J	L	M	N
Program Number	Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment Real Property Management	Matching, Level of Effort, Earmarking	Period of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
15.000		Y					Y					Y
15.021	Y	Y	N	N	N	N	Y	N	N	Y	N	Y
15.022	Y	Y	N	N	Y	N	N	Y	N	Y	N	Y
15.025/15.026/15.113/ 15.114/15.130 (477 Cluster)	Y	Y	N	Y	N	N	N	N	N	Y	N	Y
15.030	Y	Y	N	N	N	N	Y	N	N	Y	N	Y
15.042	Y	Y	N	N	Y	N	Y	Y	N	Y	N	Y
15.047	Y	Y	N	N	N	Y	Y	N	N	Y	N	Y
15.252	Y	Y	Y	N	N	N	Y	N	N	Y	Y	N
15.504	Y	Y	N	N	N	Y	N	N	N	Y	N	N
15.507	Y	Y	N	N	N	Y	N	N	N	Y	N	N
15.605/15.611/15.626 (Fish and Wildlife Cluster)	Y	Y	N	N	Y	Y	N	N	Y	N	Y	N
15.614	Y	Y	N	N	Y	Y	N	N	Y	N	Y	N
15.615	Y	Y	N	N	Y	Y	N	Y	N	Y	Y	N
15.623	Y	Y	N	N	Y	Y	N	N	N	Y	N	N
15.635	Y	Y	N	N	N	Y	N	N	N	Y	N	N
16.034	Y	Y	Y	N	N	Y	N	Y	N	Y	Y	N
16.710	Y	Y	Y	N	N	Y	Y	N	N	Y	N	N
16.738	Y	Y	N	N	Y	N	N	Y	Y	Y	Y	N
16.922	Y	Y	N	N	Y	Y	N	Y	N	Y	Y	N
17.207/17.801 (Employment Service Cluster)	Y	Y	N	Y	N	Y	N	N	N	Y	N	N
17.225	Y	Y	N	Y	N	Y	Y	N	N	Y	N	Y
17.235	Y	Y	N	Y	N	Y	Y	N	N	Y	Y	N
17.245	Y	Y	Y	Y	N	N	N	N	N	Y	Y	N
17.258/17.259/17.278 (WIOA Cluster)	Y	Y	N	Y	N	Y	Y	N	N	Y	Y	N
17.264	Y	Y	N	Y	N	N	N	N	Y	Y	N	N
17.265	Y	Y	N	Y	**N**	N	**Y**	N	**N**	Y	N	N
20.001 (No single matrix; requirement N must be “Y”)												Y
20.106	Y	Y	N	N	Y	Y	N	N	N	Y	N	Y
20.205	Y	Y	N	N	Y	Y	N	Y	N	N	Y	Y
20.218/20.237 (FMCSA-Cluster)	Y	Y	N	N	Y	Y	Y	N	Y	Y	N	N
20.219	Y	Y	N	N	Y	Y	N	Y	N	N	Y	Y
20.223	Y	Y	N	N	N	N	Y	N	N	N	N	Y
20.224	Y	Y	N	N	Y	Y	N	Y	N	N	Y	Y
20.319	Y	Y	N	N	N	N	Y	Y	N	Y	Y	Y
20.326	Y	Y	N	N	N	Y	Y	Y	N	N	N	N

Requirement	A	B	C	E	F	G	H	I	J	L	M	N
Program Number	Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment Real Property Management	Matching, Level of Effort, Earmarking	Period of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
20.327	Y	Y	Y	N	N	Y	N	Y	N	N	N	N
20.500/20.507/20.525 /20.526 (Federal Transit Cluster)	Y	Y	Y	N	N	N	Y	Y	N	N	Y	N
20.509	Y	Y	Y	N	Y	N	N	Y	N	N	Y	N
20.513/20.516/20.521 (Transit Services Programs Cluster)	Y	Y	Y	N	Y	N	N	Y	N	N	Y	N
20.527	Y	Y	Y	N	Y	N	N	Y	N	N	Y	N
20.532	Y	Y	Y	N	Y	N	Y	Y	N	N	Y	N
20.533	Y	Y	Y	N	N	N	Y	Y	N	N	Y	N
20.534	Y	Y	Y	N	N	N	Y	Y	N	N	Y	N
20.600/20.616 (Highway Safety Cluster)	Y	Y	N	N	N	Y	Y	N	N	Y	Y	N
20.708	Y	Y	N	N	Y	N	N	Y	N	Y	N	N
20.816	Y	Y	N	N	N	Y	N	Y	N	Y	N	Y
20.823	Y	Y	N	N	N	N	N	Y	N	Y	Y	Y
21.011	Y	N	N	Y	N	N	Y	N	Y	Y	N	N
21.012	Y	Y	N	N	N	N	N	N	N	Y	N	N
21.015 (delete)												
21.016	Y	Y	N	**N**	Y	Y	N	Y	N	Y	N	N
21.019 (delete)												
21.020	Y	Y	N	N	N	Y	N	**N**	N	Y	N	N
21.023	Y	Y	N	Y	N	Y	Y	N	N	Y	**Y**	**N**
21.024 (delete)												
21.025	Y	Y	N	N	N	N	N	N	N	Y	N	N
21.026	Y	Y	N	Y	N	Y	N	N	N	Y	Y	N
21.027	Y	Y	N	N	N	Y	Y	Y	N	Y	Y	N
21.029	Y	Y	Y	N	N	Y	N	Y	N	Y	Y	N
21.032	Y	Y	N	N	N	N	N	N	N	Y	N	N
23.003	Y	Y	N	N	Y	Y	N	Y	N	N	Y	Y
32.006	Y	Y	N	N	N	N	Y	Y	N	Y	N	Y
32.009	Y	Y	N	N	Y	N	Y	N	N	N	N	Y
45.129	Y	Y	N	N	N	Y	N	Y	N	Y	Y	N
59.075	Y	Y	N	N	N	N	Y	N	N	N	N	N
66.458	Y	Y	Y	N	N	Y	Y	Y	N	N	N	N
66.468	Y	Y	Y	N	N	Y	Y	Y	N	N	N	N
66.957	Y	Y	N	N	N	N	N	Y	Y	Y	Y	**Y**
66.959	Y	Y	**N**	N	N	N	N	Y	**Y**	Y	Y	**Y**
66.960	Y	Y	N	N	N	**N**	N	**Y**	Y	Y	Y	**Y**
81.041	Y	Y	Y	N	N	Y	N	Y	N	N	Y	N
81.042	Y	Y	N	Y	N	N	N	Y	N	Y	Y	N

Requirement	A	B	C	E	F	G	H	I	J	L	M	N
Program Number	Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment Real Property Management	Matching, Level of Effort, Earmarking	Period of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
84.000 (No matrix)												
84.002	Y	Y	Y	Y	N	Y	Y	N	N	N	Y	N
84.010	Y	Y	N	Y	N	Y	N	N	N	N	Y	Y
84.011	Y	Y	N	N	N	Y	Y	N	N	N	Y	Y
84.027/84.173 (Special Education Cluster (IDEA))	Y	Y	N	N	Y	Y	Y	Y	N	N	Y	N
84.032-G	N	N	N	N	N	N	N	N	N	Y	N	Y
84.032-L	N	N	N	N	N	Y	N	Y	N	Y	N	Y
84.041	Y	Y	N	N	N	Y	N	N	N	Y	N	Y
84.042/84.044/84.047 /84.066/84.217 (TRIO Cluster)	Y	Y	Y	Y	N	N	N	N	N	Y	N	Y
84.048	Y	Y	Y	Y	N	Y	Y	N	N	N	Y	N
84.126	N	N	N	N	N	N	Y	Y	N	Y	N	N
84.181	Y	Y	Y	N	Y	Y	Y	Y	N	N	N	N
84.282	Y	Y	Y	Y	Y	N	N	Y	N	N	Y	N
84.287	Y	Y	Y	N	N	N	N	N	Y	N	Y	Y
84.365	Y	Y	N	N	N	Y	Y	N	N	N	Y	Y
84.367	Y	Y	N	Y	N	Y	N	N	N	N	Y	Y
84.424	Y	Y	Y	Y	N	Y	Y	N	N	N	N	Y
84.425 Section 1 ESF	Y	Y	N	N	Y	Y	N	N	N	Y	Y	Y
84.425 Section 2 HEERF	Y	Y	Y	N	N	Y	Y	Y	N	Y	N	N
87.051	Y	Y	N	N	Y	N	Y	Y	N	N	Y	Y
87.052	Y	Y	N	N	Y	N	Y	Y	N	N	Y	Y
93.044/93.045/93.053 (Aging Cluster)	Y	Y	N	N	N	Y	N	N	Y	Y	Y	N
93.090	Y	Y	Y	Y	N	Y	N	N	N	Y	N	N
93.153	Y	Y	Y	N	N	N	N	Y	Y	Y	N	N
93.210/93.441 (Tribal Self-Governance and Self-Determination Cluster)	Y	Y	Y	Y	N	N	Y	N	Y	N	N	Y
93.217	Y	Y	N	N	N	Y	N	N	Y	Y	Y	N
93.224/93.527 (Health Center Program Cluster)	Y	Y	Y	N	N	N	Y	Y	N	Y	N	Y
93.268	Y	Y	Y	N	N	N	Y	N	N	Y	N	Y
93.423	Y	Y	Y	N	N	N	N	Y	N	Y	Y	N
93.461 (delete)												
93.472 (new)	Y	Y	N	Y	N	Y	N	N	N	Y	Y	N
93.489/93.575/93.596 (CCDF Cluster)	Y	Y	N	Y	N	Y	Y	N	N	Y	N	Y
93.498	Y	Y	N	N	N	N	N	N	N	Y	N	N
93.499 (delete)												
93.556	Y	Y	Y	N	N	Y	Y	N	N	Y	N	N
93.558	Y	Y	N	Y	N	Y	N	N	N	Y	Y	Y

Requirement	A	B	C	E	F	G	H	I	J	L	M	N
Program Number	Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment Real Property Management	Matching, Level of Effort, Earmarking	Period of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
93.563	Y	Y	Y	N	N	Y	Y	N	N	N	Y	N
93.566	Y	Y	Y	Y	N	N	Y	N	N	Y	Y	N
93.568	N	N	Y	Y	N	Y	Y	N	N	Y	Y	N
93.569	Y	Y	**Y**	Y	N	N	Y	N	N	N	Y	Y
93.600/93.356 (Head Start Cluster)	Y	Y	N	N	Y	N	N	N	N	Y	Y	Y
93.645	Y	Y	Y	N	N	Y	Y	N	N	Y	N	N
93.658	Y	Y	N	Y	N	N	N	N	N	Y	Y	Y
93.659	Y	Y	Y	Y	N	Y	N	N	N	Y	N	N
93.667	Y	Y	Y	N	N	N	Y	N	N	Y	Y	N
93.671	Y	Y	Y	Y	N	Y	N	N	N	N	Y	N
93.676	Y	Y	Y	N	N	N	Y	Y	N	Y	Y	N
93.686	Y	Y	Y	N	N	Y	N	N	Y	Y	Y	N
93.767	Y	Y	N	Y	N	Y	Y	N	N	Y	N	Y
93.775/93.777/93.778 (Medicaid Cluster)	Y	Y	N	Y	N	Y	N	N	N	Y	N	Y
93.870	Y	Y	N	N	N	Y	N	Y	Y	Y	Y	N
93.914	Y	Y	Y	Y	N	N	N	N	Y	N	Y	N
93.917	Y	Y	Y	Y	N	Y	N	N	Y	N	Y	N
93.918	Y	Y	Y	N	N	Y	N	N	Y	Y	N	N
93.958	Y	Y	Y	N	N	Y	Y	N	N	Y	Y	N
93.959	Y	Y	Y	N	N	Y	Y	N	N	Y	Y	N
93.994	Y	Y	Y	N	N	Y	Y	N	N	Y	N	N
94.006	Y	Y	N	Y	N	Y	N	N	N	Y	Y	Y
94.011/94.016 (Foster Grandparent/Senior Companion Cluster)	Y	Y	N	Y	N	Y	N	N	N	Y	N	Y
96.001/96.006 (Disability Insurance/SSI Cluster)	Y	Y	N	N	Y	N	Y	N	N	Y	N	Y
97.036	Y	Y	N	N	N	Y	Y	N	N	Y	Y	Y
97.039	Y	Y	Y	Y	N	N	Y	N	N	Y	N	N
97.067	Y	Y	N	N	N	Y	Y	N	N	Y	Y	Y
98.007/98.008 (Foreign Food Aid Donation Cluster)	Y	Y	Y	N	N	N	Y	N	N	Y	Y	Y
Part 5.2, R&D	Y	Y	Y	N	Y	N	Y	Y	N	N	Y	Y
Part 5.3, 84 SFA	Y-HHS N -ED	N	Y	Y	N	N	N	N	N	Y	N	Y

PART 3 – COMPLIANCE REQUIREMENTS

INTRODUCTION

Overview

The objectives of most compliance requirements for federal programs administered by states, local governments, Indian tribes, institutions of higher education, and nonprofit organizations (non-federal entities) are broadly applicable. For example, many programs have eligibility requirements for individuals or organizations to participate in a particular program. While the criteria for determining eligibility vary by program, the objective of the compliance requirement that only eligible individuals or organizations participate is consistent across programs.

Rather than repeat the compliance requirements, audit objectives, and suggested audit procedures for each of the programs contained in Part 4, "Agency Program Requirements," and Part 5, "Clusters of Programs," they are provided once in this part, Part 3. For each program in this Supplement, Part 4 or Part 5 contains additional information about the program and the statutes and regulations governing its administration, and also specifies the compliance requirements to be tested using the guidance in this part, Part 3.

Organization and Use of Part 3 of the 2025 Supplement

Due to the issuance of an April 22, 2024 update to OMB's Guidance for Federal Financial Assistance (referred to throughout this document as the 2024 Uniform Guidance (UG) revisions) the auditors use of Part 3 may differ from recent past years depending on each non-federal entity's array of federal financial assistance. This is because the 2024 UG revisions may be applied by federal agencies at differing times. For this reason, the 2025 Supplement includes a Part 3.1 to be used by auditors when testing awards subject to the former UG and Part 3.2 to be used by auditors when testing awards subject to the 2024 UG revisions. The following section provides more detail about the timing of the implementation of the 2024 UG revisions, the compliance requirement changes made, and information on how Parts 3.1 and 3.2 are to be used by auditors. It also includes links to resources auditors may refer to for assistance in understanding the changes made by the 2024 UG revisions and in determining which version of the UG applies for compliance testing purposes.

THE 2024 UG REVISIONS

Timing of Implementation

The 2024 UG revisions may be found at 89 FR 30046 (Apr. 22, 2024). Although the government-wide effective date for the 2024 UG revisions was October 1, 2024, federal agencies may have elected to implement the revisions at varying times, including as early as June 21, 2024, to new awards and through amendments to existing awards, or as late as October 1, 2025. In addition, the Department of Health and Human Services only adopted specific sections of the 2024 UG revisions on October 1, 2024, with the remaining guidance to go into effect on October 1, 2025. Thus, during the period covered by this Supplement, non-Federal entities may have Federal awards expended that are subject to the UG requirements that were in effect prior to October 1, 2024, and the 2024 UG revisions.

Supplementary information

Supplementary information was published to support implementation of 2024 UG revisions and will be useful to auditors in fully understanding the timing of its implementation to individual awards, which is essential for determining the compliance requirements to be tested. This supplementary information provides additional context, background, and clarification of the general guidelines for Federal agencies to adopt and implement 2 CFR Part 200 and should be considered in the single audit work plan and reviews.

- FY 2024 Revisions to 2 CFR: Federal Agency Implementation; Publication Date: August 15, 2024. This Council of Federal Financial Assistance (COFFA) document is intended to assist Federal agencies with more consistently implementing the 2024 UG revisions. Among the topics covered are federal agency adoption and implementation (related to new awards, existing awards, and subawards); Notice of Federal Award guidance; recipient implementation; single audits; and indirect costs.
- Memorandum for the Federal Financial Assistance Financial Assistance Community; Publication Date: January 15, 2025. This COFFA document provides further clarity on the timing of the implementation of the 2024 UG revisions to new and existing awards, as well as a list of grant-making Federal agencies that began implementing the 2024 UG revisions through the terms and conditions of new Federal awards issued on or after October 1, 2024.

Auditors may also review the 2024 Uniform Guidance section of the COFFA Web site (https://www.coffa.gov/uniform-guidance-coffa/2024/) for additional information on the 2024 UG revisions.

Implications of the 2024 UG Revisions on Compliance Testing – Using Parts 3.1 and 3.2

Auditors should use Parts 3.1 and 3.2 for compliance testing based on whether the 2024 UG revisions apply to the awards subject to the audit. The supplemental information published January 2025, referred to above, indicates that for the most reliable information about any specific Federal award, recipients, subrecipients, and auditors should refer to the terms and conditions of the award or address their questions to the federal agency that made the award (or pass-through entity as appropriate). It also provides that the applicability of the 2024 UG revisions is generally as follows unless otherwise indicated in federal statute, agency regulations, or terms and conditions of specific federal awards:

- New federal awards issued on or after October 1, 2024, that apply OMB's guidance in the Uniform Guidance, but do not specifically reference which version of the guidance they apply, may be assumed to apply the revised 2024 Uniform Guidance.
- Amendments issued on or after October 1, 2024, to existing awards made before October 1, 2024, that applied a previous version of the Uniform Guidance may be assumed to continue applying the previous version of the Uniform Guidance unless the amendment explicitly applies the revised 2024 Uniform Guidance to the award.

- Federal awards issued before October 1, 2024 that applied a previous version of the Uniform Guidance and have not been amended may be assumed to continue applying the previous version of the Uniform Guidance.

- Subawards issued under federal awards applying the revised 2024 Uniform Guidance (either at the time of issuance or through amendment) must also apply the revised 2024 Uniform Guidance. However, if the federal award to a recipient applies a previous version of the Uniform Guidance, then the previous version also applies to the subaward—even if the subaward itself is made after October 1, 2024.

As an example, for existing awards made prior to October 1, 2024, for which the federal agency had not yet implemented the 2024 UG revisions, the auditor should perform audit procedures in Part 3.1 for testing compliance requirements identified as subject to the audit. Alternatively, for new awards made as of October 1, 2024 for which the federal Agency implemented the 2024 UG revisions, or existing awards to which the 2024 UG revisions were expressly applied, the auditor should perform the audit procedures in Part 3.2 for testing compliance requirements identified as subject to the audit.

Important Note: Auditors must not apply compliance requirements from the 2024 UG revisions in circumstances in which the federal agency has not yet applied the 2024 UG revisions to the Federal award subject to audit.

Understanding Compliance Requirement Changes

While Part 3.2 of this Part incorporates compliance requirement changes resulting from the 2024 UG revisions, auditors should also be aware that the COFFA website provides additional information, including frequently asked questions, that may be useful to understand changes made by 2024 UG revisions, as well as long-standing provisions of the UG. The information includes:

- 2 CFR 200: Frequently Asked Questions; Publication Date: January 15, 2025, available at: https://www.coffa.gov/assets/files/2%20CFR%20Revised%20FAQs.pdf. It is important to note that in case of any discrepancy between this document and the 2024 UG revisions, the guidance published in the 2024 UG revisions prevails.

Tables 1 and 2 below are also provided to further the understanding about the compliance requirements applicable to the prior UG and the 2024 UG revisions.

Table 1-Requirements Under the Uniform Guidance Prior to the 2024 Revisions.

2 CFR 200.101 describes the applicability of 2 CFR Part 200. The following table, from 2 CFR 200.101(b) (prior version) summarizes the applicability of the subparts of 2 CFR Part 200 to different types of federal awards, which includes subawards prior to the 2024 UG revisions. Federal contracts and subcontracts referred to in the table also are subject to the Federal Acquisition Regulation (FAR).

The following portions of 2 CFR Part 200:	Are applicable to the following types of federal awards and Fixed-Price Contracts and Subcontracts (except as noted in 2 CFR 200.101(d) and (e)):	Are NOT applicable to the following types of federal awards and Fixed-Price Contracts and Subcontracts:
Subpart A - Acronyms and Definitions	All	
Subpart B - General Provisions except for 200.111 English language, 200.112 Conflict of interest, 200.113 Mandatory disclosures	All	
200.111 English language, 200.112 Conflict of interest, and 200.113 Mandatory disclosures	Grant agreements and cooperative agreements	Agreements for loans, loan guarantees, interest subsidies, and insurance Procurement contracts awarded by federal agencies under the FAR subcontracts under those contracts
Subparts C–D, except for §§ 200.203 Requirement to provide public notice of federal financial assistance programs, 200.303 Internal controls, 200.331-333 Subrecipient Monitoring and Management	Grant agreements and cooperative agreements	Agreements for loans, loan guarantees, interest subsidies, and insurance Procurement contracts awarded by federal agencies under the FAR and subcontracts under those contracts
200.203 Requirements to provide public notice of financial assistance programs	Grant agreements and cooperative agreements Agreements for loans, loan guarantees, interest subsidies, and insurance	Procurement contracts awarded by federal agencies under the FAR and cost-reimbursement subcontracts under those contracts
200.303, Internal controls, 200.331-333 Subrecipient Monitoring and Management	All	
Subpart E - Cost Principles	Grant agreements and cooperative agreements, except those providing food commodities All procurement contracts awarded under the Federal Acquisition Regulations except those that are not negotiated	Grant agreements and cooperative agreements providing food commodities Fixed amount awards Agreements for loans, loan guarantees, interest subsidies, and insurance

The following portions of 2 CFR Part 200:	Are applicable to the following types of federal awards and Fixed-Price Contracts and Subcontracts (except as noted in 2 CFR 200.101(d) and (e)):	Are NOT applicable to the following types of federal awards and Fixed-Price Contracts and Subcontracts:
		Federal awards to hospitals (see Appendix IX Hospital Cost Principles)
Subpart F - Audit Requirements	Grant agreements and cooperative agreements Contracts and subcontracts, except for fixed price contracts and subcontracts, awarded under the Federal Acquisition Regulations Agreements for loans, loan guarantees, interest subsidies, and insurance and other forms of federal financial assistance as defined by the Single Audit Act Amendments of 1996	Fixed-price contracts and subcontracts awarded under the Federal Acquisition Regulations

Table 2-Requirements Under the 2024 UG Revisions

2 CFR 200.101 describes the applicability of 2 CFR Part 200. The following information summarizes the applicability of the subparts of 2 CFR Part 200 to different types of federal awards, which includes subawards.

	Grants and Cooperative Agreements	Fixed Amount Awards	Loans, Loan Guarantees, Interest Subsidies and Insurance	Cost-reimbursement contract under the FAR*	Fixed-price contract or subcontract under the FAR that are negotiated*
Subpart A	X	X	X		X
Subpart B – 200.1 – 200.110	X	X	X		X
Subpart B – 200.111 – 200.113	X	X			
Subpart C – 200.201 - 200.202	X	X			
Subpart C – 200.203	X	X	X		
Subpart C – 200.204 - 200.215	X	X			
Subpart C – 200.216	X	X	Loans only		
Subpart C – 200.217	X	X			
Subpart D – 200.301 - 200.302	X	X			
Subpart D – 200.303	X	X	X		X
Subpart D – 200.304 - 200.330	X	X			
Subpart D – 200.331 - 200.333	X	X	X	X	X
Subpart D – 200.334 - 200.346	X	X			
Subpart E – 200.400 (a) – (f)	X			X	X
Subpart E – 200.400 (g)	X	X		X	X
Subpart E – 200.401	X			X	X
Subpart E – 200.402 – 200.405	X	X		X	X
Subpart E – 200.406 – 200.407 (c)	X			X	X

Subpart E – 200.407 (d)	X	X		X	X
Subpart E – 200.407 (e) – 200.476	X			X	X
Subpart F	X	X	X	X	

* Note: 2 CFR 200.101(c)(1) explains that the terms and conditions of the contract and the FAR prevail in cases of conflict. That paragraph also explains certain other limitations regarding applicability to different types of contracts and subcontracts awarded under the FAR.

Subpart D (Post Federal Award Requirements) and Subpart E (Cost Principles) Exclusions

Appendix I to the Supplement provides the names and Assistance Listing numbers (ALN) for programs listed in 2 CFR 200.101(e) that are excluded from subparts D and E of 2 CFR Part 200.

Other Exceptions (Class or Case-by-Case)

In addition, as described in 2 CFR 200.102, except for Subpart F, Audit Requirements: (1) OMB may allow exceptions for classes of federal awards or non-federal entities subject to the requirements to 2 CFR Part 200 when exceptions are not prohibited by statute*;* and (2) federal agencies or the cognizant agency for indirect costs may authorize exceptions on a case-by-case basis for individual Federal awards or non-federal entities, except where the exceptions are prohibited by law or OMB or other approval is expressly required. The same section also explains that a federal agency may adjust requirements to a class of awards or non-Federal entities when required by federal statutes or regulations, except for the requirements in subpart F.

COMPLIANCE REQUIREMENTS, AUDIT OBJECTIVES, AND SUGGESTED AUDIT PROCEDURES

Auditors must consider the compliance requirements and related audit objectives in Part 3 and Part 4 or Part 5 (for programs included in this Supplement) in every audit conducted under 2 CFR Part 200, Subpart F, with the exception of program-specific audits performed in accordance with a federal agency's program-specific audit guide (see Appendix VI to the Supplement). In making a determination not to test a compliance requirement, the auditor must conclude that the requirement either does not apply to the particular non-federal entity's major program or that noncompliance with the requirement could not have a direct and material effect on a major program (e.g., the auditor would not be expected to test Procurement if the non-federal entity charges only small amounts of purchases to a major program). The descriptions of the compliance requirements in parts 3, 4, and 5 generally are a summary of the actual compliance requirements. The auditor must refer to the referenced citations to laws and regulations for the complete statement of the compliance requirements.

Agencies are required to identify the areas for compliance reviews for a maximum of six requirements (A and B compliance areas are counted as one). Agencies may select fewer than six requirements. This identification focuses the agencies and the auditors on the areas that are most important for federal agencies to manage programs more efficiently. Part 2 of the Supplement provides the auditors a matrix with the compliance areas that are selected by the agencies as subject to audit for their programs listed in Part 4.

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

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

Internal Control

Consistent with the requirements of 2 CFR Part 200, Subpart F, Part 3 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 controls, the compliance requirements, the audit objectives for compliance, the auditor's assessment of control risk, and the audit requirement to test internal control as prescribed in 2 CFR Part 200, Subpart F.

Use of Terminology in Part 3

Part 3 presents statements of compliance requirements, related audit objectives, and suggested audit procedures. When restating compliance requirements, Part 3 uses the terminology employed in 2 CFR Part 200. For example, when the word "must" is used it indicates a

requirement, whereas use of the word "should" indicates a best practice or recommended approach rather than a requirement (2 CFR 200.101(b)). The limited use of the term "should not" (e.g., with respect to improper payments) refers to an action or activity that is non-compliant.

Similarly, when Part 3 speaks to auditors, the word "must," which is used in limited instances, means that the auditor is required to do what the statement indicates. However, the suggested audit procedures associated with each compliance requirement, which are specifically directed to auditors, uses the term "should," which indicates a recommended approach. Auditors must judge whether the suggested audit procedures are sufficient to achieve the stated audit objectives or whether alternative audit procedures are needed.

Improper Payments

Under OMB guidance, the Payment Integrity Information Act of 2019 (Pub. L. 116-117), and Executive Order 13520 on reducing improper payments, federal agencies are required to take actions to prevent improper payments, review federal awards for such payments, and, as applicable, recover improper payments. Improper payments include the following:

1. Any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements. The term improper payment includes: any payment to an ineligible recipient; any payment for an ineligible good or service; any duplicate payment; any payment for a good or service not received, except for those payments where authorized by law; any payment that is not authorized by law; and any payment that does not account for credit for applicable discounts. See 2 CFR 200.1 (defining "improper payment") and OMB Circular A-123 Appendix C, Requirements for Payment Integrity Improvement, for additional definitions and guidance on the requirements for payment integrity.

2. For purposes of producing an estimate, when the agency cannot determine, due to lacking or insufficient documentation, whether a payment is proper or not, the payment must be treated as an improper payment.

Auditors must be alert to improper payments, particularly when testing the following parts of section III: A, "Activities Allowed or Unallowed;" B, "Allowable Costs/Cost Principles;" E, "Eligibility;" and, in some cases, N, "Special Tests and Provisions."

Differentiating Improper Payments from Questioned Costs

2 CFR 200.1 defines questioned cost as an amount expended or received from a federal award, that in the auditor's judgment: (1) Is noncompliant or suspected noncompliant with Federal statutes, regulations, or the terms and conditions of the Federal award; (2) At the time of the audit, lacked adequate documentation to support compliance; or (3) Appeared unreasonable and did not reflect the actions a prudent person would take in the circumstances. There is no questioned cost solely because of (1) Deficiencies in internal control; or (2) Noncompliance with the reporting type of compliance requirement (described in the compliance requirement) if this noncompliance does not affect the amount expended or received from the Federal award. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the

likely questioned costs, not just the known questioned costs. Questioned costs are not improper payments until reviewed and confirmed to be improper payments by a federal agency as described in OMB Circular A–123 Appendix C, Requirements for Effective Measurement and Remediation of Improper Payments.

PART 3.1 COMPLIANCE REQUIREMENTS

COMPLIANCE REQUIREMENTS, AUDIT OBJECTIVES, AND SUGGESTED AUDIT PROCEDURES UNDER 2 CFR PART 200 BEFORE OCTOBER 1, 2024

The following are compliance requirements A through N for awards applying the version of 2 CFR Part 200 effective before October 1, 2024. Part 3.1 may apply to certain existing awards after October 1, 2024 if the agency did not amend the terms and conditions of those awards to apply the 2024 UG revisions. In addition, in some cases Part 3.1 may not apply to new awards made between June 21, 2024 and September 30, 2024, or existing awards amended during that period, if the agency elected to implement the 2024 UG revisions early. The compliance requirements applicable to awards applying the 2024 UG revisions are available in Part 3.2.

Note regarding citations in Part 3.1: The citations to sections of 2 CFR Part 200 in Part 3.1 of this document are to the version of the Uniform Guidance in effect prior to October 1, 2024. Thus, in many cases, the citations, and the content of the sections to which they refer, may not align with the current version of 2 CFR Part 200 available in the Electronic Code of Federal Regulations (ECFR). Historical versions of the Uniform Guidance are also available for reference on the ECFR.

A. ACTIVITIES ALLOWED OR UNALLOWED

Compliance Requirements

The specific requirements for activities allowed or unallowed are unique to each federal program and are found in the federal statutes, regulations, and the terms and conditions of the federal award pertaining to the program. For programs listed in this Supplement, the specific requirements of the governing statutes and regulations are included in Part 4, "Agency Program Requirements" or Part 5, "Clusters of Programs," as applicable. This type of compliance requirement specifies the activities that can or cannot be funded under a specific program.

Source of Governing Requirements

The requirements for activities allowed or unallowed are contained in program legislation, federal awarding agency regulations, and the terms and conditions of the award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

2. Determine whether 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 program.

2. Plan the testing of internal control to support a low assessed level of control risk for activities allowed or unallowed and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR 200.516, 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 remaining 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 federal statutes, regulations, and the terms and conditions of the federal award pertaining to the program.

2. When allowability is determined based upon summary level data, perform procedures to verify that:

   a. Activities were allowable.

   b. Individual transactions were properly classified and accumulated into the activity total.

3. When allowability is determined based upon individual transactions, select a sample of transactions and perform procedures to verify that the transaction was for an allowable activity.

4. The auditor should be alert for large transfers of funds from program accounts which may have been used to fund unallowable activities.

B. ALLOWABLE COSTS/COST PRINCIPLES

Applicability of Cost Principles

The cost principles in 2 CFR Part 200, Subpart E (Cost Principles), prescribe the cost accounting requirements associated with the administration of federal awards by:

a. States, local governments, and Indian tribes

b. Institutions of higher education (IHEs)

c. Nonprofit organizations

As provided in 2 CFR 200.101, the cost principles requirements apply to grant agreements and cooperative agreements with the exception of those providing food commodities. The cost principles do not apply to grant agreements and cooperative agreements providing food commodities; agreements for loans, loan guarantees, interest subsidies, and insurance; and programs listed in 2 CFR 200.101(e) (see Appendix I of this Supplement). Federal awards administered by publicly owned hospitals and other providers of medical care are exempt from 2 CFR Part 200, Subpart E, but are subject to the requirements of 2 CFR Part 200, Appendix IX. The cost principles applicable to a non-federal entity apply to all federal awards received by the entity, regardless of whether the awards are received directly from the federal awarding agency or indirectly through a pass-through entity. For this purpose, federal awards include cost-reimbursement contracts under the Federal Acquisition Regulation (FAR). The cost principles do not apply to federal awards under which a non-federal entity is not required to account to the federal awarding agency or pass-through entity for actual costs incurred.

Source of Governing Requirements

The requirements for allowable costs and cost principles are contained in 2 CFR Part 200, Subpart E, program legislation, federal awarding agency regulations, and the terms and conditions of the award.

The requirements for the development and submission of indirect (facilities and administration (F&A)) cost rate proposals and cost allocation plans (CAPs) are contained in the following 2 CFR Part 200, appendices:

- Appendix III to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs).
- Appendix IV to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations
- Appendix V to Part 200—State/Local Government-Wide Central Service Cost Allocation Plans
- Appendix VI to Part 200—Public Assistance Cost Allocation Plans

- Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals

- Appendix IX to Part 200 - Hospital Cost Principles

Except for the requirements identified below under "Basic Guidelines," which are applicable to all types of non-federal entities, this compliance requirement is divided into sections based on the type of non-federal entity. The differences that exist are necessary because of the nature of the non-federal entity organizational structures, programs administered, and breadth of services offered by some non-federal entities and not others.

Basic Guidelines

Except where otherwise authorized by statute, cost must meet the following general criteria in order to be allowable under federal awards;

1. Be necessary and reasonable for the performance of the federal award and be allocable thereto under the principles in 2 CFR Part 200, Subpart E.

2. Conform to any limitations or exclusions set forth in 2 CFR Part 200, Subpart E or in the federal award as to types or amount of cost items.

3. Be consistent with policies and procedures that apply uniformly to both federally financed and other activities of the non-federal entity.

4. Be accorded consistent treatment. A cost may not be assigned to a federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the federal award as an indirect cost.

5. Be determined in accordance with generally accepted accounting principles (GAAP), except for state and local governments and Indian tribes only as otherwise provided for in 2 CFR Part 200.

6. Not be included as a cost or used to meet cost-sharing or matching requirements of any other federally financed program in either the current or a prior period.

7. Be adequately documented.

Selected Items of Cost

2 CFR 200.420 through 200.476 provide the principles to be applied in establishing the allowability of certain items of cost, in addition to the basic considerations identified above. (For a listing of costs, by type of non-federal entity, refer to Exhibit 1 of this part of the Supplement.) These principles apply whether or not a particular item of cost is treated as a direct cost or indirect (F&A) cost. Failure to mention a particular item of cost is not intended to imply that it is either allowable or unallowable; rather, determination of allowability in each case should be based on the treatment provided for similar or related items of cost and the principles described in 2 CFR 200.402 through 200.411.

List of Selected Items of Cost Contained in 2 CFR Part 200

The following exhibit provides a listing of selected items of cost contained in the cost principles in 2 CFR Part 200, Subpart E. Several cost items are unique to one type of entity (e.g., commencement and convocation costs are applicable only to IHEs).

The exhibit lists the selected items of cost along with a brief description of their allowability. The reader is strongly cautioned not to rely exclusively on the summary but to place primary reliance on the referenced 2 CFR Part 200 text.

Selected Items of Cost - Exhibit 1

Selected Cost Item	Uniform Guidance General Reference	Items of Cost Requiring Prior Approval	States, Local Governments, Indian Tribes	Institutions of Higher Education	Nonprofit Organizations	Items of Cost not Treated the Same Across Non-Federal Entities
Advertising and public relations costs	§200.421		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Advisory councils	§200.422		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Alcoholic beverages	§200.423		Unallowable	Unallowable	Unallowable	
Alumni/ae activities	§200.424		Not specifically addressed	Unallowable	Not specifically addressed	X
Audit services	§200.425		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Bad debts	§200.426		Unallowable	Unallowable	Unallowable	
Bonding costs	§200.427		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Collection of improper payments	§200.428		Allowable	Allowable	Allowable	
Commence-ment and convocation costs	§200.429		Not specifically addressed	Unallowable with exceptions	Not specifically addressed	X
Compensation for personal services	§200.430	X (related to the salaries of adminis-trative and clerical staff)	Allowable with restrictions; Special conditions apply (e.g., §200.430(i)(5))	Allowable with restrictions; Special conditions apply (e.g., §200.430(h))	Allowable with restrictions; Special conditions apply (e.g., §200.430(g))	X

Selected Cost Item	Uniform Guidance General Reference	Items of Cost Requiring Prior Approval	States, Local Governments, Indian Tribes	Institutions of Higher Education	Nonprofit Organizations	Items of Cost not Treated the Same Across Non-Federal Entities
Compensation – fringe benefits	§200.431	X (related to costs for IHEs)	Allowable with restrictions	Allowable with restrictions; Special conditions apply	Allowable with restrictions	X
Conferences	§200.432		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Contingency provisions	§200.433		Unallowable with exceptions	Unallowable with exceptions	Unallowable with exceptions	
Contributions and donations	§200.434		Unallowable (made by non-federal entity); not reimbursable but value may be used as cost sharing or matching (made to non-federal entity)	Unallowable (made by non-federal entity); not reimbursable but value may be used as cost sharing or matching (made to non-federal entity)	Unallowable (made by non-federal entity); not reimbursable, but value may be used as cost sharing or matching (made to non-federal entity); with restrictions, the value of services may be considered when determining an entity's indirect cost rate under certain circumstances	X
Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements	§200.435		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Depreciation	§200.436		Allowable with qualifications	Allowable with qualifications	Allowable with qualifications	
Employee health and welfare costs	§200.437		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	

Selected Cost Item	Uniform Guidance General Reference	Items of Cost Requiring Prior Approval	States, Local Governments, Indian Tribes	Institutions of Higher Education	Nonprofit Organizations	Items of Cost not Treated the Same Across Non-Federal Entities
Entertainment costs	§200.438	X	Unallowable with exceptions	Unallowable with exceptions	Unallowable with exceptions	
Equipment and other capital expenditures	§200.439	X	Allowability based on specific requirements	Allowability based on specific requirements	Allowability based on specific requirements	
Exchange rates	§200.440	X	Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Fines, penalties, damages and other settlements	§200.441	X	Unallowable with exception	Unallowable with exception	Unallowable with exception	
Fund raising and investment management costs	§200.442	X	Unallowable with exceptions	Unallowable with exceptions	Unallowable with exceptions	
Gains and losses on disposition of depreciable assets	§200.443		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
General costs of government	§200.444		Unallowable with exceptions	Not specifically addressed	Not specifically addressed	X
Goods or services for personal use	§200.445	X	Unallowable (goods/ services); allowable (housing) with restrictions	Unallowable (goods/ services); allowable (housing) with restrictions	Unallowable (goods/ services); allowable (housing) with restrictions	
Idle facilities and idle capacity	§200.446		Idle facilities - unallowable with exceptions; idle capacity - allowable with restrictions	Idle facilities - unallowable with exceptions; idle capacity - allowable with restrictions	Idle facilities - unallowable with exceptions; idle - capacity allowable with restrictions	
Insurance and indemnifica-tion	§200.447	X	Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	

Selected Cost Item	Uniform Guidance General Reference	Items of Cost Requiring Prior Approval	States, Local Governments, Indian Tribes	Institutions of Higher Education	Nonprofit Organizations	Items of Cost not Treated the Same Across Non-Federal Entities
Intellectual property	§200.448		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Interest	§200.449		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	X
Lobbying	§200.450		Unallowable	Unallowable; Special additional restrictions	Unallowable; Special additional restrictions	X
Losses on other awards or contracts	§200.451		Unallowable (however, they are required to be included in the indirect cost rate base for allocation of indirect costs)	Unallowable (however, they are required to be included in the indirect cost rate base for allocation of indirect costs)	Unallowable (however, they are required to be included in the indirect cost rate base for allocation of indirect costs)	
Maintenance and repair costs	§200.452		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Materials and supplies costs, including computing devices	§200.453		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Memberships, subscriptions, and professional activity costs	§200.454	X	Allowable with restrictions; unallowable for lobbying organizations.	Allowable with restrictions; unallowable for lobbying organizations	Allowable with restrictions; unallowable for lobbying organizations.	
Organization costs	§200.455	X	Unallowable except federal prior approval	Unallowable except federal prior approval	Unallowable except federal prior approval	
Participant support costs	§200.456	X	Allowable with prior approval of the federal awarding agency	Allowable with prior approval of the federal awarding agency	Allowable with prior approval of the federal awarding agency	
Plant and security costs	§200.457		Allowable; capital expenditures are subject to	Allowable; capital expenditures are subject to	Allowable; capital expenditures are subject to	

Selected Cost Item	Uniform Guidance General Reference	Items of Cost Requiring Prior Approval	States, Local Governments, Indian Tribes	Institutions of Higher Education	Nonprofit Organizations	Items of Cost not Treated the Same Across Non-Federal Entities
			§200.439	§200.439	§200.439	
Pre-award costs	§ 200.458	X	Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Professional service costs	§200.459		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Proposal costs	§200.460		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Publication and printing costs	§200.461		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Rearrangement and reconversion costs	§200.462	X	Allowable (ordinary and normal)	Allowable (ordinary and normal)	Allowable (ordinary and normal)	
Recruiting costs	§200.463		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Relocation costs of employees	§200.464		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Rental costs of real property and equipment	§200.465		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Scholarships and student aid costs	§200.466		Not specifically addressed	Allowable with restrictions	Not specifically addressed	X
Selling and marketing costs	§200.467	X	Unallowable with exceptions	Unallowable with exceptions	Unallowable with exceptions	
Specialized service facilities	§200.468		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Student activity costs	§200.469		Unallowable unless specifically provided for in the federal award	Unallowable unless specifically provided for in the federal award	Unallowable unless specifically provided for in the federal award	
Taxes (including Value Added Tax)	§200.470	X	Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	X
Telecommunication costs and	§200.471		Unallowable	Unallowable	Unallowable	

Selected Cost Item	Uniform Guidance General Reference	Items of Cost Requiring Prior Approval	States, Local Governments, Indian Tribes	Institutions of Higher Education	Nonprofit Organizations	Items of Cost not Treated the Same Across Non-Federal Entities
video surveillance costs						
Termination costs	§200.472		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Training and education costs	§200.473		Allowable for employee development	Allowable for employee development	Allowable for employee development	
Transportation costs	§200.474		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Travel costs	§200.475	X	Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Trustees	§200.476		Not specifically addressed	Allowable with restrictions	Allowable with restrictions	X

Suggested Internal Control 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 program.

2. Plan the testing of internal control to support a low assessed level of control risk for allowable costs/cost principles and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR 200.516, 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 non-compliance. 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.

Indirect Cost Rate

Except for those non-federal entities described in 2 CFR Part 200, Appendix VII, paragraph D.1.b, if a non-federal entity does not have a current negotiated indirect cost rate (including provisional rate), it may elect to charge a de minimis rate of 10 percent of modified total direct costs (MTDC). Such a rate may be used indefinitely or until the non-federal entity chooses to negotiate a rate, which the non-federal entity may do at any time. If a non-federal entity chooses to use the de minimis rate, that rate must be used consistently for all of its federal awards. Also,

as described in 2 CFR 200.403, costs must be consistently charged as either indirect or direct but may not be double charged or inconsistently charged as both. In accordance with 2 CFR 200.400(g), a non-federal entity may not earn or keep any profit resulting from federal financial assistance, unless explicitly authorized by the terms and conditions of the award. A non-federal entity can always choose to charge the federal awards less than the negotiated rates or the de minimis rate.

Audit Objectives – De Minimis Indirect Cost Rate

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

2. Determine that the de minimis rate is applied to the appropriate base amount.

3. Determine that the de minimis rate is used consistently by a non-federal entity under its federal awards.

Suggested Compliance Audit Procedures – De Minimis Indirect Cost Rate

The following suggested audit procedures apply to any non-federal entity using a de minimis indirect cost rate, whether as a recipient or subrecipient. None of the procedures related to indirect costs in the sections organized by type of non-federal entity apply when a de minimis rate is used.

1. Determine that the non-federal entity does not have a current Federal negotiated indirect cost rate (including provisional rate).

2. Test a sample of transactions for conformance with 2 CFR 200.414(f).

    a. Select a sample of claims for reimbursement of indirect costs and verify that the de minimis rate was used consistently, the rate was applied to the appropriate base, and the amounts claimed were the product of applying the rate to a modified total direct costs base.

    b. Verify that the costs included in the base are consistent with the costs that were included in the base year (i.e., verify that current year modified total direct costs do not include costs items that were treated as indirect costs in the base year).

3. For a non-federal entity conducting a single function, which is predominately funded by federal awards, determine whether use of the de minimis indirect cost rate resulted in the non-federal entity double-charging or inconsistently charging costs as both direct and indirect.

2 CFR PART 200
COST PRINCIPLES FOR STATES, LOCAL GOVERNMENTS, AND INDIAN TRIBES

Introduction

2 CFR Part 200, Subpart E and appendices III–VII establish principles and standards for determining allowable direct and indirect costs for federal awards. This section is organized into the following areas of allowable costs: states and local government and Indian tribe costs (direct and indirect); state/local government central service costs; and state public assistance agency costs.

Cognizant Agency for Indirect Costs

2 CFR Part 200, Appendix V, paragraph F, provides the guidelines to use when determining the federal agency that will serve as the cognizant agency for indirect costs for states, local governments, and Indian tribes. References to the "cognizant agency for indirect costs" are not equivalent to the cognizant agency for audit responsibilities, which is defined in 2 CFR 200.1.

For indirect cost rates and departmental indirect cost allocation plans, the cognizant agency is generally the federal agency with the largest value of *direct* federal awards (excluding pass-through awards) with a governmental unit or component, as appropriate. In general, unless different arrangements are agreed to by the concerned federal agencies or described in 2 CFR Part 200, Appendix V, paragraph F, the cognizant agency for central service cost allocation plans is the federal agency with the largest dollar value of *total* federal awards (including pass-through awards) with a governmental unit.

Once designated as the cognizant agency for indirect costs, the federal agency remains so for a period of five years. In addition, 2 CFR Part 200, Appendix V, paragraph F, lists the cognizant agencies for certain specific types of plans and the cognizant agencies for indirect costs for certain types of governmental entities. For example, HHS is cognizant for all public assistance and state-wide cost allocation plans for all states (including the District of Columbia and Puerto Rico), state and local hospitals, libraries, and health districts, and the Department of the Interior (DOI) is cognizant for all Indian tribal governments, territorial governments, and state and local park and recreational districts.

Allowable Costs—Direct and Indirect Costs

The individual state/local government/Indian tribe departments or agencies (also known as "operating agencies") are responsible for the performance or administration of federal awards. In order to receive cost reimbursement under federal awards, the department or agency usually submits claims asserting that allowable and eligible costs (direct and indirect) have been incurred in accordance with 2 CFR Part 200, Subpart E.

The indirect cost rate proposal (ICRP) provides the documentation prepared by a state/local government/Indian tribe department or agency to substantiate its request for the establishment of an indirect cost rate. The indirect costs include (1) costs originating in the department or agency of the governmental unit carrying out federal awards, and (2) for states and local governments, costs of central governmental services distributed through the state/local government-wide

central service CAP that are not otherwise treated as direct costs. The ICRPs are based on the most current financial data and are used to either establish predetermined, fixed, or provisional indirect cost rates or to finalize provisional rates (for rate definitions refer to 2 CFR Part 200, Appendix VII, paragraph B).

1. Compliance Requirements – Direct Costs

a. Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a federal award or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy.

b. Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect costs.

2. Audit Objectives – Direct Costs

a. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

b. Determine whether the organization complied with the provisions of 2 CFR Part 200) as follows:

(1) Direct charges to federal awards were for allowable costs.

(2) Unallowable costs determined to be direct costs were included in the allocation base for the purpose of computing an indirect cost rate.

3. Suggested Compliance Audit Procedures – Direct Costs

Test a sample of transactions for conformance with the following criteria contained in 2 CFR Part 200, as applicable:

a. If the auditor identifies unallowable direct costs, the auditor should be aware that "directly associated costs" might have been charged. Directly associated costs are costs incurred solely as a result of incurring another cost and would not have been incurred if the other cost had not been incurred. For example, fringe benefits are "directly associated" with payroll costs. When an unallowable cost is incurred, directly associated costs are also unallowable.

b. Costs were approved by the federal awarding agency, if required (see the above table (Selected Items of Cost, Exhibit 1) or 2 CFR 200.407 for selected items of cost that require prior written approval).

c. Costs did not consist of improper payments, including (1) payments that should not have been made or that were made in incorrect amounts (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; (2) payments that do not account for credit

for applicable discounts; (3) duplicate payments; (4) payments that were made to an ineligible party or for an ineligible good or service; and (5) payments for goods or services not received (except for such payments where authorized by law).

d. Costs were necessary and reasonable for the performance of the federal award and allocable under the principles of 2 CFR Part 200, Subpart E.

e. Costs conformed to any limitations or exclusions set forth in 2 CFR Part 200, Subpart E, or in the federal award as to types or amount of cost items.

f. Costs were consistent with policies and procedures that apply uniformly to both federally financed and other activities of the state/local government/Indian tribe department or agency.

g. Costs were accorded consistent treatment. Costs were not assigned to a federal award as a direct cost if any other cost incurred for the same purpose in like circumstances was allocated to the federal award as an indirect cost.

h. Costs were not included as a cost of any other federally financed program in either the current or a prior period.

i. Costs were not used to meet the cost-sharing or matching requirements of another federal program, except where authorized by federal statute.

j. Costs were adequately documented.

1. Compliance Requirements – Indirect Costs

a. *Allocation of Indirect Costs and Determination of Indirect Cost Rates*

(1) The specific methods for allocating indirect costs and computing indirect cost rates are as follows:

(a) *Simplified Method* – This method is applicable where a governmental unit's department or agency has only one major function, or where all its major functions benefit from the indirect cost to approximately the same degree. The allocation of indirect costs and the computation of an indirect cost rate may be accomplished through simplified allocation procedures described in 2 CFR Part 200, Appendix VII, paragraph C.2.

(b) *Multiple Allocation Base Method* – This method is applicable where a governmental unit's department or agency has several major functions that benefit from its indirect costs in varying degrees. The allocation of indirect costs may require the accumulation of such costs into separate groupings which are then allocated individually to benefiting functions by means of a base which best measures the relative degree of benefit. (For detailed

information, refer to 2 CFR Part 200, Appendix VII, paragraph C.3.)

(c) *Special Indirect Cost Rates* – In some instances, a single indirect cost rate for all activities of a department or agency may not be appropriate. Different factors may substantially affect the indirect costs applicable to a particular program or group of programs (e.g., the physical location of the work, the nature of the facilities, or level of administrative support required). (For the requirements for a separate indirect cost rate, refer to 2 CFR Part 200, Appendix VII, paragraph C.4.)

(d) *Cost Allocation Plans* – In certain cases, the cognizant agency for indirect costs may require a state or local government unit's department or agency to prepare a CAP instead of an ICRP. These are infrequently occurring cases in which the nature of the department or agency's federal awards makes impracticable the use of a rate to recover indirect costs. A CAP required in such cases consists of narrative descriptions of the methods the department or agency uses to allocate indirect costs to programs, awards, or other cost objectives. Like an ICRP, the CAP either must be submitted to the cognizant agency for indirect cost for review, negotiation, and approval, or retained on file for inspection during audits.

b. *Submission Requirements*

(1) Submission requirements are identified in 2 CFR Part 200, Appendix VII, paragraph D.1. All departments or agencies of a governmental unit claiming indirect costs under federal awards must prepare an ICRP and related documentation to support those costs.

(2) A state/local department or agency or Indian tribe that receives more than $35 million in direct federal funding must submit its ICRP to its cognizant agency for indirect costs. Other state/local government departments or agencies that are not required to submit a proposal to the cognizant agency for indirect costs must develop an ICRP in accordance with the requirements of 2 CFR Part 200 and maintain the proposal and related supporting documentation for audit.

(3) Where a government receives funds as a subrecipient only, the pass-through entity will be responsible for the indirect cost rate used (2 CFR 200.332(a)(4)).

(4) Each Indian tribe desiring reimbursement of indirect costs must submit its ICRP to the DOI (its cognizant agency for indirect costs).

(5) ICRPs must be developed (and, when required, submitted) within 6 months after the close of the governmental unit's fiscal year, unless an exception is approved by the cognizant agency for indirect costs.

c. *Documentation and Certification Requirements*

The documentation and certification requirements for ICRPs are included in 2 CFR Part 200, Appendix VII, paragraphs D.2 and 3, respectively. The proposal and related documentation must be retained for audit in accordance with the record retention requirements contained in 2 CFR 200.334(f).

2. Audit Objectives – Indirect Costs

a. Obtain an understanding of internal control over the compliance requirements for state/local government/Indian tribe department or agency costs, assess risk, and test internal control as required by 2 CFR 200.514(c).

b. Determine whether the governmental unit complied with the provisions of 2 CFR Part 200 as follows:

(1) Charges to cost pools used in calculating indirect cost rates were for allowable costs.

(2) The methods for allocating the costs are in accordance with the cost principles and produce an equitable and consistent distribution of costs (e.g., all activities that benefit from the indirect cost, including unallowable activities, must receive an appropriate allocation of indirect costs).

(3) Indirect cost rates were applied in accordance with negotiated indirect cost rate agreements (ICRA).

(4) For state/local departments or agencies that do not have to submit an ICRP to the cognizant agency for indirect costs (those that receive less than $35 million in direct federal awards), indirect cost rates were applied in accordance with the ICRP maintained on file.

3. Suggested Compliance Audit Procedures – Indirect Costs

a. If the state/local department or agency is not required to submit an ICRP and related supporting documentation, the auditor should consider the risk of the reduced level of oversight in designing the nature, timing, and extent of compliance testing.

b. *General Audit Procedures* – The following procedures apply to charges to cost pools that are allocated wholly or partially to federal awards or used in formulating indirect cost rates used for recovering indirect costs under federal awards.

(1) Test a sample of transactions for conformance with:

(a) The criteria contained in the "Basic Considerations" section of 2 CFR 200.402 through 200.411.

(b) The principles to establish allowability or unallowability of certain items of cost (2 CFR 200.420 through 200.476).

(2) If the auditor identifies unallowable costs, the auditor should be aware that directly associated costs might have been charged. Directly associated costs are costs incurred solely as a result of incurring another cost and would have not been incurred if the other cost had not been incurred. When an unallowable cost is incurred, directly associated costs are also unallowable. For example, occupancy costs related to unallowable general costs of government are also unallowable.

c. *Special Audit Procedures for State, Local Government, and Indian Tribe ICRPs*

(1) Verify that the ICRP includes the required documentation in accordance with 2 CFR Part 200, Appendix VII, paragraph D.

(2) *Testing of the ICRP* – There may be a timing consideration when the audit is completed before the ICRP is completed. In this instance, the auditor should consider performing interim testing of the costs charged to the cost pools and the allocation bases (e.g., determine from management the cost pools that management expects to include in the ICRP and test the costs for compliance with 2 CFR Part 200). If there are audit exceptions, corrective action may be taken earlier to minimize questioned costs. In the next year's audit, the auditor should complete testing and verify management's representations against the completed ICRP.

The following procedures are some acceptable options the auditor may use to obtain assurance that the costs collected in the cost pools and the allocation methods used are in compliance with 2 CFR Part 200, Subpart E:

(a) *Indirect Cost Pool* – Test the indirect cost pool to ascertain if it includes only allowable costs in accordance with 2 CFR Part 200.

(i) Test to ensure that unallowable costs are identified and eliminated from the indirect cost pool (e.g., capital expenditures, general costs of government).

(ii) Identify significant changes in expense categories between the prior ICRP and the current ICRP. Test a sample of transactions to verify the allowability of the costs.

(iii) Trace the central service costs that are included in the indirect cost pool to the approved state/local government or central service CAP or to plans on file when submission is not required.

(b) *Direct Cost Base* – Test the methods of allocating the costs to ascertain if they are in accordance with the applicable provisions of 2 CFR Part 200 and produce an equitable distribution of costs.

(i) Determine that the proposed base(s) includes all activities that benefit from the indirect costs being allocated.

(ii) If the direct cost base is not limited to direct salaries and wages, determine that distorting items are excluded from the base. Examples of distorting items include capital expenditures, flow-through funds (such as benefit payments), and subaward costs in excess of $25,000 per subaward.

(iii) Determine the appropriateness of the allocation base (e.g., salaries and wages, modified total direct costs).

(c) *Other Procedures*

(i) Examine the records for employee compensation to ascertain if they are accurate, and the costs are allowable and properly allocated to the various functional and programmatic activities to which salary and wage costs are charged. (Refer to 2 CFR 200.430 for additional information on support of salaries and wages.)

(ii) For an ICRP using the multiple allocation base method, test statistical data (e.g., square footage, audit hours, salaries and wages) to ascertain if the proposed allocation or rate bases are reasonable, updated as necessary, and do not contain any material omissions.

(3) *Testing of Charges Based Upon the ICRA* – Perform the following procedures to test the application of charges to federal awards based upon an ICRA:

(a) Obtain and read the current ICRA and determine the terms in effect.

(b) Select a sample of claims for reimbursement and verify that the rates used are in accordance with the rate agreement, that rates were applied to the appropriate bases, and that the amounts claimed were the product of applying the rate to the applicable

base. Verify that the costs included in the base(s) are consistent with the costs that were included in the base year (e.g., if the allocation base is total direct costs, verify that current-year direct costs do not include costs items that were treated as indirect costs in the base year).

(4) *Other Procedures* – No Negotiated ICRA

(a) If an indirect cost rate has not been negotiated by a cognizant agency for indirect costs, the auditor should determine whether documentation exists to support the costs. When the auditee has documentation, the suggested general audit procedures under paragraph 3.b above should be performed to determine the appropriateness of the indirect cost charges to awards.

(b) If an indirect cost rate has not been negotiated by a cognizant agency for indirect costs, and documentation to support the indirect costs does not exist, the auditor should question the costs based on a lack of supporting documentation.

Allowable Costs – State/Local Government-Wide Central Service Costs

Most governmental entities provide services, such as accounting, purchasing, computer services, and fringe benefits, to operating agencies on a centralized basis. Since federal awards are performed within the individual operating agencies, there must be a process whereby these central service costs are identified and assigned to benefiting operating agency activities on a reasonable and consistent basis. The state/local government-wide central service cost allocation plan (CAP) provides that process. (Refer to 2 CFR Part 200, Appendix V, for additional information and specific requirements.)

The allowable costs of central services that a governmental unit provides to its agencies may be allocated or billed to the user agencies. The state/local government-wide central service CAP is the required documentation of the methods used by the governmental unit to identify and accumulate these costs, and to allocate them or develop billing rates based on them.

Allocated central service costs (referred to as Section I costs) are allocated to benefiting operating agencies on some reasonable basis. These costs are usually negotiated and approved for a future year on a "fixed-with-carry-forward" basis. Examples of such services might include general accounting, personnel administration, and purchasing. Section I costs assigned to an operating agency through the state/local government-wide central service CAP are typically included in the agency's indirect cost pool.

Billed central service costs (referred to as Section II costs) are billed to benefiting agencies and/or programs on an individual fee-for-service or similar basis. The billed rates are usually based on the estimated costs for providing the services. An adjustment will be made at least annually for the difference between the revenue generated by each billed service and the actual allowable costs. Examples of such billed services include computer services, transportation

services, self-insurance, and fringe benefits. Section II costs billed to an operating agency may be charged as direct costs to the agency's federal awards or included in its indirect cost pool.

1. Compliance Requirements – State/Local Government-Wide Central Service Costs

a. *Submission Requirements*

(1) Submission requirements are identified in 2 CFR Part 200, Appendix V, paragraph D.

(2) A state is required to submit a state-wide central service CAP to HHS for each year in which it claims central service costs under federal awards.

(3) A "major local government" is required to submit a central service CAP to its cognizant agency for indirect costs annually. *Major local government* means a local government that receives more than $100 million in direct federal awards (not including pass-through awards) subject to 2 CFR Part 200, Subpart E. All other local governments claiming central service costs must develop a CAP in accordance with the requirements described in 2 CFR Part 200 and maintain the plan and related supporting documentation for audit. These local governments are not required to submit the plan for federal approval unless they are specifically requested to do so by the cognizant agency for indirect costs.

(4) All central service CAPs will be prepared and, when required, submitted within the six months prior to the beginning of the governmental unit's fiscal years in which it proposes to claim central service costs. Extensions may be granted by the cognizant agency for indirect costs on a case-by-case basis.

b. *Documentation Requirements*

(1) The central service CAP must include all central service costs that will be claimed (either as an allocated or a billed cost) under federal awards. Costs of central services omitted from the CAP will not be reimbursed.

(2) The documentation requirements for all central service CAPs are contained in 2 CFR Part 200 Appendix V, paragraph E. All plans and related documentation used as a basis for claiming costs under federal awards must be retained for audit in accordance with the record retention requirements contained in 2 CFR 200.334(f).

c. *Required Certification* – No proposal to establish a central service CAP, whether submitted to the cognizant agency for indirect costs or maintained on file by the governmental unit, will be accepted and approved unless such costs have been certified by the governmental unit using the Certificate of Cost Allocation Plan as set forth in 2 CFR Part 200, Appendix V, paragraph E.4.

d. *Allocated Central Service Costs (Section I Costs)* – A carry-forward adjustment is not permitted for a central service activity that was not included in the approved plan, or for unallowable costs that must be reimbursed immediately (2 CFR Part 200, Appendix V, paragraph G.3).

e. *Billed Central Service Costs (Section II Costs)*

(1) Each billed central service activity must separately account for all revenues (including imputed revenues) generated by the service, expenses incurred to furnish the service, and profit/loss (2 CFR Part 200, Appendix V, paragraph G.1).

(2) Internal service funds for central service activities are allowed a working capital reserve of up to 60 calendar days cash expenses for normal operating purposes (2 CFR Part 200, Appendix V, paragraph G.2). A working capital reserve exceeding 60 calendar days may be approved by the cognizant agency for indirect costs in exceptional cases.

(3) Adjustments of billed central services are required when there is a difference between the revenue generated by each billed service and the actual allowable costs (2 CFR Part 200, Appendix V, paragraph G.4). A comparison of the revenue generated by each billed service (including total revenues whether or not billed or collected) to the actual allowable costs of the service will be made at least annually, and an adjustment will be made for the difference between the revenue and the allowable costs. The adjustments will be made through one of the following methods, at the option of the cognizant agency:

(a) If revenue exceeds costs, a cash refund to the federal government for the federal share of the adjustment, including earned or imputed interest from the date of expenditure and debt interest, if applicable, chargeable in accordance with applicable cognizant agency for indirect costs regulations;

(b) Credits to the amounts charged to the individual programs;

(c) Adjustments to future billing rates; or

(d) Adjustments to allocated central service costs (Section I) if the total amount of the adjustment for a particular service (federal share and non-federal share) does not exceed $500,000.

(4) Whenever funds are transferred from a self-insurance reserve to other accounts (e.g., general fund), refunds must be made to the federal government for its share of funds transferred, including earned or imputed interest from the date of transfer and debt interest, if applicable, chargeable in accordance with applicable cognizant agency for indirect cost claims collection regulations (2 CFR 200.447(d)(5)).

2. Audit Objectives – State/Local Government-Wide Central Service Costs

a. Obtain an understanding of internal control over the compliance requirements for central service costs, assess risk, and test internal control as required by 2 CFR 200.514(c).

b. Determine whether the governmental unit complied with the provisions of 2 CFR Part 200 as follows:

(1) Charges to cost pools allocated to federal awards through the central service CAPs were for allowable costs.

(2) The methods of allocating the costs are in accordance with the cost principles, and produce an equitable and consistent distribution of costs, which benefit from the central service costs being allocated (e.g., cost allocation bases include all activities, including all state departments and agencies and, if appropriate, non-state organizations which receive services).

(3) Cost allocations were in accordance with central service CAPs approved by the cognizant agency for indirect costs or, in cases where such plans are not subject to approval, in accordance with the plan on file.

3. Suggested Compliance Audit Procedures – State/Local Government-Wide Central Service Costs

a. For local governments that are not required to submit the central service CAP and related supporting documentation, the auditor should consider the risk of the reduced level of oversight in designing the nature, timing and extent of compliance testing.

b. *General Audit Procedures for State/Local Government-Wide Central Service CAPs* – The following procedures apply to charges to cost pools that are allocated wholly or partially to federal awards or used in formulating indirect cost rates used for recovering indirect costs under federal awards.

(1) Test a sample of transactions for conformance with:

(a) The criteria contained in the "Basic Considerations" section of 2 CFR Part 200, Subpart E (sections 200.402 through 200.411).

(b) The principles to establish allowability or unallowability of certain items of cost (2 CFR 200.420 through 476).

(2) If the auditor identifies unallowable costs, the auditor should be aware that directly associated costs might have been charged. Directly associated costs are costs incurred solely as a result of incurring another cost and would have not been incurred if the other cost had not been incurred.

When an unallowable cost is incurred, directly associated costs are also unallowable. For example, occupancy costs related to unallowable general costs of government are also unallowable.

c. *Special Audit Procedures for State/Local Government-Wide Central Service CAPs*

(1) Verify that the central service CAP includes the required documentation in accordance with 2 CFR Part 200 Appendix V, paragraph E.

(2) *Testing of the State/Local Government-Wide Central Service CAPs – Allocated Section I Costs*

(a) If new allocated central service costs were added, review the justification for including the item as Section I costs to ascertain if the costs are allowable (e.g., if costs benefit federal awards).

(b) Identify the central service costs that incurred a significant increase in actual costs from the prior year's costs. Test a sample of transactions to verify the allowability of the costs.

(c) Ascertain if the bases used to allocate costs are appropriate (i.e., costs are allocated in accordance with relative benefits received).

(d) Ascertain if the proposed bases include all activities that benefit from the central service costs being allocated, including all users that receive the services. For example, the state-wide central service CAP should allocate costs to all benefiting state departments and agencies, and, where appropriate, non-state organizations, such as local government agencies.

(e) Perform an analysis of the allocation bases by selecting agencies with significant federal awards to determine if the percentage of costs allocated to these agencies has increased from the prior year. For those selected agencies with significant allocation percentage increases, ascertain if the data included in the bases are current and accurate.

(f) Verify that carry-forward adjustments are properly computed in accordance with 2 CFR Part 200, Appendix V, paragraph G.3.

(3) *Testing of the State/Local Government-Wide Central Service CAPs – Billed Section II Costs*

(a) For billed central service activities accounted for in separate funds (e.g., internal service funds), ascertain if:

(i) Retained earnings/fund balances (including reserves) are computed in accordance with the cost principles;

(ii) Working capital reserves are not excessive in amount (generally not greater than 60 calendar days for cash expenses for normal operations incurred for the period exclusive of depreciation, capital costs, and debt principal costs); and

(iii) Adjustments were made when there is a difference between the revenue generated by each billed service and the actual allowable costs.

(b) Test to ensure that all users of services are billed in a consistent manner. For example, examine selected billings to determine if all users (including users outside the governmental unit) are charged the same rate for the same service.

(c) Test that billing rates exclude unallowable costs, in accordance with the cost principles and federal statutes.

(d) Test, where billed central service activities are funded through general revenue appropriations, that the billing rates (or charges) were developed based on actual costs and were adjusted to eliminate profits.

(e) For self-insurance and pension funds, ascertain if the fund contributions are appropriate for such activities as indicated in the current actuarial report.

(f) Determine if refunds were made to the federal government for its share of funds transferred from the self-insurance reserve to other accounts, including imputed or earned interest from the date of the transfer.

Allowable Costs – State Public Assistance Agency Costs

State public assistance agency costs are (1) defined as all costs allocated or incurred by the state agency except expenditures for financial assistance, medical vendor payments, and payments for services and goods provided directly to program recipients (e.g., day care services); and (2) normally charged to federal awards by implementing the public assistance cost allocation plan (CAP). The public assistance CAP provides a narrative description of the procedures that are used in identifying, measuring, and allocating all costs (direct and indirect) to each of the programs administered or supervised by state public assistance agencies.

2 CFR Part 200, Appendix VI, paragraph A, states that, since the federally financed programs administered by state public assistance agencies are funded predominantly by HHS, HHS is responsible for the requirements for the development, documentation, submission, negotiation,

and approval of public assistance CAPs. These requirements are specified in 45 CFR Part 95, Subpart E.

Major federal programs typically administered by state public assistance agencies include Temporary Assistance for Needy Families (Assistance Listing 93.558), Medicaid (Assistance Listing 93.778), Supplemental Nutrition Assistance Program (Assistance Listing 10.561), Child Support Enforcement (Assistance Listing 93.563), Foster Care (Assistance Listing 93.658), Adoption Assistance (Assistance Listing 93.659), and Social Services Block Grant (Assistance Listing 93.667).

1. Compliance Requirements – State Public Assistance Agency Costs

a. *Submission Requirements*

Unlike most state/local government-wide central service CAPs and ICRPs, an annual submission of the public assistance CAP is not required. Once a public assistance CAP is approved, state public assistance agencies are required to promptly submit amendments to the plan if any of the following events occur (45 CFR 95.509):

(1) The procedures shown in the existing CAP become outdated because of organizational changes, changes to the federal law or regulations, or significant changes in the program levels, affecting the validity of the approved cost allocation procedures.

(2) A material defect is discovered in the CAP.

(3) The CAP for public assistance programs is amended so as to affect the allocation of costs.

(4) Other changes occur which make the allocation basis or procedures in the approved CAP invalid.

The amendments must be submitted to HHS for review and approval.

b. *Documentation Requirements* – A state may claim federal financial participation for costs associated with a program only in accordance with its approved CAP. The public assistance CAP requirements are contained in 45 CFR 95.507.

c. *Implementation of Approved Public Assistance CAPs* – Since public assistance CAPs are of a narrative nature, the federal government needs assurance that the CAP has been implemented as approved. This is accomplished by funding agencies' reviews, single audits, or audits conducted by the cognizant agency for audit (2 CFR Part 200 Appendix VI, paragraph E.1).

2. Audit Objectives – State Public Assistance Agency Costs

a. Obtain an understanding of internal control over the compliance requirements for state public assistance agency costs, assess risk, and test internal control as required by 2 CFR 200.514(c).

b. Determine whether the governmental unit complied with the provisions of 2 CFR Part 200 as follows:

(1) Direct charges to federal awards were for allowable costs.

(2) Charges to cost pools allocated to federal awards through the public assistance CAP were for allowable costs.

(3) The approved public assistance CAP correctly describes the actual procedures used to identify, measure, and allocate costs to each of the programs operated by the state public assistance agency. However, the actual procedures or methods of allocating costs must be in accordance with the cost principles and produce an equitable and consistent distribution of costs.

(4) Charges to federal awards are in accordance with the approved public assistance CAP. This does not apply if the auditor first determines that the approved CAP is not in compliance with the cost principles and/or produces an inequitable distribution of costs.

(5) The employee compensation reporting systems are implemented and operated in accordance with the methodologies described in the approved public assistance CAP.

3. Suggested Compliance Audit Procedures – State Public Assistance Agency Costs

a. Since a significant amount of the costs in the public assistance CAP are allocated based on employee compensation reporting systems, it is suggested that the auditor consider the risk when designing the nature, timing, and extent of compliance testing.

b. *General Audit Procedures* – The following procedures apply to direct charges to federal awards as well as charges to cost pools that are allocated wholly or partially to federal awards.

(1) Test a sample of transactions for conformance with:

(a) The criteria contained in the “Basic Considerations” section of 2 CFR Part 200 (sections 200.402 through 200.411).

(b) The principles to establish allowability or unallowability of certain items of cost (2 CFR 200.420 through 200.476).

(2) If the auditor identifies unallowable costs, the auditor should be aware that directly associated costs might have been charged. Directly associated costs are costs incurred solely as a result of incurring another cost and would have not been incurred if the other cost had not been incurred. When an unallowable cost is incurred, directly associated costs are also unallowable. For example, occupancy costs related to unallowable general costs of government are also unallowable.

c. *Special Audit Procedures for Public Assistance CAPs*

(1) Verify that the state public assistance agency is complying with the submission requirements (i.e., an amendment is promptly submitted when any of the events identified in 45 CFR 95.509 occur).

(2) Verify that public assistance CAP includes the required documentation in accordance with 45 CFR 95.507.

(3) *Testing of the Public Assistance CAP* – Test the methods of allocating the costs to ascertain if they are in accordance with the applicable provisions of the cost principles and produce an equitable distribution of costs. Appropriate detailed tests may include:

(a) Examining the results of the employee compensation system or in addition the records for employee compensation to ascertain if they are accurate, allowable, and properly allocated to the various functional and programmatic activities to which salary and wage costs are charged.

(b) Since the most significant cost pools in terms of dollars are usually allocated based upon the distribution of income maintenance and social services workers' efforts identified through random moment time studies, determining whether the time studies are implemented and operated in accordance with the methodologies described in the approved public assistance CAP. For example, verifying the adequacy of the controls governing the conduct and evaluation of the study, and determining that the sampled observations were properly selected and performed, the documentation of the observations was properly completed, and the results of the study were correctly accumulated and applied. Testing may include observing or interviewing staff who participate in the time studies to determine if they are correctly recording their activities.

(c) Testing statistical data (e.g., square footage, case counts, salaries and wages) to ascertain if the proposed allocation bases are reasonable, updated as necessary, and do not contain any material omissions.

(4) *Testing of Charges Based Upon the Public Assistance CAP* – If the approved public assistance CAP is determined to be in compliance with the cost principles and produces an equitable distribution of costs, verify that the methods of charging costs to federal awards are in accordance with the approved CAP and the provisions of the approval documents issued by HHS. Detailed compliance tests may include:

(a) Verifying that the cost allocation schedules, supporting documentation and allocation data are accurate and that the costs are allocated in compliance with the approved CAP.

(b) Reconciling the allocation statistics of labor costs to employee compensation records (e.g., random moment sampling observation forms).

(c) Reconciling the allocation statistics of non-labor costs to allocation data, (e.g., square footage or case counts).

(d) Verifying direct charges to supporting documents (e.g., purchase orders).

(e) Reconciling the costs to the federal claims.

2 CFR PART 200
COST PRINCIPLES FOR INSTITUTIONS OF HIGHER EDUCATION

Introduction

2 CFR Part 200 establishes principles for determining the costs applicable to research and development, training, and other sponsored work performed by institutions of higher education (IHEs) under federal awards. These federal awards are referred to as sponsored agreements. This section is organized into the following areas of allowable costs: Direct Costs; Indirect Costs; Cost Accounting Standards (CAS) and Disclosure Statements and Special Requirements – Internal Service, Central Service, Pension, or Similar Activities or Funds.

At IHEs, indirect costs are accounted for through F&A cost proposals. F&A costs, for the purpose of 2 CFR Part 200 and as defined at 2 CFR 200.1, are synonymous with "indirect costs" and include costs that are incurred for common or joint objectives and, therefore, cannot be identified readily and specifically with a particular sponsored project, an instructional activity, or any other institutional activity. As described in 2 CFR 200.414(a), the F&A cost categories include building and equipment depreciation; operations and maintenance expenses; interest expenses; general administrative expenses; departmental administration expenses; sponsored project administration expenses; library expenses; and student administration expenses. F&A costs are referred to as "indirect costs" in this section.

Cognizant Agency for Indirect Costs

2 CFR 200.1 defines "cognizant agency for indirect costs" as the federal agency responsible for reviewing, negotiating, and approving indirect (F&A) costs rates on behalf of all federal agencies. References to the "cognizant agency for indirect costs" in this section are not equivalent to the cognizant agency for audit responsibilities, which is defined in 2 CFR 200.1. 2 CFR Part 200, Appendix III, paragraph C.11, assigns indirect cost cognizance to HHS or the Department of Defense (DoD), Office of Naval Research, normally depending on which of the two agencies (HHS or DoD) provides more funds to the educational institution for the most recent three years. Once designated as the cognizant agency for indirect costs, the federal agency remains so for a period of five years.

Allowable Costs – Direct Costs

1. Compliance Requirements – Direct Costs

a. Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy.

b. Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect (F&A) costs.

2. Audit Objectives – Direct Costs

a. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

b. Determine whether the organization complied with the provisions of 2 CFR Part 200 and CAS (if applicable) as follows:

(1) Direct charges to federal awards were for allowable costs.

(2) Unallowable costs determined to be direct costs were included in the allocation base for the purpose of computing an indirect cost rate.

3. Suggested Compliance Audit Procedures – Direct Costs

Test a sample of transactions for conformance with the following criteria contained in 2 CFR Part 200 and CAS, as applicable:

a. If the auditor identifies unallowable direct costs, the auditor should be aware that "directly associated costs" might have been charged. Directly associated costs are costs incurred solely as a result of incurring another cost and would not have been incurred if the other cost had not been incurred. For example, fringe benefits are "directly associated" with payroll costs. When an unallowable cost is incurred, directly associated costs are also unallowable.

b. Costs were approved by the federal awarding agency, if required (see 2 CFR 200.407 for selected items of cost that require prior written approval and Exhibit 1 in this part of the Supplement for selected items of cost that require cognizant agency for indirect cost approval or federal awarding agency approval when charged to an award as direct costs).

c. Costs did not include (1) payments made in an incorrect amount or unallowable under statutory, contractual, administrative, or other legally applicable requirements; (2) overpayments and underpayments that were made to eligible recipients (e.g., payment that does not account for credit for applicable discounts, duplicate payment); and
(3) payments that were made to an ineligible recipient or for ineligible goods or services, or payments for goods and services not received (except for such payments where authorized by law).

d. Costs were necessary and reasonable for the performance of the federal award and allocable under the principles of 2 CFR Part 200, Subpart E.

e. Costs conformed to any limitations or exclusions set forth in 2 CFR Part 200, Subpart E, or in the federal award as to types or amount of cost items.

f. Costs were consistent with policies and procedures that apply uniformly to both federally financed and other activities of the IHE.

g. Costs were accorded consistent treatment. Costs were not assigned to a federal award as a direct cost if any other cost incurred for the same purpose in like circumstances was allocated to the federal award as an indirect cost.

h. Costs were not included as a cost or used to meet cost-sharing or matching requirements of any other federally financed program in either the current or a prior period.

i. Costs were adequately documented.

j. Departmental costs charged direct to institutional activities (i.e., research and development, instruction, other institutional activities) are consistently charged directly in like circumstances and are in accordance with the provisions of 2 CFR Part 200 and CAS. Salaries of administrative and clerical staff normally should be treated as indirect costs. Direct charging of these costs may be appropriate only when certain conditions are met (2 CFR 200.413(c)).

k. Costs for general-purpose equipment charged as direct costs to institutional activities (i.e., research and development, instruction, other institutional activities) are consistently charged as direct, were approved by the federal awarding agency, and are in accordance with the provisions of 2 CFR Part 200 and CAS.

Allowable Costs – Indirect Costs

Indirect (facilities and administrative(F&A)) costs are those costs that are incurred for common or joint objectives and, therefore, cannot be identified readily and specifically with a particular sponsored project, an instructional activity, or any other institutional activity (2 CFR 200.1).

Indirect costs are defined into two broad categories in 2 CFR 200.414(a).

- "Facilities" is defined as depreciation on buildings, equipment and capital improvements, interest on debt associated with certain buildings, equipment and capital improvements, operations and maintenance expenses, and library expenses.

- "Administration" is defined as general administration and general expenses such as the director's office, accounting, personnel, and all other types of expenditures not listed specifically under one of the subcategories of "Facilities" (including cross allocations from other pools, where applicable).

Note: Auditors are reminded that, for educational institutions, the F&A rate in effect at the time of an award is effective for the life of the award and, therefore, even if an award(s) has changed terms and conditions at the time of incremental funding based on 2 CFR Part 200.

1. Compliance Requirements – Indirect Costs

a. In order to recover indirect costs, IHEs must prepare indirect cost rate proposals (ICRPs) in accordance with the guidelines provided in 2 CFR Part 200, Appendix III, and submit them to the cognizant agency for indirect costs for approval (2 CFR Part 200, Appendix III, paragraph C.11).

b. ICRPs prepared by IHEs are based on the most current financial data supported by the institution's accounting system and audited financial statements. These ICRPs can be used to establish either predetermined rates, negotiated fixed rates with carry-forward provisions, or provisional rates (2 CFR Part 200, Appendix III, paragraphs C.4, C.5, and C.6). The ICRP to be used to establish indirect cost rates must be certified by the IHE in accordance with 2 CFR Part 200, Appendix III, paragraph F.2.

c. As described in 2 CFR 200.414(a), the indirect cost (F&A) categories include: depreciation on buildings, equipment and capital improvement, interest on debt associated with certain buildings, and operation and maintenance expenses. In general, the cost groupings established within a category should constitute a pool of items of expense that are considered to be of like nature in terms of their relative contribution to the particular cost objectives to which distribution is appropriate (2 CFR Part 200, Appendix III, paragraph C.1.a). Cost categories should be established considering the general guidelines in 2 CFR Part 200, Appendix III, section B.

d. Each IHE's indirect cost rate process must be appropriately designed to determine that federal sponsors do not in any way subsidize the indirect costs of other sponsors, specifically activities sponsored by industry and foreign governments (2 CFR Part 200, Appendix III, paragraph C.1.a.(3)).

e. Administrative costs charged to sponsored agreements awarded or amended with effective dates beginning on or after the start of the IHE's first fiscal year which begins on or after October 1, 1991, must be limited to 26 percent of modified total direct costs, as defined in 2 CFR Part 200, Appendix III, paragraph C.8.a. IHEs should not change their accounting or cost allocation methods which were in effect on May 1, 1991, if the effect is to (1) change the charging of a particular type of cost from indirect to direct or (2) reclassify or increase allocations from the administrative pools to the facilities pools or fringe benefits cost pools (but also see 2 CFR Part 200, Appendix III, paragraph C.8.b).

f. *Submission Requirement for Standard Format for Long-Form Proposals* – IHEs must use the standard format in accordance with 2 CFR Part 200 Appendix III, Paragraph E to submit ICRP to the cognizant agency for indirect costs. The cognizant agency for indirect costs may, on an institution-by-institution basis, grant exceptions from all or portions of Part II of the standard format. This requirement does not apply to IHEs that use the simplified method for calculating indirect cost rates, as described in 2 CFR Part 200, Appendix III, paragraph C.12.

2. Audit Objectives – Indirect Costs

a. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

b. *If the institution has a negotiated indirect cost rate agreement,* determine that the rate(s) used to charge indirect costs is consistent with the appropriate ICRP (2 CFR Part 200, Appendix III, paragraph C.11) or agreement with a pass-through entity (2 CFR 200.331(a)(4)).

c. *If the institution does not have a negotiated indirect cost rate agreement,* determine whether an ICRP was prepared, certified, and submitted by the educational institution to their cognizant agency for indirect costs. (The cognizant agency for indirect costs is responsible for negotiating and approving indirect cost rates; see 2 CFR Part 200, Appendix III, paragraph C.11.) Verify that billings are based on the ICRP.

d. *If the institution charges indirect costs to federal awards based on award-specific rate(s) required by a federal awarding agency*, determine that the award-specific rate(s) are the result of special circumstances such as required by law or regulation (2 CFR 200.414(c)).

e. Determine that the negotiated (or submitted) rate in effect at the time of the initial award is applied throughout the life of the sponsored agreement. "Life" means each competitive segment of a project. A competitive segment is a period of years approved by the federal awarding agency at the time of the award (2 CFR Part 200, Appendix III, paragraph C.7).

f. Determine that the negotiated (or submitted) rate(s) was applied to the appropriate distribution base (2 CFR Part 200, Appendix III, paragraph C.2).

g. Determine that indirect costs billed to sponsored agreements are the result of applying the negotiated (or submitted) rate(s) to the appropriate base amount(s). Note: When the maximum amount of allowable indirect costs under a limitation (i.e., an award-specific rate) is less than the total amount determined in accordance with the principles in 2 CFR Part 200, the amount not recoverable under a sponsored agreement may not be charged to other sponsored agreements (2 CFR 200.408).

3. Suggested Compliance Audit Procedures – Indirect Costs

a. Test a sample of transactions for conformance with the following criteria contained in 2 CFR Part 200 and CAS, as applicable.

b. *For IHEs that charge indirect cost to federal awards based on a federally negotiated rate(s):*

(1) Ascertain if indirect costs or centralized or administrative services costs were allocated or charged to a major program. If not, the following suggested audit procedures do not apply.

(2) Obtain and read the current indirect cost rate agreement and determine the terms in effect.

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

c. *For IHEs that charge indirect costs to federal awards based on rate(s) which are not negotiated by the cognizant agency for indirect costs:*

(1) If the ICRP has been certified and submitted to the cognizant agency for indirect costs and is based on costs incurred in the year being audited, then the ICRP should be audited for compliance with the provisions of 2 CFR Part 200.

(2) If the IHE has a certified ICRP, which is based on costs incurred in the year being audited, but has not submitted it to their cognizant agency for indirect costs, then the ICRP should be audited using the procedures listed below:

(a) Test the indirect cost pool groupings for compliance with 2 CFR 200.414 and 2 CFR Part 200, Appendix III.

(b) Test the indirect cost pools to determine if costs are allowable.

(c) Test that indirect costs have been treated consistently when incurred for the same purpose, in like circumstances, as indirect costs only with respect to final cost objectives. No final cost objective may have allocated to it as a cost any cost, if another cost incurred for the same purpose, in like circumstances, has been included as a direct cost of that or any other final cost objective (2 CFR 200.412).

(d) Test that the indirect cost pools in the rate proposal were developed consistent with the educational institution’s disclosed practices as described in its DS-2, if applicable (2 CFR 200.419).

(e) Test the *depreciation* cost pool to determine if:

(i) Computations of depreciation are based on the acquisition cost of the assets. Acquisition costs exclude (A) the cost of land; (B) any portion of the cost of buildings and equipment borne by the federal government, irrespective of where title was originally vested or where it is presently located; (C) any portion of the cost of buildings and equipment contributed by or for the educational institution where law or agreement prohibit recovery; and (D) any asset acquired solely for the performance of a non-federal award (2 CFR 200.436(c)).

(ii) The depreciation method used to charge the cost of an asset (or group of assets) to accounting periods reflects the pattern of consumption of the asset during its useful life (2 CFR 200.436(d)(2)).

(iii) The depreciation methods used to calculate the depreciation amounts for the ICRP are the same methods used by the educational institution for its financial statements (2 CFR 200.436(d)(2)).

(iv) Charges for depreciation are supported by adequate property records and physical inventories, which must be taken at least once every two years (2 CFR 200.436(e)).

(v) The allocation method for the depreciation cost pool complies with 2 CFR Part 200, Appendix III, paragraph B.2.

(vi) Gains and losses on the sale, retirement, or other disposition of depreciable property have been appropriately accounted for and complies with 2 CFR 200.443.

(f) Test the *interest* cost pool to determine if:

(i) Computations for interest comply with the provisions of 2 CFR 200.449.

(ii) The allocation method for the interest cost pool complies with 2 CFR Part 200, Appendix III, paragraph B.3.

(g) Test the *operations and maintenance* cost pool to determine if:

(i) Costs are appropriately classified in this cost pool (2 CFR Part 200, Appendix III, paragraph B.4).

(ii) Rental costs comply with the provisions of 2 CFR 200.465.

(iii) The IHE's accounting practices for classifying
(A) rearrangement and alteration costs, and
(B) reconversion costs, either as direct or indirect, result in consistent treatment in like circumstances.

(iv) The allocation method for the operations and maintenance cost pool complies with 2 CFR Part 200, Appendix III, paragraph B.4.

(v) If a utility cost adjustment has been included in the negotiated indirect cost rate, the adjustment complies with the provisions of 2 CFR Part 200, Appendix III, paragraph B.4.c.

(h) Test the *library* cost pool to determine if:

(i) Costs are appropriately classified in this cost pool (2 CFR Part 200, Appendix III, paragraph B.8).

(ii) The allocation method for the library cost pool complies with 2 CFR Part 200, Appendix III, paragraph B.8.

(iii) If the allocation method is based on a cost analysis study in accordance with 2 CFR Part 200, Appendix III, paragraph A.2.d, determine that the study:

(A) Results in an equitable distribution of costs and represents the relative benefits derived;

(B) Is appropriately documented in sufficient detail for review by the cognizant agency for indirect costs;

(C) Is statistically sound;

(D) Is performed specifically at the educational institution;

(E) Is reviewed periodically, but not less frequently than rate negotiations, updated if necessary, and used; and

(F) Assumptions are clearly stated and adequately explained.

(i) Test the *administrative* cost pools to determine if:

(i) Costs are appropriately classified in these cost pools and the distribution bases are compliant with 2 CFR Part 200, Appendix III, paragraphs B.5, B.6, and B.7.

(ii) The administrative cost components comply with the limitation on reimbursement of administrative costs in 2 CFR Part 200, Appendix III, paragraph C.8. If the proposal is based on the alternative method for administrative costs in 2 CFR Part 200, Appendix III, paragraph C.9, then the limitation does not apply. If the proposal is based on the alternative method for administrative costs, determine that the educational institution meets the criteria of paragraph C.9 and that this is adequately documented in the proposal.

(iii) *Departmental administration expense pool* – Test to determine that this cost pool complies with 2 CFR Part 200, Appendix III, paragraph B.6.

(iv) *Academic Deans' Offices* – Test that salaries and operating expenses are limited to those attributable to administrative functions.

(v) *Academic Departments* – Salaries and fringe benefits attributable to the administrative work (including bid and proposal preparation) of faculty (including department heads), and other professional personnel conducting research and/or instruction, are allowed at a rate of 3.6 percent of modified total direct costs. This category must not include professional business or administrative officers. Determine that this allowance is added to the computation of the indirect cost rate for major functions. Test to determine that the expenses covered by this allowance are excluded from the departmental cost pool (2 CFR Part 200, Appendix III, paragraph B.6).

Test for consistent treatment, in like circumstances, of other administrative and supporting expenses incurred within academic departments. For example, items such as office supplies, postage, local telephone, and memberships normally are treated as indirect costs.

(3) If the ICRP has been certified and submitted to the cognizant agency for indirect costs but is based on costs incurred in a fiscal year prior to the fiscal year being audited, a review of the ICRP is not required.

(4) If an ICRP has not been prepared and, therefore, the indirect costs charged to federal awards are not based on a certified ICRP, this may be required to be reported as an audit finding, in accordance with 2 CFR 200.516(a)(5).

(5) *Application of an indirect cost rate(s) not negotiated by the cognizant agency for indirect costs* – Even though the rate(s) has not been approved by the cognizant agency for indirect costs, an unapproved indirect cost rate(s) should be reviewed for consistent application of the submitted rates to direct cost bases to ensure that the indirect cost rate(s) is applied consistent with the educational institution's policies and procedures that apply uniformly to both federally funded and other activities of the institution.

d. *For IHEs that also have awards containing award-specific rates used by the federal awarding agency that take precedence over the negotiated rate for purposes of indirect cost recovery:*

(1) Ascertain that the award-specific rate is in accordance with special circumstances required by law, regulation, or other circumstance specified in 2 CFR 200.414(c)(1).

(2) Obtain and review the award terms used to establish an award-specific indirect cost rate(s).

(3) Select a sample of claims for reimbursement and verify that the award-specific rate(s) used are in accordance with the terms of the award, that rate(s) were applied to the appropriate bases, and that the amounts claimed were the product of applying the rate to the applicable base. Verify that the costs included in the base(s) are consistent with the terms of the agreement.

Allowable Costs – Special Requirements – Cost Accounting Standards and Disclosure Statements

FAR Appendix, 48 CFR 9903.201-2(c), Types of CAS Coverage, requires IHEs to comply with all of the CAS specified in 48 CFR Part 9905 that are in effect on the effective date of a covered contract. Negotiated contracts in excess of $750,000 are CAS-covered, except for CAS-covered contracts awarded to Federally Funded Research and Development Centers (FFRDCs) operated by IHEs, which are subject to 48 CFR Part 9904.

1. Compliance Requirements – CAS and Disclosure Statements

a. 2 CFR 200.419 requires IHEs that receive more than $50 million in federal awards subject to 2 CFR Part 200 in a fiscal year to prepare and submit a Disclosure Statement (DS-2) that describes the institution's cost accounting practices. These institutions are required to submit a DS-2 within six months after the end of the institution's fiscal year that begins after May 8, 1996, unless the institution is required to submit a DS-2 earlier due to a receipt of a CAS-covered contract in accordance with 48 CFR 9903.202-1.

b. These institutions are responsible for maintaining an accurate DS-2 and complying with disclosed cost accounting practices. They also are responsible for filing amendments to the DS-2 with the cognizant agency for indirect costs 6 months in advance of a disclosed practice being changed to comply with a new or modified standard, or when a practice is changed for other reasons. (See COFAR FAQ Q-17 for an exception.) An IHE may proceed with implementing the change only if it has not been notified by the cognizant agency for indirect costs within the six-month period that either a longer period will be needed for review or there are concerns with the potential change.

2. Audit Objectives – CAS and Disclosure Statements

a. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

b. Determine whether the IHE's DS-2 is current, accurate, and complete and that it has been approved by the cognizant agency for indirect costs as adequate and compliant with 2 CFR Part 200 and CAS (48 CFR Part 9905).

c. Determine whether the IHE's actual accounting practices are consistent with its disclosed accounting practices.

d. Determine whether amendments have been filed with the cognizant agency for indirect costs. Amendments must be approved by the cognizant agency for indirect costs if the IHE has CAS-covered contracts subject to 48 CFR Part 9903.

e. Determine whether the IHE's accounting practices for direct and indirect costs comply with CAS applicable to educational institutions (2 CFR 200.419; 48 CFR Part 9905).

3. Suggested Compliance Audit Procedures – CAS and Disclosure Statements

a. Obtain a copy of the IHE's DS-2, amendments, notifications, and, as applicable, approvals from the cognizant agency for indirect costs.

b. Read the DS-2 and its amendments and ascertain if the disclosure agrees with the policies prescribed in the IHE's current policies and procedures documents.

c. Test that the disclosed practices agree with actual practices for the period covered by the audit, including whether the practices were consistent throughout the period.

d. Test direct and indirect charges to federal awards to determine that the IHE's practices used in estimating the costs in the proposal were consistent with the IHE's cost accounting practices used in accumulating and reporting the costs (FAR appendix, 48 CFR 9905.501).

e. For those costs which are sometimes charged as direct and sometimes charged as indirect, test for consistent classification of these costs when incurred for the same purpose and under like circumstances (2 CFR 200.403(d) and FAR appendix, 48 CFR 9905.502). For example:

(1) Salaries of administrative and clerical staff are normally treated as indirect costs; however, direct charging may be appropriate if all of the conditions in 2 CFR 200.413(c) are met. When charged as direct costs to federal awards, test a sample of these costs to determine whether they are treated consistently with charges to non-federal awards, instructional activity, or other institutional activity (2 CFR Part 200, Appendix III, paragraph B.6).

(2) Office supplies, postage, local telephone costs and memberships are normally treated as indirect costs. Sample these costs when they have been charged as direct costs to federal awards to determine whether they are consistently treated for non-federal awards, instructional activity, or other institutional activity (2 CFR Part 200, Appendix III, paragraph B.6).

f. Test for adequate accounting in the IHE's accounting system of unallowable costs for costs charged directly to federal awards, as well as indirect costs accumulated in cost pools (2 CFR 200.403(g) and FAR Appendix, 48 CFR 9905.505).

g. Determine that the IHE's cost accounting period for accumulating direct and indirect costs charged to federal awards is consistent with the institution's fiscal year. If not, determine whether the institution met the criteria for an exception described in 2 CFR Part 200, Appendix III, paragraph A.2.d. See also FAR Appendix, 48 CFR 9905.506.

Allowable Costs – Special Requirements – Internal Service, Central Service, Pension, or Similar Activities or Funds

1. Compliance Requirements

Charges made from internal service, central service, pension, or similar activities or funds must follow the cost principles provided in 2 CFR Part 200, Subpart E.

2. Audit Objectives

a. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

b. Determine whether charges made from internal service, central service, pension, or similar activities or funds are in accordance with 2 CFR Part 200, Subpart E.

3. Suggested Compliance Audit Procedures

a. For activities accounted for in separate funds, ascertain if (1) retained earnings/fund balances (including reserves) were computed in accordance with 2 CFR Part 200; (2) working capital reserves were not excessive in amount (generally not greater than 60 days for cash expenses for normal operations incurred for the period exclusive of depreciation, capital costs and debt principal costs); and (3) refunds were made to the federal government for its share of any amounts transferred or borrowed from internal service, central service, pension, insurance, or other similar activities or funds for purposes other than to meet the operating liabilities, including interest on debt, of the fund.

b. Test that all users of services are billed in a consistent manner.

c. Test that billing rates exclude unallowable costs, in accordance with 2 CFR Part 200.

d. Test, where activities are not accounted for in separate funds, that billing rates (or charges) are developed based on actual costs and were adjusted to eliminate profits.

e. For IHEs that have self-insurance and certain types of fringe benefit programs (e.g., pension funds), ascertain if independent actuarial studies appropriate for such activities are performed at least biennially and that current period costs were allocated based on an appropriate study which is not over two years old.

2 CFR PART 200
COST PRINCIPLES FOR NONPROFIT ORGANIZATIONS

Introduction

2 CFR Part 200 establishes cost principles for determining costs applicable to federal awards with nonprofit organizations (NPOs). The principles are designed to ensure that the federal government bear its fair share of costs except where restricted or prohibited by law. These principles are used by all federal agencies in determining the allowable costs of work performed by NPOs under federal awards. Some NPOs must operate under federal cost principles applicable to for-profit entities located at 48 CFR 31.2. A listing of these organizations is contained in Appendix VIII to 2 CFR Part 200.

In addition to the cost principles established by 2 CFR Part 200, Subpart E, the Cost Accounting Standards Board (CASB) has promulgated certain cost accounting standards (CAS) that must be followed by nonprofit organizations receiving procurement contracts that meet a defined dollar threshold. Generally, organizations are exempt from coverage under CAS unless they receive a single CAS-covered contract or subcontract of at least $7.5 million. After receipt of this trigger contract, CAS coverage is applied to all negotiated awards that exceed the Truth in Negotiations Act threshold, currently $2,000,000 ($750,000 for prime contracts awarded before July 1, 2018), unless they meet certain exemptions. These exemptions and the requirements of CAS can be found in 48 CFR chapter 99.

Cognizant Agency for Indirect Costs

2 CFR 200.1 defines "cognizant agency for indirect costs" as the federal agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals on behalf of all federal agencies. References to the "cognizant agency for indirect costs" in this section are not equivalent to the cognizant agency for audit, which is defined in 2 CFR 200.1. 2 CFR Part 200, Appendix IV, paragraph C.2 clarifies that the cognizant agency for indirect costs is generally the federal agency with the largest direct dollar value of federal awards with an organization, unless different arrangements are agreed to by federal agencies.

Allowable Costs – General Criteria – Direct Costs

1. Compliance Requirements – Direct Costs

Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy.

Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect (F&A) costs.

For nonprofit organizations, the cost of activities performed primarily as a service to members, clients, or the general public when significant and necessary to the organization's mission must be treated as direct costs—whether or not allowable—and be allocated an equitable share of indirect costs. Examples can be found in 2 CFR 200.413(f).

If the auditor identifies unallowable direct costs, the auditor should be aware that directly associated costs might have been charged. Directly associated costs are costs incurred solely as a result of incurring another cost that would not have been incurred if the other cost had not been incurred. For example, fringe benefits are directly associated with payroll costs. When a payroll cost is determined to be unallowable, then the directly associated fringe benefit would be determined unallowable as well.

2. Audit Objectives – Direct Costs

a. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

b. Determine whether the organization complied with the provisions of 2 CFR Part 200 and CAS (if applicable) as follows:

   (1) Direct charges to federal awards were for allowable costs.

   (2) Unallowable costs determined to be direct costs were included in the allocation base for the purpose of computing an indirect cost rate.

3. Suggested Compliance Audit Procedures – Direct Costs

Test direct costs charged to federal awards with the following criteria:

a. Costs were approved by the federal awarding agency, if required. (See 2 CFR 200.407 for items of cost that require prior written approval and Exhibit 1, Selected Items of Cost, in this part of the Supplement.)

b. Costs were necessary and reasonable for the performance of the federal award and allocable under the principles of 2 CFR 200, Subpart E.

c. Costs conformed to any limitations or exclusions set forth in 2 CFR 200, Subpart E, or in the federal award as to types or amount of cost items.

d. Costs were consistent with policies and procedures that apply uniformly to both federally financed and other activities of the NPO.

e. Costs were accorded consistent treatment. Cost were not assigned to a federal award as a direct cost if any other cost incurred for the same purpose in like circumstances was allocated to a federal award as an indirect cost.

f. Costs were not included as a cost of any other federally financed program in either the current or a prior period.

g. Costs were not used to meet the cost-sharing or matching requirements of another federal program, except where authorized by federal statute.

h. Costs were adequately documented.

Allowable Costs – Indirect Costs

1. Compliance Requirements – Indirect Costs

a. Indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. Direct costs of minor amounts may be treated as indirect costs under the conditions described in 2 CFR 200.413(d). After direct costs have been determined and assigned directly to awards or other work, as appropriate, indirect costs are those remaining to be allocated to benefitting cost objectives. A cost may not be allocated to a federal award as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been assigned to a federal award as a direct cost. If an organization receives more than $10 million in direct federal funding in a fiscal year, a breakout of the indirect cost component into two broad categories, Facilities and Administration, as defined in 2 CFR 200.414(a), is required.

b. Indirect cost rate proposals (ICRPs) are used to either establish predetermined rates, fixed rates with carry-forward provision, provisional, or final rates (2 CFR Part 200, Appendix IV, paragraph C.1).

(1) *Predetermined rate* means an indirect cost rate, applicable to a specified current or future period, usually the organization's fiscal year. The rate is based on an estimate of the costs to be incurred during the period. A predetermined rate is not subject to adjustment.

(2) *Fixed rate* means an indirect cost rate which has the same characteristics as a predetermined rate, except that the difference between the estimated costs and the actual costs of the period covered by the rate is carried forward as an adjustment to the rate computation of a subsequent period.

(3) *Provisional rate or billing rate* means a temporary indirect cost rate applicable to a specified period which is used for funding, interim reimbursement, and reporting indirect costs on federal awards pending the establishment of a final rate for the period.

(4) *Final rate* means an indirect cost rate applicable to a specified past period which is based on the actual costs of the period. A final rate is not subject to adjustment.

c. Some federal awards may contain cost limitations on recovery of indirect costs that differ from the federally negotiated indirect cost rates. In these cases, the indirect cost rate will be specified in the award, as described in 2 CFR 200.211(b)(15) and 200.332(a)(1)(xiv).

d. To recover indirect costs, NPOs prepare ICRPs for the cognizant agency for indirect costs. NPOs that have not previously established indirect costs rates and are not using the de minimis indirect cost rate must submit an ICRP immediately upon notification that a federal award has been made and, in no event, later than three months after the effective date of the award. NPOs that have previously established indirect cost rates must submit a new ICRP within six months after the close of each fiscal year. The ICRP is the documentation prepared by an organization to substantiate its claims for the reimbursement of indirect costs. The proposal provides the basis for the review and negotiation leading to the establishment of an organization's indirect cost rate. NPOs can select one of three different methods to allocate indirect costs and compute the indirect cost rate.

(1) *Simplified Allocation Method* – Where an organization's major functions benefit from its indirect costs to approximately the same degree, the allocation of indirect costs may be accomplished by (a) separating the organization's total costs for the base period as either direct or indirect, and (b) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. A full discussion of the simplified allocation method can be found in 2 CFR Part 200, Appendix IV, paragraph B.2.

(2) *Multiple Allocation Base Method* – Where an organization's indirect costs benefit its major functions in varying degrees, indirect costs must be accumulated into separate cost groupings, as described in 2 CFR Part 200, Appendix IV, paragraph B.3.b. Each grouping must then be allocated individually to benefiting functions by means of a base that best measures the relative benefits. The allocation bases for each grouping are described in 2 CFR Part 200, Appendix IV, paragraph B.3.c. A full discussion of the multiple allocation base method can be found in 2 CFR Part 200, Appendix IV, paragraph B.3.

(3) *Direct Allocation Method* – Some NPOs treat all costs as direct costs except general administration and general expenses. These organizations generally separate their costs into three basic categories: (a) general administration and general expenses, (b) fundraising, and (c) other direct functions (including projects performed under federal awards). Joint costs, such as depreciation, rental costs, operation and maintenance of facilities, telephone expenses, and the like are prorated individually as direct costs to each category and to each award or other activity using a base most appropriate to the particular cost being prorated. A full discussion of the direct allocation base method can be found in 2 CFR Part 200, Appendix IV, paragraph B.4.

2. Audit Objectives – Indirect Costs

a. Obtain an understanding of internal controls, assess risk, and test internal controls as required by 2 CFR 200.514(c).

b. Determine whether the NPO charged indirect costs to federal awards in compliance with the cost principles in 2 CFR Part 200, Subpart E, Appendix IV, and CAS (if applicable), and in accordance with any negotiated rate agreements and specific award conditions/limitations.

3. Suggested Compliance Audit Procedures – Indirect Costs

a. Test whether indirect costs comply with the following criteria:

(1) Conform to the allowability of cost provisions in 2 CFR Part 200, Subpart E.

(2) Are supported by appropriate documentation, such as purchase orders, receiving reports, contractor invoices, canceled checks, and time and attendance records that meet the documentation standards of 2 CFR 200.430(i), and are correctly charged as to account, amount, and period.

(3) Are calculated in conformity with generally accepted accounting principles or CAS, as required.

(4) Are not used to meet cost-sharing or matching requirements of other federally supported activities.

(5) Be given consistent accounting treatment within and between accounting periods. Consistency in accounting requires that costs incurred for the same purpose, in like circumstances, be treated as either direct costs only or indirect costs only with respect to final cost objectives.

b. *For NPOs that charge indirect costs to federal awards based on federally negotiated rates*, obtain the current indirect cost rate agreement, including the proposal used in the negotiation of the agreement, and determine the type of rates (i.e., pre-determined, fixed rate, provisional rate, or final rate as described in 2 CFR Part 200, Appendix IV, section C) and terms in effect for the year being audited.

(1) If a fixed rate agreement with carry-forward provisions has been negotiated with the cognizant agency for indirect cost, determine that the difference between the estimated indirect costs and the actual indirect costs of the period was correctly calculated and carried forward to the rate computation in the current year.

(2) If a provisional rate was used to bill for indirect costs, determine whether a final rate has been negotiated and appropriate billing adjustments have been made based on the final negotiated rate.

c. *For NPOs that charge indirect costs to federal awards based on rates that are not federally negotiated,* review the ICRP or methodology used to allocate indirect costs for the year being audited to ensure it meets the requirements of 2 CFR Part 200, Subpart E, and CAS, when applicable, to verify the following.

(1) Indirect costs are charged uniformly to both federally funded and other activities of the NPO and are consistent with the NPO's policies and procedures.

(2) Costs in the indirect costs pool are allowable and the composition of the pool allows allocation over a base that is best suited for assigning the pool of indirect costs to cost objectives in accordance with the benefits received.

(3) The allocation base provides for an equitable allocation of indirect costs and include unallowable costs, as appropriate, so that unallowable costs will receive their proportionate share of indirect costs.

(4) Costs have been given consistent accounting treatment within and between accounting periods.

(5) The cost of activities performed primarily as a service to members, clients, or the general public when significant and necessary to the NPO's mission are treated as direct costs—whether or not allowable—and are allocated an equitable share of indirect costs. See examples in 2 CFR 200.413(f).

d. Select a sample of claims for indirect cost reimbursement:

Verify that the rates used where in accordance with the terms and conditions of the award and the amounts claimed were applied to the appropriate base.

Special Requirements – Disclosure Statements (DS-1) Required by Cost Accounting Standards

1. Compliance Requirements – CAS and Disclosure Statements

a. Pub. L. No. 100-679 (41 USC 1501-1506) requires certain contractors and subcontractors (which includes NPOs) to comply with CAS and to disclose in writing and follow consistently their cost accounting practices.

b. The 48 CFR 9903.201-1 (FAR appendix) describes the rules for determining whether a proposed contract or subcontract is exempt from CAS. Negotiated contracts not exempt in accordance with 48 CFR 9903.201-1(b) are subject to CAS. A CAS-covered contract may be subject to either full or modified coverage.

The rules for determining whether full or modified coverage applies are in 48 CFR 9903.201-2 (FAR appendix).

(1) Full coverage requires that a business unit comply with all the CAS specified in 48 CFR Part 9904 that are in effect on the date of the contract award and with any CAS that become applicable because of later award of a CAS-covered contract. Full coverage applies to contractor business units that (a) receive a single CAS-covered contract award of $50 million or more; or (b) receive $50 million or more in net CAS-covered awards during their preceding cost accounting period (48 CFR 9903.201-2(a)).

(2) Modified CAS coverage requires only that the contractor comply with Standard 9904.401, Consistency in Estimating, Accumulating, and Reporting Costs; Standard 9904.402, Consistency in Allocating Costs Incurred for the Same Purpose; Standard 9904.405, Accounting for Unallowable Costs; and Standard 9904.406, Cost Accounting Standard—Cost Accounting Period. Modified, rather, than full, CAS coverage may be applied to a covered contract of less than $50 million awarded to a business unit that received less than $50 million in net CAS-covered awards in the immediately preceding cost accounting period.

c. The 48 CFR 9903.202 (FAR Appendix) describes the general Disclosure Statement requirements. A Disclosure Statement is a written description of a contractor's cost accounting practices and procedures and are required under the following circumstances:

(1) Any business unit that is selected to receive a CAS-covered contract or subcontract of $50 million or more must submit a Disclosure Statement before award.

(2) Any company which, together with its segments, receive net awards of negotiated prime contracts and subcontracts subject to CAS totaling $50 million or more in its most recent cost accounting period, must submit a Disclosure Statement before award of its first CAS-covered contract in the immediately following cost accounting period.

2. Audit Objectives – CAS and Disclosure Statements

a. Determine whether the NPO's Disclosure Statement (including amendments) is current, accurate, complete, and properly filed with the cognizant federal Administrative Contracting Officer in accordance with 48 CFR 9903.202-5.

b. Determine whether the NPO's actual accounting practices are consistent with its disclosed practices.

c. Determine whether the NPO's accounting practices, for direct and indirect costs, are compliant with CAS, based on its required CAS coverage (full or modified).

3. Suggested Compliance Audit Procedures – CAS and Disclosure Statements

a. Ascertain whether the NPO has any CAS-covered contract or subcontracts. If so, determine which type of CAS coverage is applicable (full or modified) and if a Disclosure Statement is required to be submitted to the cognizant agency for indirect cost.

b. If a Disclosure Statement is required, obtain a copy and any amendments:

(1) Determine if the cognizant agency for indirect costs has approved the Disclosure Statement and/or has been appropriately notified of changes in the cost accounting practices that occurred during the year to which indirect cost rate agreements are being applied.

(2) Test whether the NPO's actual accounting practices are consistent with the disclosed practices.

(3) Test the NPO's actual accounting practices for direct and indirect costs are compliant with applicable CAS.

Allowable Costs – Special Requirements – Internal Service, Central Service, Pension, or Similar Activities or Funds

1. Compliance Requirements

NPOs using internal service, central service, pension, or similar activities or funds must follow the applicable cost principles found in 2 CFR Part 200.

2. Audit Objectives

a. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

b. Determine whether charges made from internal service, central service, pension, or similar activities or funds are in accordance with 2 CFR Part 200.

3. Suggested Compliance Audit Procedures

a. For activities accounted for in separate funds, ascertain if (1) retained earnings/fund balances (including reserves) were computed in accordance with 2 CFR Part 200; (2) working capital reserves were not excessive in amount (generally not greater than 60 days for cash expenses for normal operations incurred for the period exclusive of depreciation, capital costs and debt principal costs); and (3) refunds were made to the federal government for its share of any amounts transferred or borrowed from internal service, central service, pension, insurance, or other similar activities or funds for purposes other than to meet the operating liabilities, including interest on debt, of the fund.

b. Test that all users of services are billed in a consistent manner.

c. Test that billing rates exclude unallowable costs, in accordance with 2 CFR Part 200.

d. Test, where activities are not accounted for in separate funds, that billing rates (or charges) are developed based on actual costs and were adjusted to eliminate profits.

e. For NPOs that have self-insurance and certain types of fringe benefit programs (e.g., pension funds), ascertain if independent actuarial studies appropriate for such activities are performed at least biennially and that current period costs were allocated based on an appropriate study which is not over two years old.

C. CASH MANAGEMENT

Compliance Requirements

Grants and Cooperative Agreements

All Non-Federal Entities

Non-federal entities must establish written procedures to implement the requirements of 2 CFR 200.305 (2 CFR 200.302(b)(6)).

States

US Department of the Treasury (Treasury) regulations at 31 CFR Part 205 implement the Cash Management Improvement Act of 1990 (CMIA), as amended (Pub. L. No. 101-453; 31 USC 6501 et seq.). Subpart A of those regulations requires state recipients to enter into Treasury-State Agreements that prescribe specific methods of drawing down federal funds (funding techniques) for federal programs listed in the Assistance Listing (Catalog of federal Domestic Assistance) that meet the funding threshold for a major federal assistance program under the CMIA. Treasury-State Agreements also specify the terms and conditions under which an interest liability would be incurred. Programs not covered by a Treasury-State Agreement are subject to procedures prescribed by Treasury in Subpart B of 31 CFR Part 205 (Subpart B), which at 31 CFR 205.33(a) include the requirement for a state to minimize the time between the drawdown of federal funds and their disbursement for federal program purposes.

Non-Federal Entities Other Than States

Non-federal entities must minimize the time elapsing between the transfer of funds from the US Treasury or pass-through entity and disbursement by the non-federal entity for direct program or project costs and the proportionate share of allowable indirect costs, whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means (2 CFR 200.305(b)).

What constitutes minimized elapsed time for funds transfer will depend on what payment system/method a non-federal entity uses. For example:

- The US Department of Health and Human Service (HHS) processes its financial transactions with non-federal entities through HHS's Program Support Center (PCS), which uses the Payment Management System (PMS). Usually, payments from PMS process overnight and the funds would be available in a non-federal entity's account the next business day. HHS also processes payments through same day wires (mostly state governments).

- Federal agencies, such as the US Department of Commerce, and US Department of the Interior, use the US Treasury's Automated Standard Application for Payments (ASAP) system for grant and cooperative agreement payments. Non-federal entities can use the ASAP on-line process to request and receive same-day payment.

Under the advance payment method, federal awarding agency or pass-through entity payment is made to the non-federal entity before the non-federal entity disburses the funds for program purposes (2 CFR 200.1). A non-federal entity must be paid in advance provided that it maintains, or demonstrates the willingness to maintain, both written procedures that minimize the time elapsing between the transfer of funds from the US Treasury and disbursement by the non-federal entity, as well as a financial management system that meets the specified standards for fund control and accountability (2 CFR 200.305(b)(1)).

The reimbursement payment method is the preferred payment method if (a) the non-federal entity cannot the meet the requirements in 2 CFR 200.305(b)(1) for advance payment, (b) the federal awarding agency sets a specific condition for use of the reimbursement or (c) if requested by the non-federal entity (2 CFR 200.305(b)(3) and 200.208). The reimbursement payment method also may be used on a federal award for construction or for other construction activity as specified in 2 CFR 200.305(b)(3).

To the extent available, the non-federal entity must disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional federal cash draws (2 CFR 200.305(b)(5)).

Except for interest exempt under the Indian Self-Determination and Education Assistance Act (25 USC 5301 et seq.), interest earned by non-federal entities other than states on advances of federal funds is required to be remitted annually to the US Department of Health and Human Services, Payment Management System, P.O. Box 6021, Rockville, MD 20852. Up to $500 per year may be kept for administrative expenses (2 CFR 200.305(b)(9)).

Cost-Reimbursement Contracts under the Federal Acquisition Regulation

For cost-reimbursement contracts under the FAR, reimbursement payment is the predominant method of funding. Advance payments under FAR-based contracts are rare. The FAR clause at 48 CFR 52.216-7 applies to reimbursement payment. Paragraph (b)(1) of that clause requires that the non-federal entity request reimbursement for (a) only allocable, allowable, and reasonable contract costs that have already been paid, or (b) if the non-federal entity is not delinquent in paying costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid. As defined in 48 CFR 52.216-7(b)(1), with relation to supplies and services purchased for use on the contract, “ordinary course of business” would be in accordance with the terms and conditions of a subcontract or invoice, and ordinarily within 30 days of the request to the federal government for reimbursement.

For cost-reimbursement contracts using advance payment, the requirements are contained in the FAR clause at 48 CFR 52.232-12. The non-federal entity is required to account for interest earned on advances from the federal government in accordance with paragraph (f) of that clause.

Loans, Loan Guarantees, Interest Subsidies, and Insurance

Non-federal entities must comply with applicable program requirements for payment under loans, loan guarantees, interest subsidies, and insurance.

Pass-through Entities

Pass-through entities must monitor cash drawdowns by their subrecipients to ensure that the time elapsing between the transfer of federal funds to the subrecipient and their disbursement for program purposes is minimized as required by the applicable cash management requirements in the federal award to the recipient (2 CFR 200.305(b)(1)).

Source of Governing Requirements

The requirements for cash management are contained in 2 CFR 200.302(b)(6) and 200.305, 31 CFR Part 205, 48 CFR 52.216-7(b) and 52.232-12, program legislation, federal awarding agency regulations, and the terms and conditions of the federal award.

Availability of Other Information

Treasury's Fiscal Service maintains a Cash Management Improvement Act web page Cash Management Improvement Act (treasury.gov). Information about the Department of Health and Human Services Payment Management System and the Department of the Treasury' Automated Standard Application for Payments is available at Payment Management | HHS.gov and Automated Standard Application for Payments (ASAP) (treasury.gov), respectively.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

2. For grants and cooperative agreements to states, determine whether states have complied with the terms and conditions of the Treasury-State Agreement or Subpart B procedures.

3. For grants and cooperative agreements to non-federal entities other than states, determine whether payment methods minimized the time elapsing between transfer of federal funds from the US Treasury or the pass-through entity and the disbursement by the non-federal entity and any interest earned on advances was properly remitted.

4. For grants and cooperative agreements to non-federal entities that are funded on a reimbursement basis, determine that expenditures, as defined by 2 CFR 200.1, were incurred prior to the date of the reimbursement request.

5. Determine whether non-federal entities that receive reimbursement payments under cost-reimbursement contracts under the FAR and cost-reimbursement subcontracts under these contracts requested payments in compliance with 48 CFR 52.216-7(b).

6. Determine whether non-federal entities complied with applicable program requirements for loans, loan guarantees, interest subsidies, and insurance.

7. Determine whether pass-through entities implemented procedures to ensure that payments to subrecipients minimized the time elapsing between transfer of federal funds from the pass-through entity to the subrecipient and the disbursement of such funds for program purposes by the subrecipient, as required by applicable cash management requirements in the federal award to the recipient.

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 program.

2. Plan the testing of internal control to support a low assessed level of control risk for cash management and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR 200.514(c) (4), including reporting a significant deficiency or material weakness in accordance with 2 CFR 200.516, 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 remaining risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures – Compliance

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

Grants and cooperative agreements to states

1. For programs tested as major, verify which of those programs are covered by the Treasury-State Agreement in accordance with the materiality thresholds in 31 CFR 205.5, Table A.

2. For those programs identified in procedure 1, determine the funding techniques used for those programs. For those funding techniques that require clearance patterns to schedule the transfer of federal funds to the state, review documentation supporting the clearance pattern and verify that the clearance pattern conforms to the requirements for developing and maintaining clearance patterns as specified in the Treasury-State Agreement (31 CFR 205.12, 205.20, and 205.22).

3. Select a sample of federal cash draws and verify that the timing of the federal cash draws was in compliance with the applicable funding techniques specified in the Treasury-State Agreement or Subpart B procedures, whichever is applicable (31 CFR 205.11 and 205.33).

4. Review the calculation of the interest obligation owed to or by the federal government, reported on the annual report submitted by the state to ascertain that the calculation was in accordance with Treasury regulations and the terms of the Treasury-State Agreement. Trace amounts used in the calculation to supporting documentation.

Grants and cooperative agreements to non-federal entities other than states

5. Review trial balances related to federal funds for unearned revenue. If unearned revenue balances are identified, consider if such balances are consistent with the requirement to minimize the time between drawing and disbursing federal funds.

6. When non-federal entities are funded using advance payments, select a sample of cash drawdowns and verify that the non-federal entity minimized the time elapsing between the transfer of funds from the US Treasury or pass-through entity and disbursement by the non-federal entity.

7. When non-federal entities are funded under the reimbursement method, (a) select a sample of expenditures included in the cash drawdowns made during the period from the US Treasury or pass-through entity and (b) trace to supporting documentation and ascertain if the expenditures were incurred prior to the date of the reimbursement request (2 CFR 200.305(b)(3)).

8. When a program receives program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, or interest earned on such funds, perform tests to ascertain if these funds were disbursed before requesting additional federal cash draws (2 CFR 200.305(b)(5)).

9. Review records to determine if interest in excess of $500 per year was earned on federal cash draws. If so, determine if it was remitted annually to the Department of Health and Human Services, Payment Management System (2 CFR 200.305(b)(9)).

Cost-reimbursement contracts under the Federal Acquisition Regulation

10. Perform tests to ascertain if the non-federal entity requesting reimbursement (a) disbursed funds prior to the date of the request, or (b) meets the conditions allowing for the request for costs incurred, but not necessarily paid for (i.e., ordinarily within 30 days of the request (48 CFR 52.216-7(b))).

Loans, Loan Guarantees, Interest Subsidies, and Insurance

11. Perform tests to ascertain if the non-federal entity complied with applicable program requirements.

All Pass-Through Entities

12. For those programs where a pass-through entity passes federal funds through to subrecipients, select a representative sample of subrecipient payments and ascertain if the pass-through entity implemented procedures to ensure that the time elapsing between the transfer of federal funds to the subrecipient and the disbursement of such funds for program purposes by the subrecipient was minimized (2 CFR 200.305(b)(1)).

D. [RESERVED]

Note: Wage Rate Determination (Davis-Bacon) Act coverage has been moved to 20.001.

E. ELIGIBILITY

Compliance Requirements

The specific requirements for eligibility are unique to each federal program and are found in the statutes, regulations, and the terms and conditions of the federal award pertaining to the program. For programs listed in the Supplement, these specific requirements are in Part 4, "Agency Program Requirements," or Part 5, "Clusters of Programs," as applicable. This compliance requirement specifies the criteria for determining the individuals, groups of individuals (including area of service delivery), or subrecipients that can participate in the program and the amounts for which they qualify.

Source of Governing Requirements

The requirements for eligibility are contained in program legislation, federal awarding agency regulations, and the terms and conditions of the award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

2. Determine whether required eligibility determinations were made (including obtaining any required documentation/verification), that individual program participants or groups of participants (including area of service delivery) were determined to be eligible, and that only eligible individuals or groups of individuals participated in the program.

3. Determine whether subawards were made only to eligible subrecipients.

4. Determine whether amounts provided to or on behalf of eligible participants or groups of participants were calculated in accordance with program 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 program.

2. Plan the testing of internal control over compliance to support a low assessed level of control risk for eligibility and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR 200.516, 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 remaining risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures – Compliance

1. *Eligibility for Individuals*

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

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

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

of computer systems, the auditor may choose to perform these tests of the computer systems as part of testing the internal controls for eligibility.

b. *Split Eligibility Determination Functions*

(1) *Background* – Some non-federal entities pay the federal benefits to the eligible participants but arrange with another entity to perform part or all of the eligibility determination. For example, a state arranges with local government social services agencies to perform the "intake function" (e.g., the meeting with the social services client to determine income and categorical eligibility), while the state maintains the computer systems supporting the eligibility determination process and actually pays the benefits to the participants. In such cases, the state is fully responsible for federal compliance for the eligibility determination, as the benefits are paid by the state. Moreover, the state shows the benefits paid as federal awards expended on the state's Schedule of Expenditures of Federal Awards. Therefore, the auditor of the state is responsible for meeting the internal control and compliance audit objectives for eligibility. This may require the auditor of the state to perform, coordinate, or arrange for additional procedures to ensure compliant eligibility determinations when another entity performs part of the eligibility determination functions. The responsibility of the auditor of the state for auditing eligibility does not relieve the auditor of the other entity (e.g., local government) from responsibility for meeting those internal control and compliance audit objectives for eligibility that apply to the other entity's responsibilities. An exception occurs when the auditor of the other entity confirms with the auditor of the state that certain procedures are not necessary.

(2) Ensure that eligibility testing includes all benefit payments regardless of whether another entity, by arrangement, performs part of the eligibility determination functions.

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

d. Select a sample of individuals receiving benefits and perform tests to ascertain if

(1) The required eligibility determinations and redeterminations, (including obtaining any required documentation/verifications) were performed and the individual was determined to be eligible in accordance with the compliance requirements of the program. (Note that some programs have both initial and continuing eligibility requirements and the auditor should design and perform appropriate tests for both. Also, some programs require periodic redeterminations of eligibility, which should also be tested.)

(2) Benefits paid to or on behalf of the individuals were calculated correctly and in compliance with the requirements of the program.

(3) Benefits were discontinued when the period of eligibility expired.

e. In some programs, the non-federal entity is required to use a quality control process to obtain assurances about eligibility. Review the quality control process and perform tests to ascertain if it is operating to effectively meet the objectives of the process and in compliance with applicable program requirements.

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

a. In some cases, the non-federal entity may be required to perform procedures to determine whether a population or area of service delivery is eligible. Test information used in determining eligibility and ascertain if the population or area of service delivery was eligible.

b. Perform tests to ascertain if:

(1) The population or area served was eligible.

(2) The benefits paid to or on behalf of the individuals or area of service delivery were calculated correctly.

3. *Eligibility for Subrecipients*

a. If the determination of eligibility is based upon an approved application or plan, obtain a copy of this document and identify the applicable eligibility requirements.

b. Select a sample of the awards to subrecipients and perform procedures to verify that the subrecipients were eligible and amounts awarded were within funding limits.

F. EQUIPMENT AND REAL PROPERTY MANAGEMENT

Compliance Requirements

Equipment Management -- Grants and Cooperative Agreements

Equipment means tangible personal property, including information technology systems, having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-federal entity for financial statement purposes or $5,000 (2 CFR 200.1). Title to equipment acquired by a non-federal entity under grants and cooperative agreements vests in the non-federal entity subject to certain obligations and conditions (2 CFR 200.313(a)).

States

A state must use, manage, and dispose of equipment acquired under a federal award in accordance with state laws and procedures (2 CFR 200.313(b)).

Non-Federal Entities Other than States

Non-federal entities other than states must follow 2 CFR 200.313(c) through (e) which require that:

1. Equipment, including replacement equipment, be used in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the federal award or, when appropriate, under other federal awards; however, the non-federal entity must not encumber the equipment without prior approval of the federal awarding agency (2 CFR 200.313(c) and (e)).

2. Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the federal award identification number), who holds title, the acquisition date, cost of the property, percentage of federal participation in the project costs for the federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sales price of the property (2 CFR 200.313(d)(1)).

3. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years (2 CFR 200.313(d)(2)).

4. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated (2 CFR 200.313(d)(3)).

5. Adequate maintenance procedures must be developed to keep the property in good condition (2 CFR 200.313(d)(4)).

6. If the non-federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return (2 CFR 200.313(d)(5)).

7. When original or replacement equipment acquired under a federal award is no longer needed for a federal program (whether the original project or program or other activities currently or previously supported by the federal government), the non-federal entity must request disposition instructions from the federal awarding agency if required by the terms and conditions of the award. Items of equipment with a current per-unit fair market value of $5,000 or less may be retained, sold, or otherwise disposed of with no further obligation to the federal awarding agency. If the federal awarding agency fails to provide requested disposition instructions within 120 days, items of equipment with a current per-unit fair market value in excess of $5,000 may be retained or sold. The federal awarding agency is entitled to the federal interest in the equipment, which is the amount calculated by multiplying the current market value or sale proceeds by the federal agency's participation in total project costs (2 CFR 200.313(e)).

Note: Intangible property that is acquired under a federal award, rather than developed or produced under the award, is subject to the requirements of 2 CFR 200.313(e) regarding disposition (2 CFR 200.315(a)).

Note: OMB granted a limited exception to the equipment and unused supplies thresholds. The COFFA memorandum announcing the exception explains that federal agencies must approve use of the exceptions either by written notice or written approval responding to a request from a recipient. Instead of using the previous equipment and unused supplies thresholds of $5,000 (as referenced in 2 CFR 200.1, 200.313(e), 200.314(a), 200.439(b), prior versions), all recipients of both active and expired Federal awards, and subrecipients of both active and expired subawards, which applied the prior version of the Uniform Grants Guidance, may instead use the revised equipment thresholds of $10,000 provided in the 2024 Revisions if permitted by the Federal agency that made the award. The COFFA memorandum announcing the exception is available at https://www.coffa.gov/assets/files/2%20CFR%20Supplemental%20Information%201-30-25.pdf

Real Property Management – Grants and Cooperative Agreements

Title to real property acquired or improved by non-federal entities under grants and cooperative agreements vests in the non-federal entity subject to the obligations and conditions specified in 2 CFR 200.311 (2 CFR 200.311(a)). Real property will be used for the originally authorized purpose as long as needed for that purpose, during which time the non-federal entity must not dispose of or encumber title to or other interests in the real property (2 CFR 200.311(b)).

When real property is no longer needed for the originally authorized purpose, the non-federal entity must obtain disposition instructions from the federal awarding agency or the pass-through entity, as applicable. When real property is sold, sales procedures must be followed that provide for competition to the extent practicable and result in the highest possible return. If sold, non-federal entities must compensate the federal awarding agency for the portion of the net sales proceeds that represents the federal agency's interest in the real property, which is the amount calculated by multiplying the current market value or sale proceeds by the federal agency's

participation in total project costs. If the property is retained, the non-federal entity must compensate the federal awarding agency for the federal portion of the current fair market value of the property. Disposition instructions may also provide for transfer of title to the federal awarding agency or a designated third party, in which case the non-federal entity is entitled to the non-federal interest in the property, which is calculated by multiplying the current market value or sale proceeds by the non-federal entity's share in total project costs (2 CFR 200.311(c)(3)).

Equipment and Real Property Management – Cost-Reimbursement Contracts under the Federal Acquisition Regulation

Equipment and real property management requirements for cost-reimbursement contracts are specified in the FAR clause at 48 CFR 52.245-1. Federal government property as defined in the FAR includes both equipment and real property. Title to federal government property acquired by a non-federal entity normally vests in the federal government, unless otherwise noted in the contract terms and conditions. The FAR requires:

1. A system of internal controls to manage (control, use, preserve, protect, repair, and maintain) federal government property and a process to enable the prompt recognition, investigation, disclosure and reporting of loss of federal government property.

2. Federal government property must be used for performing the contract for which it was acquired unless otherwise provided for in the contract or approved by the federal awarding agency.

3. Property records must be maintained and include the name, part number and description, and other elements as necessary and required in accordance with the terms and conditions of the contract, quantity received, unit acquisition cost, unique-item identifier, accountable contract number, location, disposition, and posting reference and date of transaction.

4. A physical inventory must be periodically performed, recorded, and disclosed. Except as provided for in the contract, the non-federal entity must not dispose of inventory until authorized by the federal awarding agency. The non-federal entity may purchase the property at the unit acquisition cost if desired or make reasonable efforts to return unused property to the appropriate supplier at fair market value.

Source of Governing Requirements

The requirements for equipment and real property are contained in 2 CFR 200.313 (equipment), 2 CFR 200.311 (real property), 48 CFR 52.245-1 (equipment and real property), program legislation, federal awarding agency regulations, and the terms and conditions of the federal award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

2. Determine whether the non-federal entity maintains proper records for equipment and adequately safeguards and maintains equipment.

3. Determine whether disposition or encumbrance of any equipment or real property acquired or improved under federal awards is in accordance with federal requirements and, when applicable, the federal awarding agency was properly compensated for its portion of 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 program.

2. Plan the testing of internal control to support a low assessed level of control risk for equipment and real property management and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR 200.516, 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 remaining 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

States – Grants and Cooperative Agreements Only

1. Select a sample of equipment transactions acquired under federal awards and test for compliance with the state's policies and procedures for management and disposition of equipment.

Non-Federal Entities Other than States and States with Cost-Reimbursement Contracts under the FAR

2. Inventory Management of Equipment Acquired Under Federal Awards

    a. Identify equipment acquired and trace selected purchases to the property records. Verify that the property records contain the required information.

b. Verify that the required physical inventory of equipment was performed. Test whether any differences between the physical inventory and equipment records were resolved.

c. Select a sample from all equipment acquired under federal awards from the property records and physically inspect the equipment and determine whether the equipment is appropriately safeguarded and maintained.

3. Disposition of Equipment Acquired Under Federal Awards

a. Identify equipment dispositions for the audit period and perform procedures to verify that the dispositions of equipment acquired under federal awards were properly reflected in the property records.

b. For dispositions of equipment acquired under grants and cooperative agreements with a current per-unit fair market value of $5,000 or more, verify whether the federal awarding agency was reimbursed for the federal portion of the current market value or sales proceeds.

c. For dispositions of equipment acquired under cost-reimbursement contracts, verify that the non-federal entity followed federal awarding agency disposition instructions.

All Non-Federal Entities (including both states and other non-federal entities)

4. Disposition of Real Property Acquired Under Federal Awards

a. Identify real property dispositions for the audit period and determine whether such real property was acquired or improved under federal awards.

b. For dispositions of real property acquired or improved under federal awards, perform procedures to verify that the non-federal entity followed the instructions of the federal awarding agency or pass-through entity, which normally require reimbursement to the federal awarding agency for the federal portion of net sales proceeds or fair market value at the time of disposition, as applicable.

G. MATCHING, LEVEL OF EFFORT, EARMARKING

Compliance Requirements

The specific requirements for matching, level of effort, and earmarking are unique to each federal program and are found in the statutes, regulations, and the terms and conditions of awards pertaining to the program. For programs listed in this Supplement, these specific requirements are in Part 4, "Agency Program Requirements" or Part 5, "Clusters of Programs," as applicable.

However, for matching, 2 CFR 200.306 provides detailed criteria for acceptable costs and contributions. The following is a list of the basic criteria for acceptable matching:

- Are verifiable from the non-federal entity's records;
- Are not included as contributions for any other federal award;
- Are necessary and reasonable for accomplishment of project or program objectives;
- Are allowed under 2 CFR Part 200, Subpart E (Cost Principles);
- Are not paid by the federal government under another award, except where the federal statute authorizing a program specifically provides that federal funds made available for such program can be applied to matching or cost sharing requirements of other federal programs;
- Are provided for in the approved budget when required by the federal awarding agency; and
- Conform to other provisions of this part, as applicable.

"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.

Source of Governing Requirements

The requirements for matching are contained in 2 CFR 200.306, program legislation, federal awarding agency regulations, and the terms and conditions of the award. The requirements for level of effort and earmarking are contained in program legislation, federal awarding agency regulations, and the terms and conditions of the award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

2. *Matching* – Determine whether the minimum amount or percentage of contributions or matching funds was provided.

3. *Level of Effort* – Determine whether specified service or expenditure levels were maintained.

4. *Earmarking* – Determine whether minimum or maximum limits for specified purposes or types of participants were met.

Suggested Audit Procedures – Internal Control

1. Perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.

2. Plan the testing of internal control to support a low assessed level of control risk for matching, level of effort, earmarking and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR 200.516, 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 remaining 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 2 CFR 200.306, 200.434, and 200.414, and the terms and conditions of the award.

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

2. Level of Effort

2.1 Level of Effort – *Maintenance of Effort*

a. Identify the required level of effort and perform tests to verify that the level of effort requirement was met.

b. Perform test to verify that only allowable categories of expenditures or other effort indicators (e.g., hours, number of people served) were included in the computation and that the categories were consistent from year to year. For example, in some programs, capital expenditures may not be included in the computation.

c. Perform procedures to verify that the amounts used in the computation were derived from the books and records from which the audited financial statements were prepared.

d. Perform procedures to verify that non-monetary effort indicators were supported by official records.

2.2 Level of Effort – *Supplement Not Supplant*

a. Ascertain if the non-federal 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 non-federal entity used federal funds to provide services which were provided with non-federal funds in the prior year.

(1) Identify the federally funded services.

(2) Perform procedures to determine whether the federal program funded services that were previously provided with non-federal funds.

(3) Perform procedures to ascertain if the total level of services applicable to the requirement increased in proportion to the level of federal contribution.

3. Earmarking

a. Identify the applicable percentage or dollar requirements for earmarking.

b. Perform procedures to verify that the amounts recorded in the financial records met the requirements (e.g., when a minimum amount is required to be spent for a specified type of service, perform procedures to verify that the financial records show that at least the minimum amount for this type of service was charged to the program; or, when the amount spent on a specified type of service may not exceed a maximum amount, perform procedures to verify that the financial records show no more than this maximum amount for the specified type of service was charged to the program).

c. When earmarking requirements specify a minimum percentage or amount, select a sample of transactions supporting the specified amount or percentage and perform tests to verify proper classification to meet the minimum percentage or amount.

d. When the earmarking requirements specify a maximum percentage or amount, review the financial records to identify transactions for the specified activity which were improperly classified in another account (e.g., if only 10 percent may be spent for administrative costs, review accounts for other than administrative costs to identify administrative costs which were improperly classified elsewhere and cause the maximum percentage or amount to be exceeded).

e. When earmarking requirements prescribe the minimum number or percentage of specified types of participants that can be served, select a sample of participants that are counted toward meeting the minimum requirement and perform tests to verify that they were properly classified.

f. When earmarking requirements prescribe the maximum number or percentage of specified types of participants that can be served, select a sample of other participants and perform tests to verify that they were not of the specified type.

H. PERIOD OF PERFORMANCE

Compliance Requirements

A non-federal entity may charge only allowable costs incurred during the approved budget period of a federal award's period of performance and any costs incurred before the federal awarding agency or pass-through entity made the federal award that were authorized by the federal awarding agency or pass-through entity (2 CFR 200.308, 200.309, and 200.403(h)). A period of performance may contain one or more budget periods.

Unless the federal awarding agency or pass-through entity authorizes an extension, a non-federal entity must liquidate all financial obligations incurred under the federal award not later than 120 calendar days after the end date of the period of performance as specified in the terms and conditions of the federal award (2 CFR 200.344(b)). When used in connection with a non-federal entity's utilization of funds under a federal award, "financial obligations" means orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non-federal entity during the same or a future period (2 CFR 200.1).

Period of Performance requirements for cost reimbursement contracts subject to the FAR are contained in the terms and conditions of the contract.

Source of Governing Requirements

The requirements for the period of performance are contained in 2 CFR 200.1 (definitions for "budget period," "financial obligations," and "period of performance"), 2 CFR 200.308 (revision of budget and program plans), 2 CFR 200.309 (modifications to period of performance), 2 CFR 200.344 (closeout), program legislation, federal awarding agency regulations, and the terms and conditions of the award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

2. Determine whether the federal award was only charged for: (a) allowable costs incurred during the period of performance; or (b) costs incurred prior to the date the federal award was made that were authorized by the federal awarding agency or pass-through entity.

3. Determine whether financial 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 program.

2. Plan the testing of internal control to support a low assessed level of control risk for the period of performance and perform the testing of internal control as planned. If internal

control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR 200.516, 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 remaining 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 performance.

2. For federal awards with performance period beginning dates during the audit period, test transactions for costs recorded during the beginning of the period of performance and verify that the costs were not incurred prior to the start of the period of performance unless authorized by the federal awarding agency or the pass-through entity.

3. For federal awards with performance period ending dates during the audit period, test transactions for costs recorded during the latter part and after the period of performance and verify that the costs had been incurred within the period of performance.

4. For federal awards with performance period ending dates during the audit period, test transactions for federal award costs for which the obligation had not been liquidated (payment made) as of the end of the period of performance and verify that the liquidation occurred within the allowed time period.

5. Test adjustments (e.g., manual journal entries) for federal award costs and verify that these adjustments were for transactions that occurred during the period of performance.

I. PROCUREMENT AND SUSPENSION AND DEBARMENT

Compliance Requirements - Procurement

1. Procurement—Grants and Cooperative Agreements

States

When procuring property and services, states must use the same policies and procedures they use for procurements from their non-federal funds (2 CFR 200.317).

Non-Federal Entities Other than States

Non-federal entities other than states, including those operating federal programs as subrecipients of states, must follow the procurement standards set out at 2 CFR 200.318 through 200.327. They must use their own documented procurement procedures, which reflect applicable state and local laws and regulations, provided that the procurements conform to applicable federal statutes and the procurement requirements identified in 2 CFR Part 200. A non-federal entity must:

1. Meet the general procurement standards in 2 CFR 200.318, which include oversight of contractors' performance, maintaining written standards of conduct for employees involved in contracting, awarding contracts only to responsible contractors, and maintaining records to document history of procurements.

2. Conduct all procurement transactions in a manner providing full and open competition, in accordance with 2 CFR 200.319.

3. Use the micro-purchase and small purchase methods only for procurements that meet the applicable criteria under 2 CFR 200.320(a) (1) and (2). Under the micro-purchase method, the aggregate dollar amount does not exceed $50,000 ($2,000 in the case of acquisition for construction subject to the Wage Rate Requirements (Davis-Bacon Act)). Small purchase procedures are used for purchases that exceed the micro-purchase amount but do not exceed the simplified acquisition threshold ($250,000). Micro-purchases may be awarded without soliciting competitive quotations if the non-federal entity considers the price to be reasonable (2 CFR 200.320(a)(1)(ii). If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources (2 CFR 200.320(a)(2)(i)).

4. For acquisitions exceeding the simplified acquisition threshold, the non-federal entity must use one of the following procurement methods: the sealed bid method if the acquisition meets the criteria in 2 CFR 200.320(b)(1)); the competitive proposals method under the conditions specified in 2 CFR 200.320((b) (2); or the noncompetitive proposals method (i.e., solicit a proposal from only one source) but only when one or more of four circumstances are met, in accordance with 2 CFR 200.320(c)).

5. Perform a cost or price analysis in connection with every procurement action in excess of the simplified acquisition threshold, including contract modifications (2 CFR

200.324(a)). The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used (2 CFR 200.324(d)).

6. Ensure that every purchase order or other contract includes applicable provisions required by 2 CFR 200.327. These provisions are described in Appendix II to 2 CFR Part 200, "Contract Provisions for Non-Federal Entity Contracts Under Federal Awards."

Note: OMB granted an exception to procurement standards for Indian Tribes. The COFFA memorandum announcing the exception explains that federal agencies must approve use of the exceptions either by written notice or written approval responding to a request from a recipient. Instead of adhering to the previous requirement for Indian Tribes to follow the procurement standards in 2 CFR 200.318 through 200.327 (2 CFR 200.317, prior version), Indian Tribes implementing their own procurement standards for new awards applying the 2024 Revisions may also follow the revised provision at 2 CFR 200.317 for existing awards applying the prior version of the guidance if permitted by the federal agency that made the award applying the old version of the guidance. This exception is available for new procurements initiated by the Indian Tribe on or after January 15, 2025. The COFFA memorandum announcing the exception is available at https://www.coffa.gov/assets/files/2%20CFR%20Supplemental%20Information%201-30-25.pdf

All Non-Federal Entities (including both states and other non-federal entities)

Under Section 70914 of the Build America, Buy America (BABA) Act each covered federal agency must ensure that "none of the funds made available for a federal financial assistance program for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States."

Effective May 14, 2022, the non-Federal entity must comply with BABA requirements for all applicable federal awards subject to those requirements. For the definition of "infrastructure project" and further information on federal awards subject to BABA requirements, see IIJA section 70912(4)-(5) and 70914, 2 CFR part 184, and OMB Memorandum M-24-02. The non-federal entity must ensure that the following conditions are met for any funds (including Federal funds and non-Federal funds) used for an infrastructure project that receives a federal award subject to BABA requirements:

1. All iron and steel used in the project are produced in the United States;

2. All manufactured products used in the project are produced in the United States; and

3. All construction materials are manufactured in the United States.

The non-Federal entity must also incorporate these Buy America Preference requirements in all applicable subawards, contracts, and purchase orders for the work performed, or products supplied under a Federal award with an infrastructure project.

Important Notes:

- A non-federal entity must comply with the BABA requirements to the extent that the non-federal entity has been informed of these requirements, such as through the award terms and conditions.

- Several federal agencies, in consultation with OMB, issued "waivers" as an exception from or waiver of the Made in America laws. For a listing of waivers by agency see https://www.madeinamerica.gov/waivers/financial-assistance. For a listing of waivers by category see https://www.madeinamerica.gov/waivers. If additional information is needed, see the agency contact found in Appendix III.

2. Procurement—Cost-Reimbursement Contracts under the Federal Acquisition Regulation

When awarding subcontracts, non-federal entities receiving cost-reimbursement contracts under the FAR must comply with the clauses at 48 CFR 52.244-2 (consent to subcontract), 52.244-5 (competition), 52.203-13 (code of business ethics), 52.203-16 (conflicts of interest), and 52.215.12 (cost or pricing data); and the terms and conditions of the contract. The FAR defines "subcontracts" as a contract, i.e., a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

Source of Governing Requirements – Procurement

The requirements that apply to procurement under grants and cooperative agreements are contained in 2 CFR 200.317 through 200.327, program legislation, federal awarding agency regulations, and the terms and conditions of the award. The requirements that apply to procurement under cost-reimbursement contracts under the FAR are contained in 48 CFR parts 03, 15, and 44 and the clauses at 48 CFR 52.244-2, 52.244-5, 52.203-13, 52.203-16, and 52.215-12; agency FAR Supplements; and the terms and conditions of the contract.

Section 70914 of the Build America, Buy America (BABA) Act is the source of the Buy America preference for Federal awards where funds are appropriated or otherwise made available for infrastructure projects in the United States. See 2 CFR 184.4(a).

Compliance Requirements – Suspension and Debarment

Non-federal entities are prohibited from contracting with or making subawards under covered transactions to parties that are suspended or debarred. "Covered transactions" include contracts for goods and services awarded under a non-procurement transaction (e.g., grant or cooperative agreement) that are expected to equal or exceed $25,000 or meet certain other criteria as specified in 2 CFR 180.220. All non-procurement transactions entered into by a pass-through entity (i.e., subawards to subrecipients), irrespective of award amount, are considered covered transactions, unless they are exempt as provided in 2 CFR 180.215.

When a non-federal entity enters into a covered transaction with an entity at a lower tier, the non-federal entity must verify that the entity, as defined in 2 CFR 180.995 and agency adopting regulations, is not suspended or debarred or otherwise excluded from participating in the transaction. This verification may be accomplished by (1) checking the System for Award Management (SAM) Exclusions maintained by the General Services Administration (GSA) and available at SAM.gov | Home (click on Search Record, then click on Advanced Search-Exclusions) (Note: The OMB guidance at 2 CFR Part 180 and agency implementing regulations still refer to the SAM Exclusions as the Excluded Parties List System (EPLS)), (2) collecting a certification from the entity, or (3) adding a clause or condition to the covered transaction with that entity (2 CFR 180.300).

Non-federal entities receiving contracts from the federal government are required to comply with the contract clause at FAR 52.209-6 before entering into a subcontract that will exceed $30,000, other than a subcontract for a commercially available off-the-shelf item.

Source of Governing Requirements – Suspension and Debarment

The requirements for nonprocurement suspension and debarment are contained in OMB guidance in 2 CFR Part 180, which implements Executive Orders 12549 and 12689, "Debarment and Suspension;" federal awarding agency regulations in Title 2 of the CFR adopting/implementing the OMB guidance in 2 CFR Part 180; program legislation; and the terms and conditions of the award.

Most federal agencies have adopted or implemented 2 CFR Part 180, generally by relocating their associated agency rules in Title 2 of the CFR. Appendix II to the Supplement includes the current CFR citations for all agencies adoption or implementation of the nonprocurement suspension and debarment guidance.

Government-wide requirements related to suspension and debarment and doing business with suspended or debarred subcontractors under cost reimbursement contracts under the FAR are contained in 48 CFR 9.405-2(b) and the clause at 48 CFR 52.209-6.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

2. Determine whether procurements under federal awards were made in compliance with applicable federal regulations and other procurement requirements specific to an award or subaward.

3. For covered transactions determine whether the non-federal entity verified that entities are not suspended, 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 program.

2. Plan the testing of internal control to support a low assessed level of control risk for procurement and suspension and debarment requirements and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR 200.516, assessing the control risk at the maximum and considering whether additional compliance tests are required because of ineffective internal control.

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

Suggested Audit Procedures – Compliance

(Procedure 1 applies only to states under grants and cooperative agreements.)

1. Test a sample of procurements to ascertain if the state's laws and procedures were followed and that the policies and procedures used were the same as for non-federal funds (2 CFR 200.317).

(Procedures 2 – 5 apply to non-federal entities other than states.)

2. Obtain the entity's procurement policies and verify that the policies comply with the compliance requirements highlighted above.

3. Verify that the entity has written standards of conduct that cover conflicts of interest and govern the performance of its employees engaged in the selection, award, and administration of contracts (2 CFR 200.318(c) and 48 CFR 52.203-13 and 52.303-16).

4. Ascertain if the entity has a policy to use statutorily or administratively imposed in state or local geographical preferences in the evaluation of bids or proposals. If yes, verify that these limitations were not applied to federally funded procurements except where applicable federal statutes expressly mandate or encourage geographic preference (2 CFR 200.319(c)).

5. Select a sample of procurements and perform the following procedures:

    a. Examine contract files and verify that they document the history of the procurement, including the rationale for the method of procurement, selection of contract type, basis for contractor selection, and the basis for the contract price (2 CFR 200.318(i) and 48 CFR Part 44 and section 52.244-2).

b. For grants and cooperative agreements, verify that the procurement method used was appropriate based on the dollar amount and conditions specified in 2 CFR 200.320. Current micro-purchase and simplified acquisition thresholds can be found in the FAR (48 CFR Subpart 2.1, "Definitions").

c. Verify that procurements provide full and open competition (2 CFR 200.319 and 48 CFR 52.244-5).

d. Examine documentation in support of the rationale to limit competition in those cases where competition was limited and ascertain if the limitation was justified (2 CFR 200.319 and 200.320(c) and 48 CFR 52.244-5).

e. Ascertain if cost or price analysis was performed in connection with all procurement actions exceeding the simplified acquisition threshold, including contract modifications, and that this analysis supported the procurement action (2 CFR 200.323 and 48 CFR 15.404-3).

Note: A cost or price analysis is required for each procurement action, including each contract modification, when the total amount of the contract and related modifications is greater than the simplified acquisition threshold.

f. Verify consent to subcontract was obtained when required by the terms and conditions of a cost reimbursement contract under the FAR (48 CFR 52.244-2).

Note: If the non-federal entity has an approved purchasing system, consent to subcontract may not be required unless specifically identified by contract terms or conditions. The auditor should verify that the approval of the purchasing system is effective for the audit period being reviewed.

(Procedures 6-8 apply to all non-federal entities.)

6. Review the non-federal entity's procedures for verifying that an entity with which it plans to enter into a covered transaction is not debarred, suspended, or otherwise excluded (2 CFR 200.212 and 200.318(h); 2 CFR 180.300; 48 CFR 52.209-6).

7. Select a sample of procurements and subawards and test whether the non-federal entity followed its procedures before entering into a covered transaction.

8. Select a sample of procurement agreements for infrastructure projects subject to BABA and test whether the non-federal entity included the Buy America domestic preference provisions in each agreement, or obtained a BABA waiver.

a. For each agreement selected where a waiver was not applicable, review the non-federal entity's documentation supporting that it monitored the contractor's compliance with the BABA domestic preference provisions in the agreement (2 CFR 200.318(b)).

J. PROGRAM INCOME

Compliance Requirements

Program income is gross income earned by a non-federal entity that is directly generated by a supported activity or earned as a result of the federal award during the period of performance (unless there is a requirement for disposition of program income after the end of the period of performance as provided in 2 CFR 200.307(f)).

Program income (2 CFR 200.1) includes, but is not limited to income from:

- Fees for services performed,
- The use or rental of real or personal property acquired under federal awards,
- The sale of commodities or items fabricated under federal awards,
- License fees and royalties on patents and copyrights, except as provided below, and
- Principal and interest on loans made with federal award funds.

Program income does *not* include:

- Interest earned on advances of federal funds.
- Except as otherwise provided in federal statutes, regulations or the terms and conditions of the federal award, rebates, credits, discounts and interest earned on any of them.
- Taxes, special assessments, levies, fines, and other such revenues raised by a non-federal entity, unless the federal award or federal awarding agency regulations specifically identify the revenues as program income (2 CFR 200.307(c)).
- The proceeds from the sale of equipment or real property acquired in whole or in part under the federal award (2 CFR 200.307(d)).
- Royalties or income earned by an institution of higher education or a nonprofit organization on inventions conceived or first actually reduced to practice in the performance of work under a funding agreement with a federal agency that is shared with the inventor (2 CFR 200.307(g); 37 CFR 401.2 and 401.14(k); 35 USC 201(i), and 35 USC 202(c)(7)(B)).

If authorized by federal regulations or the federal award, costs incidental to the generation of program income may be deducted from gross income to determine program income, provided those costs have not been charged to the federal award (2 CFR 200.307(b)).

Program income may be used in any of the following three methods, consistent with 2 CFR 200.307(e):

1. *Deduction*

   Program income is deducted from total allowable costs in order to determine the net allowable costs, rather than to increase the funds committed to the project. This method must be used if the federal awarding agency has given no prior approval for how program income is to be used and its regulations and the terms and conditions of the federal award are silent on this matter. Where this method is used, program income must be applied to current costs unless the federal awarding agency authorizes otherwise (2 CFR 200.307(e)(1)).

2. *Addition*

   With prior approval of the federal awarding agency, program income may be added to the federal award by the federal agency and the non-federal entity. This method must be used for federal awards to institutions of higher education and nonprofit research institutions if the federal awarding agency does not specify in its regulations or the terms and conditions of the federal award how program income is to be used (2 CFR 200.307(e)(2)).

3. *Cost Sharing or Matching*

   With prior approval of the federal awarding agency, program income may be used to meet the cost sharing or matching requirement of the federal award. The amount of the federal award remains the same (2 CFR 200.307(e)(3)).

Unless federal awarding agency regulations or the terms and conditions of the federal award specify otherwise, non-federal entities have no obligation to the federal government regarding program income earned after the end of the period of performance (2 CFR 200.307(f)).

Source of Governing Requirements

The requirements that apply to program income are contained in 2 CFR 200.1 (definition of "program income"), 2 CFR 200.307 (program income), program legislation, federal awarding agency regulations, and the terms and conditions of the federal award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

2. Determine whether program income is correctly determined, recorded, and used in accordance with applicable 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 program.

2. Plan the testing of internal control to support a low assessed level of control risk for program income and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR 200.516, 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 remaining risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures – Compliance

1. *Identify Program Income*

    a. Review the statutes, regulations, and terms and conditions of the federal award applicable to the program and ascertain if program income was anticipated. If so, ascertain the requirements for determining or assessing the amount of program income (e.g., a scale for determining user fees, prohibition of assessing fees against certain groups of individuals), and the requirements for recording and using program income.

    b. Inquire of management and review accounting records to ascertain if program income was received.

2. *Determining or Assessing Program Income* – Perform tests to verify that program income was properly determined or calculated in accordance with stated criteria, and that amounts collected were classified as program income only if collected from allowable sources.

3. *Recording of Program Income* – Perform tests to verify that program income was properly recorded in the accounting records.

4. *Use of Program Income* – Perform tests to ascertain if program income was used in accordance with 2 CFR 200.307(e) and the program requirements set by the federal awarding agency in its regulations and the terms and conditions of the award.

K. [RESERVED]

L. REPORTING

Compliance Requirements

Financial Reporting

Recipients must 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) when reporting to the federal awarding agency. Each recipient must report program outlays and program income on a cash or accrual basis, as prescribed by the federal awarding agency. If the federal awarding agency requires reporting of accrual information and the recipient's accounting records are not normally maintained on the accrual basis, the recipient is not required to convert its accounting system to an accrual basis but may develop such accrual information through analysis of available documentation. The federal awarding agency may accept identical information from the recipient in machine-readable format, computer printouts, or electronic outputs in lieu of closed formats or on paper.

Similarly, a pass-through entity must not require a subrecipient to establish an accrual accounting system and must allow the subrecipient to develop accrual data for its reports on the basis of an analysis of available documentation.

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

The standard financial reporting forms for grants and cooperative agreements are as follows:

- *Request for Advance or Reimbursement (SF-270) (OMB No. 0348-0004)).* Recipients are required to use the SF-270 to request reimbursement payments under non-construction programs and may be required to use it to request advance payments.

- *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 they are paid in advance or the SF-270 is used.

- *Federal Financial Report (FFR) (SF-425/SF-425A) (OMB No. 0348-0061)).* Recipients use the FFR as a standardized format to report expenditures under federal awards, as well as, when applicable, cash status (lines 10.a, 10.b, and 10c). References to this report include its applicability as both an expenditure and a cash status report unless otherwise indicated.

Electronic versions of the standard forms are located on agency's home page.

Financial reporting requirements for cost reimbursement contracts subject to the FAR are contained in the terms and conditions of the contract.

Performance and Special Reporting

Non-federal entities may be required to submit performance reports at least annually but not more frequently than quarterly, except in unusual circumstances, using a form or format authorized by OMB (2 CFR 200.329). They also may be required to submit special reports as required by the terms and conditions of the federal award.

Compliance testing of performance and special reporting is only included in Part 4, "Agency Program Requirements" and Part 5, "Clusters of Programs," if such reporting has been identified by a federal agency as subject to audit. Further, compliance testing of performance and special reports is only required for data, identified by agencies in parts 4 and 5 as key line items, that are quantifiable and are capable of evaluation against objective criteria stated in the statutes, regulations, contract or grant agreements pertaining to the program.

Performance and special reports in parts 4 and 5 are assumed to meet the above criteria. However, if an agency does not identify key line items for a performance or special report, auditors are only required to test that the report was submitted in a timely manner and no other procedures are required. Similarly, if key line items are identified in parts 4 and 5 that would not be quantifiable and capable of evaluation against objective criteria (e.g., narratives, futuristic information, information that would require verification at the program beneficiary level), auditors are not required to perform testing of such items.

Federal Funding Accountability and Transparency Act

Under the requirements of the Federal Funding Accountability and Transparency Act (Pub. L. No. 109-282), as amended by Section 6202 of Pub. L. No. 110-252, hereafter referred as the "Transparency Act" that are codified in 2 CFR Part 170, recipients (i.e., direct recipients) of grants or cooperative agreements are required to report first-tier subawards of $30,000 or more to the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS). In accordance with OMB Memorandum M-20-21, Implementation Guidance for Supplementing Funding Provided in Response to the Coronavirus Disease 2019 (COVID-19), existing Transparency Act subaward reporting requirements may be leveraged to meet the transparency requirements outlined in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). Information input to FSRS is available at USASpending.gov as the publicly available website for viewing this information (https://www.usaspending.gov/search).

Where the Reporting type of compliance requirement is marked as a "Y" in the Part 2 Matrix of Compliance Requirements, indicating it is subject to audit, auditors must test the compliance with the reporting requirements of 2 CFR Part 170 using the guidance in this section when the auditor determines Reporting to be direct and material and the recipient makes first tier awards.

Federal Funding Accountability and Transparency Act

Aspects of the Transparency Act that relate to subaward reporting (1) under grants and cooperative agreements were implemented in OMB in 2 CFR Part 170 and (2) under contracts, by the regulatory agencies responsible for the Federal Acquisition Regulation (FAR at 5 FR 39414 et seq., July 8, 2010). The requirements pertain to recipients (i.e., direct recipients) of

grants or cooperative agreements who make first-tier subawards and contractors (i.e., prime contractors) that award first-tier subcontracts. There are limited exceptions as specified in 2 CFR Part 170 and the FAR. The guidance at 2 CFR Part 170 currently applies only to federal financial assistance awards in the form of grants and cooperative agreements (e.g., it does not apply to loans made by a federal agency to a recipient), however the subaward reporting requirement applies to all types of first-tier subawards under a grant or cooperative agreement.

As provided in 2 CFR Part 170 and FAR Subpart 4.14, respectively, federal agencies are required to include the award term specified in Appendix A to 2 CFR Part 170 or the contract clause in FAR 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards, as applicable, in awards subject to the Transparency Act.

Consistent with the OMB guidance,

- 2 CFR Part 170 "subaward" has the meaning given in 2 CFR 200.1 and means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

- FAR 52.204-10(a) defines "first-tier subcontract" to mean a subcontract awarded directly by a contractor to acquire supplies or services (including construction) for performance of a prime contract, but excludes the contractor's supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts or the costs of which would normally be applied to a contractor's general and administrative expenses or indirect cost.

While 2 CFR Part 170 and the FAR implement several distinct Transparency Act reporting requirements, including reporting of executive compensation, the Supplement addresses only the following requirements: (1) recipient reporting of each first-tier subaward or subaward amendment that results in an obligation of $30,000 or more in federal funds; and (2) contractor reporting of each first-tier subcontract award of $30,000 or more in federal funds (this requirement was phased in based on the value of the new prime contract as specified below under "Effective Date of Reporting Requirements").

Reporting Site

Grant and cooperative agreement recipients and contractors are required to register in the System for Award Management (SAM) (if they have not done so previously for another purpose (e.g., submission of applications through Grants.gov) and actively maintain that registration. Prime contractors have previously been required to register in SAM. Information input to SAM is available at USASpending.gov as the publicly available website for viewing this information (https://www.usaspending.gov/search).

As of March 8, 2025, FSRS.gov was retired, and all subaward reporting data and functionality are now on SAM.gov.

Key Data Elements

Compliance testing of the Transparency Act reporting requirements must include the following key data elements about the first-tier subrecipients and subawards under grants and cooperative agreements.

Subaward Data Element	Definition
Subawardee Name	This is the Sub-Awardee's Name
Subawardee UEI	The subawardee organization's Unique Entity Identifier number.
Amount of Subaward	The net dollar amount of federal funds awarded to the subawardee including modifications.
Subaward Obligation/Action Date	Date the subaward agreement was signed.
Date of Report Submission	Date the recipient entered the action/obligation into SAM.
Subaward Number	Subaward number or other identifying number assigned by the prime awardee organization to facilitate the tracking of its subawards.
Subaward Project Description	Describes the subaward project.
Subawardee Names and Compensation of Highly Compensated Officers	Names of officers if thresholds are met.

For purposes of programs included in parts 4 and 5 of this 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, whether or not award terms and conditions may require such reporting.

Source of Governing Requirements

Reporting requirements are contained in the following:

1. Financial reporting, 2 CFR 200.328.

2. Monitoring and reporting program performance, 2 CFR 200.329.

3. Program legislation.

4. Transparency Act, implementing requirements in 2 CFR Part 170 and the FAR, and the previously listed OMB guidance documents.

5. Federal awarding agency regulations.

6. The terms and conditions of the award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

2. Determine whether required reports for federal awards include all activity of the reporting period, are supported by applicable accounting or performance records, and are fairly presented in accordance with 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 program.

2. Plan the testing of internal control to support a low assessed level of control risk for reporting and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR 200.516, 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 remaining risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures – Compliance

Note: For recipients using HHS's Payment Management System (PMS) to draw federal funds, the auditor should consider the following steps numbered 1 through 4 as they pertain to the cash reporting portion of the SF-425A, regardless of the source of the data included in the PMS reports. Although certain data is supplied by the federal awarding agency (e.g., award authorization amounts) and certain amounts are provided by HHS's Payment Management Services, the auditor should ensure that such amounts are in agreement with the recipient's records and are otherwise accurate.

1. Review applicable statutes, regulations, and the terms and conditions of the federal award pertaining to reporting requirements. Determine the types and frequency of required reports. Obtain and review federal awarding agency or pass-through entity, in the case of a subrecipient, instructions for completing the reports.

    a. For financial reports, ascertain the accounting basis used in reporting the data (e.g., cash or accrual).

    b. For performance and special reports, determine the criteria and methodology used in compiling and reporting the data.

2. Select a sample of reports and perform appropriate analytical procedures and ascertain the reason for any unexpected differences. Examples of analytical procedures include:

    a. Comparing current period reports to prior period reports.

b. Comparing anticipated results to the data included in the reports.

c. Comparing information obtained during the audit of the financial statements to the reports.

3. Select a sample of each of the following report types, and test for accuracy and completeness:

a. *Financial reports*

(1) Ascertain if the financial reports were prepared in accordance with the required accounting basis.

(2) Review accounting records and ascertain if all applicable accounts were included in the sampled reports (e.g., program income, expenditure credits, loans, interest earned on federal funds, and reserve funds).

(3) Trace the amounts reported to accounting records that support the audited financial statements and the Schedule of Expenditures of Federal Awards and verify agreement or perform alternative procedures to verify the accuracy and completeness of the reports and that they agree with the accounting records. 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.

(4) For any discrepancies noted in SF-425 reports concerning cash status when the advance payment method is used, review subsequent SF-425 reports to ascertain if the discrepancies were appropriately resolved with the applicable payment system.

b. *Performance and special reports*

(1) Review the supporting records and ascertain if the applicable data elements were included in the sampled reports. Trace the reported data to records that accumulate and summarize data.

(2) Perform tests of the underlying data to verify that the data were accumulated and summarized in accordance with the required or stated criteria and methodology, including the accuracy and completeness of the reports.

c. *Special reports for FFATA*

(1) Gain an understanding of the recipient's methodology used to identify which, if any, awards were subject to the Transparency Act based on inclusion of the award term, the assignment by the federal awarding

agency of a new FAIN, the effective date of the reporting requirement, and whether the entity passed funds through to first-tier subrecipients.

(2) Select a sample of first-tier subawards. Obtain related subaward agreements/amendments/modifications and determine if the subaward/subcontract was subject to reporting under the Transparency Act based on (a) the date of the award and (b) the amount of the obligating action for subawards or face value of the first-tier subcontracts (inclusive of modifications).

If the subaward/subcontract was subject to reporting under the Transparency Act:

(a) Using the FAIN, find the award in SAM.gov.

(b) Compare the award information accessed in step 2.a to the subaward/subcontract documents maintained by the recipient to assess if—

(i) applicable subaward obligations /modifications have been reported,

(ii) the key data elements (see above) were accurately reported and are supported by the source documentation, and

(iii) the action was reported in SAM.gov no later than the last day of the month *following* the month in which the subaward/subaward amendment obligation was made or the subcontract award/subcontract modification was made.

(c) The auditor must provide the following information for non-compliance finding(s) as the results of step 2.b.

(i) The non-federal entity did not report the subaward information

(ii) The non-federal entity did not report the subaward information timely

(iii) The non-federal entity reported incorrect amount

(iv) The non-federal entity did not report all the key data elements

The following format is recommended to report non-compliance findings and included in the audit report. Data are included for illustration purpose only.

Transactions Tested	**Subaward not reported**	**Report not timely**	**Subaward amount incorrect**	**Subaward missing key elements**
25	2	10	13	0
Dollar Amount of Tested Transactions	**Subaward not reported**	**Report not timely**	**Subaward amount incorrect**	**Subaward missing key elements**
$5,000,000	$200,000	$4,000,000	$800,000	$0

(d) *For each type of report*

(i) 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.

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

4. Obtain written representation from management that the reports provided to the auditor are true copies of the reports submitted or electronically transmitted to the federal awarding agency, the applicable payment system, or pass-through entity in the case of a subrecipient.

M. SUBRECIPIENT MONITORING

Note: Transfers of federal awards to another component of the same auditee under 2 CFR Part 200, Subpart F, do not constitute a subrecipient or contractor relationship.

Compliance Requirements

A pass-through entity (PTE) must:

- *Identify the Award and Applicable Requirements* – Clearly identify to the subrecipient: (1) the award as a subaward at the time of subaward (or subsequent subaward modification) by providing the information described in 2 CFR 200.332(a)(1); (2) all requirements imposed by the PTE on the subrecipient so that the federal award is used in accordance with federal statutes, regulations, and the terms and conditions of the award (2 CFR 200.332(a)(2)); and (3) any additional requirements that the PTE imposes on the subrecipient in order for the PTE to meet its own responsibility for the federal award (e.g., financial, performance, and special reports) (2 CFR 200.332(a)(3)).

- *Evaluate Risk* – Evaluate each subrecipient's risk of noncompliance for purposes of determining the appropriate subrecipient monitoring related to the subaward (2 CFR 200.332(b)). This evaluation of risk may include consideration of such factors as the following:

    1. The subrecipient's prior experience with the same or similar subawards;

    2. The results of previous audits including whether or not the subrecipient receives single audit in accordance with 2 CFR Part 200, Subpart F, and the extent to which the same or similar subaward has been audited as a major program;

    3. Whether the subrecipient has new personnel or new or substantially changed systems; and

    4. The extent and results of federal awarding agency monitoring (e.g., if the subrecipient also receives federal awards directly from a federal awarding agency).

- *Monitor* – Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, complies with the terms and conditions of the subaward, and achieves performance goals (2 CFR 200.332(d) through (f)). In addition to procedures identified as necessary based upon the evaluation of subrecipient risk or specifically required by the terms and conditions of the award, subaward monitoring must include the following:

    1. Reviewing financial and programmatic (performance and special reports) required by the PTE.

2. Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the federal award provided to the subrecipient from the PTE detected through audits, on-site reviews, and other means.

3. Issuing a management decision for audit findings pertaining to the federal award provided to the subrecipient from the PTE as required by 2 CFR 200.521.

- *Ensure Accountability of For-Profit Subrecipients* – Some federal awards may be passed through to for-profit entities. For-profit subrecipients are accountable to the PTE for the use of the federal funds provided. Because 2 CFR Part 200 does not make Subpart F applicable to for-profit subrecipients, the PTE is responsible for establishing requirements, as necessary, to ensure compliance by for-profit subrecipients for the subaward. The agreement with the for-profit subrecipient must describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility. Methods to ensure compliance for federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the agreement, and post-award audits (2 CFR 200.501(h)).

Source of Governing Requirements

The requirements for subrecipient monitoring for the subaward are contained in 31 USC 7502(f)(2) (Single Audit Act Amendments of 1996 (Pub. L. No. 104-156)), 2 CFR 200.332, and 200.501(h); federal awarding agency regulations; and the terms and conditions of the award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

2. Determine whether the PTE identified the subaward and applicable requirements at the time of the subaward (or subsequent subaward modification) in the terms and conditions of the subaward and other award documents sufficient for the PTE to comply with federal statutes, regulations, and the terms and conditions of the federal award.

3. Determine whether the PTE monitored subrecipient activities to provide reasonable assurance that the subrecipient administered the subaward in compliance with the terms and conditions of the subaward.

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 program.

2. Plan the testing of internal control to support a low assessed level of control risk for subrecipient monitoring and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR 200.516, 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 remaining 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 C, "Cash Management" (tests of cash reporting submitted by subrecipients); E, "Eligibility" (tests that subawards were made only to eligible subrecipients); I, "Procurement and Suspension and Debarment" (tests of ensuring that a subrecipient is not suspended or debarred); and L, "Reporting" (tests of performance data reported to funding sources) with the testing of M, "Subrecipient Monitoring".

1. Review the PTE's subrecipient monitoring policies and procedures to gain an understanding of the PTE's process to identify subawards, evaluate risk of noncompliance, and perform monitoring procedures based upon identified risks.

2. Review subaward documents including the terms and conditions of the subaward to ascertain if, at the time of subaward (or subsequent subaward modification), the PTE made the subrecipient aware of the award information required by 2 CFR 200.332(a) sufficient for the PTE to comply with federal statutes, regulations, and the terms and conditions of the award.

3. Review the PTE's documentation of monitoring the subaward and consider if the PTE's monitoring provided reasonable assurance that the subrecipient used the subaward for authorized purposes in compliance with federal statutes, regulations, and the terms and conditions of the subaward.

4. Ascertain if the PTE verified that subrecipients expected to be audited as required by 2 CFR Part 200, Subpart F, met this requirement (2 CFR 200.332(f)). This verification may be performed as part of the required monitoring under 2 CFR 200.332(d)(2) to ensure that the subrecipient takes timely and appropriate action on deficiencies detected though audits.

N. SPECIAL TESTS AND PROVISIONS

Compliance Requirements

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

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

Internal Control

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

Audit Objectives

Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

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 program.

2. Plan the testing of internal control to support a low assessed level of control risk for special tests and provisions and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR 200.516, 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 remaining 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.

PART 3.2 – COMPLIANCE REQUIREMENTS

COMPLIANCE REQUIREMENTS, AUDIT OBJECTIVES, AND SUGGESTED AUDIT PROCEDURES FOR AWARDS UNDER 2 CFR PART 200 REVISIONS EFFECTIVE ON OR AFTER OCTOBER 1, 2024

The following are compliance requirements A through N for awards applying the version of 2 CFR Part 200 effective on or after October 1, 2024. Part 3.2 may apply prior to October 1, 2024 if the agency elected to implement this version of the Uniform Guidance earlier, as indicated in the terms and conditions of individual awards.

A. ACTIVITIES ALLOWED OR UNALLOWED

Compliance Requirements

The specific requirements for activities allowed or unallowed are unique to each federal program and are found in the federal statutes, regulations, and the terms and conditions of the federal award pertaining to the program. For programs listed in this Supplement, the specific requirements of the governing statutes and regulations are included in Part 4, "Agency Program Requirements" or Part 5, "Clusters of Programs," as applicable. This type of compliance requirement specifies the activities that can or cannot be funded under a specific program.

Source of Governing Requirements

The requirements for activities allowed or unallowed are contained in program legislation, federal agency regulations, and the terms and conditions of the award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

2. Determine whether 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 program.

2. Plan the testing of internal control to support a low assessed level of control risk for activities allowed or unallowed and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR 200.516, 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 remaining 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 federal statutes, regulations, and the terms and conditions of the federal award pertaining to the program.

2. When allowability is determined based upon summary level data, perform procedures to verify that:

    a. Activities were allowable.

    b. Individual transactions were properly classified and accumulated into the activity total.

3. When allowability is determined based upon individual transactions, select a sample of transactions and perform procedures to verify that the transaction was for an allowable activity.

4. The auditor should be alert for large transfers of funds from program accounts which may have been used to fund unallowable activities.

B. ALLOWABLE COSTS/COST PRINCIPLES

Applicability of Cost Principles

The cost principles in 2 CFR Part 200, Subpart E (Cost Principles), prescribe the cost accounting requirements associated with the administration of federal awards by:

a. States, local governments, and Indian Tribes

b. Institutions of higher education (IHEs)

c. Nonprofit organizations

As provided in 2 CFR 200.101(b)(4), the cost principles requirements apply to grant agreements and cooperative agreements. The cost principles do not apply to fixed amount awards (except for four sections as noted in 2 CFR 200.101(b)(4)(ii)); the food commodities provided through grants and cooperative agreements; agreements for loans, loan guarantees, interest subsidies, and insurance; and programs listed in 2 CFR 200.101(e) (see Appendix I of this Supplement). Federal awards administered by publicly owned hospitals and other providers of medical care are exempt from 2 CFR Part 200, Subpart E, but are subject to the requirements in 2 CFR Part 200, Appendix IX, Hospital Cost Principles. The cost principles applicable to a recipient or subrecipient apply to all federal awards and subawards received by the entity. For this purpose, federal awards include cost-reimbursement contracts under the Federal Acquisition Regulation (FAR). Although, as noted above, the cost principles have limited applicability to fixed amount awards, the cost principles do not apply to other federal awards under which a recipient or subrecipient is not required to account to the federal agency or pass-through entity for actual costs incurred. (See 2 CFR 200.401(a)).

Source of Governing Requirements

The requirements for allowable costs and cost principles are contained in 2 CFR Part 200, Subpart E, program legislation, federal agency regulations, and the terms and conditions of the award.

The requirements for the development and submission of indirect (facilities and administration (F&A)) cost rate proposals and cost allocation plans (CAPs) are contained in 2 CFR Part 200, in the following appendices:

- Appendix III to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs).
- Appendix IV to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations
- Appendix V to Part 200—State/Local Government-Wide Central Service Cost Allocation Plans
- Appendix VI to Part 200—Public Assistance Cost Allocation Plans

- Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals
- Appendix IX to Part 200 - Hospital Cost Principles

Except for the requirements identified below under "Basic Considerations," which are applicable to all types of recipients and subrecipients, this compliance requirement is divided into sections based on the type of non-federal entity. The differences that exist are necessary because of the nature of the recipient and subrecipient organizational structures, programs administered, and breadth of services offered by some recipients and subrecipients and not others.

Basic Considerations

Except where otherwise authorized by statute, cost must meet the following general criteria to be allowable under federal awards;

1. Be necessary and reasonable for the performance of the federal award and be allocable thereto under the principles in 2 CFR Part 200, Subpart E.

2. Conform to any limitations or exclusions set forth in 2 CFR Part 200, Subpart E or in the federal award as to types or amount of cost items.

3. Be consistent with policies and procedures that apply uniformly to both federally financed and other activities of the recipient or subrecipient.

4. Be accorded consistent treatment. For example, a cost must not be assigned to a federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the federal award as an indirect cost.

5. Be determined in accordance with generally accepted accounting principles (GAAP), except for State and local governments and Indian Tribes only as otherwise provided for in 2 CFR Part 200.

6. Not be included as a cost or used to meet cost-sharing requirements of any other federally financed program in either the current or a prior period. (2 CFR Part 200.306 (b)).

7. Be adequately documented. (2 CFR Part 200.300 through 200.309).

8. Per 2 CFR 200.403(h), administrative closeout costs may be incurred until the due date of the final report(s). If incurred, these costs must be liquidated prior to the due date of the final report(s) and charged to the final budget period of the award unless otherwise specified by the federal agency. All other costs must be incurred during the approved budget period. At its discretion, the federal agency is authorized, to waive prior written approvals to carry forward unobligated balances to subsequent budget periods. (2 CFR 200.308(g)(3)).

Selected Items of Cost

2 CFR 200.420 through 200.476 provide the principles to be applied in establishing the allowability of certain items involved in determining cost, in addition to the basic considerations identified above. (For a listing of costs refer to Exhibit 1 of this part of the Supplement.) These principles apply whether or not a particular item of cost is treated as a direct cost or indirect cost. Failure to mention a particular item of cost, including as an example in certain sections, is not intended to imply that it is either allowable or unallowable. When determining the allowability for an item of cost, each case should be based on the treatment provided for similar or related items of cost and the principles described in 2 CFR 200.402 through 200.411.

List of Selected Items of Cost Contained in 2 CFR Part 200

The following exhibit provides a listing of selected items of cost contained in the cost principles in 2 CFR Part 200, Subpart E. The exhibit lists the selected items of cost and indicates their allowability, whether there are restrictions and/or exceptions to allowability, and if prior approval is required.

Several cost items are unique to one type of recipient (e.g., commencement and convocation costs are applicable only to IHEs) as indicated in the "recipient specific" column in the exhibit. The reader is strongly cautioned not to rely exclusively on the summary but to place primary reliance on the referenced 2 CFR Part 200 text.

Selected Items of Cost - Exhibit 1

Selected Cost Item	Uniform Guidance General Reference	Items of Cost Requiring Prior Approval	States, Local Governments, Indian Tribes	Institutions of Higher Education	Nonprofit Organizations	Items of Cost not Treated the Same Across Non-Federal Entities
Advertising and public relations costs	§200.421		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Advisory councils	§200.422		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Alcoholic beverages	§200.423		Unallowable	Unallowable	Unallowable	
Alumni activities	§200.424		Not specifically addressed	Unallowable	Not specifically addressed	X
Audit services	§200.425		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Bad debts	§200.426		Unallowable	Unallowable	Unallowable	
Bonding costs	§200.427		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	

Selected Cost Item	Uniform Guidance General Reference	Items of Cost Requiring Prior Approval	States, Local Governments, Indian Tribes	Institutions of Higher Education	Nonprofit Organizations	Items of Cost not Treated the Same Across Non-Federal Entities
Collection of improper payments	§200.428		Allowable	Allowable	Allowable	
Commence-ment and convocation costs	§200.429		Not specifically addressed	Unallowable with exceptions	Not specifically addressed	X
Compensation - personal services	§200.430	X	Allowable with restrictions; Special conditions apply (e.g., §200.430(g)(5))	Allowable with restrictions; Special conditions apply (e.g., §200.430(i))	Allowable with restrictions; Special conditions apply (e.g., §200.430(h))	X
Compensation – fringe benefits	§200.431	X (related to costs for IHEs)	Allowable with restrictions	Allowable with restrictions; Special conditions apply	Allowable with restrictions	X
Conferences	§200.432		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Contingency provisions	§200.433		Unallowable with exceptions	Unallowable with exceptions	Unallowable with exceptions	
Contributions and donations	§200.434		Unallowable	Unallowable	Unallowable	X
Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements	§200.435		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Depreciation	§200.436		Allowable with qualifications	Allowable with qualifications	Allowable with qualifications	
Employee health and welfare costs	§200.437		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Entertainment and prizes	§200.438		Unallowable with exceptions	Unallowable with exceptions	Unallowable with exceptions	

Selected Cost Item	Uniform Guidance General Reference	Items of Cost Requiring Prior Approval	States, Local Governments, Indian Tribes	Institutions of Higher Education	Nonprofit Organizations	Items of Cost not Treated the Same Across Non-Federal Entities
Equipment and other capital expenditures	§200.439	X	Allowability based on specific requirements	Allowability based on specific requirements	Allowability based on specific requirements	
Exchange rates	§200.440	X	Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Fines, penalties, damages and other settlements	§200.441	X	Unallowable with exception	Unallowable with exception	Unallowable with exception	
Fundraising and investment management costs	§200.442	X	Unallowable with exceptions	Unallowable with exceptions	Unallowable with exceptions	
Gains and losses on the disposition of depreciable assets	§200.443		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
General costs of government	§200.444		Unallowable with exceptions	Not specifically addressed	Not specifically addressed	X
Goods or services for personal use	§200.445	X	Unallowable (goods/ services); allowable (housing) with restrictions	Unallowable (goods/ services); allowable (housing) with restrictions	Unallowable (goods/ services); allowable (housing) with restrictions	
Idle facilities and idle capacity	§200.446		Idle facilities - unallowable with exceptions; idle capacity - allowable with restrictions	Idle facilities - unallowable with exceptions; idle capacity - allowable with restrictions	Idle facilities - unallowable with exceptions; idle - capacity allowable with restrictions	
Insurance and indemnifica-tion	§200.447	X	Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Intellectual property	§200.448		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	

Selected Cost Item	Uniform Guidance General Reference	Items of Cost Requiring Prior Approval	States, Local Governments, Indian Tribes	Institutions of Higher Education	Nonprofit Organizations	Items of Cost not Treated the Same Across Non-Federal Entities
Interest	§200.449		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	X
Lobbying	§200.450		Unallowable	Unallowable; Special additional restrictions	Unallowable; Special additional restrictions	X
Losses on other awards or contracts	§200.451		Unallowable (however, they are required to be included in the indirect cost rate base for allocation of indirect costs)	Unallowable (however, they are required to be included in the indirect cost rate base for allocation of indirect costs)	Unallowable (however, they are required to be included in the indirect cost rate base for allocation of indirect costs)	
Maintenance and repair costs	§200.452		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Materials and supplies costs, including computing devices	§200.453		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Memberships, subscriptions, and professional activity costs	§200.454		Allowable with restrictions; unallowable for lobbying organizations.	Allowable with restrictions; unallowable for lobbying organizations	Allowable with restrictions; unallowable for lobbying organizations.	
Organization costs - Fees	§200.455	X	Unallowable except federal prior approval (fees)	Unallowable except federal prior approval (fees)	Unallowable except federal prior approval (fees)	
Organization costs – Collective Bargaining	§200.455		Unallowable	Unallowable	Unallowable	
Organization costs – Data and Evaluation	§200.455		Allowable with exceptions	Allowable with exceptions	Allowable with exceptions	
Participant support costs	§200.456		Allowable	Allowable	Allowable	

Selected Cost Item	Uniform Guidance General Reference	Items of Cost Requiring Prior Approval	States, Local Governments, Indian Tribes	Institutions of Higher Education	Nonprofit Organizations	Items of Cost not Treated the Same Across Non-Federal Entities
Plant and security costs	§200.457		Allowable; capital expenditures are subject to §200.439	Allowable; capital expenditures are subject to §200.439	Allowable; capital expenditures are subject to §200.439	
Pre-award costs	§ 200.458	X	Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Professional service costs	§200.459		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Proposal costs	§200.460		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Publication and printing costs	§200.461		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Rearrangement and reconversion costs	§200.462	X	Allowable (ordinary and normal)	Allowable (ordinary and normal)	Allowable (ordinary and normal)	
Recruiting costs	§200.463		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Relocation costs of employees	§200.464		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Rental costs of real property and equipment	§200.465		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Scholarships student aid costs, and tuition remission	§200.466	X	Not specifically addressed	Allowable with restrictions	Not specifically addressed	X
Selling and marketing costs	§200.467		Unallowable with exceptions	Unallowable with exceptions	Unallowable with exceptions	
Specialized service facilities	§200.468		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Student activity costs	§200.469		Unallowable unless expressly authorized in the federal award	Unallowable unless expressly authorized in the federal award	Unallowable unless expressly authorized in the federal award	

Selected Cost Item	Uniform Guidance General Reference	Items of Cost Requiring Prior Approval	States, Local Governments, Indian Tribes	Institutions of Higher Education	Nonprofit Organizations	Items of Cost not Treated the Same Across Non-Federal Entities
Taxes (including Value Added Tax)	§200.470		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	X
Telecommunication and video surveillance costs	§200.471		Allowable with exceptions	Allowable with exceptions	Allowable with exceptions	
Termination and standard closeout costs	§200.472		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Training and education costs	§200.473		Allowable for employee development	Allowable for employee development	Allowable for employee development	
Transportation costs	§200.474		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Travel costs	§200.475	X	Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Trustees	§200.476		Not specifically addressed	Allowable with restrictions	Allowable with restrictions	X

Suggested Internal Control 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 program.

2. Plan the testing of internal control to support a low assessed level of control risk for allowable costs/cost principles and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR 200.516, 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 non-compliance. 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.

Indirect Cost Rate

In accordance with Appendix VII, paragraph D.1.B., a governmental department or agency (such as a state or local Department of Health, Department of Transportation, or Department of Housing) that receives more than $35 million in direct Federal funding during its fiscal year must submit its indirect cost rate proposal to its cognizant agency for indirect costs.

If a governmental department or agency (such as a state or local Department of Health, Department of Transportation, or Department of Housing) receives $35 million or less in direct Federal funding during its fiscal year, unless it elects to use the de minimis rate, it must develop an indirect cost proposal in accordance with the requirements of the Appendix and maintain the proposal and related supporting documentation for audit. Where a non-Federal entity only receives funds as a subrecipient, the pass-through entity will be responsible for negotiating and/or monitoring the subrecipient's indirect costs.

If a recipient or subrecipient chooses to use the de minimis rate, that rate must be used consistently for all of its federal awards, until such time as a rate is negotiated. The de minimis rate does not require documentation to justify its use and may be used indefinitely.

Also, as described in 2 CFR 200.403, costs must be consistently charged as either indirect or direct but may not be double charged or inconsistently charged as both. In accordance with 2 CFR 200.400(g), a recipient or subrecipient must not earn or keep any profit resulting from federal financial assistance, unless explicitly authorized by the terms and conditions of the award. A recipient or subrecipient can always choose to charge the federal awards less than the negotiated rates or the de minimis rate.

Audit Objectives – De Minimis Indirect Cost Rate

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

2. Determine that the de minimis rate is applied to the appropriate base amount.

3. Determine that the de minimis rate is used consistently by a recipient or subrecipient under its federal awards.

Suggested Compliance Audit Procedures – De Minimis Indirect Cost Rate

The following suggested audit procedures apply to any recipient or subrecipient using a de minimis indirect cost rate. None of the procedures related to indirect costs in the sections organized by type of recipient or subrecipient apply when a de minimis rate is used.

1. Test a sample of transactions for conformance with 2 CFR 200.414(f).

    a. Select a sample of claims for reimbursement of indirect costs and verify that the de minimis rate was used consistently, the rate was applied to the appropriate base, and the amounts claimed were the product of applying the rate to a modified total direct costs base. Verify the charges do not exceed 15 percent of MTDC.

2. For a recipient or subrecipient conducting a single function, which is predominately funded by federal awards, determine whether use of the de minimis indirect cost rate resulted in the recipient or subrecipient double-charging or inconsistently charging costs as both direct and indirect.

2 CFR PART 200
COST PRINCIPLES FOR STATES, LOCAL GOVERNMENTS, AND INDIAN TRIBES

Introduction

2 CFR Part 200, Subpart E and appendices III–VII and IX establish principles and standards for determining allowable direct and indirect costs for federal awards. This section is organized into the following areas of allowable costs: states and local government and Indian Tribe costs (direct and indirect); state/local government central service costs; and state public assistance agency costs.

Cognizant Agency for Indirect Costs

2 CFR Part 200, Appendix V, paragraph F, provides the guidelines to use when determining the federal agency that will serve as the cognizant agency for indirect costs for states, local governments, and Indian Tribes. References to the "cognizant agency for indirect costs" are not equivalent to the cognizant agency for audit responsibilities, which is defined in 2 CFR 200.1.

For indirect cost rates and departmental indirect cost allocation plans, the cognizant agency is generally the federal agency with the largest value of *direct* federal awards (excluding pass-through awards) with a governmental unit or component, as appropriate. In general, unless different arrangements are agreed to by the concerned federal agencies or described in 2 CFR Part 200, Appendix V, paragraph F, the cognizant agency for central service cost allocation plans is the federal agency with the largest dollar value of *total* federal awards (including pass-through awards) with a governmental unit.

Once designated as the cognizant agency for indirect costs, the federal agency remains so for a period of five years. In addition, 2 CFR Part 200, Appendix V, paragraph F, lists the cognizant agencies for certain specific types of plans and the cognizant agencies for indirect costs for certain types of governmental entities. For example, HHS is cognizant for all public assistance and state-wide cost allocation plans for all states (including the District of Columbia and Puerto Rico), state and local hospitals, libraries, and health districts, and the Department of the Interior (DOI) is cognizant for all Indian tribal governments, territorial governments, and state and local park and recreational districts.

Allowable Costs—Direct and Indirect Costs

Each state/local government/Indian Tribe department or agency") that receives a federal award is responsible for the administration of that federal award. In order to receive cost reimbursement under federal awards, the department or agency usually submits claims asserting that allowable and eligible costs (direct and indirect) have been incurred in accordance with 2 CFR Part 200, Subpart E.

The indirect cost rate proposal (ICRP) provides the documentation prepared by a state/local government/Indian Tribe department or agency to substantiate its request for the establishment of an indirect cost rate. The indirect costs include: (1) costs originating in the department or agency of the governmental unit carrying out federal awards; and (2) for states and local governments, costs of central governmental services distributed through the state/local government-wide

central service CAP that are not otherwise treated as direct costs. The ICRPs are based on the most current financial data and are used to either establish predetermined, fixed, or provisional indirect cost rates or to finalize provisional rates (for rate definitions refer to 2 CFR Part 200, Appendix VII, paragraph B).

1. Compliance Requirements – Direct Costs

a. Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a federal award or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy.

b. Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect costs.

2. Audit Objectives – Direct Costs

a. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

b. Determine whether the organization complied with the provisions of 2 CFR Part 200) as follows:

(1) Direct charges to federal awards were for allowable costs.

(2) Unallowable costs determined to be direct costs were included in the allocation base for the purpose of computing an indirect cost rate.

3. Suggested Compliance Audit Procedures – Direct Costs

Test a sample of transactions for conformance with the following criteria contained in 2 CFR Part 200, as applicable:

a. If the auditor identifies unallowable direct costs, the auditor should be aware that "directly associated costs" might have been charged. Directly associated costs are costs incurred solely as a result of incurring another cost and would not have been incurred if the other cost had not been incurred. For example, fringe benefits are "directly associated" with payroll costs. When an unallowable cost is incurred, directly associated costs are also unallowable.

b. Costs were approved by the federal agency, if required (see the above table (Selected Items of Cost, Exhibit 1) or 2 CFR 200.407 for selected items of cost that require prior written approval).

c. Costs did not consist of improper payments, including (1) payments that should not have been made or that were made in incorrect amounts (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; (2) payments that do not account for credit

for applicable discounts; (3) duplicate payments; (4) payments that were made to an ineligible party or for an ineligible good or service; and (5) payments for goods or services not received (except for such payments where authorized by law).

d. Costs were necessary and reasonable for the performance of the federal award and allocable under the principles of 2 CFR Part 200, Subpart E.

e. Costs conformed to any limitations or exclusions set forth in 2 CFR Part 200, Subpart E, or in the federal award as to types or amount of cost items.

f. Costs were consistent with policies and procedures that apply uniformly to both federally financed and other activities of the entity.

g. Costs were accorded consistent treatment. Costs were not assigned to a federal award as a direct cost if any other cost incurred for the same purpose in like circumstances was allocated to the federal award as an indirect cost.

h. Costs were not included as a cost of any other federally financed program in either the current or a prior period.

i. Costs were not used to meet the cost-sharing or matching requirements of another federal program, except where authorized by federal statute.

j. Costs were adequately documented.

k. Administrative closeout costs were incurred and charged in accordance with 2 CFR 200.403(h).

1. Compliance Requirements – Indirect Costs

a. *Allocation of Indirect Costs and Determination of Indirect Cost Rates*

(1) The specific methods for allocating indirect costs and computing indirect cost rates are as follows:

(a) *Simplified Method* – This method is applicable where a governmental unit's department or agency has only one major function, or where all its major functions benefit from the indirect cost to approximately the same degree. The allocation of indirect costs and the computation of an indirect cost rate may be accomplished through simplified allocation procedures described in 2 CFR Part 200, Appendix VII, paragraph C.2, or Appendix IX, as appropriate.

(b) *Multiple Allocation Base Method* – This method is applicable where a governmental unit's department or agency has several major functions that benefit from its indirect costs in varying degrees. The allocation of indirect costs may require the

accumulation of such costs into separate groupings which are then allocated individually to benefiting functions by means of a base which best measures the relative degree of benefit. (For detailed information, refer to 2 CFR Part 200, Appendix VII, paragraph C.3.)

(c) *Special Indirect Cost Rates* – In some instances, a single indirect cost rate for all activities of a department or agency may not be appropriate. Different factors may substantially affect the indirect costs applicable to a particular program or group of programs (e.g., the physical location of the work, the nature of the facilities, or level of administrative support required). (For the requirements for a separate indirect cost rate, refer to 2 CFR Part 200, Appendix VII, paragraph C.4.)

(d) *Cost Allocation Plans* – In certain cases, the cognizant agency for indirect costs may require a state or local government unit's department or agency to prepare a CAP instead of an ICRP. These are infrequently occurring cases in which the nature of the department or agency's federal awards makes impracticable the use of a rate to recover indirect costs. A CAP required in such cases consists of narrative descriptions of the methods the department or agency uses to allocate indirect costs to programs, awards, or other cost objectives. Like an ICRP, the CAP either must be submitted to the cognizant agency for indirect cost for review, negotiation, and approval, or retained on file for inspection during audits.

b. *Submission Requirements*

(1) Submission requirements are identified in 2 CFR Part 200, Appendix VII, paragraph D.1, and Appendix IX. All departments or agencies of a governmental unit claiming indirect costs under federal awards must prepare an ICRP and related documentation to support those costs.

(2) A state/local department or agency or Indian Tribe that receives more than $35 million in direct federal funding must submit its ICRP to its cognizant agency for indirect costs. Other state/local government departments or agencies that are not required to submit a proposal to the cognizant agency for indirect costs must develop an ICRP in accordance with the requirements of 2 CFR Part 200 and maintain the proposal and related supporting documentation for audit.

(3) Where a government receives funds as a subrecipient only, the pass-through entity will be responsible for the indirect cost rate used. (2 CFR 200.332(b)(4)).

(4) Each Indian Tribe desiring reimbursement of indirect costs must submit its ICRP to the DOI (its cognizant agency for indirect costs).

(5) ICRPs must be developed (and, when required, submitted) within 6 months after the close of the governmental unit's fiscal year, unless an exception is approved by the cognizant agency for indirect costs.

c. *Documentation and Certification Requirements*

The documentation and certification requirements for ICRPs are included in 2 CFR Part 200, Appendix VII, paragraphs D.2 and 3, respectively and Appendix IX. The proposal and related documentation must be retained for audit in accordance with the record retention requirements contained in 2 CFR 200.334(f).

2. Audit Objectives – Indirect Costs

a. Obtain an understanding of internal control over the compliance requirements for state/local government/Indian Tribe department or agency costs, assess risk, and test internal control as required by 2 CFR 200.514(c).

b. Determine whether the governmental unit complied with the provisions of 2 CFR Part 200 as follows:

(1) Charges to cost pools used in calculating indirect cost rates were for allowable costs.

(2) The methods for allocating the costs are in accordance with the cost principles and produce an equitable and consistent distribution of costs (e.g., all activities that benefit from the indirect cost, including unallowable activities, must receive an appropriate allocation of indirect costs).

(3) Indirect cost rates were applied in accordance with negotiated indirect cost rate agreements (ICRA).

(4) For state/local departments or agencies that do not have to submit an ICRP to the cognizant agency for indirect costs (those that receive less than $35 million in direct federal awards), indirect cost rates were applied in accordance with the ICRP maintained on file.

3. Suggested Compliance Audit Procedures – Indirect Costs

a. If the state/local department or agency is not required to submit an ICRP and related supporting documentation, the auditor should consider the risk of the reduced level of oversight in designing the nature, timing, and extent of compliance testing.

b. *General Audit Procedures* – The following procedures apply to charges to cost pools that are allocated wholly or partially to federal awards or used in formulating indirect cost rates used for recovering indirect costs under federal awards.

(1) Test a sample of transactions for conformance with:

(a) The criteria contained in the "Basic Considerations" section of 2 CFR 200.402 through 200.411.

(b) The principles to establish allowability or unallowability of certain items of cost (2 CFR 200.420 through 200.476).

(2) If the auditor identifies unallowable costs, the auditor should be aware that directly associated costs might have been charged. Directly associated costs are costs incurred solely as a result of incurring another cost and would have not been incurred if the other cost had not been incurred. When an unallowable cost is incurred, directly associated costs are also unallowable. For example, occupancy costs related to unallowable general costs of government are also unallowable.

c. *Special Audit Procedures for State, Local Government, and Indian Tribe ICRPs*

(1) Verify that the ICRP includes the required documentation in accordance with 2 CFR Part 200, Appendix VII, paragraph D, or Appendix IX as appropriate.

(2) *Testing of the ICRP* – There may be a timing consideration when the audit is completed before the ICRP is completed. In this instance, the auditor should consider performing interim testing of the costs charged to the cost pools and the allocation bases (e.g., determine from management the cost pools that management expects to include in the ICRP and test the costs for compliance with 2 CFR Part 200). If there are audit exceptions, corrective action may be taken earlier to minimize questioned costs. In the next year's audit, the auditor should complete testing and verify management's representations against the completed ICRP.

The following procedures are some acceptable options the auditor may use to obtain assurance that the costs collected in the cost pools and the allocation methods used are in compliance with 2 CFR Part 200, Subpart E:

(a) *Indirect Cost Pool* – Test the indirect cost pool to ascertain if it includes only allowable costs in accordance with 2 CFR Part 200.

(i) Test to ensure that unallowable costs are identified and eliminated from the indirect cost pool (e.g., capital expenditures, general costs of government).

(ii) Identify significant changes in expense categories between the prior ICRP and the current ICRP. Test a sample of transactions to verify the allowability of the costs.

(iii) Trace the central service costs that are included in the indirect cost pool to the approved state/local government or central service CAP or to plans on file when submission is not required.

(b) *Direct Cost Base* – Test the methods of allocating the costs to ascertain if they are in accordance with the applicable provisions of 2 CFR Part 200 and produce an equitable distribution of costs.

(i) Determine that the proposed base(s) includes all activities that benefit from the indirect costs being allocated.

(ii) If the direct cost base is not limited to direct salaries and wages, determine that distorting items are excluded from the base. Examples of distorting items include capital expenditures, flow-through funds (such as benefit payments), and subaward costs in excess of $50,000 per subaward (if the 2024 revisions to the Uniform Guidance apply).

(iii) Determine the appropriateness of the allocation base (e.g., salaries and wages, modified total direct costs).

(c) *Other Procedures*

(i) Examine the records for employee compensation to ascertain if they are accurate, and the costs are allowable and properly allocated to the various functional and programmatic activities to which salary and wage costs are charged. (Refer to 2 CFR 200.430 for additional information on support of salaries and wages.)

(ii) For an ICRP using the multiple allocation base method, test statistical data (e.g., square footage, audit hours, salaries and wages) to ascertain if the proposed allocation or rate bases are reasonable, updated as necessary, and do not contain any material omissions.

(3) *Testing of Charges Based Upon the ICRA* – Perform the following procedures to test the application of charges to federal awards based upon an ICRA:

(a) Obtain and read the current ICRA and determine the terms in effect.

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

(4) *Other Procedures* – No Negotiated ICRA

(a) If an indirect cost rate has not been negotiated by a cognizant agency for indirect costs, the auditor should determine whether documentation exists to support the costs. When the auditee has documentation, the suggested general audit procedures under paragraph 3.b above should be performed to determine the appropriateness of the indirect cost charges to awards.

(b) If an indirect cost rate has not been negotiated by a cognizant agency for indirect costs, and documentation to support the indirect costs does not exist, the auditor should question the costs based on a lack of supporting documentation.

Allowable Costs – State/Local Government-Wide Central Service Costs

Most governmental entities provide services, such as accounting, purchasing, computer services, and fringe benefits, to operating agencies on a centralized basis. Since federal awards are performed within the individual operating agencies, there must be a process whereby these central service costs are identified and assigned to benefiting operating agency activities on a reasonable and consistent basis. The state/local government-wide central service cost allocation plan (CAP) provides that process. (Refer to 2 CFR Part 200, Appendix V, for additional information and specific requirements.)

The allowable costs of central services that a governmental unit provides to its agencies may be allocated or billed to the user agencies. The state/local government-wide central service CAP is the required documentation of the methods used by the governmental unit to identify and accumulate these costs, and to allocate them or develop billing rates based on them.

Allocated central service costs (referred to as Section I costs) are allocated to benefiting operating agencies on some reasonable basis. These costs are usually negotiated and approved

for a future year on a "fixed-with-carry-forward" basis. Examples of such services might include general accounting, personnel administration, and purchasing. Section I costs assigned to an operating agency through the state/local government-wide central service CAP are typically included in the agency's indirect cost pool.

Billed central service costs (referred to as Section II costs) are billed to benefiting agencies and/or programs on an individual fee-for-service or similar basis. The billed rates are usually based on the estimated costs for providing the services. An adjustment will be made at least annually for the difference between the revenue generated by each billed service and the actual allowable costs. Examples of such billed services include computer services, transportation services, self-insurance, and fringe benefits. Section II costs billed to an operating agency may be charged as direct costs to the agency's federal awards or included in its indirect cost pool.

1. Compliance Requirements – State/Local Government-Wide Central Service Costs

a. *Submission Requirements*

(1) Submission requirements are identified in 2 CFR Part 200, Appendix V, paragraph D.

(2) A state is required to submit a state-wide central service CAP to HHS for each year in which it claims central service costs under federal awards.

(3) A "major local government" is required to submit a central service CAP to its cognizant agency for indirect costs annually. *Major local government* means a local government that receives more than $100 million in direct federal awards (not including pass-through awards) subject to 2 CFR Part 200, Subpart E. All other local governments claiming central service costs must develop a CAP in accordance with the requirements described in 2 CFR Part 200 and maintain the plan and related supporting documentation for audit. These local governments are not required to submit the plan for federal approval unless they are specifically requested to do so by the cognizant agency for indirect costs.

(4) All central service CAPs will be prepared and, when required, submitted within the six months prior to the beginning of the governmental unit's fiscal years in which it proposes to claim central service costs. Extensions may be granted by the cognizant agency for indirect costs on a case-by-case basis.

b. *Documentation Requirements*

(1) The central service CAP must include all central service costs that will be claimed (either as an allocated or a billed cost) under federal awards. Costs of central services omitted from the CAP will not be reimbursed.

(2) The documentation requirements for all central service CAPs are contained in 2 CFR Part 200 Appendix V, paragraph E. All plans and

related documentation used as a basis for claiming costs under federal awards must be retained for audit in accordance with the record retention requirements contained in 2 CFR 200.334(f).

c. *Required Certification* – No proposal to establish a central service CAP, whether submitted to the cognizant agency for indirect costs or maintained on file by the governmental unit, will be accepted and approved unless such costs have been certified by the governmental unit using the Certificate of Cost Allocation Plan as set forth in 2 CFR Part 200, Appendix V, paragraph E.4.

d. *Allocated Central Service Costs (Section I Costs)* – A carry-forward adjustment is not permitted for a central service activity that was not included in the approved plan, or for unallowable costs that must be reimbursed immediately (2 CFR Part 200, Appendix V, paragraph G.3).

e. *Billed Central Service Costs (Section II Costs)*

(1) Each billed central service activity must separately account for all revenues (including imputed revenues) generated by the service, expenses incurred to furnish the service, and profit/loss (2 CFR Part 200, Appendix V, paragraph G.1).

(2) Internal service funds for central service activities are allowed a working capital reserve of up to 60 calendar days cash expenses for normal operating purposes (2 CFR Part 200, Appendix V, paragraph G.2). A working capital reserve exceeding 60 calendar days may be approved by the cognizant agency for indirect costs in exceptional cases.

(3) Adjustments of billed central services are required when there is a difference between the revenue generated by each billed service and the actual allowable costs (2 CFR Part 200, Appendix V, paragraph G.4). A comparison of the revenue generated by each billed service (including total revenues whether or not billed or collected) to the actual allowable costs of the service will be made at least annually, and an adjustment will be made for the difference between the revenue and the allowable costs. The adjustments will be made through one of the following methods, at the option of the cognizant agency:

(a) If revenue exceeds costs, a cash refund to the federal government for the federal share of the adjustment, including earned or imputed interest from the date of expenditure and debt interest, if applicable, chargeable in accordance with applicable cognizant agency for indirect costs regulations;

(b) Credits to the amounts charged to the individual programs;

(c) Adjustments to future billing rates; or

(d) Adjustments to allocated central service costs (Section I) if the total amount of the adjustment for a particular service (federal share and non-federal share) does not exceed $500,000.

(4) Whenever funds are transferred from a self-insurance reserve to other accounts (e.g., general fund or unrestricted account), refunds must be made to the Federal government for its share of funds transferred, including earned or imputed interest from the date of transfer and debt interest, if applicable, chargeable in accordance with applicable cognizant agency for indirect cost claims collection regulations of the cognizant agency for indirect cost (2 CFR 200.447(d)(5)).

2. Audit Objectives – State/Local Government-Wide Central Service Costs

a. Obtain an understanding of internal control over the compliance requirements for central service costs, assess risk, and test internal control as required by 2 CFR 200.514(c).

b. Determine whether the governmental unit complied with the provisions of 2 CFR Part 200 as follows:

(1) Charges to cost pools allocated to federal awards through the central service CAPs were for allowable costs.

(2) The methods of allocating the costs are in accordance with the cost principles, and produce an equitable and consistent distribution of costs, which benefit from the central service costs being allocated (e.g., cost allocation bases include all activities, including all state departments and agencies and, if appropriate, non-state organizations which receive services).

(3) Cost allocations were in accordance with central service CAPs approved by the cognizant agency for indirect costs or, in cases where such plans are not subject to approval, in accordance with the plan on file.

3. Suggested Compliance Audit Procedures – State/Local Government-Wide Central Service Costs

a. For local governments that are not required to submit the central service CAP and related supporting documentation, the auditor should consider the risk of the reduced level of oversight in designing the nature, timing and extent of compliance testing.

b. *General Audit Procedures for State/Local Government-Wide Central Service CAPs* – The following procedures apply to charges to cost pools that are allocated wholly or partially to federal awards or used in formulating indirect cost rates used for recovering indirect costs under federal awards.

(1) Test a sample of transactions for conformance with:

(a) The criteria contained in the "Basic Considerations" section of 2 CFR Part 200, Subpart E (sections 200.402 through 200.411).

(b) The principles to establish allowability or unallowability of certain items of cost (2 CFR 200.420 through 476).

(2) If the auditor identifies unallowable costs, the auditor should be aware that directly associated costs might have been charged. Directly associated costs are costs incurred solely as a result of incurring another cost and would have not been incurred if the other cost had not been incurred. When an unallowable cost is incurred, directly associated costs are also unallowable. For example, occupancy costs related to unallowable general costs of government are also unallowable.

c. *Special Audit Procedures for State/Local Government-Wide Central Service CAPs*

(1) Verify that the central service CAP includes the required documentation in accordance with 2 CFR Part 200 Appendix V, paragraph E.

(2) *Testing of the State/Local Government-Wide Central Service CAPs – Allocated Section I Costs*

(a) If new allocated central service costs were added, review the justification for including the item as Section I costs to ascertain if the costs are allowable (e.g., if costs benefit federal awards).

(b) Identify the central service costs that incurred a significant increase in actual costs from the prior year's costs. Test a sample of transactions to verify the allowability of the costs.

(c) Ascertain if the bases used to allocate costs are appropriate (i.e., costs are allocated in accordance with relative benefits received).

(d) Ascertain if the proposed bases include all activities that benefit from the central service costs being allocated, including all users that receive the services. For example, the state-wide central service CAP should allocate costs to all benefiting state departments and agencies, and, where appropriate, non-state organizations, such as local government agencies.

(e) Perform an analysis of the allocation bases by selecting agencies with significant federal awards to determine if the percentage of costs allocated to these agencies has increased from the prior year. For those selected agencies with significant allocation percentage

increases, ascertain if the data included in the bases are current and accurate.

(f) Verify that carry-forward adjustments are properly computed in accordance with 2 CFR Part 200, Appendix V, paragraph G.3.

(3) *Testing of the State/Local Government-Wide Central Service CAPs – Billed Section II Costs*

(a) For billed central service activities accounted for in separate funds (e.g., internal service funds), ascertain if:

(i) Retained earnings/fund balances (including reserves) are computed in accordance with the cost principles;

(ii) Working capital reserves are not excessive in amount (generally not greater than 60 calendar days for cash expenses for normal operations incurred for the period exclusive of depreciation, capital costs, and debt principal costs); and

(iii) Adjustments were made when there is a difference between the revenue generated by each billed service and the actual allowable costs.

(b) Test to ensure that all users of services are billed in a consistent manner. For example, examine selected billings to determine if all users (including users outside the governmental unit) are charged the same rate for the same service.

(c) Test that billing rates exclude unallowable costs, in accordance with the cost principles and federal statutes.

(d) Test, where billed central service activities are funded through general revenue appropriations, that the billing rates (or charges) were developed based on actual costs and were adjusted to eliminate profits.

(e) For self-insurance and pension funds, ascertain if the fund contributions are appropriate for such activities as indicated in the current actuarial report.

(f) Determine if refunds were made to the federal government for its share of funds transferred from the self-insurance reserve to other accounts, including imputed or earned interest from the date of the transfer.

Allowable Costs – State Public Assistance Agency Costs

State public assistance agency costs are: (1) all costs incurred by, or allocable to, the state public assistance agency, except expenditures for financial assistance, medical contractor payments, food stamps, and payments for services and goods provided directly to program recipients (e.g., day care services); and (2) normally charged to federal awards by implementing the public assistance cost allocation plan (CAP). The public assistance CAP provides a narrative description of the procedures that are used in identifying, measuring, and allocating all costs (direct and indirect) to each of the programs administered or supervised by state public assistance agencies.

2 CFR Part 200, Appendix VI, paragraph A, states that, since the federally financed programs administered by state public assistance agencies are funded predominantly by HHS, HHS is responsible for the requirements for the development, documentation, submission, negotiation, and approval of public assistance CAPs. These requirements are specified in 45 CFR Part 95, Subpart E.

Major federal programs typically administered by state public assistance agencies include Temporary Assistance for Needy Families (Assistance Listing 93.558), Medicaid (Assistance Listing 93.778), Supplemental Nutrition Assistance Program (Assistance Listing 10.561), Child Support Enforcement (Assistance Listing 93.563), Foster Care (Assistance Listing 93.658), Adoption Assistance (Assistance Listing 93.659), and Social Services Block Grant (Assistance Listing 93.667).

1. Compliance Requirements – State Public Assistance Agency Costs

a. *Submission Requirements*

Unlike most state/local government-wide central service CAPs and ICRPs, an annual submission of the public assistance CAP is not required. Once a public assistance CAP is approved, state public assistance agencies are required to promptly submit amendments to the plan if any of the following events occur (45 CFR 95.509):

(1) The procedures shown in the existing CAP become outdated because of organizational changes, changes to the federal law or regulations, or significant changes in the program levels, affecting the validity of the approved cost allocation procedures.

(2) A material defect is discovered in the CAP.

(3) The CAP for public assistance programs is amended so as to affect the allocation of costs.

(4) Other changes occur which make the allocation basis or procedures in the approved CAP invalid.

The amendments must be submitted to HHS for review and approval.

b. *Documentation Requirements* – A state may claim federal financial participation for costs associated with a program only in accordance with its approved CAP. The public assistance CAP requirements are contained in 45 CFR 95.507.

c. *Implementation of Approved Public Assistance CAPs* – Since public assistance CAPs are of a narrative nature, the federal government needs assurance that the CAP has been implemented as approved. This is accomplished by funding agencies' reviews, single audits, or audits conducted by the cognizant agency for audit (2 CFR Part 200 Appendix VI, paragraph E.1).

2. Audit Objectives – State Public Assistance Agency Costs

a. Obtain an understanding of internal control over the compliance requirements for state public assistance agency costs, assess risk, and test internal control as required by 2 CFR 200.514(c).

b. Determine whether the governmental unit complied with the provisions of 2 CFR Part 200 as follows:

(1) Direct charges to federal awards were for allowable costs.

(2) Charges to cost pools allocated to federal awards through the public assistance CAP were for allowable costs.

(3) The approved public assistance CAP correctly describes the actual procedures used to identify, measure, and allocate costs to each of the programs operated by the state public assistance agency. However, the actual procedures or methods of allocating costs must be in accordance with the cost principles and produce an equitable and consistent distribution of costs.

(4) Charges to federal awards are in accordance with the approved public assistance CAP. This does not apply if the auditor first determines that the approved CAP is not in compliance with the cost principles and/or produces an inequitable distribution of costs.

(5) The employee compensation reporting systems are implemented and operated in accordance with the methodologies described in the approved public assistance CAP.

3. Suggested Compliance Audit Procedures – State Public Assistance Agency Costs

a. Since a significant amount of the costs in the public assistance CAP are allocated based on employee compensation reporting systems, it is suggested that the auditor consider the risk when designing the nature, timing, and extent of compliance testing.

b. *General Audit Procedures* – The following procedures apply to direct charges to federal awards as well as charges to cost pools that are allocated wholly or partially to federal awards.

(1) Test a sample of transactions for conformance with:

(a) The criteria contained in the "Basic Considerations" section of 2 CFR Part 200 (sections 200.402 through 200.411).

(b) The principles to establish allowability or unallowability of certain items of cost (2 CFR 200.420 through 200.476).

(2) If the auditor identifies unallowable costs, the auditor should be aware that directly associated costs might have been charged. Directly associated costs are costs incurred solely as a result of incurring another cost and would have not been incurred if the other cost had not been incurred. When an unallowable cost is incurred, directly associated costs are also unallowable. For example, occupancy costs related to unallowable general costs of government are also unallowable.

c. *Special Audit Procedures for Public Assistance CAPs*

(1) Verify that the state public assistance agency is complying with the submission requirements (i.e., an amendment is promptly submitted when any of the events identified in 45 CFR 95.509 occur).

(2) Verify that public assistance CAP includes the required documentation in accordance with 45 CFR 95.507.

(3) *Testing of the Public Assistance CAP* – Test the methods of allocating the costs to ascertain if they are in accordance with the applicable provisions of the cost principles and produce an equitable distribution of costs. Appropriate detailed tests may include:

(a) Examining the results of the employee compensation system or in addition the records for employee compensation to ascertain if they are accurate, allowable, and properly allocated to the various functional and programmatic activities to which salary and wage costs are charged.

(b) Since the most significant cost pools in terms of dollars are usually allocated based upon the distribution of income maintenance and social services workers' efforts identified through random moment time studies, determining whether the time studies are implemented and operated in accordance with the methodologies described in the approved public assistance CAP. For example, verifying the adequacy of the controls governing the conduct and evaluation of the study, and determining that the sampled

observations were properly selected and performed, the documentation of the observations was properly completed, and the results of the study were correctly accumulated and applied. Testing may include observing or interviewing staff who participate in the time studies to determine if they are correctly recording their activities.

(c) Testing statistical data (e.g., square footage, case counts, salaries and wages) to ascertain if the proposed allocation bases are reasonable, updated as necessary, and do not contain any material omissions.

(4) *Testing of Charges Based Upon the Public Assistance CAP* – If the approved public assistance CAP is determined to be in compliance with the cost principles and produces an equitable distribution of costs, verify that the methods of charging costs to federal awards are in accordance with the approved CAP and the provisions of the approval documents issued by HHS. Detailed compliance tests may include:

(a) Verifying that the cost allocation schedules, supporting documentation and allocation data are accurate and that the costs are allocated in compliance with the approved CAP.

(b) Reconciling the allocation statistics of labor costs to employee compensation records (e.g., random moment sampling observation forms).

(c) Reconciling the allocation statistics of non-labor costs to allocation data, (e.g., square footage or case counts).

(d) Verifying direct charges to supporting documents (e.g., purchase orders).

(e) Reconciling the costs to the federal claims.

2 CFR PART 200
COST PRINCIPLES FOR INSTITUTIONS OF HIGHER EDUCATION

Introduction

2 CFR Part 200 establishes principles for determining the costs applicable to research and development, training, and other sponsored work performed by institutions of higher education (IHEs) under federal awards. These federal awards are referred to as sponsored agreements. This section is organized into the following areas of allowable costs: Direct Costs; Indirect Costs; Cost Accounting Standards (CAS) and Special Requirements – Internal Service, Central Service, Pension, or Similar Activities or Funds.

At IHEs, indirect costs are accounted for through F&A cost proposals. F&A costs, for the purpose of 2 CFR Part 200 and as defined at 2 CFR 200.1, are synonymous with "indirect costs" and include costs that are incurred for common or joint objectives and, therefore, cannot be identified readily and specifically with a particular sponsored project, an instructional activity, or any other institutional activity. As described in 2 CFR 200.414(a), the F&A cost categories include depreciation on buildings, equipment and capital improvements; interest on debt associated with certain buildings, operations and maintenance expenses; interest expenses; general administrative expenses; departmental administration expenses; sponsored project administration expenses; and library expenses. F&A costs are referred to as "indirect costs" in this section.

Cognizant Agency for Indirect Costs

2 CFR 200.1 defines "cognizant agency for indirect costs" as the federal agency responsible for reviewing, negotiating, and approving indirect (F&A) costs rates on behalf of all federal agencies. References to the "cognizant agency for indirect costs" in this section are not equivalent to the cognizant agency for audit responsibilities, which is defined in 2 CFR 200.1. 2 CFR Part 200, Appendix III, paragraph C.11, assigns indirect cost cognizance to HHS or the Department of Defense (DoD), Office of Naval Research, normally depending on which of the two agencies (HHS or DoD) provides more funds to the educational institution for the most recent three years. Once designated as the cognizant agency for indirect costs, the federal agency remains so for a period of five years.

Allowable Costs – Direct Costs

1. Compliance Requirements – Direct Costs

a. Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy.

b. Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect (F&A) costs.

2. Audit Objectives – Direct Costs

a. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

b. Determine whether the organization complied with the provisions of 2 CFR Part 200 and CAS (if applicable) as follows:

(1) Direct charges to federal awards were for allowable costs.

(2) Unallowable costs determined to be direct costs were included in the allocation base for the purpose of computing an indirect cost rate.

3. Suggested Compliance Audit Procedures – Direct Costs

Test a sample of transactions for conformance with the following criteria contained in 2 CFR Part 200 and CAS, as applicable:

a. If the auditor identifies unallowable direct costs, the auditor should be aware that "directly associated costs" might have been charged. Directly associated costs are costs incurred solely as a result of incurring another cost and would not have been incurred if the other cost had not been incurred. For example, fringe benefits are "directly associated" with payroll costs. When an unallowable cost is incurred, directly associated costs are also unallowable.

b. Costs were approved by the federal agency, if required (see 2 CFR 200.407 for selected items of cost that require prior written approval and Exhibit 1 in this part of the Supplement for selected items of cost that require cognizant agency for indirect cost approval or federal agency approval when charged to an award as direct costs).

c. Costs did not include (1) payments made in an incorrect amount or unallowable under statutory, contractual, administrative, or other legally applicable requirements; (2) overpayments and underpayments that were made to eligible recipients (e.g., payment that does not account for credit for applicable discounts, duplicate payment); and (3) payments that were made to an ineligible recipient or for ineligible goods or services, or payments for goods and services not received (except for such payments where authorized by law).

d. Costs were necessary and reasonable for the performance of the federal award and allocable under the principles of 2 CFR Part 200, Subpart E.

e. Costs conformed to any limitations or exclusions set forth in 2 CFR Part 200, Subpart E, or in the federal award as to types or amount of cost items.

f. Costs were consistent with policies and procedures that apply uniformly to both federally financed and other activities of the IHE.

g. Costs were accorded consistent treatment. Costs were not assigned to a federal award as a direct cost if any other cost incurred for the same purpose in like circumstances was allocated to the federal award as an indirect cost.

h. Costs were not included as a cost or used to meet cost-sharing or matching requirements of any other federally financed program in either the current or a prior period.

i. Costs were adequately documented.

j. Departmental costs charged direct to institutional activities (i.e., research and development, instruction, other institutional activities) are consistently charged directly in like circumstances and are in accordance with the provisions of 2 CFR Part 200 and CAS. Salaries of administrative and clerical staff normally should be treated as indirect costs. Direct charging of these costs may be appropriate only when certain conditions are met (2 CFR 200.413(c)).

k. Costs for general-purpose equipment charged as direct costs to institutional activities (i.e., research and development, instruction, other institutional activities) are consistently charged as direct, were approved by the federal agency, and are in accordance with the provisions of 2 CFR Part 200 and CAS.

Allowable Costs – Indirect Costs

Indirect (facilities and administrative(F&A)) costs are those costs that are incurred for common or joint objectives and, therefore, cannot be identified readily and specifically with a particular sponsored project, an instructional activity, or any other institutional activity (2 CFR 200.1).

Indirect costs are defined into two broad categories in 2 CFR 200.414(a).

- "Facilities" is defined as depreciation on buildings, equipment and capital improvements, interest on debt associated with certain buildings, equipment and capital improvements, operations and maintenance expenses, and library expenses.

- "Administration" is defined as general administration and general expenses such as the director's office, accounting, personnel, and all other types of expenditures not listed specifically under one of the subcategories of "Facilities" (including cross allocations from other pools, where applicable).

1. Compliance Requirements – Indirect Costs

a. In order to recover indirect costs, IHEs must prepare indirect cost rate proposals (ICRPs) in accordance with the guidelines provided in 2 CFR Part 200, Appendix III, and submit them to the cognizant agency for indirect costs for approval (2 CFR Part 200, Appendix III, paragraph C.11).

b. ICRPs prepared by IHEs are based on the most current financial data supported by the institution's accounting system and audited financial statements. These ICRPs can be used to establish either predetermined rates, negotiated fixed rates with carry-forward provisions, or provisional rates (2 CFR Part 200, Appendix III, paragraphs C.4, C.5, and C.6). The ICRP to be used to establish indirect cost rates must be certified by the IHE in accordance with 2 CFR Part 200, Appendix III, paragraph F.2.

c. As described in 2 CFR 200.414(a), the indirect cost (F&A) categories include: depreciation on buildings, equipment and capital improvement, interest on debt associated with certain buildings, and operation and maintenance expenses. In general, the cost groupings established within a category should constitute a pool of items of expense that are considered to be of like nature in terms of their relative contribution to the particular cost objectives to which distribution is appropriate (2 CFR Part 200, Appendix III, paragraph C.1.a). Cost categories should be established considering the general guidelines in 2 CFR Part 200, Appendix III, section B.

d. Each IHE's indirect cost rate process must be appropriately designed to determine that federal sponsors do not in any way subsidize the indirect costs of other sponsors, specifically activities sponsored by industry and foreign governments (2 CFR Part 200, Appendix III, paragraph C.1.a.(3)).

e. Administrative costs charged to sponsored agreements awarded or amended with effective dates beginning on or after the start of the IHE's first fiscal year which begins on or after October 1, 1991, must be limited to 26 percent of modified total direct costs, as defined in 2 CFR Part 200, Appendix III, paragraph C.8.a. IHEs should not change their accounting or cost allocation methods which were in effect on May 1, 1991, if the effect is to (1) change the charging of a particular type of cost from indirect to direct or (2) reclassify or increase allocations from the administrative pools to the facilities pools or fringe benefits cost pools (but also see 2 CFR Part 200, Appendix III, paragraph C.8.b).

f. *Submission Requirement for Standard Format for Long-Form Proposals* – IHEs must use the standard format in accordance with 2 CFR 200 Appendix III, Paragraph E to submit ICRP to the cognizant agency for indirect costs. The cognizant agency for indirect costs may, on an institution-by-institution basis, grant exceptions from all or portions of Part II of the standard format. This requirement does not apply to IHEs that use the simplified method for calculating indirect cost rates, as described in 2 CFR Part 200, Appendix III, paragraph C.12.

2. Audit Objectives – Indirect Costs

a. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

b. *If the institution has a negotiated indirect cost rate agreement,* determine that the rate(s) used to charge indirect costs is consistent with the appropriate ICRP (2 CFR Part 200, Appendix III, paragraph C.11) or agreement with a pass-through entity (2 CFR 200.331(a)(4)).

c. *If the institution does not have a negotiated indirect cost rate agreement,* determine whether an ICRP was prepared, certified, and submitted by the educational institution to their cognizant agency for indirect costs. (The cognizant agency for indirect costs is responsible for negotiating and approving indirect cost rates; see 2 CFR Part 200, Appendix III, paragraph C.11.) Verify that billings are based on the ICRP.

d. *If the institution charges indirect costs to federal awards based on award-specific rate(s) required by a federal agency,* determine that the award-specific rate(s) are the result of special circumstances such as required by law or regulation (2 CFR 200.414(c)).

e. *If the institution has a negotiated indirect cost rate agreement,* except as provided in 2 CFR 200.414(c)(1), determine that the negotiated (or submitted) rate in effect at the time of the initial award is applied throughout the life of the sponsored agreement. "Life" means each competitive segment of a project. A competitive segment is a period of years approved by the federal agency at the time of the award (2 CFR Part 200, Appendix III, paragraph C.7).

f. Determine that the negotiated (or submitted) rate(s) was applied to the appropriate distribution base (2 CFR Part 200, Appendix III, paragraph C.2).

g. Determine that indirect costs billed to sponsored agreements are the result of applying the negotiated (or submitted) rate(s) to the appropriate base amount(s). Note: Any costs that exceed the maximum amount allowed by statute may not be charged to the Federal award. Only the amount allowable by statute may be charged to the Federal award.(2 CFR 200.408).

3. Suggested Compliance Audit Procedures – Indirect Costs

Test a sample of transactions for conformance with the following criteria contained in 2 CFR Part 200 and CAS, as applicable.

a. *For IHEs that charge indirect cost to federal awards based on a federally negotiated rate(s):*

(1) Ascertain if indirect costs or centralized or administrative services costs were allocated or charged to a major program. If not, the following suggested audit procedures do not apply.

(2) Obtain and read the current indirect cost rate agreement and determine the terms in effect.

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

b. *For IHEs that charge indirect costs to federal awards based on rate(s) which are not negotiated by the cognizant agency for indirect costs:*

(1) If the ICRP has been certified and submitted to the cognizant agency for indirect costs and is based on costs incurred in the year being audited, then the ICRP should be audited for compliance with the provisions of 2 CFR Part 200.

(2) If the IHE has a certified ICRP, which is based on costs incurred in the year being audited, but has not submitted it to their cognizant agency for indirect costs, then the ICRP should be audited using the procedures listed below:

(a) Test the indirect cost pool groupings for compliance with 2 CFR 200.414 and 2 CFR Part 200, Appendix III.

(b) Test the indirect cost pools to determine if costs are allowable.

(c) Test that indirect costs have been treated consistently when incurred for the same purpose, in like circumstances, as indirect costs only with respect to final cost objectives. No final cost objective may have allocated to it as a cost any cost, if another cost incurred for the same purpose, in like circumstances, has been included as a direct cost of that or any other final cost objective (2 CFR 200.412).

(d) Test that the indirect cost pools in the rate proposal were developed consistent with the educational institution’s disclosed practices (2 CFR 200.419).

(e) Test the *depreciation* cost pool to determine if:

(i) Computations of depreciation are based on the acquisition cost of the assets involved. Acquisition costs exclude (A) the cost of land; (B) any portion of the cost of buildings and equipment borne by the Federal Government, irrespective of where title was originally vested or is presently located; (C) any portion of the cost of buildings and equipment contributed by or for the recipient or subrecipient that is already claimed as cost sharing or where law or agreement prohibit recovery; and (D) any asset acquired solely for the performance of a non-federal award (2 CFR 200.436(c)).

(ii) The depreciation method used to charge the cost of an asset (or group of assets) to accounting periods must reflect the pattern of consumption of the asset during its useful life (2 CFR 200.436(d)(2)).

(iii) The depreciation methods used to calculate the depreciation amounts for the ICRP are the same methods used by the educational institution for its financial statements (2 CFR 200.436(d)(2)).

(iv) Adequate property records must support depreciation charges, and physical inventories, must be taken at least once every two years to ensure that the assets exist and are usable, used, and needed. (2 CFR 200.436(e)).

(v) The allocation method for the depreciation cost pool complies with 2 CFR Part 200, Appendix III, paragraph B.2.

(vi) Gains and losses on the sale, retirement, or other disposition of depreciable property have been appropriately accounted for and comply with 2 CFR 200.443.

(f) Test the *interest* cost pool to determine if:

(i) Computations for interest comply with the provisions of 2 CFR 200.449.

(ii) The allocation method for the interest cost pool complies with 2 CFR Part 200, Appendix III, paragraph B.3.

(g) Test the *operations and maintenance* cost pool to determine if:

(i) Costs are appropriately classified in this cost pool (2 CFR Part 200, Appendix III, paragraph B.4).

(ii) Rental costs comply with the provisions of 2 CFR 200.465.

(iii) The IHE's accounting practices for classifying
(A) rearrangement and alteration costs, and
(B) reconversion costs, either as direct or indirect, result in consistent treatment in like circumstances.

(iv) The allocation method for the operations and maintenance cost pool complies with 2 CFR Part 200, Appendix III, paragraph B.4.

(v) If a utility cost adjustment has been included in the negotiated indirect cost rate, the adjustment complies with the provisions of 2 CFR Part 200, Appendix III, paragraph B.4.c.

(h) Test the *library* cost pool to determine if:

(i) Costs are appropriately classified in this cost pool (2 CFR Part 200, Appendix III, paragraph B.8).

(ii) The allocation method for the library cost pool complies with 2 CFR Part 200, Appendix III, paragraph B.8.

(iii) If the allocation method is based on a cost analysis study in accordance with 2 CFR Part 200, Appendix III, paragraph A.2.d, determine that the study:

(A) Results in an equitable distribution of costs and represents the relative benefits derived;

(B) Is appropriately documented in sufficient detail for review by the cognizant agency for indirect costs;

(C) Is statistically sound;

(D) Is performed specifically at the educational institution;

(E) Is reviewed periodically, but not less frequently than rate negotiations, updated if necessary, and used; and

(F) Assumptions are clearly stated and adequately explained.

(i) Test the *administrative* cost pools to determine if:

(i) Costs are appropriately classified in these cost pools and the distribution bases are compliant with 2 CFR Part 200, Appendix III, paragraphs B.5, B.6, and B.7.

(ii) The administrative cost components comply with the limitation on reimbursement of administrative costs in 2 CFR Part 200, Appendix III, paragraph C.8. If the proposal is based on the alternative method for administrative costs in 2 CFR Part 200, Appendix III, paragraph C.9, then the limitation does not apply. If the proposal is based on the alternative method for administrative costs, determine that the educational institution meets the criteria of paragraph C.9 and that this is adequately documented in the proposal.

(iii) *Departmental administration expense pool* – Test to determine that this cost pool complies with 2 CFR Part 200, Appendix III, paragraph B.6.

(iv) *Academic Deans' Offices* – Test that salaries and operating expenses are limited to those attributable to administrative functions.

(v) *Academic Departments* – Salaries and fringe benefits attributable to the administrative work (including bid and proposal preparation) of faculty (including department heads), and other professional personnel conducting research and/or instruction, are allowed at a rate of 3.6 percent of modified total direct costs. This category must not include professional business or administrative officers. Determine that this allowance is added to the computation of the indirect cost rate for major functions. Test to determine that the expenses covered by this allowance are excluded from the departmental cost pool (2 CFR Part 200, Appendix III, paragraph B.6).

Test for consistent treatment, in like circumstances, of other administrative and supporting expenses incurred within academic departments. For example, items such as office supplies, postage, local telephone, and memberships normally are treated as indirect costs.

(3) If the ICRP has been certified and submitted to the cognizant agency for indirect costs but is based on costs incurred in a fiscal year prior to the fiscal year being audited, a review of the ICRP is not required.

(4) If an ICRP has not been prepared and, therefore, the indirect costs charged to federal awards are not based on a certified ICRP, this may be required to be reported as an audit finding, in accordance with 2 CFR 200.516(a)(5).

(5) *Application of an indirect cost rate(s) not negotiated by the cognizant agency for indirect costs* – Even though the rate(s) has not been approved by the cognizant agency for indirect costs, an unapproved indirect cost rate(s) should be reviewed for consistent application of the submitted rates to direct cost bases to ensure that the indirect cost rate(s) is applied consistent with the educational institution's policies and procedures that apply uniformly to both federally funded and other activities of the institution.

c. *For IHEs that also have awards containing award-specific rates used by the federal agency that take precedence over the negotiated rate for purposes of indirect cost recovery:*

(1) Ascertain that the award-specific rate is in accordance with special circumstances required by law, regulation, or other circumstance specified in 2 CFR 200.414(c)(1).

(2) Obtain and review the award terms used to establish an award-specific indirect cost rate(s).

(3) Select a sample of claims for reimbursement and verify that the award-specific rate(s) used are in accordance with the terms of the award, that rate(s) were applied to the appropriate bases, and that the amounts claimed were the product of applying the rate to the applicable base. Verify that the costs included in the base(s) are consistent with the terms of the agreement.

Allowable Costs – Special Requirements – Cost Accounting Standards

48 CFR 9903.201-2(c)(3), requires IHEs to comply with all of the CAS specified in 48 CFR Part 9905 that are in effect on the date of the contract award and with any CAS that become applicable because of later award of a CAS-covered contract. Negotiated contracts in excess of $750,000 are CAS-covered, except for CAS-covered contracts awarded to Federally Funded Research and Development Centers (FFRDCs) operated by IHEs, which are subject to 48 CFR Part 9904.

1. Compliance Requirements – CAS

a. 2 CFR 200.419 requires an IHE that receive an aggregate total $50 million or more in Federal awards and instruments subject to this subpart (as specified in 2 CFR 200.101) in its most recently completed fiscal year must comply with the Cost Accounting Standards Board's cost accounting standards located at 48 CFR 9905.501, 9905.502, 9905.505, and 9905.506. CAS-covered contracts and

subcontracts awarded to the IHEs are subject to the broader range of CAS requirements at 48 CFR 9900 through 9999 and 48 CFR part 30 (FAR Part 30).

2. Audit Objectives – CAS

a. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

b. Determine whether the IHE's accounting practices for direct and indirect costs comply with CAS applicable to educational institutions (2 CFR 200.419; 48 CFR Part 9905).

3. Suggested Compliance Audit Procedures – CAS

a. Test direct and indirect charges to federal awards to determine that the IHE's practices used in estimating the costs in the proposal were consistent with the IHE's cost accounting practices used in accumulating and reporting the costs (48 CFR 9905.501).

b. A cost must not be assigned to a Federal award as a direct cost, if any other cost when incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost. (2 CFR 200.403(d) and 48 CFR 9905.502). For example:

(1) Salaries of administrative and clerical staff are normally treated as indirect costs; however, direct charging may be appropriate if all of the conditions in 2 CFR 200.413(c) are met. When charged as direct costs to federal awards, test a sample of these costs to determine whether they are treated consistently with charges to non-federal awards, instructional activity, or other institutional activity (2 CFR Part 200, Appendix III, paragraph B.6).

(2) Office supplies, postage, local telephone costs and memberships are normally treated as indirect costs. Sample these costs when they have been charged as direct costs to federal awards to determine whether they are consistently treated for non-federal awards, instructional activity, or other institutional activity (2 CFR Part 200, Appendix III, paragraph B.6).

c. Test for adequate accounting in the IHE's accounting system of unallowable costs for costs charged directly to federal awards, as well as indirect costs accumulated in cost pools (2 CFR 200.403(g) and 48 CFR 9905.505).

d. Determine that the IHE's cost accounting period for accumulating direct and indirect costs charged to federal awards is consistent with the institution's fiscal year. If not, determine whether the institution met the criteria for an exception described in 2 CFR Part 200, Appendix III, paragraph A.2.d. See also 48 CFR 9905.506.

Allowable Costs – Special Requirements – Internal Service, Central Service, Pension, or Similar Activities or Funds

1. Compliance Requirements

Charges made from internal service, central service, pension, or similar activities or funds must follow the cost principles provided in 2 CFR Part 200, Subpart E.

2. Audit Objectives

a. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

b. Determine whether charges made from internal service, central service, pension, or similar activities or funds are in accordance with 2 CFR Part 200, Subpart E.

3. Suggested Compliance Audit Procedures

a. For activities accounted for in separate funds, ascertain if (1) retained earnings/fund balances (including reserves) were computed in accordance with 2 CFR Part 200; (2) working capital reserves were not excessive in amount (generally not greater than 60 days for cash expenses for normal operations incurred for the period exclusive of depreciation, capital costs and debt principal costs); and (3) refunds were made to the federal government for its share of any amounts transferred or borrowed from internal service, central service, pension, insurance, or other similar activities or funds for purposes other than to meet the operating liabilities, including interest on debt, of the fund.

b. Test that all users of services are billed in a consistent manner.

c. Test that billing rates exclude unallowable costs, in accordance with 2 CFR Part 200.

d. Test, where activities are not accounted for in separate funds, that billing rates (or charges) are developed based on actual costs and were adjusted to eliminate profits.

e. For IHEs that have self-insurance and certain types of fringe benefit programs (e.g., pension funds), ascertain if independent actuarial studies appropriate for such activities are performed at least biennially and that current period costs were allocated based on an appropriate study which is not over two years old.

2 CFR PART 200
COST PRINCIPLES FOR NONPROFIT ORGANIZATIONS

Introduction

2 CFR Part 200 establishes cost principles for determining costs applicable to federal awards with nonprofit organizations (NPOs). The principles are designed to ensure that the federal government bear its fair share of costs except where restricted or prohibited by law. These principles are used by all federal agencies in determining the allowable costs of work performed by NPOs under federal awards. Some NPOs must operate under federal cost principles applicable to for-profit entities located at 48 CFR 31.2. A listing of these organizations is contained in Appendix VIII to 2 CFR Part 200.

In addition to the cost principles established by 2 CFR Part 200, Subpart E, the Cost Accounting Standards Board (CASB) has promulgated certain cost accounting standards (CAS) that must be followed by nonprofit organizations receiving procurement contracts that meet a defined dollar threshold. Generally, organizations are exempt from coverage under CAS unless they receive a single CAS-covered contract or subcontract of at least $7.5 million. After receipt of this trigger contract, CAS coverage is applied to all negotiated awards that exceed the Truth in Negotiations Act threshold, currently $2,000,000 ($750,000 for prime contracts awarded before July 1, 2018), unless they meet certain exemptions. These exemptions and the requirements of CAS can be found in 48 CFR chapter 99.

Cognizant Agency for Indirect Costs

2 CFR 200.1 defines "cognizant agency for indirect costs" as the federal agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals on behalf of all federal agencies. References to the "cognizant agency for indirect costs" in this section are not equivalent to the cognizant agency for audit, which is defined in 2 CFR 200.1. 2 CFR Part 200, Appendix IV, paragraph C.2 clarifies that the cognizant agency for indirect costs is generally the federal agency with the largest direct dollar value of federal awards with an organization, unless different arrangements are agreed to by federal agencies. 2 CFR Part 200, Appendix IX is applicable for Hospital cost principles.

Allowable Costs – General Criteria – Direct Costs

1. Compliance Requirements – Direct Costs

Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy.

Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect costs.

For nonprofit organizations, the cost of activities performed primarily as a service to members, clients, or the general public when significant and necessary to the organization's mission must be treated as direct costs—whether or not allowable—and be allocated an equitable share of indirect costs. Examples can be found in 2 CFR 200.413(f).

If the auditor identifies unallowable direct costs, the auditor should be aware that directly associated costs might have been charged. Directly associated costs are costs incurred solely as a result of incurring another cost that would not have been incurred if the other cost had not been incurred. For example, fringe benefits are directly associated with payroll costs. When a payroll cost is determined to be unallowable, then the directly associated fringe benefit would be determined unallowable as well.

2. Audit Objectives – Direct Costs

a. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

b. Determine whether the organization complied with the provisions of 2 CFR Part 200 and CAS (if applicable) as follows:

   (1) Direct charges to federal awards were for allowable costs.

   (2) Unallowable costs determined to be direct costs were included in the allocation base for the purpose of computing an indirect cost rate.

3. Suggested Compliance Audit Procedures – Direct Costs

Test direct costs charged to federal awards with the following criteria:

a. Costs were approved by the federal agency, if required. (See 2 CFR 200.407 for items of cost that require prior written approval and Exhibit 1, Selected Items of Cost, in this part of the Supplement.)

b. Costs were necessary and reasonable for the performance of the federal award and allocable under the principles of 2 CFR 200, Subpart E.

c. Costs conformed to any limitations or exclusions set forth in 2 CFR 200, Subpart E, or in the federal award as to types or amount of cost items.

d. Costs were consistent with policies and procedures that apply uniformly to both federally financed and other activities of the NPO.

e. Costs were accorded consistent treatment. Costs were not assigned to a federal award as a direct cost if any other cost incurred for the same purpose in like circumstances was allocated to a federal award as an indirect cost.

f. Costs were not included as a cost of any other federally financed program in either the current or a prior period.

g. Costs were not used to meet the cost-sharing requirements of another federal program, except where authorized by federal statute.

h. Costs were adequately documented.

i. Administrative close out costs were incurred and charged in accordance with 2 CFR 200.403(h).

Allowable Costs – Indirect Costs

1. Compliance Requirements – Indirect Costs

a. Indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. Direct costs of minor amounts may be treated as indirect costs under the conditions described in 2 CFR 200.413(d). After direct costs have been determined and assigned directly to awards or other work, as appropriate, indirect costs are those remaining to be allocated to benefitting cost objectives. A cost may not be allocated to a federal award as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been assigned to a federal award as a direct cost. If an organization receives more than $10 million in direct federal funding in a fiscal year, a breakout of the indirect cost component into two broad categories, Facilities and Administration, as defined in 2 CFR 200.414(a), is required.

b. Indirect cost rate proposals (ICRPs) are used to either establish predetermined rates, fixed rates with carry-forward provision, provisional, or final rates (2 CFR Part 200, Appendix IV, paragraph C.1).

(1) *Predetermined rate* means an indirect cost rate, applicable to a specified current or future period, usually the organization's fiscal year. The rate is based on an estimate of the costs to be incurred during the period. A predetermined rate is not subject to adjustment.

(2) *Fixed rate* means an indirect cost rate which has the same characteristics as a predetermined rate, except that the difference between the estimated costs and the actual costs of the period covered by the rate is carried forward as an adjustment to the rate computation of a subsequent period.

(3) *Provisional rate or billing rate* means a temporary indirect cost rate applicable to a specified period which is used for funding, interim reimbursement, and reporting indirect costs on federal awards pending the establishment of a final rate for the period.

(4) *Final rate* means an indirect cost rate applicable to a specified past period which is based on the actual costs of the period. A final rate is not subject to adjustment.

c. Some federal awards may contain cost limitations on recovery of indirect costs that differ from the federally negotiated indirect cost rates. In these cases, the indirect cost rate will be specified in the award, as described in 2 CFR 200.211(b)(16) and 200.332(b)(1)(xiv).

d. To recover indirect costs, NPOs prepare ICRPs for the cognizant agency for indirect costs. NPOs that have not previously established indirect costs rates and are not using the de minimis indirect cost rate must submit an ICRP immediately upon notification that a federal award has been made and, in no event, later than three months after the effective date of the award. NPOs that have previously established indirect cost rates must submit a new ICRP within six months after the close of each fiscal year. The ICRP is the documentation prepared by an organization to substantiate its claims for the reimbursement of indirect costs. The proposal provides the basis for the review and negotiation leading to the establishment of an organization's indirect cost rate. NPOs can select one of three different methods to allocate indirect costs and compute the indirect cost rate.

(1) *Simplified Allocation Method* – Where an organization's major functions benefit from its indirect costs to approximately the same degree, the allocation of indirect costs may be accomplished by (a) separating the organization's total costs for the base period as either direct or indirect, and (b) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. A full discussion of the simplified allocation method can be found in 2 CFR Part 200, Appendix IV, paragraph B.2, and Appendix IX as applicable.

(2) *Multiple Allocation Base Method* – Where an organization's indirect costs benefit its major functions in varying degrees, indirect costs must be accumulated into separate cost groupings, as described in 2 CFR Part 200, Appendix IV, paragraph B.3.b. Each grouping must then be allocated individually to benefiting functions by means of a base that best measures the relative benefits. The allocation bases for each grouping are described in 2 CFR Part 200, Appendix IV, paragraph B.3.c. A full discussion of the multiple allocation base method can be found in 2 CFR Part 200, Appendix IV, paragraph B.3.

(3) *Direct Allocation Method* – Some NPOs treat all costs as direct costs except general administration and general expenses. These organizations generally separate their costs into three basic categories: (a) general administration and general expenses, (b) fundraising, and (c) other direct functions (including projects performed under federal awards). Joint costs, such as depreciation, rental costs, operation and maintenance of facilities, telephone expenses, information technology, and the like are prorated

individually as direct costs to each category and to each award or other activity using a base most appropriate to the particular cost being prorated. A full discussion of the direct allocation base method can be found in 2 CFR Part 200, Appendix IV, paragraph B.4.

2. Audit Objectives – Indirect Costs

a. Obtain an understanding of internal controls, assess risk, and test internal controls as required by 2 CFR 200.514(c).

b. Determine whether the NPO charged indirect costs to federal awards in compliance with the cost principles in 2 CFR Part 200, Subpart E, Appendix IV, and CAS (if applicable), and in accordance with any negotiated rate agreements and specific award conditions/limitations, and 2 CFR Part 200, Appendix IX (as applicable).

3. Suggested Compliance Audit Procedures – Indirect Costs

a. Test whether indirect costs comply with the following criteria:

(1) Conform to the allowability of cost provisions in 2 CFR Part 200, Subpart E.

(2) Are supported by appropriate documentation, such as purchase orders, receiving reports, contractor invoices, canceled checks, and time and attendance records that meet the documentation standards of 2 CFR 200.430(g), and are correctly charged as to account, amount, and period.

(3) Are calculated in conformity with generally accepted accounting principles or CAS, as required.

(4) Are not used to meet cost-sharing or matching requirements of other federally supported activities.

(5) Be given consistent accounting treatment within and between accounting periods. Consistency in accounting requires that costs incurred for the same purpose, in like circumstances, be treated as either direct costs only or indirect costs only with respect to final cost objectives.

b. *For NPOs that charge indirect costs to federal awards based on federally negotiated rates*, obtain the current indirect cost rate agreement, including the proposal used in the negotiation of the agreement, and determine the type of rates (i.e., pre-determined, fixed rate, provisional rate, or final rate as described in 2 CFR Part 200, Appendix IV, section C) and terms in effect for the year being audited.

(1) If a fixed rate agreement with carry-forward provisions has been negotiated with the cognizant agency for indirect cost, determine that the

difference between the estimated indirect costs and the actual indirect costs of the period was correctly calculated and carried forward to the rate computation in the current year.

(2) If a provisional rate was used to bill for indirect costs, determine whether a final rate has been negotiated and appropriate billing adjustments have been made based on the final negotiated rate.

c. *For NPOs that charge indirect costs to federal awards based on rates that are not federally negotiated*, review the ICRP or methodology used to allocate indirect costs for the year being audited to ensure it meets the requirements of 2 CFR Part 200, Subpart E, and CAS, when applicable, to verify the following.

(1) Indirect costs are charged uniformly to both federally funded and other activities of the NPO and are consistent with the NPO's policies and procedures.

(2) Costs in the indirect costs pool are allowable and the composition of the pool allows allocation over a base that is best suited for assigning the pool of indirect costs to cost objectives in accordance with the benefits received.

(3) The allocation base provides for an equitable allocation of indirect costs and include unallowable costs, as appropriate, so that unallowable costs will receive their proportionate share of indirect costs.

(4) Costs have been given consistent accounting treatment within and between accounting periods.

(5) The cost of activities performed primarily as a service to members, clients, or the general public when significant and necessary to the NPO's mission must be treated as direct costs—whether or not allowable—and are allocated an equitable share of indirect costs. See examples in 2 CFR 200.413(f).

d. Select a sample of claims for indirect cost reimbursement:

(1) Verify that the rates used where in accordance with the terms and conditions of the award and the amounts claimed were applied to the appropriate base.

Special Requirements – Disclosure Statements (DS-1) Required by Cost Accounting Standards

1. Compliance Requirements – CAS and Disclosure Statements

a. Pub. L. No. 100-679 (41 U.S.C. 1501-1506) requires certain contractors and subcontractors (which includes NPOs) to comply with CAS and to disclose in writing and follow consistently their cost accounting practices.

b. 48 CFR 9903.201-1 describes the rules for determining whether a proposed contract or subcontract is exempt from CAS. Negotiated contracts not exempt in accordance with 48 CFR 9903.201-1(b) are subject to CAS. A CAS-covered contract may be subject to either full or modified coverage. The rules for determining whether full or modified coverage applies are in 48 CFR 9903.201-2.

(1) Full coverage requires that a business unit comply with all the CAS specified in 48 CFR Part 9904 that are in effect on the date of the contract award and with any CAS that become applicable because of later award of a CAS-covered contract. Full coverage applies to contractor business units that (a) receive a single CAS-covered contract award of $50 million or more; or (b) receive $50 million or more in net CAS-covered awards during their preceding cost accounting period (48 CFR 9903.201-2(a)).

(2) Modified CAS coverage requires only that the contractor comply with Standard 9904.401, Consistency in Estimating, Accumulating, and Reporting Costs; Standard 9904.402, Consistency in Allocating Costs Incurred for the Same Purpose; Standard 9904.405, Accounting for Unallowable Costs; and Standard 9904.406, Cost Accounting Standard—Cost Accounting Period. Modified, rather, than full, CAS coverage may be applied to a covered contract of less than $50 million awarded to a business unit that received less than $50 million in net CAS-covered awards in the immediately preceding cost accounting period.

c. The 48 CFR 9903.202 describes the general Disclosure Statement requirements. A Disclosure Statement is a written description of a contractor's cost accounting practices and procedures and are required under the following circumstances:

(1) Any business unit that is selected to receive a CAS-covered contract or subcontract of $50 million or more must submit a Disclosure Statement before award.

(2) Any company which, together with its segments, receive net awards of negotiated prime contracts and subcontracts subject to CAS totaling $50 million or more in its most recent cost accounting period, must submit a Disclosure Statement before award of its first CAS-covered contract in the immediately following cost accounting period.

2. Audit Objectives – CAS and Disclosure Statements

a. Determine whether the NPO's Disclosure Statement (including amendments) is current, accurate, complete, and properly filed with the cognizant federal Administrative Contracting Officer in accordance with 48 CFR 9903.202-5.

b. Determine whether the NPO's actual accounting practices are consistent with its disclosed practices.

c. Determine whether the NPO's accounting practices, for direct and indirect costs, are compliant with CAS, based on its required CAS coverage (full or modified).

3. Suggested Compliance Audit Procedures – CAS and Disclosure Statements

a. Ascertain whether the NPO has any CAS-covered contract or subcontracts. If so, determine which type of CAS coverage is applicable (full or modified) and if a Disclosure Statement is required to be submitted to the cognizant agency for indirect cost.

b. If a Disclosure Statement is required, obtain a copy and any amendments:

(1) Determine if the cognizant agency for indirect costs has approved the Disclosure Statement and/or has been appropriately notified of changes in the cost accounting practices that occurred during the year to which indirect cost rate agreements are being applied.

(2) Test whether the NPO's actual accounting practices are consistent with the disclosed practices.

(3) Test the NPO's actual accounting practices for direct and indirect costs are compliant with applicable CAS.

Allowable Costs – Special Requirements – Internal Service, Central Service, Pension, or Similar Activities or Funds

1. Compliance Requirements

NPOs using internal service, central service, pension, or similar activities or funds must follow the applicable cost principles found in 2 CFR Part 200.

2. Audit Objectives

a. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

b. Determine whether charges made from internal service, central service, pension, or similar activities or funds are in accordance with 2 CFR Part 200.

3. Suggested Compliance Audit Procedures

a. For activities accounted for in separate funds, ascertain if (1) retained earnings/fund balances (including reserves) were computed in accordance with 2 CFR Part 200; (2) working capital reserves were not excessive in amount (generally not greater than 60 days for cash expenses for normal operations

incurred for the period exclusive of depreciation, capital costs and debt principal costs); and (3) refunds were made to the federal government for its share of any amounts transferred or borrowed from internal service, central service, pension, insurance, or other similar activities or funds for purposes other than to meet the operating liabilities, including interest on debt, of the fund.

b. Test that all users of services are billed in a consistent manner.

c. Test that billing rates exclude unallowable costs, in accordance with 2 CFR Part 200.

d. Test, where activities are not accounted for in separate funds, that billing rates (or charges) are developed based on actual costs and were adjusted to eliminate profits.

e. For NPOs that have self-insurance and certain types of fringe benefit programs (e.g., pension funds), ascertain if independent actuarial studies appropriate for such activities are performed at least biennially and that current period costs were allocated based on an appropriate study which is not over two years old.

C. CASH MANAGEMENT

Compliance Requirements

Grants and Cooperative Agreements

All Non-Federal Entities

Recipients or Subrecipients must establish written procedures to implement the requirements of 2 CFR 200.305 (2 CFR 200.302(b)(6)).

States

US Department of the Treasury (Treasury) regulations at 31 CFR Part 205 implement the Cash Management Improvement Act of 1990 (CMIA), as amended (Pub. L. No. 101-453; 31 USC 6501 et seq.). Subpart A of those regulations requires state recipients to enter into Treasury-State Agreements that prescribe specific methods of drawing down federal funds (funding techniques) for federal programs listed in the Assistance Listing (Catalog of federal Domestic Assistance) that meet the funding threshold for a major federal assistance program under the CMIA. Treasury-State Agreements also specify the terms and conditions under which an interest liability would be incurred. Programs not covered by a Treasury-State Agreement are subject to procedures prescribed by Treasury in Subpart B of 31 CFR Part 205 (Subpart B), which at 31 CFR 205.33(a) include the requirement for a state to minimize the time between the drawdown of federal funds and their disbursement for federal program purposes.

Recipients and Subrecipients Other Than States

For recipients other than States, payment methods must minimize the time elapsing between the transfer of funds from the federal agency or pass-through entity and disbursement of funds by recipient or subrecipient regardless of whether the payment is made by electronic funds transfer, or by other means (2 CFR 200.305(b)).

What constitutes minimized elapsed time for funds transfer will depend on what payment system/method a recipient uses. For example:

- The US Department of Health and Human Service (HHS) processes its financial transactions with non-federal entities through HHS's Program Support Center (PCS), which uses the Payment Management System (PMS). Usually, payments from PMS process overnight and the funds would be available in a recipient's account the next business day. HHS also processes payments through same day wires (mostly state governments).

- Federal agencies, such as the US Department of Commerce, and US Department of the Interior, use the US Treasury's Automated Standard Application for Payments (ASAP) system for grant and cooperative agreement payments. Recipients can use the ASAP on-line process to request and receive same-day payment.

Under the advance payment method, a federal agency or pass-through entity makes payment before the recipient or subrecipient disburses the funds for program purposes (2 CFR 200.1). A recipient and subrecipient must be paid in advance provided that it maintains, or demonstrates the willingness to maintain, both written procedures that minimize the time elapsing between the transfer of funds from the US Treasury and disbursement by the recipient and subrecipient, as well as a financial management system that meets the specified standards for fund control and accountability (2 CFR 200.305(b)(1)).

The reimbursement payment method is the preferred payment method if (a) the recipient or subrecipient cannot the meet the requirements in 2 CFR 200.305(b)(1) for advance payment, (b) the federal agency or pass-through entity sets a specific condition for use of the reimbursement or (c) if requested by the recipient or subrecipient (2 CFR 200.305(b)(3) and 200.208). The reimbursement payment method also may be used on a federal award for construction or for other construction activity as specified in 2 CFR 200.305(b)(3).

To the extent available, the recipient or subrecipient, must disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on Federal funds before requesting additional federal cash draws (2 CFR 200.305(b)(5)).

Except for interest exempt under the Indian Self-Determination and Education Assistance Act (25 USC 5301 et seq.), interest earned by non-federal entities other than states on advances of federal funds is required to be remitted annually to the Department of Health and Human Services Payment Management System (PMS) through either the Automated Clearing House (ACH) network or a Fedwire Funds Service payment. per 2 CFR 200.305(b)(12). Up to $500 per year may be kept for administrative expenses (2 CFR 200.305(b)(12)).

Cost-Reimbursement Contracts under the Federal Acquisition Regulation

For cost-reimbursement contracts under the FAR, reimbursement payment is the predominant method of funding. Advance payments under FAR-based contracts are rare. The FAR clause at 48 CFR 52.216-7 applies to reimbursement payment. Paragraph (b)(1) of that clause requires that the recipient or subrecipient request reimbursement for (a) only allocable, allowable, and reasonable contract costs that have already been paid, or (b) if the recipient or subrecipient is not delinquent in paying costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid. As defined in 48 CFR 52.216-7(b)(1), with relation to supplies and services purchased for use on the contract, “ordinary course of business” would be in accordance with the terms and conditions of a subcontract or invoice, and ordinarily within 30 days of the request to the federal government for reimbursement.

For cost-reimbursement contracts using advance payment, the requirements are contained in the FAR clause at 48 CFR 52.232-12. The recipient or subrecipient is required to account for interest earned on advances from the federal government in accordance with paragraph (f) of that clause.

Loans, Loan Guarantees, Interest Subsidies, and Insurance

Non-federal entities must comply with applicable program requirements for payment under loans, loan guarantees, interest subsidies, and insurance.

Pass-through Entities

Pass-through entities must monitor cash drawdowns by their subrecipients to ensure that the time elapsing between the transfer of federal funds to the subrecipient and their disbursement for program purposes is minimized as required by the applicable cash management requirements in the federal award to the recipient (2 CFR 200.305(b)(1)).

Source of Governing Requirements

The requirements for cash management are contained in 2 CFR 200.302(b)(6) and 200.305, 31 CFR Part 205, 48 CFR 52.216-7(b) and 52.232-12, program legislation, federal agency regulations, and the terms and conditions of the federal award.

Availability of Other Information

Treasury's Fiscal Service maintains a Cash Management Improvement Act web page Cash Management Improvement Act (treasury.gov). Information about the Department of Health and Human Services Payment Management System and the Department of the Treasury' Automated Standard Application for Payments is available at Payment Management | HHS.gov and Automated Standard Application for Payments (ASAP) (treasury.gov), respectively.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

2. For grants and cooperative agreements to states, determine whether states have complied with the terms and conditions of the Treasury-State Agreement or Subpart B procedures.

3. For grants and cooperative agreements to recipients and subrecipients other than states, determine whether payment methods minimized the time elapsing between transfer of federal funds from the federal agency or the pass-through entity and the disbursement by the recipient and subrecipient and any interest earned on advances was properly remitted.

4. For grants and cooperative agreements to recipients and subrecipients that are funded on a reimbursement basis, determine that expenditures, as defined by 2 CFR 200.1, were incurred prior to the date of the reimbursement request.

5. Determine whether recipients and subrecipients that receive reimbursement payments under cost-reimbursement contracts under the FAR and cost-reimbursement subcontracts under these contracts requested payments in compliance with 48 CFR 52.216-7(b).

6. Determine whether recipients and subrecipients complied with applicable program requirements for loans, loan guarantees, interest subsidies, and insurance.

7. Determine whether pass-through entities implemented procedures to ensure that payments to subrecipients minimized the time elapsing between transfer of federal funds from the pass-through entity to the subrecipient and the disbursement of such funds for program purposes by the subrecipient, as required by applicable cash management requirements in the federal award to the recipient.

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 program.

2. Plan the testing of internal control to support a low assessed level of control risk for cash management and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR 200.514(c) (4), including reporting a significant deficiency or material weakness in accordance with 2 CFR 200.516, 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 remaining risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures – Compliance

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

Grants and cooperative agreements to states

1. For programs tested as major, verify which of those programs are covered by the Treasury-State Agreement in accordance with the materiality thresholds in 31 CFR 205.5, Table A.

2. For those programs identified in procedure 1, determine the funding techniques used for those programs. For those funding techniques that require clearance patterns to schedule the transfer of federal funds to the state, review documentation supporting the clearance pattern and verify that the clearance pattern conforms to the requirements for developing and maintaining clearance patterns as specified in the Treasury-State Agreement (31 CFR 205.12, 205.20, and 205.22).

3. Select a sample of federal cash draws and verify that the timing of the federal cash draws was in compliance with the applicable funding techniques specified in the Treasury-State Agreement or Subpart B procedures, whichever is applicable (31 CFR 205.11 and 205.33).

4. Review the calculation of the interest obligation owed to or by the federal government, reported on the annual report submitted by the state to ascertain that the calculation was in accordance with Treasury regulations and the terms of the Treasury-State Agreement. Trace amounts used in the calculation to supporting documentation.

Grants and cooperative agreements to recipients and subrecipients other than states

5. Review trial balances related to federal funds for unearned revenue. If unearned revenue balances are identified, consider if such balances are consistent with the requirement to minimize the time between drawing and disbursing federal funds.

6. When recipients and subrecipients are funded using advance payments, select a sample of cash drawdowns and verify that the recipient and subrecipient minimized the time elapsing between the transfer of funds from the federal agency or pass-through entity and disbursement by the recipient and subrecipient.

7. When recipients or subrecipients are funded under the reimbursement method, (a) select a sample of expenditures included in the cash drawdowns made during the period from the federal agency or pass-through entity and (b) trace to supporting documentation and ascertain if the expenditures were incurred prior to the date of the reimbursement request (2 CFR 200.305(b)(3)).

8. When a program receives program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, or interest earned on such funds, perform tests to ascertain if these funds were disbursed before requesting additional federal cash draws (2 CFR 200.305(b)(5)).

9. Review records to determine if interest in excess of $500 per year was earned on federal cash draws. If so, determine if it was remitted annually to the Department of Health and Human Services, Payment Management System (2 CFR 200.305(b)(12).

Cost-reimbursement contracts under the Federal Acquisition Regulation

10. Perform tests to ascertain if the recipient or subrecipient requesting reimbursement (a) disbursed funds prior to the date of the request, or (b) meets the conditions allowing for the request for costs incurred, but not necessarily paid for (i.e., ordinarily within 30 days of the request (48 CFR 52.216-7(b))).

Loans, Loan Guarantees, Interest Subsidies, and Insurance

11. Perform tests to ascertain if the recipient or subrecipient complied with applicable program requirements.

All Pass-Through Entities

12. For those programs where a pass-through entity passes federal funds through to subrecipients, select a representative sample of subrecipient payments and ascertain if the pass-through entity implemented procedures to ensure that the time elapsing between the transfer of federal funds to the subrecipient and the disbursement of such funds for program purposes by the subrecipient was minimized.

D. [RESERVED]

Note: Wage Rate Determination (Davis-Bacon) Act coverage has been moved to 20.001.

E. ELIGIBILITY

Compliance Requirements

The specific requirements for eligibility are unique to each federal program and are found in the statutes, regulations, and the terms and conditions of the federal award pertaining to the program. For programs listed in the Supplement, these specific requirements are in Part 4, "Agency Program Requirements," or Part 5, "Clusters of Programs," as applicable. This compliance requirement specifies the criteria for determining the individuals, groups of individuals (including area of service delivery), or subrecipients that can participate in the program and the amounts for which they qualify.

Source of Governing Requirements

The requirements for eligibility are contained in program legislation, federal agency regulations, and the terms and conditions of the award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

2. Determine whether required eligibility determinations were made (including obtaining any required documentation/verification), that individual program participants or groups of participants (including area of service delivery) were determined to be eligible, and that only eligible individuals or groups of individuals participated in the program.

3. Determine whether subawards were made only to eligible subrecipients.

4. Determine whether amounts provided to or on behalf of eligible participants or groups of participants were calculated in accordance with program 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 program.

2. Plan the testing of internal control over compliance to support a low assessed level of control risk for eligibility and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR 200.516, 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 remaining risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures – Compliance

1. *Eligibility for Individuals*

   a. For some federal programs with a large number of people receiving benefits, the recipient or subrecipient may use a computer system for processing individual eligibility determinations and delivery of benefits. Often these computer systems are complex and will be separate from the recipient or subrecipient's regular financial accounting system. Typical functions that a computer system used for determining eligibility may perform are:

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

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

of computer systems, the auditor may choose to perform these tests of the computer systems as part of testing the internal controls for eligibility.

b. *Split Eligibility Determination Functions*

(1) *Background* – Some recipient or subrecipient entities pay the federal benefits to the eligible participants but arrange with another entity to perform part or all of the eligibility determination. For example, a state arranges with local government social services agencies to perform the "intake function" (e.g., the meeting with the social services client to determine income and categorical eligibility), while the state maintains the computer systems supporting the eligibility determination process and actually pays the benefits to the participants. In such cases, the state is fully responsible for federal compliance for the eligibility determination, as the benefits are paid by the state. Moreover, the state shows the benefits paid as federal awards expended on the state's Schedule of Expenditures of Federal Awards. Therefore, the auditor of the state is responsible for meeting the internal control and compliance audit objectives for eligibility. This may require the auditor of the state to perform, coordinate, or arrange for additional procedures to ensure compliant eligibility determinations when another entity performs part of the eligibility determination functions. The responsibility of the auditor of the state for auditing eligibility does not relieve the auditor of the other entity (e.g., local government) from responsibility for meeting those internal control and compliance audit objectives for eligibility that apply to the other entity's responsibilities. An exception occurs when the auditor of the other entity confirms with the auditor of the state that certain procedures are not necessary.

(2) Ensure that eligibility testing includes all benefit payments regardless of whether another entity, by arrangement, performs part of the eligibility determination functions.

c. Perform procedures to ascertain if the recipient or subrecipient's records/database includes all individuals receiving benefits during the audit period (e.g., that the population of individuals receiving benefits is complete).

d. Select a sample of individuals receiving benefits and perform tests to ascertain if

(1) The required eligibility determinations and redeterminations, (including obtaining any required documentation/verifications) were performed and the individual was determined to be eligible in accordance with the compliance requirements of the program. (Note that some programs have both initial and continuing eligibility requirements and the auditor should design and perform appropriate tests for both. Also, some programs require periodic redeterminations of eligibility, which should also be tested.)

(2) Benefits paid to or on behalf of the individuals were calculated correctly and in compliance with the requirements of the program.

(3) Benefits were discontinued when the period of eligibility expired.

e. In some programs, the recipient and subrecipient is required to use a quality control process to obtain assurances about eligibility. Review the quality control process and perform tests to ascertain if it is operating to effectively meet the objectives of the process and in compliance with applicable program requirements.

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

a. In some cases, the recipient and subrecipient may be required to perform procedures to determine whether a population or area of service delivery is eligible. Test information used in determining eligibility and ascertain if the population or area of service delivery was eligible.

b. Perform tests to ascertain if:

(1) The population or area served was eligible.

(2) The benefits paid to or on behalf of the individuals or area of service delivery were calculated correctly.

3. *Eligibility for Subrecipients*

a. If the determination of eligibility is based upon an approved application or plan, obtain a copy of this document and identify the applicable eligibility requirements.

b. Select a sample of the awards to subrecipients and perform procedures to verify that the subrecipients were eligible and amounts awarded were within funding limits.

F. EQUIPMENT AND REAL PROPERTY MANAGEMENT

Compliance Requirements

Equipment Management -- Grants and Cooperative Agreements

Equipment means tangible personal property, including information technology systems, having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the recipient or subrecipient for financial statement purposes or $10,000 (2 CFR 200.1). Title to equipment acquired by a recipient or subrecipient under grants and cooperative agreements vests in the recipient or subrecipient subject to certain obligations and conditions (2 CFR 200.313(a)).

States and Indian Tribes

A state must use, manage, and dispose of equipment acquired under a federal award in accordance with state laws and procedures. Indian Tribes must use, manage, and dispose of equipment acquired under a federal award in accordance with tribal laws and procedures. If such laws and procedures do not exist, Indian Tribes must follow the guidance in 2 CFR 200.313 (2 CFR 200.313(b)).

Other Recipients and Subrecipients (including subrecipients of States and Indian Tribes)

Other recipients and subrecipients, including subrecipients of a State or Indian Tribe, must follow 2 CFR 200.313(c) through (e) which require that:

1. The recipient or subrecipient must use equipment for the program or project for which it was acquired and for as long as needed, whether or not the project or program continues to be supported by the federal award. The recipient or subrecipient must not encumber the equipment without prior approval of the federal agency or pass-through entity (2 CFR 200.313(c).

2. Property records must include a description of the property, a serial number or another identification number, the source of funding for the property (including the federal award identification number), title holder, the acquisition date, the cost of the property, the percentage of the federal agency contribution towards the original purchase, the location, use and condition of the property, and any disposition data including the date of disposal and sales price of the property. The recipient and subrecipient are responsible for maintaining and updating property records when there is a change in the status of the property (2 CFR 200.313(d)(1)).

3. A physical inventory of the property must be conducted and the results must be reconciled with the property records at least once every two years (2 CFR 200.313(d)(2)).

4. A control system must be in place to ensure safeguards for preventing property loss, damage, or theft. Any loss, damage, or theft of equipment must be investigated. The recipient or subrecipient must notify the federal agency or pass-through entity of any loss,

damage, or theft of equipment that will have an impact on the program. (2 CFR 200.313(d)(3)).

5. Regular maintenance procedures must be in place to ensure the property is in proper working condition (2 CFR 200.313(d)(4)).

6. If the recipient or subrecipient is authorized or required to sell the property, proper sales procedures must be in place to ensure the highest possible return (2 CFR 200.313(d)(5)).

7. When equipment acquired under a federal award is no longer needed for a federal program (whether the original project or program or other activities currently or previously supported by the federal government), the recipient or subrecipient must request disposition instructions from the federal agency or pass-through entity if required by the terms and conditions of the award. Items of equipment with a current per-unit fair market value of $10,000 or less (per unit) may be retained, sold, or otherwise disposed of with no further responsibility to the federal agency or pass-through entity. If the federal agency or pass-through entity fails to provide requested disposition instructions within 120 days, items of equipment with a current fair market value in excess of $10,000 (per unit) may be retained or sold. However, the federal agency is entitled to the amount calculated by multiplying the percentage of the federal agency's contribution towards the original purchase by the current market value or proceeds from the sale. If the equipment is sold, the federal agency or pass-through entity may permit the recipient or subrecipient to retain, from the Federal share, $1,000 of the proceeds to cover expenses associated with the selling and handling of the equipment. (2 CFR 200.313(e)).

   Note: Intangible property that is acquired under a federal award, rather than developed or produced under the award, is subject to the requirements of 2 CFR 200.313(e) regarding disposition (2 CFR 200.315(a)).

Real Property Management – Grants and Cooperative Agreements

Title to real property acquired or improved by recipients or subrecipients under grants and cooperative agreements vests in the recipient or subrecipient subject to the obligations and conditions specified in 2 CFR 200.311 (2 CFR 200.311(a)). Real property must be used for the originally authorized purpose as long as it is needed for that purpose. While the property is being used for the originally authorized purpose, the recipient or subrecipient must not dispose of or encumber title to or other interests except as provided by the federal agency. Easements for utility, cable, and similar services that benefit the real property and are consistent with the authorized use are not considered an encumbrance. (2 CFR 200.311(b)).

When real property is no longer needed for the originally authorized purpose, the recipient or subrecipient must obtain disposition instructions from the federal agency or pass-through entity. The instructions must specify one of the following disposition methods:

(1) ***Retain title after compensating the federal agency.*** When the recipient or subrecipient retains title to the property, it must pay the federal agency an amount calculated by

multiplying the percentage of the federal agency's contribution towards the original purchase (and costs of any improvements) by the current fair market value of the property. However, in situations where the recipient or subrecipient is disposing of real property acquired or improved with the Federal award and acquiring replacement real property under the same Federal award, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.

(2) ***Sell the property and compensate the federal agency.*** When a recipient or subrecipient sells the property, it must pay the federal agency an amount calculated by multiplying the percentage of the federal agency's contribution towards the original purchase (and cost of any improvements) by the proceeds of the sale after deducting any actual and reasonable expenses paid to sell or fix up the property for sale. When the Federal award has not been closed out, the net proceeds from the sale may be offset against the original cost of the property. When directed to sell the property, the recipient or subrecipient must sell the property utilizing procedures that provide for competition to the extent practicable and that result in the highest possible return.

(3) ***Transfer title to the federal agency or a third party designated/approved by the federal agency.*** When a recipient or subrecipient transfers title to the property to a federal agency or third party designated or approved by the federal agency, the recipient or subrecipient is entitled to be paid an amount calculated by multiplying the percentage of the recipient's or subrecipient's contribution towards the original purchase of the real property (and cost of any improvements) by the current fair market value of the property.

Equipment and Real Property Management – Cost-Reimbursement Contracts under the Federal Acquisition Regulation

Equipment and real property management requirements for cost-reimbursement contracts are specified in the FAR clause at 48 CFR 52.245-1. Federal government property as defined in the FAR includes both equipment and real property. Title to federal government property acquired by a non-federal entity normally vests in the federal government, unless otherwise noted in the contract terms and conditions. The FAR requires:

1. A system of internal controls to manage (control, use, preserve, protect, repair, and maintain) federal government property and a process to enable the prompt recognition, investigation, disclosure and reporting of loss of federal government property.

2. Federal government property must be used for performing the contract for which it was acquired unless otherwise provided for in the contract or approved by the federal agency.

3. Property records must be maintained and include the name, part number and description, and other elements as necessary and required in accordance with the terms and conditions of the contract, quantity received, unit acquisition cost, unique-item identifier, accountable contract number, location, disposition, and posting reference and date of transaction.

4. A physical inventory must be periodically performed, recorded, and disclosed. Except as provided for in the contract, the non-federal entity must not dispose of inventory until authorized by the federal agency. The non-federal entity may purchase the property at the unit acquisition cost if desired or make reasonable efforts to return unused property to the appropriate supplier at fair market value.

Source of Governing Requirements

The requirements for equipment and real property are contained in 2 CFR 200.313 (equipment), 2 CFR 200.311 (real property), 48 CFR 52.245-1 (equipment and real property), program legislation, federal agency regulations, and the terms and conditions of the federal award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

2. Determine whether the recipient or subrecipient maintains proper records for equipment and adequately safeguards and maintains equipment.

3. Determine whether disposition or encumbrance of any equipment or real property acquired or improved under federal awards is in accordance with federal requirements and, when applicable, the federal agency was properly compensated for its portion of 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 program.

2. Plan the testing of internal control to support a low assessed level of control risk for equipment and real property management and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR 200.516, 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 remaining 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

States and Indian Tribes– Grants and Cooperative Agreements Only

1. Select a sample of equipment transactions acquired under federal awards and test for compliance with either the state's policies and procedures for management and disposition of equipment, or tribal laws and procedures as applicable.

Other Recipients and Subrecipient Entities, including subrecipients of States and Indian Tribes, and States with Cost-Reimbursement Contracts under the FAR

2. Inventory Management of Equipment Acquired Under Federal Awards

    a. Identify equipment acquired and trace selected purchases to the property records. Verify that the property records contain the required information.

    b. Verify that the required physical inventory of equipment was performed. Test whether any differences between the physical inventory and equipment records were resolved.

    c. Select a sample from all equipment acquired under federal awards from the property records and physically inspect the equipment, to the extent feasible, and determine whether the equipment is appropriately safeguarded and maintained.

3. Disposition of Equipment Acquired Under Federal Awards

    a. Identify equipment dispositions for the audit period and perform procedures to verify that the dispositions of equipment acquired under federal awards were properly reflected in the property records.

    b. For dispositions of equipment acquired under grants and cooperative agreements with a current per-unit fair market value of $10,000 or more, verify whether the federal agency was reimbursed for the federal portion of the current market value or sales proceeds.

    c. For dispositions of equipment acquired under cost-reimbursement contracts, verify that the recipient or subrecipient followed federal agency disposition instructions.

All Recipients and Subrecipients

4. Disposition of Real Property Acquired Under Federal Awards

    a. Identify real property dispositions for the audit period and determine whether such real property was acquired or improved under federal awards.

    b. For dispositions of real property acquired or improved under federal awards, perform procedures to verify that the recipient or subrecipient followed the instructions of the federal agency or pass-through entity, which normally require reimbursement to the federal agency for the federal portion of net sales proceeds or fair market value at the time of disposition, as applicable.

G. COST SHARING (including MATCHING), LEVEL OF EFFORT, EARMARKING

Compliance Requirements

The specific requirements for cost sharing (including matching), level of effort, and earmarking are unique to each federal program and are found in the statutes, regulations, and the terms and conditions of awards pertaining to the program. For programs listed in this Supplement, these specific requirements are in Part 4, "Agency Program Requirements" or Part 5, "Clusters of Programs," as applicable.

However, for cost sharing (matching) funds, 2 CFR 200.306 provides detailed criteria for acceptable costs and contributions. The following is a list of the basic criteria for acceptable cost sharing:

- Are verifiable in the recipient's or subrecipient's records;
- Are not paid for under any other federal award unless authorized by statute;
- Are necessary and reasonable for achieving the objectives of the Federal award;
- Are allowed under 2 CFR Part 200, Subpart E (Cost Principles);
- Are not paid by the federal government under another award, except where the program's federal authorizing statute specifically provides that federal funds made available for the program can be applied to matching or cost sharing requirements of other federal programs;
- Are provided for in the approved budget when required by the federal agency; and
- Conform to other applicable provisions of part 200.

"Cost sharing" (matching), "level of effort," and "earmarking" are defined as follows:

1. "Cost sharing" means the portion of project costs not paid by Federal funds or contributions (unless authorized by Federal statute). This term includes "matching," which refers to required levels of cost share that must be provided. (2 CFR 200.1). Cost sharing may be in the form of allowable costs incurred or in-kind contributions (including third party in-kind contributions). Matching and cost sharing are sometimes used interchangeably within the Compliance Supplement; however, as indicated at 2 CFR 200.1, there are technical differences between the terms. Matching involves providing a certain level of "cost share" according to some specific requirement for providing non-federal support, whereas "cost sharing" is a more general term that is not necessarily based on a specific requirement for the level of non-federal support to be provided.

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.

Source of Governing Requirements

The requirements for cost sharing (matching) are contained in 2 CFR 200.306, program legislation, federal agency regulations, and the terms and conditions of the award. The requirements for level of effort and earmarking are contained in program legislation, federal agency regulations, and the terms and conditions of the award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

2. *Cost Sharing (Matching)* – Determine whether the minimum amount or percentage of contributions or cost sharing (matching) funds were 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 program.

2. Plan the testing of internal control to support a low assessed level of control risk for cost sharing (matching), level of effort, earmarking and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR 200.516, 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 remaining 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. Cost Sharing (Matching)

a. Perform tests to verify that the required cost sharing (matching) contributions were met.

b. Ascertain the sources of cost sharing (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 2 CFR 200.306, 200.434, and 200.414, and the terms and conditions of the award.

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

2. Level of Effort

2.1 **Level of Effort** – *Maintenance of Effort*

a. Identify the required level of effort and perform tests to verify that the level of effort requirement was met.

b. Perform test to verify that only allowable categories of expenditures or other effort indicators (e.g., hours, number of people served) were included in the computation and that the categories were consistent from year to year. For example, in some programs, capital expenditures may not be included in the computation.

c. Perform procedures to verify that the amounts used in the computation were derived from the books and records from which the audited financial statements were prepared.

d. Perform procedures to verify that non-monetary effort indicators were supported by official records.

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

a. Ascertain if the recipient or subrecipient 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 recipient or subrecipient used federal funds to provide services which were provided with non-federal funds in the prior year.

(1) Identify the federally funded services.

(2) Perform procedures to determine whether the federal program funded services that were previously provided with non-federal funds.

(3) Perform procedures to ascertain if the total level of services applicable to the requirement increased in proportion to the level of federal contribution.

3. Earmarking

a. Identify the applicable percentage or dollar requirements for earmarking.

b. Perform procedures to verify that the amounts recorded in the financial records met the requirements (e.g., when a minimum amount is required to be spent for a specified type of service, perform procedures to verify that the financial records show that at least the minimum amount for this type of service was charged to the program; or, when the amount spent on a specified type of service may not exceed a maximum amount, perform procedures to verify that the financial records show no more than this maximum amount for the specified type of service was charged to the program).

c. When earmarking requirements specify a minimum percentage or amount, select a sample of transactions supporting the specified amount or percentage and perform tests to verify proper classification to meet the minimum percentage or amount.

d. When the earmarking requirements specify a maximum percentage or amount, review the financial records to identify transactions for the specified activity which were improperly classified in another account (e.g., if only 10 percent may be spent for administrative costs, review accounts for other than administrative costs to identify administrative costs which were improperly classified elsewhere and cause the maximum percentage or amount to be exceeded).

e. When earmarking requirements prescribe the minimum number or percentage of specified types of participants that can be served, select a sample of participants that are counted toward meeting the minimum requirement and perform tests to verify that they were properly classified.

f. When earmarking requirements prescribe the maximum number or percentage of specified types of participants that can be served, select a sample of other participants and perform tests to verify that they were not of the specified type.

H. PERIOD OF PERFORMANCE

Compliance Requirements

A recipient or subrecipient may charge only allowable costs incurred during the approved budget period of a federal award's period of performance and any costs incurred before the federal agency or pass-through entity made the federal award that were authorized by the federal agency or pass-through entity. Administrative closeout costs may be incurred until the due date of the final report(s). If incurred, these costs must be liquidated prior to the due date of the final report(s) and charged to the final budget period of the award unless otherwise specified by the federal agency. (2 CFR 200.308, 200.309, and 200.403(h)). A period of performance may contain one or more budget periods.

Unless the federal agency authorizes an extension, a recipient must liquidate all financial obligations incurred under the federal award not later than 120 calendar days after the conclusion of the period of performance. A subrecipient must liquidate all financial obligations incurred under a subaward no later than 90 calendar days after the conclusion of the period of performance of the subaward (or an earlier date as agreed upon by the pass-through entity and subrecipient). (2 CFR 200.344(c)). When used in connection with a recipient or subrecipient's utilization of funds under a federal award, "financial obligations" means orders placed for property and services, contracts and subawards made, and similar transactions that require payment by the recipient or subrecipient under a Federal award that will result in expenditures by a recipient or subrecipient under a Federal award. (2 CFR 200.1).

Period of Performance requirements for cost reimbursement contracts subject to the FAR are contained in the terms and conditions of the contract.

Source of Governing Requirements

The requirements for the period of performance are contained in 2 CFR 200.1 (definitions for "budget period," "financial obligations," and "period of performance"), 2 CFR 200.308 (revision of budget and program plans), 2 CFR 200.309 (modifications to period of performance), 2 CFR 200.344 (closeout), 2 CFR 200.403(h) (administrative closeout costs), program legislation, federal agency regulations, and the terms and conditions of the award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

2. Determine whether the federal award was only charged for: (a) allowable costs incurred during the period of performance; or (b) costs incurred prior to the date the federal award was made that were authorized by the federal agency or pass-through entity.

3. Determine whether financial 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 program.

2. Plan the testing of internal control to support a low assessed level of control risk for the period of performance and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR 200.516, 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 remaining 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 performance.

2. For federal awards with performance period beginning dates during the audit period, test transactions for costs recorded during the beginning of the period of performance and verify that the costs were not incurred prior to the start of the period of performance unless authorized by the federal agency or the pass-through entity.

3. For federal awards with performance period ending dates during the audit period, test transactions for costs recorded during the latter part and after the period of performance and verify that the costs, excluding administrative closeout costs, had been incurred within the period of performance.

4. For federal awards with performance period ending dates during the audit period, test transactions for federal award costs for which the obligation had not been liquidated (payment made) as of the end of the period of performance and verify that the liquidation occurred within the allowed time period.

5. Test adjustments (e.g., manual journal entries) for federal award costs and verify that these adjustments were for transactions that occurred during the period of performance.

I. PROCUREMENT AND SUSPENSION AND DEBARMENT

Compliance Requirements - Procurement

1. Procurement—Grants and Cooperative Agreements

States and Indian Tribes

When procuring property and services, states and Indian Tribes must use the same policies and procedures they use for procurements from their non-federal funds (2 CFR 200.317). In accordance with 2 CFR 200.317, if such policies and procedures do not exist, States and Indian Tribes must follow the procurement standards set out at 2 CFR 200.318 through 200.327. In addition to its own policies and procedures, a State or Indian Tribe must also comply with 2 CFR 200.321, 200.322, 200.323, and 200.327.

Recipients and Subrecipients-Other than States and Indian Tribes

Recipients and Subrecipients other than states and Indian Tribes, including those operating federal programs as subrecipients of states and Indian Tribes, must follow the procurement standards set out at 2 CFR 200.318 through 200.327. They must use their own documented procurement procedures, which reflect applicable state and local laws and regulations, or tribal laws and procedures, provided that the procurements conform to applicable federal statutes and the procurement requirements identified in 2 CFR Part 200. A recipient or subrecipient must:

1. Meet the general procurement standards in 2 CFR 200.318, which include oversight of contractors' performance, maintaining written standards of conduct for employees involved in contracting, awarding contracts only to responsible contractors, and maintaining records to document history of procurements.

2. Conduct all procurement transactions in a manner providing full and open competition, in accordance with 2 CFR 200.319.

3. Use the micro-purchase and simplified acquisitions methods only for procurements that meet the applicable criteria under 2 CFR 200.320(a)(1) and (2). Under the micro-purchase method, the aggregate dollar amount does not exceed $10,000 ($2,000 in the case of acquisition for construction subject to the Wage Rate Requirements (Davis-Bacon Act)), unless the recipient established a higher threshold in accordance with 2 CFR 200.320(a)(1)(iv) and (v). Simplified acquisitions procedures are used for purchases that exceed the micro-purchase amount but do not exceed the simplified acquisition threshold ($250,000). Micro-purchases may be awarded without soliciting competitive quotations if the recipient or subrecipient considers the price to be reasonable (2 CFR 200.320(a)(1)). If simplified acquisitions procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources (2 CFR 200.320(a)(2)(i)).

4. For acquisitions exceeding the simplified acquisition threshold, the recipient or subrecipient must use one of the following procurement methods: the sealed bid method if the acquisition meets the criteria in 2 CFR 200.320(b)(1); the competitive proposals method under the conditions specified in 2 CFR 200.320((b)(2); or the noncompetitive

procurement method (i.e., solicit a proposal from only one source) but only when one or more of five circumstances are met, in accordance with 2 CFR 200.320(c)).

5. Perform a cost or price analysis in connection with every procurement transaction, including contract modifications, in excess of the simplified acquisition threshold (2 CFR 200.324(a)). The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used (2 CFR 200.324(c)).

6. Ensure that every purchase order or other contract made by a non-Federal entity includes applicable provisions required by 2 CFR 200.327. These provisions are described in Appendix II to 2 CFR Part 200, "Contract Provisions for Contracts Under Federal Awards."

All Recipients and Subrecipients

Under Section 70914 of the Build America, Buy America (BABA) Act each covered federal agency must ensure that "none of the funds made available for a federal financial assistance program for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States."

Effective May 14, 2022, the recipient or subrecipient must comply with BABA requirements for all applicable federal awards subject to those requirements. For the definition of "infrastructure project" and further information on federal awards subject to BABA requirements, see IIJA section 70912(4)-(5) and 70914, 2 CFR part 184, and OMB Memorandum M-24-02. The recipient or subrecipient must ensure that the following conditions are met for any funds (including Federal funds and non-Federal funds) used for an infrastructure project that receives a federal award subject to BABA requirements:

1. All iron and steel used in the project are produced in the United States;

2. All manufactured products used in the project are produced in the United States; and

3. All construction materials are manufactured in the United States.

The recipient or subrecipient must also incorporate these Buy America Preference requirements in all applicable subawards, contracts, and purchase orders for the work performed, or products supplied under a Federal award with an infrastructure project.

Important Notes:

- A recipient or subrecipient must comply with the BABA requirements to the extent that the recipient or subrecipient has been informed of these requirements, such as through the award terms and conditions.

- Several federal agencies, in consultation with OMB, issued "waivers" as an exception from or waiver of the Made in America laws. For a listing of waivers by agency see https://www.madeinamerica.gov/waivers/financial-assistance. For a listing of waivers by category see https://www.madeinamerica.gov/waivers. If additional information is needed, see the agency contact found in Appendix III.

2. Procurement—Cost-Reimbursement Contracts under the Federal Acquisition Regulation

When awarding subcontracts, contractors receiving cost-reimbursement contracts under the FAR must comply with the clauses at 48 CFR 52.244-2 (consent to subcontract), 52.244-5 (competition), 52.203-13 (code of business ethics), 52.203-16 (conflicts of interest), and 52.215.12 (cost or pricing data); and the terms and conditions of the contract. The FAR defines "subcontracts" as a contract, i.e., a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

Source of Governing Requirements – Procurement

The requirements that apply to procurement under grants and cooperative agreements are contained in 2 CFR 200.317 through 200.327, program legislation, federal agency regulations, and the terms and conditions of the award. The requirements that apply to procurement under cost-reimbursement contracts under the FAR are contained in 48 CFR parts 03, 15, and 44 and the clauses at 48 CFR 52.244-2, 52.244-5, 52.203-13, 52.203-16, and 52.215-12; agency FAR Supplements; and the terms and conditions of the contract.

Section 70914 of the Build America, Buy America (BABA) Act is the source of the Buy America preference for Federal awards where funds are appropriated or otherwise made available for infrastructure projects in the United States. See 2 CFR 184.4(a).

Compliance Requirements – Suspension and Debarment

Recipients and Subrecipients are prohibited from contracting with or making subawards under covered transactions to parties that are suspended or debarred. "Covered transactions" include contracts for goods and services awarded under a non-procurement transaction (e.g., grant or cooperative agreement) that are expected to equal or exceed $25,000 or meet certain other criteria as specified in 2 CFR 180.220. All non-procurement transactions entered into by a pass-through entity (i.e., subawards to subrecipients), irrespective of award amount, are considered covered transactions, unless they are exempt as provided in 2 CFR 180.215.

When a recipient or subrecipient enters into a covered transaction with an entity at a lower tier, the recipient or subrecipient must verify that the entity, as defined in 2 CFR 180.995 and agency adopting regulations, is not suspended or debarred or otherwise excluded from participating in the transaction. This verification may be accomplished by (1) checking the System for Award Management (SAM) Exclusions maintained by the General Services Administration (GSA) and

available at SAM.gov (click on Search Record, then click on Advanced Search-Exclusions), (2) collecting a certification from the entity, or (3) adding a clause or condition to the covered transaction with that entity (2 CFR 180.300). (Note regarding item (1) in the preceding list: The OMB guidance at 2 CFR Part 180 and agency implementing regulations still refer to the SAM Exclusions as the Excluded Parties List System (EPLS)).

Contractors receiving contracts from the federal government are required to comply with the contract clause at FAR 52.209-6 before entering into a subcontract that will exceed $35,000, other than a subcontract for a commercially available off-the-shelf item.

Source of Governing Requirements – Suspension and Debarment

The requirements for nonprocurement suspension and debarment are contained in OMB guidance in 2 CFR Part 180, which implements Executive Orders 12549 and 12689, "Debarment and Suspension;" federal agency regulations in Title 2 of the CFR adopting/implementing the OMB guidance in 2 CFR Part 180; program legislation; and the terms and conditions of the award.

Most federal agencies have adopted or implemented 2 CFR Part 180, generally by relocating their associated agency rules in Title 2 of the CFR. Appendix II to the Supplement includes the current CFR citations for all agencies adoption or implementation of the nonprocurement suspension and debarment guidance.

Government-wide requirements related to suspension and debarment and doing business with suspended or debarred subcontractors under cost reimbursement contracts under the FAR are contained in 48 CFR 9.405-2(b) and the clause at 48 CFR 52.209-6.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

2. Determine whether procurements under federal awards were made in compliance with applicable federal regulations and other procurement requirements specific to an award or subaward.

3. For covered transactions determine whether the recipient or subrecipient verified that entities are not suspended, 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 program.

2. Plan the testing of internal control to support a low assessed level of control risk for procurement and suspension and debarment requirements and perform the testing of internal control as planned. If internal control over some or all of the compliance

requirements is likely to be ineffective, see the alternative procedures in 2 CFR 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR 200.516, assessing the control risk at the maximum and considering whether additional compliance tests are required because of ineffective internal control.

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

Suggested Audit Procedures – Compliance

(Procedure 1 applies to States and Indian Tribes under grants and cooperative agreements)

1. Test a sample of procurements to ascertain if the state's laws and procedures, or tribal law and procedures were followed and that the policies and procedures used were the same as for non-federal funds (2 CFR 200.317).

(Procedures 2 – 5 apply to recipients and subrecipients other than States and Indian Tribes.)

2. Obtain the entity's procurement policies and verify that the policies comply with requirements in accordance with 2 CFR 200.318 through 200.327.

3. Verify that the entity has written standards of conduct that cover conflicts of interest and govern the performance of its employees engaged in the selection, award, and administration of contracts (2 CFR 200.318(c) and 48 CFR 52.203-13 and 52.303-16).

4. Select a sample of procurements and perform the following procedures:

    a. Examine contract files and verify that they document the history of the procurement, including the rationale for the method of procurement, selection of contract type, basis for contractor selection, and the basis for the contract price (2 CFR 200.318(i) and 48 CFR Part 44 and section 52.244-2).

    b. For grants and cooperative agreements, verify that the procurement method used was appropriate based on the dollar amount and conditions specified in 2 CFR 200.320. Current micro-purchase and simplified acquisition thresholds can be found in the FAR (48 CFR Subpart 2.1, "Definitions").

    c. Verify that procurements provide full and open competition (2 CFR 200.319 and 48 CFR 52.244-5).

    d. Examine documentation in support of the rationale to limit competition in those cases where competition was limited and ascertain if the limitation was justified (2 CFR 200.319 and 200.320(c) and 48 CFR 52.244-5).

    e. Ascertain if cost or price analysis was performed in connection with all procurement actions exceeding the simplified acquisition threshold, including

contract modifications, and that this analysis supported the procurement action (2 CFR 200.324and 48 CFR 15.404-3).

Note: A cost or price analysis is required for each procurement action, including each contract modification, when the total amount of the contract and related modifications is greater than the simplified acquisition threshold.

f. Verify consent to subcontract was obtained when required by the terms and conditions of a cost reimbursement contract under the FAR (48 CFR 52.244-2).

Note: If the contractor has an approved purchasing system, consent to subcontract may not be required unless specifically identified by contract terms or conditions. The auditor should verify that the approval of the purchasing system is effective for the audit period being reviewed.

(Procedures 6-8 apply to all recipients and subrecipients.)

6. Review the recipient or subrecipient's procedures for verifying that an entity with which it plans to enter into a covered transaction is not debarred, suspended, or otherwise excluded (2 CFR 200.212 and 200.318(h); 2 CFR 180.300; 48 CFR 52.209-6).

7. Select a sample of procurements and subawards and test whether the recipient or subrecipient followed its procedures before entering into a covered transaction.

8. Select a sample of procurement agreements for infrastructure projects subject to BABA and test whether the recipient or subrecipient included the Buy America domestic preference provisions in each agreement, or obtained a BABA waiver.

    a. For each agreement selected where a waiver was not applicable, review the recipient or subrecipient's documentation supporting that it monitored the contractor's compliance with the BABA domestic preference provisions in the agreement (2 CFR 200.318(b)).

J. PROGRAM INCOME

Compliance Requirements

Program income is gross income earned by a recipient or subrecipient that is directly generated by a supported activity or earned as a result of the federal award during the period of performance (unless there is a requirement for disposition of program income after the end of the period of performance as provided in 2 CFR 200.307(c)).

Program income (2 CFR 200.1) includes, but is not limited to income from:

- Fees for services performed,
- The use or rental of real or personal property acquired under federal awards,
- The sale of commodities or items fabricated under federal awards,
- License fees and royalties on patents and copyrights, except as provided below, and
- Principal and interest on loans made with federal award funds.

Program income does *not* include:

- Interest earned on advances of federal funds.
- Except as otherwise provided in federal statutes, regulations or the terms and conditions of the federal award, rebates, credits, discounts and interest earned on any of them.
- Taxes, special assessments, levies, fines, and similar revenues raised by a recipient and subrecipient (2 CFR 200.307(e)(1)).
- The proceeds from the sale of equipment, supplies, or real property acquired in whole or in part under the federal award (2 CFR 200.307(e(2)).
- License fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions made under the Federal award. (2 CFR 200.307(e)(3); 37 CFR 401.2 and 401.14(k); 35 USC 201(i), and 35 USC 202(c)(7)(B)).

If authorized by federal regulations or the federal award, costs incidental to the generation of program income may be deducted from gross income to determine program income, provided those costs have not been charged to the federal award (2 CFR 200.307(d)).

Program income may be used in any of the following three methods, consistent with 2 CFR 200.307(b):

1. *Deduction*

   Program income is deducted from total allowable costs in order to determine the net allowable costs, rather than to increase the funds committed to the project. This method will be used if the federal agency has given no prior approval for how program income is to be used and its regulations and the terms and conditions of the federal award are silent on this matter. Where this method is used, program income must be applied to current costs unless the federal agency authorizes otherwise.

2. *Addition*

   With prior approval of the federal agency, program income may be added to the federal award by the federal agency and the recipient or subrecipient. This method will be used for federal awards to institutions of higher education and nonprofit research institutions if the federal agency does not specify in its regulations or the terms and conditions of the federal award how program income is to be used.

3. *Cost Sharing or Matching*

   With prior approval of the federal agency, program income may be used to meet the cost sharing or matching requirement of the federal award. The amount of the federal award remains the same.

Unless federal agency regulations or the terms and conditions of the federal award specify otherwise, recipients and subrecipients have no obligation to the federal government regarding program income earned after the end of the period of performance (2 CFR 200.307(c)).

Source of Governing Requirements

The requirements that apply to program income are contained in 2 CFR 200.1 (definition of "program income"), 2 CFR 200.307 (program income), program legislation, federal agency regulations, and the terms and conditions of the federal award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

2. Determine whether program income is correctly determined, recorded, and used in accordance with applicable 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 program.

2. Plan the testing of internal control to support a low assessed level of control risk for program income and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR 200.516, 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 remaining risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures – Compliance

1. *Identify Program Income*

    a. Review the statutes, regulations, and terms and conditions of the federal award applicable to the program and ascertain if program income was anticipated. If so, ascertain the requirements for determining or assessing the amount of program income (e.g., a scale for determining user fees, prohibition of assessing fees against certain groups of individuals), and the requirements for recording and using program income.

    b. Inquire of management and review accounting records to ascertain if program income was received.

2. *Determining or Assessing Program Income* – Perform tests to verify that program income was properly determined or calculated in accordance with stated criteria, and that amounts collected were classified as program income only if collected from allowable sources.

3. *Recording of Program Income* – Perform tests to verify that program income was properly recorded in the accounting records.

4. *Use of Program Income* – Perform tests to ascertain if program income was used in accordance with 2 CFR 200.307(b) and the program requirements set by the federal agency in its regulations and the terms and conditions of the award.

K. [RESERVED]

L. REPORTING

Compliance Requirements

Financial Reporting

Recipients must 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) when reporting to the federal agency. Each recipient must report program outlays and program income on a cash or accrual basis, as prescribed by the federal agency. If the federal agency requires reporting of accrual information and the recipient's accounting records are not normally maintained on the accrual basis, the recipient is not required to convert its accounting system to an accrual basis but may develop such accrual information through analysis of available documentation. The federal agency may accept identical information from the recipient in machine-readable format, computer printouts, or electronic outputs in lieu of closed formats or on paper.

Similarly, a pass-through entity must not require a subrecipient to establish an accrual accounting system and must allow the subrecipient to develop accrual data for its reports on the basis of an analysis of available documentation.

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

The standard financial reporting forms for grants and cooperative agreements are as follows:

- *Request for Advance or Reimbursement (SF-270) (OMB No. 0348-0004)).* Recipients are required to use the SF-270 to request reimbursement payments under non-construction programs and may be required to use it to request advance payments.

- *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 they are paid in advance or the SF-270 is used.

- *Federal Financial Report (FFR) (SF-425/SF-425A) (OMB No. 0348-0061)).* Recipients use the FFR as a standardized format to report expenditures under federal awards, as well as, when applicable, cash status (lines 10.a, 10.b, and 10c). References to this report include its applicability as both an expenditure and a cash status report unless otherwise indicated.

Electronic versions of the standard forms are located on grants.gov.

Financial reporting requirements for cost reimbursement contracts subject to the FAR are contained in the terms and conditions of the contract.

Performance and Special Reporting

Recipients and subrecipients may be required to submit performance reports at least annually but not more frequently than quarterly, unless a specific condition has been implemented in accordance with 2 CFR 200.208, using a form or format authorized by OMB (2 CFR 200.329). They also may be required to submit special reports as required by the terms and conditions of the federal award.

Compliance testing of performance and special reporting is only included in Part 4, "Agency Program Requirements" and Part 5, "Clusters of Programs," if such reporting has been identified by a federal agency as subject to audit. Further, compliance testing of performance and special reports is only required for data, identified by agencies in parts 4 and 5 as key line items, that are quantifiable and are capable of evaluation against objective criteria stated in the statutes, regulations, contract or grant agreements pertaining to the program.

Performance and special reports in parts 4 and 5 are assumed to meet the above criteria. However, if an agency does not identify key line items for a performance or special report, auditors are only required to test that the report was submitted in a timely manner and no other procedures are required. Similarly, if key line items are identified in parts 4 and 5 that would not be quantifiable and capable of evaluation against objective criteria (e.g., narratives, futuristic information, information that would require verification at the program beneficiary level), auditors are not required to perform testing of such items.

Federal Funding Accountability and Transparency Act

Under the requirements of the Federal Funding Accountability and Transparency Act (Pub. L. No. 109-282), as amended, hereafter referred as the "Transparency Act" that are codified in 2 CFR Parts 25 and 170, recipients (i.e., direct recipients) of grants or cooperative agreements are required to report first-tier subawards of $30,000 or more to System for Award Management (SAM.gov). In accordance with OMB Memorandum M-20-21, Implementation Guidance for Supplementing Funding Provided in Response to the Coronavirus Disease 2019 (COVID-19), existing Transparency Act subaward reporting requirements may be leveraged to meet the transparency requirements outlined in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). Information input to SAM.gov is available at USASpending.gov as the publicly available website for viewing this information (https://www.usaspending.gov/search).

Where the Reporting type of compliance requirement is marked as a "Y" in the Part 2 Matrix of Compliance Requirements, indicating it is subject to audit, auditors must test the compliance with the reporting requirements of 2 CFR Part 170 using the guidance in this section when the auditor determines Reporting to be direct and material and the recipient makes first tier awards.

Federal Funding Accountability and Transparency Act

Aspects of the Transparency Act that relate to subaward reporting (1) under grants and cooperative agreements were implemented in OMB in 2 CFR Part 170 and (2) under contracts, by the regulatory agencies responsible for the Federal Acquisition Regulation (FAR at 5 FR 39414 et seq.). The requirements pertain to recipients (i.e., direct recipients) of grants or

cooperative agreements who make first-tier subawards and contractors (i.e., prime contractors) that award first-tier subcontracts. There are limited exceptions as specified in 2 CFR Part 170 and the FAR. The guidance at 2 CFR Part 170 currently applies only to federal financial assistance awards in the form of grants and cooperative agreements (e.g., it does not apply to loans made by a federal agency to a recipient), however the subaward reporting requirement applies to all types of first-tier subawards under a grant or cooperative agreement.

As provided in 2 CFR Part 170 and FAR Subpart 4.14, respectively, federal agencies are required to include the award term specified in Appendix A to 2 CFR Part 170 or the contract clause in FAR 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards, as applicable, in awards subject to the Transparency Act.

Consistent with the OMB guidance,

- 2 CFR Part 170 "subaward" has the meaning given in 2 CFR 200.1 and means an award provided by a pass-through entity to a subrecipient for the subrecipient to contribute to the goals and objectives of the project by carrying out part of a federal award received by the pass-through entity. It does not include payments to a contractor, beneficiary, or participant. A subaward may be provided through any form of legal agreement, consistent with criteria in with § 200.331, including an agreement that the pass-through entity considers a contract.

- FAR 52.204-10(a) defines "first-tier subcontract" to mean a subcontract awarded directly by a contractor to acquire supplies or services (including construction) for performance of a prime contract, but excludes the contractor's supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts or the costs of which would normally be applied to a contractor's general and administrative expenses or indirect cost.

While 2 CFR Part 170 and the FAR implement several distinct Transparency Act reporting requirements, including reporting of executive compensation, the Supplement addresses only the following requirements: (1) recipient reporting of each first-tier subaward or subaward amendment that results in an obligation of $30,000 or more in federal funds; and (2) contractor reporting of each first-tier subcontract award of $30,000 or more in federal funds (this requirement was phased in based on the value of the new prime contract as specified below under "Effective Date of Reporting Requirements").

Reporting Site

Grant and cooperative agreement recipients and contractors are required to register and report subaward data through SAM.gov. To do so, they will first be required to register in the System for Award Management (SAM) (if they have not done so previously for another purpose (e.g., submission of applications through Grants.gov), or have received an exception, and actively maintain that registration. Prime contractors have previously been required to register in SAM. Information input to SAM.gov is available at USASpending.gov as the publicly available website for viewing this information (https://www.usaspending.gov/search).

Key Data Elements

Compliance testing of the Transparency Act reporting requirements must include the following key data elements about the first-tier subrecipients and subawards under grants and cooperative agreements.

Subaward Data Element	Definition
Subawardee Name	This is the Sub-Awardee's Name
Subawardee UEI	The subawardee organization's Unique Entity Identifier number.
Amount of Subaward	The net dollar amount of federal funds awarded to the subawardee including modifications.
Subaward Obligation/Action Date	Date the subaward agreement was signed.
Date of Report Submission	Date the recipient entered the action/obligation into SAM.
Subaward Number	Subaward number or other identifying number assigned by the prime awardee organization to facilitate the tracking of its subawards.
Subaward Project Description	Describes the subaward project.
Subawardee Names and Compensation of Highly Compensated Officers	Names of officers if thresholds are met.

For purposes of programs included in parts 4 and 5 of this 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, whether or not award terms and conditions may require such reporting.

Source of Governing Requirements

Reporting requirements are contained in the following:

1. Financial reporting, 2 CFR 200.328.

2. Monitoring and reporting program performance, 2 CFR 200.329.

3. Program legislation.

4. Transparency Act, implementing requirements in 2 CFR Part 170 and the FAR, and the previously listed OMB guidance documents.

5. Federal agency regulations.

6. The terms and conditions of the award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

2. Determine whether required reports for federal awards include all activity of the reporting period, are supported by applicable accounting or performance records, and are fairly presented in accordance with 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 program.

2. Plan the testing of internal control to support a low assessed level of control risk for reporting and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR 200.516, 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 remaining risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures – Compliance

Note: For recipients using HHS's Payment Management System (PMS) to draw federal funds, the auditor should consider the following steps numbered 1 through 4 as they pertain to the cash reporting portion of the SF-425A, regardless of the source of the data included in the PMS reports. Although certain data is supplied by the federal agency (e.g., award authorization amounts) and certain amounts are provided by HHS's Payment Management Services, the auditor should ensure that such amounts are in agreement with the recipient's records and are otherwise accurate.

1. Review applicable statutes, regulations, and the terms and conditions of the federal award pertaining to reporting requirements. Determine the types and frequency of required reports. Obtain and review federal agency or pass-through entity, in the case of a subrecipient, instructions for completing the reports.

    a. For financial reports, ascertain the accounting basis used in reporting the data (e.g., cash or accrual).

    b. For performance and special reports, determine the criteria and methodology used in compiling and reporting the data.

2. Select a sample of reports and perform appropriate analytical procedures and ascertain the reason for any unexpected differences. Examples of analytical procedures include:

    a. Comparing current period reports to prior period reports.

b. Comparing anticipated results to the data included in the reports.

c. Comparing information obtained during the audit of the financial statements to the reports.

3. Select a sample of each of the following report types, and test for accuracy and completeness:

a. *Financial reports*

(1) Ascertain if the financial reports were prepared in accordance with the required accounting basis.

(2) Review accounting records and ascertain if all applicable accounts were included in the sampled reports (e.g., program income, expenditure credits, loans, interest earned on federal funds, and reserve funds).

(3) Trace the amounts reported to accounting records that support the audited financial statements and the Schedule of Expenditures of Federal Awards and verify agreement or perform alternative procedures to verify the accuracy and completeness of the reports and that they agree with the accounting records. 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.

(4) For any discrepancies noted in SF-425 reports concerning cash status when the advance payment method is used, review subsequent SF-425 reports to ascertain if the discrepancies were appropriately resolved with the applicable payment system.

b. *Performance and special reports*

(1) Review the supporting records and ascertain if the applicable data elements were included in the sampled reports. Trace the reported data to records that accumulate and summarize data.

(2) Perform tests of the underlying data to verify that the data were accumulated and summarized in accordance with the required or stated criteria and methodology, including the accuracy and completeness of the reports.

c. *Special reports for FFATA*

(1) Gain an understanding of the recipient's methodology used to identify which, if any, awards were subject to the Transparency Act based on inclusion of the award term, the assignment by the federal agency of a new

FAIN, the effective date of the reporting requirement, and whether the entity passed funds through to first-tier subrecipients.

(2) Select a sample of first-tier subawards. Obtain related subaward agreements/amendments/modifications and determine if the subaward/subcontract was subject to reporting under the Transparency Act based on (a) the date of the award and (b) the amount of the obligating action for subawards or face value of the first-tier subcontracts (inclusive of modifications).

If the subaward/subcontract was subject to reporting under the Transparency Act:

(a) Using the FAIN, find the award in SAM.gov.

(b) Compare the award information accessed in step 2.a to the subaward/subcontract documents maintained by the recipient to assess if—

(i) applicable subaward obligations /modifications have been reported,

(ii) the key data elements (see above) were accurately reported and are supported by the source documentation, and

(iii) the action was reported in SAM no later than the last day of the month *following* the month in which the subaward/subaward amendment obligation was made or the subcontract award/subcontract modification was made.

(c) The auditor must provide the following information for non-compliance finding(s) as the results of step 2.b.

(i) The recipient or subrecipient did not report the subaward information

(ii) The recipient or subrecipient did not report the subaward information timely

(iii) The recipient or subrecipient reported incorrect amount

(iv) The recipient or subrecipient did not report all the key data elements

The following format is recommended to report non-compliance findings and included in the audit report. Data are included for illustration purpose only.

Transactions Tested	**Subaward not reported**	**Report not timely**	**Subaward amount incorrect**	**Subaward missing key elements**
25	2	10	13	0
Dollar Amount of Tested Transactions	**Subaward not reported**	**Report not timely**	**Subaward amount incorrect**	**Subaward missing key elements**
$5,000,000	$200,000	$4,000,000	$800,000	$0

d. *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.

4. Obtain written representation from management that the reports provided to the auditor are true copies of the reports submitted or electronically transmitted to the federal agency, the applicable payment system, or pass-through entity in the case of a subrecipient.

M. SUBRECIPIENT MONITORING

Note: Transfers of federal awards to another component of the same auditee under 2 CFR Part 200, Subpart F, do not constitute a subrecipient or contractor relationship.

Compliance Requirements

A pass-through entity (PTE) must:

- *Verify the Subrecipient*- Verify that the subrecipient is not excluded or disqualified in accordance with 2 CFR 180.300. Verification methods are provided in 2 CFR 180.300, which include confirming in SAM.gov that a potential subrecipient is not suspended, debarred, or otherwise excluded from receiving Federal funds. (2 CFR 200.332(a)).

- *Identify the Award and Applicable Requirements* – Clearly identify to the subrecipient the award as a subaward at the time of subaward (or subsequent subaward modification) by providing the information described in 2 CFR 200.332(b).

- *Evaluate Risk* – Evaluate each subrecipient's risk of noncompliance for purposes of determining the appropriate subrecipient monitoring related to the subaward (2 CFR 200.332(c)). The documented evaluation of risk may include consideration of such factors as the following:

    1. The subrecipient's prior experience with the same or similar subawards;

    2. The results of previous audits including whether or not the subrecipient receives single audit in accordance with 2 CFR Part 200, Subpart F, and the extent to which the same or similar subaward has been audited as a major program;

    3. Whether the subrecipient has new personnel or new or substantially changed systems; and

    4. The extent and results of federal agency monitoring (e.g., if the subrecipient also receives federal awards directly from a federal agency).

- *Monitor* – Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, complies with the terms and conditions of the subaward, and achieves performance goals (2 CFR 200.332(e) and (g)). In addition to procedures identified as necessary based upon the evaluation of subrecipient risk or specifically required by the terms and conditions of the award, subaward monitoring must include the following:

    1. Reviewing financial and performance reports required by the PTE.

2. Ensuring that the subrecipient takes corrective action on all significant developments that negatively affect the subaward in accordance with 2 CFR 200.332(e)(2).

3. Resolving audit findings specifically related to the subaward and issuing a management decision for audit findings pertaining to the federal award provided to the subrecipient from the PTE as required by 2 CFR 200.332(e)(4) and 200.521.

4. Verifying that a subrecipient is audited as required by 2 CFR Part 200, Subpart F.

- *Ensure Accountability of For-Profit Subrecipients* – Some federal awards may be passed through to for-profit entities. For-profit subrecipients are accountable to the PTE for the use of the federal funds provided. Because 2 CFR Part 200 does not make Subpart F applicable to for-profit subrecipients, the PTE is responsible for establishing requirements, to ensure compliance by for-profit subrecipients. The subaward with the for-profit subrecipient must describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility. Methods to ensure compliance for federal awards made to for-profit subrecipients may include pre-award audits, monitoring throughout the performance of the subaward, and post-award audits (2 CFR 200.501(i)).

Source of Governing Requirements

The requirements for subrecipient monitoring for the subaward are contained in 31 USC 7502(f)(2) (Single Audit Act Amendments of 1996 (Pub. L. No. 104-156)), 2 CFR 200.332, and 200.501(i); federal agency regulations; and the terms and conditions of the award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

2. Determine whether the PTE identified the subaward and applicable requirements at the time of the subaward (or subsequent subaward modification) in the terms and conditions of the subaward and other award documents sufficient for the PTE to comply with federal statutes, regulations, and the terms and conditions of the federal award.

3. Determine whether the PTE monitored subrecipient activities to provide reasonable assurance that the subrecipient administered the subaward in compliance with the terms and conditions of the subaward.

4. Determine whether the PTE resolved audit findings specifically related to the award and issued a management decision for audit findings that affect the subawards it issues to the subrecipient.

5. Determine whether the PTE verified the subrecipient is audited as required by 2 CFR Part 200, Subpart F.

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 program.

2. Plan the testing of internal control to support a low assessed level of control risk for subrecipient monitoring and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR 200.516, 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 remaining 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 C, "Cash Management" (tests of cash reporting submitted by subrecipients); E, "Eligibility" (tests that subawards were made only to eligible subrecipients); I, "Procurement and Suspension and Debarment" (tests of ensuring that a subrecipient is not suspended or debarred); and L, "Reporting" (tests of performance data reported to funding sources) with the testing of M, "Subrecipient Monitoring".

1. Review the PTE's subrecipient monitoring policies and procedures to gain an understanding of the PTE's process to identify subawards, evaluate risk of noncompliance, and perform monitoring procedures based upon identified risks.

2. Review the PTE's subrecipient verification methods to ensure subrecipients are not excluded or disqualified in accordance with 2 CFR 180.300 (2 CFR 200.332(a)).

3. Review subaward documents including the terms and conditions of the subaward to ascertain if, at the time of subaward (or subsequent subaward modification), the PTE made the subrecipient aware of the award information required by 2 CFR 200.332(b) sufficient for the PTE to comply with federal statutes, regulations, and the terms and conditions of the award.

4. Review the PTE's documentation of monitoring the subaward and consider if the PTE's monitoring provided reasonable assurance that the subrecipient used the subaward for authorized purposes in compliance with federal statutes, regulations, and the terms and conditions of the subaward.

5. Select a sample of subrecipients and ascertain if the PTE verified that subrecipients expected to be audited as required by2 CFR Part 200, Subpart F, met this requirement (2 CFR 200.332(g)).

6. Select a sample of subrecipient audits with audit findings and review the management decision to verify it was issued in compliance with 2 CFR 200.521(a), (d), and (e), and that the subrecipient takes timely and appropriate action on deficiencies detected through audits (2 CFR 200.332(e)(2).

N. SPECIAL TESTS AND PROVISIONS

Compliance Requirements

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

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

Internal Control

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

Audit Objectives

Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR 200.514(c).

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 program.

2. Plan the testing of internal control to support a low assessed level of control risk for special tests and provisions and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR 200.516, 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 remaining 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.

PART 4 – AGENCY PROGRAM REQUIREMENTS

INTRODUCTION

For each federal program (except Research & Development and Student Financial Aid) included in this Supplement, Part 4 provides I, "Program Objectives" and II, "Program Procedures." Part 4 also provides information about compliance requirements specific to a program in III, "Compliance Requirements." Finally, Part 4 provides IV, "Other Information," when there is other useful information pertaining to the program that does not fit in sections I–III. For example, when a program allows funds to be transferred to another program, section IV provides guidance on how those funds are to be treated on the Schedule of Expenditures of Federal Awards and in Type A program determinations.

When any of five types of compliance requirements (A, "Activities Allowed or Unallowed;" E, "Eligibility;" G, "Cost Sharing (Matching), Level of Effort, Earmarking;" L, "Reporting;" and N, "Special Tests and Provisions") is subject to audit and applicable to a program included in the Supplement, Part 4 always provides additional information specific to the program. The other seven types of compliance requirements, when subject to audit, generally are not specific to a program and, therefore, usually are not listed in Part 4. However, when one of these other seven types of compliance requirements has information specific to a program, that information is provided with the program in Part 4. When a requirement is marked as "Not Applicable" it means either that there are no compliance requirements specific for the program, or the auditor is not required to test compliance.

In developing the audit procedures to test compliance with the requirements for a federal program, the auditor must first look to the Compliance Requirements section of the program/cluster (summarized for all programs/clusters in Part 2 of the Supplement) to identify which of the 12 types of compliance requirements described in Part 3 have been identified as subject to audit, and then determine which of those requirements is likely to a have a direct and material effect on the federal program at the auditee.

For each such compliance requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions, including audit objectives, and suggested audit procedures) and the program supplement in Part 4 (which includes any program-specific requirements) to perform the audit. For N, "Special Tests and Provisions," Part 3 includes only audit objectives and suggested audit procedures for internal control; all other information is included in Part 4.

The descriptions of the compliance requirements in parts 3 and 4 generally are a summary of the actual compliance requirements. The auditor must review the referenced citations (e.g., laws and regulations) for the complete compliance requirements.

For 2025 guidance to the compliance requirement areas for A, E, G, L, and N that are designated as "Y" in the Matrix are included in part III, Compliance Requirements of the program. If the auditor is to review compliance requirement areas that are designated as "N," the auditor must refer to the Part 3 for additional information.

UNITED STATES DEPARTMENT OF AGRICULTURE

ASSISTANCE LISTING 10.181 PANDEMIC RELIEF ACTIVITIES: FARM AND FOOD WORKER RELIEF (FFWR) GRANT PROGRAM

I. PROGRAM OBJECTIVES

The objective of the Pandemic Relief Activities: Farm and Food Worker Relief Grant Program is to support food related entities, including producers, processors, and distributors, in responding to the coronavirus, including measures to protect workers against novel coronavirus (COVID-19).

Assistance listing 10.181 includes the Pandemic Response and Safety Grant Program (PRS), Farm and Food Workers Relief Grant Program (FFWR), Seafood Processors Pandemic Response and Safety Grant Program (SPRS) and Tribal Seafood Pandemic Response and Safety Grant Program (TSPRS). However, this compliance supplement section only focuses on the requirements of the FFWR program. This is because the PRS and TSPRS programs closed for applications in 2022 and significant funding is not expected to be expended for periods covered by the 2024 compliance supplement. The SPRS funding to state agencies is also relatively small in size and scope and did not merit the creation of additional compliance supplement guidance. Auditors may use Part 7 of the Supplement to test these subprogram amounts if deemed necessary. However, recipients should report all amounts expended under Assistance Listing 10.181 on the Schedule of Expenditures of Federal Awards.

The program is authorized by the Title Consolidated Appropriations Act of 2021 Title VII – Nutrition and Agriculture Relief Subtitle B – Agriculture Section 751 Office of the Secretary. This program is implemented by the United States Department of Agriculture (USDA) Agriculture Marketing Service (AMS) Transportation and Marketing Grants Division.

This section will focus explicitly exclusively on the requirements of the FFWR program, which provided approximately $670 million to fourteen nonprofit organizations and one tribal entity to provide one-time $600 payments to eligible food and farm workers. The range for funded organizations is $4.5 million to $141 million focused on providing $600 relief payments to farmworkers, meatpackers, and grocery workers.

II. PROGRAM PROCEDURES

A. Overview

FFWR is administered at the federal level by AMS of the USDA through fourteen nonprofit organizations and one tribal entity with an application process that ended on March 10, 2022. Entities were selected based on aggregate ranking by their capacity to distribute $600 payments to eligible farmworkers, meatpackers, and grocery store workers. Funding is available from October 2022 through October 2024 or until funding is exhausted.

B. Requirements

Eligible applicants must have worked as a farmworker, meatpacker or grocery worker during the COVID-19 pandemic defined as January 20, 2020, to May 11, 2023. Applicants are only eligible to receive one payment and may be used as reimbursement for costs associated to the COVID-19 pandemic.

Program Descriptions

Each organization will validate an applicant's identity and employment by submission of documents. Examples of these documents are state issued identification, passport foreign or domestic, W-2, paystub, written attestations, and visas. Organizations have various methods for intake of applications such as in person, online and onsite. Applicants must attest to that they incurred at least $600 in COVID-19 related expenses and worked during the required timeframe.

Source of Governing Requirements

FFWR is authorized by The Consolidated Appropriations Act of 2021, Division N, Title VII, subtitle B, Section 751 (Pub. L. No. 116-260). This authority provided at least $1,500,000,000 to the USDA for grants and loans to small or midsized food processors or distributors, seafood processing facilities and processing vessels, farmers markets, producers, or other organizations to respond to coronavirus, including for measures to protect workers against the COVID-19.

Availability of Other Program Information

More information on the FFWR program can be found on the AMS Grant Division Programs website. The web link for FFWR information is https://www.ams.usda.gov/services/grants/ffwr.

For specific information for the organizations selected to implement FFWR, area of focus and amounts received a detailed list can be found at the FFWR description of funded projects https://www.ams.usda.gov/sites/default/files/media/2023_FFWR_DescriptionOfFundedProjects.pdf.

The FFWR Request for Application (RFA) can be found at the AMS USDA site https://www.ams.usda.gov/sites/default/files/media/2022_FFWR_RFA.pdf.

The General Terms and Conditions of AMS are located at the AMS USDA site https://www.ams.usda.gov/sites/default/files/media/FY2023_GeneralTermsandConditions.pdf.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance

requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	N	Y	N	N	Y	Y	N

A. Activities Allowed or Unallowed

As described in Section 4.0 of the RFA, recipients may include in their proposals activities for outreach, education, application evaluation & processing, and system improvements to properly implement the program. Approved Applications define those allowable activities of the grant recipient.

B. Allowable Cost/Cost Principles

Section 4.6 of the RFA specifies the allowable and unallowable direct and indirect costs specific to this Program, in addition to the general statement of allowable costs and applicable cost principles set out in Section 8 of the AMS General Terms and Conditions.

E. Eligibility

Eligibility requirements for the FFWR Program are detailed in the RFA listed on pages 7 through 9. Eligibility of primary grant recipients is not relevant for the purposes of the single audit. Instead, auditors are to review the grant recipient's documentation supporting that beneficiaries are eligible, as outlined in Section 3.2.

1. Eligibility for Individuals

As described in Section 3.2 of the RFA, all eligible workers receiving relief under the FFWR program must provide sufficient proof of identify and proof of work in an eligible field during the COVID-19 pandemic. Specifically, employment documentation must show that the individual worked as a farmworker, meatpacker or grocery worker during the COVID-19 pandemic, defined as

between January 20, 2020 and May 11, 2023, the official start and end dates of the COVID-19 public health emergency, and that the beneficiary did not receive any other payments under this FFWR program.

Eligible beneficiaries are hired workers in farming activities, meatpacking, and grocery store work.

Farmworkers and/or Meatpacking Workers Projects: Hired workers are defined by the National Agricultural Statistics Service (NASS) as anyone, other than an agricultural service worker, who was paid for at least one hour of agricultural work on a farm or ranch, or in a meat processing facility.

Worker type is determined by what the employee was primarily hired to do, not necessarily what work was done during the pandemic. Types of workers include:

a. **Field Workers**: Employees engaged in planting, tending, harvesting crops, and post-harvest activities as listed below, including operation of farm machinery on crop farms.

b. **Livestock Workers**: Employees tending livestock, milking cows, or caring for poultry, including operation of farm machinery on livestock or poultry operations.

c. **Meatpacking Workers**: Employees engaged in animal slaughtering and meat or poultry processing, including meat or poultry packaging.

To help eligible entities understand what worker occupations qualify as eligible beneficiaries, the table below provides the Standard Occupation Classification (SOC) codes and titles associated with field, livestock, and meatpacking workers. SOC codes are used by the Federal government to classify occupations (similar to how North American Industry Classification System (NAICS) codes are used for classifying business types). AMS expects beneficiaries across these worker types to be frontline workers, and not those working in management positions.

Type of Worker SOC Associated Titles:

Field Workers 45-2041 Graders and Sorters, Agricultural Products
Field Workers 45-2091 Agricultural Equipment Operators
Field Workers 45-2092 Farmworkers and Laborers, Crop, Nursery and Greenhouse
Field Workers 45-2099 Agricultural Workers, All Other
Field Workers 53-7064 Packers and Packagers, Hand
Livestock Workers 45-2041 Graders and Sorters, Agricultural Products
Livestock Workers 45-2093 Farmworkers, Farm, Ranch, and Aquacultural Animals
Livestock Workers 45-2099 Agricultural Workers, All Other
Livestock Workers 53-7064 Packers and Packagers, Hand

Meatpacking Workers 51-3023 Slaughterers and Meat Packers
Meatpacking Workers 51-3022 Meat, Poultry, and Fish Cutters and Trimmers
Meatpacking Workers 51-3099 Food Processing Workers, All Other

Grocery Store Workers Projects: Individuals employed in front line service or first line supervisory roles in retail grocery establishments as outlined in NAICS 445110 including cashiers, butchers and meat cutters, food preparation occupations, stocking grocery floors, and other food related activities. Further delineation of these occupations through SOC codes is not available, therefore eligible entities should rely on the NAICS code to make eligibility determinations.

The following information applies to both project types.

Beneficiary Application Process and Self-Certification

To apply for relief, workers will sign an application form which self-certifies that the individual incurred at least $600 worth of expenses preparing for, preventing exposure to, and/or responding to the COVID-19 pandemic. The worker's signature on an application also serves as self-certification that the individual worked in an eligible field in the U.S. during the COVID-19 public health emergency. Finally, the attestation states that the accompanying documentation must be consistent with the contents of the self-certification and that the applicant has not already applied for relief with another grant recipient. This application must be accompanied by documentation which meets the following categories.

Employment Verification: Workers are to submit documentation with sufficient detail to show employment in a related job field and with enough verifiable data to demonstrate authenticity and completeness. Documentation of employment at a food processing facility, meatpacking facility, farm, or grocery store may be demonstrated through evidence such as a W-2 tax form or paycheck stubs, employment letter or contract, H2A or H2B visa, photographic evidence of work in an eligible field, or a written and signed affidavit of work from an employer or employer representative. Grant recipients should have supporting documentation that, when taken together, demonstrate verifiable proof of employment of the eligible farm and food workers during the pandemic.

Identity Verification: workers must also submit sufficient proof of identity to the grant recipient when requesting funds. Examples of such proof include legible and non-expired government-issued photo identification, two or more corroborating forms of non-photo identification, and/or other verified photo identification, as specified in the organization's standard operating procedures.

2. Eligibility for Group of Individuals or Area of Service

Not Applicable

3. Eligibility for Subrecipients

Not Applicable.

H. Period of Performance

The Period of Performance requirements for the FFWR Program are detailed in the RFA pages 6 through 7 and are as follows:

FFWR projects were awarded in October 2022 for a period of 24 months (2 years), although it is acceptable to complete a project before the scheduled performance period end date. AMS may also grant a one-time no-cost extension, at the discretion of the agency.

L. Reporting

1. Financial Reporting

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

b. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* – Not Applicable

c. SF-425, *Federal Financial Report* – Applicable. Interim report must be submitted no later than 90 calendar days after each annual performance period end date (block 26 of the Notice of Award).

d. SF-425, *Federal Financial Report* – Applicable. Final report must be submitted no later than 120 calendar days after the performance reporting period (block 26 of the Notice of Award).

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for the Federal Funding Accountability and Transparency Act

See Part 3. L for audit guidance

M. Subrecipient Monitoring

The Subrecipient Monitoring requirements for the FFWR Program are detailed in the AMS General Terms and Conditions on page 7, Section 3.0.

UNITED STATES DEPARTMENT OF AGRICULTURE

ASSISTANCE LISTING 10.182 PANDEMIC RELIEF ACTIVITIES: LOCAL FOOD PURCHASE AGREEMENTS WITH STATES, TRIBES, AND LOCAL GOVERNMENTS

I. PROGRAM OBJECTIVES

The purpose of the Local Food Purchase Agreements with States, Tribes, and Local Governments (LFPA) and LFPA Plus program is to maintain and improve food and agricultural supply chain resiliency through the procurement of agricultural commodities to meet domestic requirements. The program achieves this purpose in the overarching goals:

- Provide an opportunity for state and tribal and territorial governments to strengthen their local and regional food system.
- Help to support local and socially disadvantaged farmers/producers through building and expanding economic opportunities.
- Establish and broaden partnerships with farmers/producers and the food distribution community, and local food networks, including non-profits to ensure distribution of fresh and nutritious foods in rural, remote, or underserved communities.

II. PROGRAM PROCEDURES

USDA's Agricultural Marketing Service (AMS) administers LFPA and LFPA Plus using non-competitive cooperative agreements to provide funding for state and tribal and territorial governments to purchase foods produced within the state or within 400 miles of the delivery destination to help support local, regional and underserved producers. The purpose of the program is to maintain and improve food and agricultural supply chain resiliency. The cooperative agreements allow the states, tribes and territories to procure and distribute local and regional foods and beverages that are healthy, nutritious, unique to their geographic areas and that meet the needs of the population. The food serves feeding programs, including food banks, schools and organizations that reach underserved communities. In addition to increasing local food consumption, the funds will help build and expand economic opportunity for local and underserved producers.

Source of Governing Requirements

LFPA is authorized by Section 1001 (b)(4) of the American Rescue Plan Act (P.L. 117-2).

LFPA Plus is authorized by Section 5(c) of the Commodity Credit Corporation Charter Act, Part 15 USC 714c(c).

Availability of Other Program Information

Additional program information is available on the AMS website.

LFPA: https://www.ams.usda.gov/selling-food-to-usda/lfpacap

LFPA Plus: https://www.ams.usda.gov/selling-food-to-usda/lfpacap/plus

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	N	N	N	N	N	N	N

A. Activities Allowed or Unallowed

Activities allowed or unallowed for LFPA and LFPA Plus are identified in the Request for Applications (RFA) and award agreements, available on the LFPA and LFPA Plus websites. All AMS awards are subject to the terms and conditions, cost principles, and other considerations described in the AMS General Terms and Conditions.

The expectation of this program is for recipients to spend the pre-dominance of awarded funds on food purchases. Food purchases can include both fresh and minimally processed foods. Examples of allowable food products include fruits and vegetables (including 100% juices); grain products such as pastas and rice; meats (whole, pieces, or food items such as ground meats); meat alternates such as beans or legumes, and fluid milk and other dairy foods such as cheese and yogurt. Foods in a wide variety of minimal processing states (e.g., whole, cut, pureed, etc.) and/or forms (e.g., fresh, frozen, canned, dried, etc.)

are also allowable.

Foods that are generally understood to be significantly processed or prepared are unallowable. Examples of unallowable products would include baked goods such as breads, muffins, or crackers; prepackaged sandwiches or meals; other prepared and/or pre-cooked items that come ready-to-eat or that require no further preparation beyond heating (e.g. chicken nuggets, fish sticks, pre-made pizzas, etc.).

All food purchased must meet the definition of domestically produced as well as the definition of local as defined in the LFPA and LFPA Plus requests for applications (RFA). (Definitions listed in section 1.2.1 in the LFPA and LFPA Plus RFAs.)

1. **Local or regional producers** are farmers, ranchers, producer, processors or distributors and other businesses involved in food production or distribution that are located in the state or tribal region or within 400 miles of the delivery destination.

2. **Local or regional food.** Locally and Regionally Produced Food means food that is raised, produced, aggregated, stored, processed, and distributed in the locality or region where the final product is marketed to consumers, so that the total distance that the **product** travels between the farm or ranch where the product originates and the point of sale to the end consumer is at most 400 miles, or both the final marketand the origin of the product are within the same State, territory, or tribal land.

3. **Domestic Food.** "Agricultural Commodity" means a product grown, processed, and otherwise prepared for sale or distribution exclusively in the United States or its territories, except with respect to minor ingredients. Minor ingredients from nondomestic sources will be allowed to be utilized as a United States if such ingredients are not otherwise: (1) produced in the United States; and (2) commercially available in the United States at fair and reasonable prices from domestic sources. The following **ingredients** are determined by AMS Commodity Procurement as not available at fair and reasonable prices and are waived from U.S. origin restrictions: (1) Vitamin A (Retinol Palmitate), (2) Vitamin D, (3) Carageenan (stabilizing agent), (4) Sorbic Acid (preservative), (5) Potassium Sorbate (preservative), (6) Rennet (coagulant), (7) Items excepted from the Buy American Act under FAR 25.104 Nonavailable Articles.

B. Allowable Costs/Cost Principles

All AMS awards are subject to the terms and conditions, cost principles, and other considerations described in the AMS General Terms and Conditions. Under the Section 4.6.1 of the LFPA RFA, applicants may also request direct and indirect costs associated with developing and administering the program in accordance with 2 CFR 200.414.

In addition to food purchases, eligible entities may propose direct costs for outreach, program development, program administration, food storage, and distribution expenses. However, none of the Commodity Credit Corporation (CCC) funds may be used for

direct or indirect costs associated with developing or administering the program, as noted in Section 4.6.1 of the LFPA Plus RFA.

UNITED STATES DEPARTMENT OF AGRICULTURE

ASSISTANCE LISTING 10.185 LOCAL FOOD FOR SCHOOLS COOPERATIVE AGREEMENT PROGRAM

I. PROGRAM OBJECTIVES

The purpose of the Local Food for Schools (LFS) is to increase purchasing of local and regional foods for distribution to schools. The program achieves this purpose in the overarching goals:

- Provide an opportunity for states to strengthen their local and regional food system.
- Help to support local and socially disadvantaged farmers/producers through building and expanding economic opportunities.
- Establish and broaden partnerships with farmers/producers and schools to ensure distribution of fresh and nutritious foods.

II. PROGRAM PROCEDURES

USDA's Agricultural Marketing Service (AMS) administers LFS using cooperative agreements with state governments for food assistance purchases of domestic local foods for distribution to schools. This program will strengthen the food system for schools by helping to build a fair, competitive, and resilient local food chain, and expand local and regional markets with an emphasis on purchasing from historically underserved producers and processors.

Source of Governing Requirements

LFS is authorized by Section 5(c) of the Commodity Credit Corporation Charter Act, Part 15 USC 714c(c).

Availability of Other Program Information

Additional program information is available on the AMS website at https://www.ams.usda.gov/selling-food-to-usda/lfs.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a

compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	N	N	N	N	N	N	N

A. Activities Allowed or Unallowed

Activities allowed or unallowed for LFS are identified in Section 4.6.1 of the LFS request for applications (RFA) the award agreements. Summaries of the awards agreements are available on the LFS website. All AMS awards are subject to the terms and conditions, cost principles, and other considerations described in the AMS General Terms and Conditions.

The expectation of this program is for recipients to spend awarded funds on food purchases. All food purchased must be unprocessed or minimally processed and must meet the definitions of domestic and local, as defined in section 1.1.1 of the LFS RFA.

- **Local or regional food**. Locally and Regionally Produced Food means food that is raised, produced, aggregated, stored, processed, and distributed in the locality or region where the final product is marketed to consumers, so that the total distance that the product travels between the farm or ranch where the product originates and the point of sale to the end consumer is at most 400 miles, or both the final market and the origin of the product are within the same state or territory.

- **Domestic Food**. "Agricultural Commodity" means a product grown, processed, and otherwise prepared for sale or distribution exclusively in the United States or its territories, except with respect to minor ingredients. Minor ingredients from nondomestic sources will be allowed to be utilized as a United States product if such ingredients are not otherwise: (1) produced in the United States; and (2) commercially available in the United States at fair and reasonable prices from domestic sources. The following ingredients are determined by AMS Commodity Procurement as not available at fair and reasonable prices and are waived from U.S. origin restrictions: (1) Vitamin A (Retinol Palmitate), (2) Vitamin D, (3) Carageenan (stabilizing agent), (4) Sorbic Acid (preservative), (5) Potassium Sorbate (preservative), (6) Rennet (coagulant), (7) Items excepted from the Buy American Act under FAR 25.104 Nonavailable Articles.

B. Allowable Costs/Cost Principles

As stated in Section 4.6.1 of the LFS RFA, all costs specific to this cooperative agreement must be direct costs for food, food storage, and food distribution specific to this cooperative agreement. Indirect costs are not allowable. Funds used for food purchases must be used exclusively for domestic food products (also known as commodities) that are unprocessed or minimally processed. Examples of allowable food products include fruits and vegetables (including 100% juices); grain products such as pastas and rice; meats (whole, pieces, or food items such as ground meats); meat alternates such as beans or legumes, and fluid milk and other dairy foods such as cheese and yogurt. Foods in a wide variety of minimal processing states (e.g., whole, cut, pureed, etc.) and/or forms (e.g., fresh, frozen, canned, dried, etc.) are also allowable.

Foods that are generally understood to be significantly processed or prepared are unallowable. Examples of unallowable products would include baked goods such as breads, muffins, or crackers; prepackaged sandwiches or meals; other prepared and/or pre-cooked items that come ready-to-eat or that require no further preparation beyond heating (e.g. chicken nuggets, fish sticks, pre-made pizzas, etc.).

Applicants may not request direct or indirect costs associated with developing or administering the program.

UNITED STATES DEPARTMENT OF AGRICULTURE

ASSISTANCE LISTING 10.186 REGIONAL FOOD BUSINESS CENTERS PROGRAM

I. PROGRAM OBJECTIVES

The objective of the Regional Food Business Centers (RFBC) Program is to support a more resilient, diverse, and competitive food system. The RFBCs are led by twelve cooperative agreement partners (universities, non-profits, and community development financial institutions) and will offer coordination, technical assistance, and capacity building to small and mid-sized food and farm businesses (producers, processors, aggregators, and distributors) to create new markets and expand current linkages throughout the food supply chain. By strengthening connections between rural and urban areas, the RFBCs will drive economic opportunities across the regions, prioritizing service to underserved communities and businesses. Below is a list of the 12 Centers:

- Appalachia USDA Regional Food Business Center
- Delta USDA Regional Food Business Center
- Great Lakes Midwest USDA Regional Food Business Center
- Heartland USDA Regional Food Business Center
- National Intertribal Food Business Center
- Island and Remote Areas USDA Regional Food Business Center
- North Central USDA Regional Food Business Center
- Northeast USDA Regional Food Business Center
- Northwest and Rocky Mountain USDA Regional Food Business Center
- Rio Grande Colonias USDA Regional Food Business Center
- Southeast USDA Regional Food Business Center
- Southwest USDA Regional Food Business Center

The program is authorized and funded by the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, Division N, Title VII, Subtitle B, Section 751. The program is implemented by the United States Department of Agriculture (USDA) Agricultural Marketing Service (AMS).

II. PROGRAM PROCEDURES

A. Overview

Twelve RFBCs, composed of lead applicants and key partners, will provide nationwide service to small and mid-sized food and farm businesses. Six of the RFBCs will focus service on the high priority areas of the Colonias, the Delta and Southeast, Appalachia, and Indian Country. Finalists for the RFBC program were groups of partners, including a Lead Applicant and at least two Key Partners, all of whom must represent eligible entities: state, local governments, Indian tribes, institutions of higher education, and nonprofit corporations. The RFBCs were selected through a competitive award process.

Cooperative agreements were signed by AMS and lead applicants in fiscal year 2023, and periods of performance commenced July 1, 2023.

Those lead applicants are to oversee key partners, which encompass larger subawards approved as part of the initial cooperative agreement, as well as smaller Business Builder subawards, which will be awarded in 2024 and onward. Lead applicants and key partners may both be subject to single audit requirements, depending on the size of their awards.

The Business Builder subawards will be issued on a rolling basis with each subaward lasting for no more than two years. Business Builder subrecipients may receive funds from more than one RFBC but may not receive more than $100,000 in total during the five-year performance period. These subawards may support staff time, business planning activities, software implementation, the purchase of equipment (such as food safety, processing and/or packaging equipment), value chain and supply chain coordination and innovation, product development, marketing and other associated expenses as outlined in the RFA in (page 9, Section 1.3.4)

B. Program Description

The RFBCs will serve as a network of Centers and provide coordination, technical assistance, and capacity building to their respective regions and priority populations. The qualitative functions are to 1) act as coordinating entities across their regions with USDA, other federal, state and tribal agencies, and other RFBCs; 2) providing technical assistance to businesses impacted by the pandemic, supporting wide ranging regional needs including value chain/supply chain coordination, market development, and navigating and managing financial resources; and 3) financial assistance of up to $100,000 to individual food businesses, projects focused on regional needs, and businesses that are working toward expansion and other investment.

Source of Governing Requirements

The RFBC program is authorized and funded by the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, Division N, Title VII, Subtitle B, Section 751. This authority provided at least $360,000,000 to fund Centers.

Availability of Other Program Information

More information on the RFBC program can be found on the AMS Local and Regional Foods Division website. The link for the RFBC information is https://www.ams.usda.gov/services/local-regional/rfbcp. RFBCs are launching websites for each of the 12 agreements, which are linked to from the AMS website listed above. Some RFBCs launched those websites in 2023, and others will launch in 2024.

The RFBC Request for Application (RFA) can be found at the AMS USDA site https://www.ams.usda.gov/sites/default/files/media/RegionalFoodBusinessCentersRFA.pdf

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	N	Y	N	N	Y	Y	N

A. Activities Allowed or Unallowed

The general terms and conditions for this program outline the overall allowable and unallowable costs and activities (Section 8.0, pages 8-15. The program-specific terms and conditions (Section 2.1, page 2) outline allowable special purpose equipment purchases for these subawards, which expands the definition of allowable equipment beyond the AMS general terms and conditions.

Pre-award costs were approved for some agreements.
Funding restrictions for the program, including the Business Builder subawards are outlined in the RFA (Section 4.6, page 19). Allowable costs associated with the program activities are outlined in the RFA (Section 1.3, pages 6-9) and are centered around coordination, technical assistance, and capacity building support for small- and mid-sized food and farm businesses.

B. Allowable Costs/Cost Principles

Costs charged to the RFBC Program must comply with the cost principles at 2 CFR Part 200, Subpart E. Approved indirect cost rates for lead applicants and key partners specified their plan to use either their Negotiated Indirect Cost Rate Agreements (NICRA) or the de minimis costs

are outlined in the cooperative agreements, which were signed by the lead applicants. Subawards from the lead applicants to the key partners will outline those entities' indirect cost rates. Indirect cost policies are outlined in the RFA (Section 4.6.2, page 20) and the program-specific terms and conditions (Section 2.2, page 2).

E. Eligibility

As defined in the Request for Applications (pages 13-15), Eligible entities for lead applicants and key partners are Non-Federal Entities, which are defined in 2 CFR 200.1 as State, local governments, Indian tribes, Institutions of Higher Education (IHE), and nonprofit organizations. AMS reviewed and confirmed eligibility of lead applicants and key partners at the time of award.

1. Eligibility for Individuals

Not Applicable

2. Eligibility for Group of Individuals or Area of Service

Not Applicable

3. Eligibility for Subrecipients

The RFA (Section 3.1, pages 13-15) outlined that project teams must be composed of at least one lead applicant and two key partners, all of whom must be eligible entities. Beyond this requirement, the lead applicant can determine eligibility for subrecipients to provide coordination and technical assistance, and what requirements must be met to apply for capacity building subawards. For-profit entities were not eligible to be either lead applicants or key partners of cooperative agreements. However, for-profit entities are eligible to be collaborators and to apply for the smaller Business Builder subawards. All applicant businesses and organizations must be domestically owned, and applicants' facilities must be physically located within the 50 States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

AMS reviewed lead applicant and key partner eligibility prior to issuing cooperative agreements. RFBCs are to review Business Builder subaward eligibility on an ongoing basis. Business Builder subrecipients are eligible to the extent described in each lead applicant proposal and in amounts awarded that are within funding limits.

H. Period Of Performance

The Period of Performance is 60 months (5 years), initiating with the effective date July 1, 2023. If activities cannot be completed within the performance period, extensions of up to 12 months may be granted at the agency's discretion.

L. Reporting

1. Financial Reporting

a. SF-270, Request for Advance or Reimbursement - Not Applicable.

b. SF-271, Outlay Report and Request for Reimbursement for Construction Program – Not Applicable.

c. SF-425, Federal Financial Report - RFBCs are required to submit Form SF-425 no later than 90 days after end of the agreement. Each cooperative agreement outlines each RFBC lead partner's reporting requirements, which determines the reporting frequency for each entity.

2. Performance Reporting

RFBCs will submit performance reports throughout the performance period. For the purposes of the single audit, only information on the number and dollar value of Business Builder subawards is to be reviewed. These awards are described on page 9 of the RFA in Section 1.3.4.

a. **Report Title**: *Regional Food Business Center Semiannual Performance Progress Report*
OMB PRA Number: *OMB No. 0581.0335*
Reporting period/submission date/s*: A Semi-Annual Progress Performance Report must be submitted to AMS within 30 days after the end of the first six months of the date of the signed agreement and 30 days after the end of each six-month period until the expiration date of the cooperative agreement, using the template provided to cooperators.*
Link to the report:
https://www.ams.usda.gov/sites/default/files/media/RFBC_Semiannual_Report.pdf

The key line items below from performance reports include quantifiable data subject to audit reviews. Other performance report information is qualitative and will be reviewed by AMS.

1. Line Item 13. How many Business Builder subawards have been distributed?
2. Line Item 14. Total funding awarded for Business Builder subawards in the past six months.
3. Line Item 25. Number of Business Builder Subawardees that were able to access new market channels.

3. Special Reporting

Not applicable

4. Special Reporting for the Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

UNITED STATES DEPARTMENT OF AGRICULTURE
ASSISTANCE LISTING 10.190 RESILIENT FOOD SYSTEMS INFRASTRUCTURE PROGRAM

I. PROGRAM OBJECTIVES

The objective of the Resilient Food Systems Infrastructure Program (RFSI) is to build resilience in the middle-of-the-food-supply-chain, to provide more and better markets to small farms and food businesses, to support the development of value-added products for consumers, fair prices, fair wages, and new and safe job opportunities.

The program is authorized by section 1001(b)(4) of the American Rescue Plan (ARP) Act of 2021 (Pub. L. 117—2).

RFSI used non-competitive cooperative agreements to obligate $420 million of ARP funding, minus U.S. Department of Agriculture (USDA) administrative expenses, to states and territories via formula funding. The goal of the program is to keep profits circulating in rural communities and increase diversity in processing options in terms of business model approaches, geography, and availability to underserved communities.

II. PROGRAM PROCEDURES

A. Overview

Primary recipients of the U.S. Department of Agriculture's (USDA) RFSI funding are the agency, commission, or department responsible for agriculture within any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands. States and territories will work in partnership with the USDA to make competitive subawards to support infrastructure in the middle of the supply chain for domestic food and farm businesses and other eligible entities. States and territories may use a limited portion of funds for state-led technical assistance to develop and/or strengthen supply chain coordination and targeted market development services for local and regional products.

B. Requirements

All states were awarded based on formula funding. A minimum of $2 million was provided to all states regardless of their size or production. Infrastructure grants applicants may apply for a minimum of $100,000 and a maximum of $3 million. State Departments of Agriculture do not have a cost share or match requirement for the administration of the award. Infrastructure grants recipients are required to contribute 50 percent of the total proposed project to match federal funding. For historically underserved farmers, ranchers, or for other businesses that qualify under Small Business Administration categories of small disadvantaged businesses, women-owned small

business, or veteran-owned small businesses, the cost share is reduced to 25 percent of the project cost.

Program Descriptions

States will authorize Infrastructure Grants for the purpose of expanding middle-of-the-food-supply-chain capacity for locally and regionally produced foods and offer more and better market opportunities and new streams of revenue to small and mid-sized agricultural producers, including those who may not have access to value-added opportunities or processing to meet market demand for premium or value-added products, such as underserved producers. The RFSI program will focus on funding Infrastructure Grant activities in each state that:

a. Expand capacity for processing, aggregation and distribution of agricultural products to create more and better markets for producers;

b. Modernize manufacturing, tracking, storage, and information technology systems;

c. Enhance worker safety through adoption of new technologies or investment in equipment or facility improvements;

d. Improve the capacity of entities to comply with federal, state, and local food safety requirements;

e. Improve operations through training opportunities;

f. Support construction of a new facility;

g. Modernize or expand an existing facility (including expansion and modifications to existing buildings and/or construction of new buildings at existing facilities);

h. Construction of wastewater management structures;

i. Modernize processing and manufacturing equipment;

j. Develop, customize, or install equipment that reduces greenhouse gas emissions, increases efficiency in water use, improves air and/or water quality, and/or meets one or more of USDA’s climate action goals.

Source of Governing Requirements

RFSI is authorized by Section 1001(b)(4) of the American Rescue Plan (ARP) Act of 2021 (Pub. L. 117—2), as amended, authorizes the United States Department of Agriculture (USDA), to make grants and agreements to maintain to improve food and agricultural supply chain resiliency.

Availability of Other Program Information

More information on the RFSI program can be found on the AMS Grant Division Programs website. The web link for RFSI information is https://www.ams.usda.gov/services/grants/rfsi.

For specific requirements and the Program Scope that outlines amounts allotted to states the document may be found here https://www.ams.usda.gov/sites/default/files/media/RFSI_ProgramScopeandRequirements.pdf.

General Terms and Conditions for USDA AMS grant programs can be found at https://www.ams.usda.gov/sites/default/files/media/FY2023_GeneralTermsandConditions.pdf.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	Y	N	N	N	Y	Y	N

A. Activities Allowed or Unallowed

1. Per the RFSI Program Scope and Requirements and individual state overviews of RFSI funds may be used to implement a project that is differentiated from an ongoing operation due to its limited duration. Examples of RFSI projects include:

a. Expanding processing capacities, including adding product types, increasing production volumes, and supporting new wholesale/retail product lines;

b. Modernizing equipment or facilities through upgrades, repairs, or retooling; (e.g., adapting product lines for institutional procurement or adding parallel processing capacity);

c. Purchase and installation of specialized equipment, such as processing components, sorting equipment, packing and labeling equipment, or delivery vehicles;

d. Modernizing manufacturing, tracking, storage, and information technology systems;

e. Enhancing worker safety through adoption of new technologies or investment in equipment or facility improvements;

f. Construction of a new facility;

g. Increasing packaging and labeling capacities that meet compliance requirements under applicable laws (e.g. sealing, bagging, boxing, labeling, conveying, and product moving equipment);

h. Increasing storage space, including cold storage.

2. Per the RFSI Program Scope and Requirements and individual state overviews of RFSI, subrecipient funds may not be used to:

a. Acquiring real property (including land purchases), or any interest therein;

b. Projects focused on meat and poultry processing or other ineligible agricultural products;

c. Activities that have received a Federal award from another Federal award program;

d. Claim expenses that have been or will be reimbursed under any Federal, State, or local government funding; and

e. Projects which have already received funding from another federal grant or subaward programs may not receive funding for the same activities through an Infrastructure Grant. However, Infrastructure Grants may build on the successes of prior funding, such as the USDA Regional Food Business Centers Business Builder subawards, to fund subsequent activities.

B. Allowable Costs/Cost Principles

1. Special Equipment Purchases

The RFSI Infrastructure Grant program allows specialized equipment purchases, including special purpose vehicles. Purchases of special purpose equipment (such as, canners, hulling processors, reverse osmosis systems, egg packing machines, flotation tanks, roasters, or other processing equipment, packing and labeling equipment, or delivery vehicles) are allowable when approved in the agreement budget or with prior written approval. Per the RFSI Program-Specific Terms and Conditions at https://www.ams.usda.gov/sites/default/files/media/RFSI_Specific_TermsandConditions_FY23.pdf, all equipment purchases must meet the following criteria:

a. Equipment is necessary for the technical activities of the agreement and is not otherwise reasonably available and accessible.

b. Equipment is normally charged as a direct cost by the organization.

c. Equipment must be used solely to meet the purpose of the program and objectives of the agreement.

States are to follow their applicable laws and procedures for the monitoring, titling, and disposal of equipment purchased with subaward funds, as outlined in 2 CFR 200.313(b). Closeout procedures should demonstrate with 2 CFR 200.344.

E. Eligibility

1. Eligibility for Individuals

Not applicable.

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

Recipient entities are state agencies of agriculture receiving non-competitive agreements based on formula funding. According to the RFSI Program Scope and Requirements entities eligible for Infrastructure Grants made by states will be:

a. Agricultural producers or processors, or groups of agricultural producers and processors

b. Nonprofit organizations operating middle-of-the-supply-chain activities such as processing, aggregation, distribution of targeted agricultural products

c. Local government entities operating middle-of-the-supply-chain activities such as processing, aggregation, distribution of targeted agricultural products

d. Tribal governments operating middle-of-the-supply-chain activities such as processing, aggregation, distribution of targeted agricultural products

e. Institutions such as schools, universities, or hospitals bringing producers together to establish cooperative or shared infrastructure or invest in equipment that will benefit multiple producers middle-of-the-supply-chain activities such as processing, aggregation, distribution of targeted agricultural product.

All applicant businesses and organizations must be domestically owned, and applicants' facilities must be physically located within the 50 States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

3. Eligibility for Subrecipients

A Lead State Agency may establish subcontracts or subaward with partners and collaborators for activities under this program. This may include, but is not limited to, coordination and technical assistance activities, or to conduct outreach or other key activities for the Infrastructure Grant competition. The project abstract required by the states will detail subrecipient activities and if the award will result in subawards. If the state proposes to subaward funds to partners for the purpose of its coordination and technical assistance activities, then the contracts and/or proposals for those subaward partners must include information identifying the recipient organizations and how the activities proposed in that subaward align with the State's activities. For example, statements of work should describe eligible coordination, technical assistance, outreach, or training activities which align with the Program Scope and Requirements.

According to the RFSI Program Scope and Requirements entities eligible for Infrastructure Grants made by states will be:

a. Agricultural producers or processors, or groups of agricultural producers and processors

b. Nonprofit organizations operating middle-of-the-supply-chain activities such as processing, aggregation, distribution of targeted agricultural products

c. Local government entities operating middle-of-the-supply-chain activities such as processing, aggregation, distribution of targeted agricultural

products

d. Tribal governments operating middle-of-the-supply-chain activities such as processing, aggregation, distribution of targeted agricultural products.

e. Institutions such as schools, universities, or hospitals bringing producers together to establish cooperative or shared infrastructure or invest in equipment that will benefit multiple producers middle-of-the-supply-chain activities such as processing, aggregation, distribution of targeted agricultural product.

All applicant businesses and organizations must be domestically owned, and applicants' facilities must be physically located within the 50 States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

G. Matching, Level of Effort, Earmarking

1. Matching

Infrastructure Grant sub-award recipients will be required to provide matching funds on a graduated scale.
Infrastructure grant recipients are required to contribute 50 percent of the total proposed project cost as a match to federal funding. Exceptions to this 50 percent contributions are:

a. Historically underserved farmers and ranchers, or for other businesses that qualify under SBA categories of small disadvantaged business, women-owned small business, or veteran-owned small business, the required match funding contribution or cost share is reduced to 25 percent of the project cost. States must require that applicants self-certify in their Infrastructure Grant applications to being eligible for this reduced match.

All matching contributions must be committed or secured at the time an applicant is recommended for an award. Indirect costs may count toward the Infrastructure Grant applicant's match. Program income (as defined in 2 CFR 200.1) or any other Federal funds is an ineligible source of match or cost share.

According to the RFSI Program Scope and Requirements, State agencies are not required to provide matching funds for their State-led Supply Chain Coordination activities or other state costs to manage the program. Infrastructure Grant sub-award recipients will be required to provide matching funds on a graduated scale. This scale is outlined on page 10 of the Program Scope and Requirements in Section 1.5.3.

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

L. Reporting

1. Financial Reporting

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

b. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* – Not Applicable

c. SF-425, *Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3. L for audit guidance.

M. Subrecipient Monitoring

Subaward monitoring must comply with the requirements of Section 1.5 of the RFA, Infrastructure Grant Subaward Process, as well as the information outlined in state agency plans as approved by USDA AMS. Each state's subaward Request for Applications and state-specific Terms and Conditions are linked from the USDA AMS website at https://www.ams.usda.gov/rfsi-rfa-status.

UNITED STATES DEPARTMENT OF AGRICULTURE

ASSISTANCE LISTING 10.331 GUS SCHUMACHER NUTRITION INCENTIVE PROGRAM

I. PROGRAM OBJECTIVES

The objective of the Gus Schumacher Nutrition Incentive Program (GusNIP) is to fund, conduct, and evaluate projects that are designed to improve health and nutrition status by providing income-eligible consumers incentives to increase the purchase of fruits and vegetables and prescriptions for fresh fruits and vegetables.

II. PROGRAM PROCEDURES

USDA's National Institute of Food and Agriculture (NIFA) administers GusNIP through three financial assistance programs:

1. The GusNIP Nutrition Incentive Program is a competitive grants program that funds projects designed to increase the purchase of fruits and vegetables by income-eligible consumers participating in the USDA Supplemental Nutrition Assistance Program (SNAP) and the USDA Nutrition Assistance Program Block Grants (NAP) by providing financial incentives at the point of sale. Fruit and vegetable incentives are earned when making a purchase with SNAP/NAP benefits and can be redeemed by SNAP/NAP participants when making a future purchase. Eligibility to apply for GusNIP Nutrition Incentive Program grants is limited to governmental agencies and non-profit organizations.

2. The GusNIP Produce Prescription Program is a competitive grants program that funds projects that demonstrate and evaluate the impact of fresh fruit and vegetable prescriptions on the improvement of dietary health through increased consumption of fruits and vegetables, the reduction of individual and household food insecurity, and the reduction in healthcare use and associated costs. Eligibility to apply for GusNIP Produce Prescription Program grants is limited to governmental agencies and non-profit organizations. Grantees must partner with one or more healthcare providers to carry out a produce prescription project. The grantee may serve as both the prime awardee and the required healthcare partner.

3. NIFA funds the GusNIP Nutrition Incentive Program Training, Technical Assistance, Evaluation, and Information Centers (NTAE Centers) through cooperative agreements that are awarded on a competitive basis. The NTAE Centers provide training, technical assistance, evaluation, and informational support services to potential applicants and GusNIP grantees.

Specific requirements for each type of GusNIP project are identified in the requests for applications posted on NIFA's website.

Source of Governing Requirements

GusNIP is authorized by Section 4205 of the Agriculture Improvement Act of 2018 (Public Law No. 115-334). The laws governing the program are codified at 7 USC 7517.

Availability of Other Program Information

Additional program information is available on the NIFA website at https://www.nifa.usda.gov/grants/programs/hunger-food-security-programs/gus-schumacher-nutrition-incentive-program.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	Y	N	N	N	Y	Y	N

A. Activities Allowed or Unallowed

Activities allowed or unallowed for a GusNIP award will be identified in the award agreement. In general, GusNIP funds may be used to carry out nutrition incentive projects and/or produce prescription projects and related activities in accordance with the

project designs outlined in the project proposals and award budgets that were approved by NIFA and incorporated into the award agreements.

NIFA allows three types of incentive models for the GusNIP Nutrition Incentive Program:

1. Fruits and vegetables for fruits and vegetables: SNAP/NAP participants purchase fruits or vegetables using their SNAP/NAP benefits and then receive incentives that are redeemable only for the purchase of fruits or vegetables.

2. SNAP/NAP eligible foods for fruits and vegetables: SNAP/NAP participants purchase any SNAP/NAP eligible food using their SNAP/NAP benefits and then receive incentives that are redeemable only for the purchase of fruits or vegetables.

3. Fruits and vegetables for any SNAP/NAP eligible food: SNAP/NAP participants purchase fruits or vegetables using their SNAP/NAP benefits and then receive incentives that are redeemable for the purchase of any SNAP/NAP eligible food.

The specific nutrition incentive models allowed for each individual GusNIP award is based on the project proposal that was approved by NIFA and incorporated into the award agreement.

GusNIP awards with an approved project design that includes spending SNAP/NAP benefits to earn/redeem incentives must operate through authorized SNAP/NAP firms and comply with all relevant SNAP/NAP regulations and operating requirements.

GusNIP grantees and their SNAP/NAP partner firms must execute a signed Memorandum of Understanding to ensure that partner firms understand their roles and responsibilities and are held accountable for following GusNIP policy and SNAP/NAP rules and regulations.

G. Matching, Level of Effort, Earmarking

1. Matching

The amount of non-federal matching contributions required for a GusNIP award will be identified in the award agreement.

GusNIP Nutrition Incentive Program:
In general, recipients of GusNIP Nutrition Incentive Program grants must provide matching contributions on a dollar-for-dollar basis for all federal funds awarded. However, matching contributions may not be required for the supplemental funding awarded for COVID-19 relief under Section 755 of the Consolidated Appropriations Act of 2021 (Public Law No. 116-260). The amount of non-federal matching contributions required for a GusNIP award will be identified on the award face sheet.

The non-federal share of the cost of the project may be provided by a state, local government, or a private source. The matching requirement may be met through cash or in-kind contributions, including third-party in-kind contributions fairly evaluated, including facilities, equipment, or services. However, in the case of a for-profit entity, the non-federal share cannot include services of an employee of a for-profit entity, including salaries paid or expenses covered by the employer (7 USC 7517 (b)(1)(D)(ii)).

Tribal agencies may be permitted to use funds provided to the Indian Tribe of the Tribal agency through a federal agency or other federal benefit to satisfy all or part of the non-federal cost share if such use is otherwise consistent with the purpose of such funds.

GusNIP Produce Prescription Program:
There is no matching requirement for GusNIP Produce Prescription Program grants.

GusNIP NTAE Centers:
There is no matching requirement for GusNIP NTAE Centers cooperative agreements.

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

UNITED STATES DEPARTMENT OF AGRICULTURE

ASSISTANCE LISTING 10.551 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)

ASSISTANCE LISTING 10.561 STATE ADMINISTRATIVE MATCHING GRANTS FOR THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

I. PROGRAM OBJECTIVES

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

II. PROGRAM PROCEDURES

A. Administration

The US Department of Agriculture (USDA), Food and Nutrition Service (FNS) administers SNAP in cooperation with state and local governments.

State human services agencies (or county human services agencies under the oversight of the state government) certify eligibility and provide benefits to households. They also provide nutrition education. FNS provides funding for state administration and benefits and oversees the operation of state agencies to ensure compliance with federal laws and regulations. In addition, FNS is solely responsible for authorizing and monitoring retail stores that accept SNAP benefits in exchange for food.

B. Federal Funding of Benefits and State Administrative Costs

The federal government pays 100 percent of the value of SNAP benefits and generally reimburses states for 50 percent of their costs to administer the program, except for those functions listed in III G.1, “Matching, Level of Effort, Earmarking – Matching.” SNAP’s authorizing statute places no cap on the amount of funds available to reimburse states at the 50 percent rate for allowable administrative expenses. No reimbursement is allowed for state expenditures for activities undertaken as a condition of settlement of quality control claims against the state for low payment accuracy.

States receive federal funds for SNAP nutrition education and obesity prevention (SNAP-Ed) activities based on a formula. The state agency must use these funds for the administrative costs of planning, implementing, and operating a SNAP-Ed program in accordance with its approved SNAP-Ed Plan. The federal government pays 100 percent of the costs. However, the state agency is prohibited from obligating additional federal funds for SNAP-Ed activities.

C. Certification

Eligibility for SNAP is based primarily on income and resources. Although a number of available state design options can affect benefits for recipients, a key feature of the program is its status as an entitlement program with standardized eligibility and benefits.

1. *Assessing Need*

Households generally cannot exceed a gross income eligibility standard set at 130 percent of the federal poverty standard. Households also cannot exceed a net income standard, which is set at 100 percent of the federal poverty standard. The net income standard allows specified deductions from gross income (e.g., a standard deduction and deductions for medical expenses (elderly and disabled only)), excess shelter costs, and work expenses. Nonfinancial eligibility criteria include school status, citizenship/legal immigration status, residency, household composition, work requirements, and disability status. Some noncitizens are ineligible to participate in the program. Able-bodied adults without dependents are subject to a time limit for receiving benefits if certain requirements are not met.

A total of 44 states have adopted the policy known as broad based categorical eligibility (BBCE). This policy allows a state to base SNAP eligibility determinations on households' receipt of a Temporary Assistance for Needy Families (TANF)-funded noncash benefits or service (Assistance Listing 93.558). Depending on the eligibility criteria of the TANF program used to confer SNAP categorical eligibility, the BBCE may enable a state to (1) use a higher threshold (up to 200 percent of the poverty level) when applying the gross income test, and/or (2) eliminate the asset test altogether.

2. *Application Process for SNAP Benefits*

The application process for SNAP benefits includes the completion and filing of an application form, an interview, and the verification of certain information. In addition to using information supplied by the applicants, state or county agencies use data from other agencies, such as the Social Security Administration and the state employment security agency, to verify the household's identity, income, resources, and other eligibility criteria.

D. Benefits

Benefit amounts vary with household size and income. As required by law, allotments for various household sizes are revised October 1 of each year to reflect the cost of the Thrifty Food Plan, a model plan for a low-cost nutritious diet that is developed and costed by USDA. The benefits each household receives are used to purchase food at authorized retail stores. States issue benefits in the form of debit cards, which recipients can use to purchase food. This is known as electronic benefits transfer (EBT).

E. Benefit Redemption

Generally, households must use program benefits to purchase foods for preparation and consumption at home. There are, however, very few exceptions to this general policy. For example, there are provisions for seniors, disabled persons, and homeless persons to use program benefits in authorized restaurants and for residents of some small institutional settings to participate in the program.

The state's EBT contractor is responsible for settlement, or payment, to retailers that have accepted EBT cards for food purchases. The contractor's "concentrator bank" makes the payment through the National Automated Clearing House (ACH) system. The concentrator bank is reimbursed for the payments by a draw made on the state's EBT benefit account with the US Treasury. States usually authorize their EBT contractors to make these draws, although some states draw the cash and pay the concentrator banks themselves. The state is responsible for reconciling the payments made to retailers by its EBT contractor with the amounts drawn from its EBT account with the US Treasury.

States must obtain an examination report by an independent auditor of the state EBT service providers (service organizations) regarding the issuance, redemption, and settlement of benefits under SNAP in accordance with the American Institute of Certified Public Accountants Statement on Standards for Attestation Engagements (AT) Section 801, *Reporting on Controls at a Service Organization*. Appendix VIII to the Supplement provides additional guidance on these examinations and service auditor reports, referred to as a "service organization control (SOC) 1 type 2 report." In performing audits of SNAP under 2 CFR Part 200, Subpart F, an auditor may use these SOC 1 type 2 reports to gain an understanding of internal controls and obtain evidence about the operating effectiveness of controls.

F. State Responsibilities

A state administering SNAP must sign a federal/state agreement that commits it to observe applicable laws and regulations in carrying out the program. Although legislation provides a measure of administrative flexibility, the authorizing legislation remains highly prescriptive. Both the law and regulations prescribe detailed requirements for (1) meeting program goals, such as providing timely service and rights to appeal; and (2) ensuring program integrity, such as verifying eligibility, establishing and collecting claims for benefit overpayments, and prosecuting fraud.

To ensure that states operate in compliance with the law, program regulations and their own Plans of Operation, each state is required to have a system for monitoring and improving its administration of SNAP, particularly the accuracy of eligibility and benefit determinations. This performance monitoring system includes management evaluation reviews, quality control reviews, and reporting to FNS on program performance. State agencies shall conduct management evaluation reviews once every year for large project areas, once every two years for medium project areas, and once every three years for small project areas, unless an alternative schedule is approved by FNS. Projects are classified as large, medium, or small, based on regulations at 7 CFR

section 271.2, although states may request approval by FNS to use "management units" instead of project areas for management evaluation reviews. The state must also ensure corrective action in response to the detection of program deficiencies.

G. Federal Oversight and Compliance Mechanisms

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

FNS also assesses penalties related to payment accuracy. FNS has other mechanisms to recover losses and the cost of negligence. For other forms of noncompliance, FNS has the authority to give notice and, if improvements do not occur, withhold administrative funds from states for failure to implement program requirements.

USDA's Office of Inspector General (OIG) has primary responsibility for investigating authorized retailers, but the OIG has delegated most such authority to FNS. Consequently, FNS makes most of the investigations of retailers. The Special Investigations Unit of FNS Retailer Operations and Compliance conducts undercover investigations. FNS also uses EBT transaction data to identify retailers who engage in trafficking. SNAP legislation and regulations provide for sanctions against such retailers, which may be temporary or permanent depending on the severity of the violations. In certain circumstances, monetary penalties may be imposed.

H. Certification Quality Control System

SNAP maintains an extensive quality control system required by law and regulation. The system provides state and national measures of the accuracy of eligibility and benefit amount determination (often referred to as payment accuracy), both underpayment and overpayment, and of the correctness of actions to deny, terminate, or suspend benefits.

1. *Measurement*

States are required to select a statistical sample of cases, both active (currently receiving benefits) and negative case actions (benefits denied); review the active cases for eligibility and benefit amount; and review the negative cases for the correctness of the decision to deny benefits. Review methods in this sample are generally more intensive than those used in determining eligibility. States submit findings of all sampled cases, including incomplete and not-subject-to-review cases, to an automated database maintained by the federal government. State quality control data allow a state to be aware on an ongoing basis of its level of

accuracy and allow for the identification of trends and appropriate corrective action.

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

2. *Corrective Action and Penalties*

Program regulations require corrective action for any of the following reasons: (1) a payment error rate of 6 percent or greater, (2) any negative case error rate that exceeds 1 percent, (3) deficiencies identified from any FNS review, Government Accountability Office (GAO) audit, contract audit, or reports to FNS regarding the implementation of major changes as discussed in 7 CFR 272.15, (4) a result of 5 percent or more of the state's quality control (QC) caseload being coded as incomplete, or (5) any state agency rules or procedures that lead to under issuances, improper denials, improper suspensions, improper terminations, or improper systemic suspension of benefits to eligible households. FNS maintains an extensive system of technical assistance for states as they develop and implement corrective action. FNS also monitors the implementation of corrective action plans. States with persistently high error rates are assessed fiscal liabilities based on the amount of benefits issued in error.

3. *Implications of Quality Control for the Compliance Supplement*

The SNAP Quality Control system uses an intensive state review of a sample of active cases across the United States to measure the accuracy of SNAP eligibility determinations and benefit amounts. An FNS re-review of a subset of those cases follows. Information from federal program oversight indicates that this sampling system is operating adequately to provide assurances that FNS is measuring the accuracy of eligibility decisions and that these data provide a basis for corrective action to improve the accuracy of eligibility decisions. Therefore, the Quality Control System sufficiently tests individual eligibility in SNAP.

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

Source of Governing Requirements

SNAP is authorized by the Food and Nutrition Act of 2008 (7 USC 2011 et seq.), which replaced the Food Stamp Act of 1977, as amended. This description of SNAP procedures incorporates provisions of the following amendments to the Act: the Food, Conservation, and Energy Act of 2008 (Pub. L. No. 110-246, 122 Stat. 923, enacted June 18, 2008); the Agriculture Act of 2014 (Pub. L. No. 113-79, 128 Stat. 649, enacted February 7, 2014); the Agriculture Improvement Act of 2018 (Pub. L. No. 115-334, enacted December 20, 2018; the Fiscal Responsibility Act of 2023 (Pub. L. 118-5, enacted June 3, 2023). SNAP regulations are found in 7 CFR parts 271 through 285.

Availability of Other Program Information

Other program information is available from FNS's SNAP site at https://www.fns.usda.gov/snap/supplemental-nutrition-assistance-program.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	N	Y	N	N	Y	Y

A. Activities Allowed or Unallowed

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

SNAP-Ed funds must be used for the administrative costs of planning, implementing, operating, and evaluating a SNAP-Ed program in accordance with the state's approved SNAP-Ed Plan. However, the state agency is prohibited from obligating additional federal funds for SNAP-Ed activities (7 CFR section 272.2(d)(2)).

G. Matching, Level of Effort, Earmarking

1. Matching

The state is required to pay 50 percent of the costs of administering the program. Exceptions to this 50 percent reimbursement rate include 100 percent grants to:

a. Administer the E&T component of the program (7 CFR section 277.4(b)) (Note: States receive a 100 percent grant for the E&T component and must pay 50 percent for E&T costs that exceed that grant); and

b. Provide SNAP-Ed services. A state's SNAP-Ed costs are 100 percent federally funded, up to the level of its formula-generated federal SNAP-Ed grant. That amount is the maximum level of federal financial participation in a state's SNAP-Ed costs; any SNAP-Ed costs incurred beyond that level must be borne by the state (7 USC 2036a, Section 241 of Pub. L. No. 111-296, 124 Stat. 3183, December 13, 2010).

The federal reimbursement will decrease, and the state share of administrative costs will increase by an amount equal to certain common certification costs grandfathered into the states' TANF grant levels but attributable to SNAP (7 USC 2025(k)). The amount of each state's downward adjustment was determined by the Department of Health and Human Services, and the states were notified by letter.

Costs of payment error rate reduction activities conducted under reinvestment agreements with FNS are not eligible for any level of federal reimbursement.

Private in-kind contributions are not allowable to count toward the state's share of the program's administrative cost (7 CFR sections 277.4(c) and 275.23(e)(10)).

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

I. Procurement and Suspension and Debarment

1. *ADP Systems Development* – For competitive acquisitions of ADP equipment and services costing $6 million or more (combined federal and state shares), the state must submit an Advanced Planning Document (APD) for the costs to be approved and allowable as charges to FNS. This threshold is for the total project cost. Contracts resulting from noncompetitive procurements of more than $1 million and contracts for EBT systems, regardless of cost, also must be provided to FNS for prior written approval (7 CFR section 277.18).

2. For procurement activity covered by the USDA implementation of the A-102 Common Rule (see Part 3 of the Supplement for effective dates), regardless of whether the state elects to follow state or federal rules, the following requirements must be followed for procurements initiated on or after October 1, 2000:

   a. A state or local government shall not award a contract to a firm it used to orchestrate the procurement leading to that contract. Examples of services that would disqualify a firm from receiving the contract include preparing the specifications, drafting the solicitation, formulating contract terms and conditions, etc. (7 CFR section 3016.60(b)).

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

3. For procurements covered by the USDA adoption of 2 CFR Part 200 and the regulations at 2 CFR section 416.1, the following applies:

   a. A prospective contractor that develops or drafts specifications, requirements, statements of work, invitations for bids, requests for proposals, contract term and conditions or other documents for use by a state shall be excluded from competing for such procurements. Such prospective contractors are ineligible for contract awards resulting from such procurements regardless of the procurement method used. However, prospective contractors may provide states with specification information

related to a state procurement and still compete for the procurement if the state, and not the prospective contractor, develops or drafts the specifications, requirements, statements of work, invitations for bid, and/or requests for proposals used to conduct the procurement (2 CFR section 416.1(a)).

b. Procurements by states shall be conducted in a manner that prohibits the use of statutorily or administratively imposed in-state or local geographic preferences except as provided for in 2 CFR section 200.319(b) (2 CFR section 416.1(b)).

N. Special Tests and Provisions

1. ADP System for SNAP

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

Audit Objectives Determine whether the state administering agency's ADP system for SNAP is meeting the requirements to: (1) accurately and completely process and store all case file information for eligibility determination and benefit calculation; (2) automatically cut off households at the end of their certification period unless recertified; and (3) provide data necessary to meet federal issuance and reconciliation reporting requirements. (Note: References to the "ADP/CIS Model Plan" are outdated and no longer valid. Examination of 7 CFR section 272.10 should focus only on the functional requirements of SNAP automation and should disregard any references to the "ADP/CIS Model Plan" referenced in 7 CFR sections 272.10(a)(1) and 272.10(a)(2)).

Suggested Audit Procedures

Because of the diversity of ADP hardware and software systems, it is not practical for the Compliance Supplement to provide suggested audit procedures to address each system. See Part 3, E.1.a (suggested audit procedures for eligibility for individuals relating to automated systems) in this Supplement for other guidance concerning testing ADP systems. In addition, FNS has developed a review tool for use by state and federal staff in conducting pre- and post-implementation reviews of states' automated SNAP systems.

The review tool can be found at SNAP System Integrity Review Tool | Food and Nutrition Service (usda.gov). The auditor should test the ADP system to ascertain if the system:

a. Accurately and completely processes and securely stores all case file information for eligibility determination and benefit calculation.
b. Automatically cuts off households from receiving SNAP benefits at the end of their certification period unless the household is recertified.
c. Provides data necessary to meet federal issuance and reconciliation reporting requirements.

2. EBT Reconciliation

Compliance Requirements States must have systems in place to reconcile all of the funds entering into, exiting from, and remaining in the system each day with the state's benefit account with Treasury and EBT contractor records. This includes a reconciliation of the state's issuance files of postings to recipient accounts with the EBT contractor. States (generally through the EBT contractor that operates the EBT system) must also have systems in place to reconcile retailer credit activity as reported into the banking system to client transactions maintained by the processor and to the funds drawn down from the EBT benefit account with Treasury. States' EBT system processors should maintain audit trails that document the cycle of client transactions from posting to point-of-sale transactions at retailers through settlement of retailer credits. The financial and management data that comes from the EBT processor is reconciled by the state to the SNAP issuance files and settlement data to ensure that benefits are authorized by the state and funds have been properly drawn down. States may only draw federal funds for authorized transactions (e.g., electronic point-of-sale purchases supported by entry of a valid personal identification number (PIN) or purchases using manual vouchers with telephone verification supported by a client signature and an EBT contractor authorization number) (7 CFR sections 274.3(a)(1) and 274.4(a)).

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

Suggested Audit Procedures

a. Verify that the state has a system in place to reconcile total funds entering into, exiting from, and remaining in the system each day.

b. Select and test a sample of reconciliation(s) to verify that discrepancies are followed up and resolved. This is generally a contractor duty.

c. Verify that the state or its contractor has a system in place to reconcile retailer credits against the information entered into the Automated

Clearinghouse network and to the amount of funds drawn down by the state or the state's fiscal agent (the EBT contractor).

d. Ascertain if the state or its contractor has recorded any nonfederal liabilities in the daily EBT reconciliation (i.e., transactions which cannot be charged to the program). If so, verify that the nonfederal liabilities were funded by nonfederal sources (e.g., the state or the contractor).

3. EBT Card Security

Compliance Requirements The state is required to maintain adequate security over, and documentation/records for, EBT cards, to prevent their theft, embezzlement, loss, damage, destruction, unauthorized transfer, negotiation, or use (7 CFR section 274.8(b)(3)).

Audit Objectives Determine whether the state maintains security over EBT cards.

Suggested Audit Procedures

a. Observe the physical security over EBT cards, and/or other negotiable instruments used in the issuance process.

b. Verify that EBT cards returned from the Postal Service are returned to inventory or destroyed.

IV. OTHER INFORMATION

Note: Generally, E, "Eligibility," G.1, "Matching," I, "Procurement and Suspension and Debarment" (with respect to procurement), and N, "Special Tests and Provisions," apply only to state governments. However, when states have delegated to the local governments functions normally performed by the state as administering agency (e.g., eligibility determination, issuance of SNAP) the related compliance requirements will apply to the local government.

UNITED STATES DEPARTMENT OF AGRICULTURE

ASSISTANCE LISTING 10.553 SCHOOL BREAKFAST PROGRAM

ASSISTANCE LISTING 10.555 NATIONAL SCHOOL LUNCH PROGRAM

ASSISTANCE LISTING 10.556 SPECIAL MILK PROGRAM FOR CHILDREN

ASSISTANCE LISTING 10.559 SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

ASSISTANCE LISTING 10.582 FRESH FRUIT AND VEGETABLE PROGRAM

I. PROGRAM OBJECTIVES

The objectives of the child nutrition cluster programs are to (1) assist states in administering and overseeing food service program operators that provide healthful, nutritious meals to eligible children in public and non-profit private schools, residential child care institutions, and summer programs; (2) foster healthy eating habits in children by providing fresh fruits and fresh vegetables to children attending elementary schools; and (3) encourage the domestic consumption of nutritious agricultural commodities.

II. PROGRAM PROCEDURES

A. Overview

The Child Nutrition Programs are administered at the federal level by the Food and Nutrition Service (FNS) of the US Department of Agriculture (USDA) through grants to state agencies. Each state agency enters into agreements with subrecipient organizations for local level program operation and the delivery of program benefits and services to eligible children. The types of organizations that receive subgrants under each program are described below under “Program Descriptions.”

USDA makes donated agricultural commodities available for use in the operation of all child nutrition programs (except the Special Milk Program (SMP) and the Fresh Fruit and Vegetable Program (FFVP)). FNS enters into agreements with state distributing agencies for the distribution of USDA donated foods. The state distributing agencies enter into agreements with local program operators, which are defined collectively as “recipient agencies.” A state may designate a recipient agency to perform its storage and distribution duties. A state distributing agency may engage a commercial food processor to use USDA-donated foods in the manufacture of food products, and then deliver such manufactured products to recipient agencies.

B. Subprograms/Program Elements

1. *Common Characteristics*

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

a. Local program operators provide prepared meals to children in structured settings. Four types of meal service may be authorized: breakfast, lunch, snacks, and supper. Milk-only service may be authorized under the SMP. The types a particular program operator may offer are determined first by the respective program's authorizing statute and regulations, and second by the program operator's agreement with its administering agency.

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

The nonprofit school food service account is managed by local program operators who offer program and nonprogram foods to children during meal services. Program foods are the foods served in reimbursable meals. Nonprogram foods include any nonreimbursable foods and beverages purchased using the funds from the nonprofit school food service account. Nonprogram foods encompasses all other foods sold in school, including adult meals, foods sold outside of school hours, or any foods used for catering or vending activities. For the majority of local program operators, a la carte foods offered during meal service account for the largest share of nonprogram foods. To the maximum extent practicable, school food authorities (SFAs) must purchase commodities produced in the United States and food products processed in the United States substantially using commodities produced in the United States.

SFAs that charge students for full-price or "paid" program meals must follow paid lunch equity (PLE) requirements per section 12(p) of the Richard B. Russell National School Lunch Act, 42 USC 1760(p), and NSLP regulations at 7 CFR 210.14(e). These establish minimum prices for paid lunches. Under Section 748, of Division B of the Appropriations Act, for SY 2024-25, only SFAs that had a negative balance in the nonprofit school food service account as of June 30, 2023, shall be required to establish prices for paid lunches according to the PLE provisions; SFAs with a positive or zero balance in the nonprofit school food service account as of June 30, 2023, are exempt from PLE pricing requirements found at 7 CFR 210.14(e).SFAs are required to ensure that sufficient funds

are provided to their nonprofit school food service accounts from lunches served to students not eligible for free or reduced price meals. As outlined in 7 CFR 210.14(e), an SFA currently charging less for a paid lunch than the difference between the federal reimbursement rates for paid and free lunches has two options for meeting this requirement: (a) it may raise its price charged for paid lunches, or (b) it may contribute an equivalent sum from non-federal sources to its nonprofit school food service account.

c. Federal assistance to local program operators takes the form of cash reimbursement. In addition, USDA donates food under 7 CFR Part 250 for use in preparing meals to be served under the National School Lunch Program (NSLP), the School Breakfast Program (SBP), and the Summer Food Service Program (SFSP).

d. To obtain cash and donated food assistance, a local program operator must submit monthly claims for reimbursement to its administering agency. All meals (and half-pints of milk under SMP) claimed for reimbursement must meet federal requirements and be served to eligible children.

e. The program operator's entitlement to reimbursement payments is generally computed by multiplying the number of meals (and/or half-pints of milk under the SMP) served by a prescribed per-unit payment rate (called a "reimbursement rate"). Different reimbursement rates are prescribed for different categories and types of service. "Type" refers to the kind of service (breakfast, lunch, milk, etc.), while "category" refers to the beneficiary's eligibility (free, reduced price, or paid). Under this formula, a local program operator's entitlement to funding from its administering agency is generally a function of the categories and types of service provided. Therefore, the child nutrition cluster programs are said to be "performance funded."

2. *Characteristics of Individual Programs*

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

a. *NSLP and SBP* – These programs target children enrolled in schools. For program purposes, a "school" is a public or non-profit private school of high school grade or under, or a public or licensed non-profit private residential child-care institution. At the local level, a school food authority (SFA) is the entity with which the administering agency makes an agreement for the operation of the programs. An SFA is the governing body (such as a school board) legally responsible for the operation of the NSLP and/or SBP in one or more schools. A school operated by an SFA may be approved to serve breakfast and lunch. A school participating in the NSLP that also has an afterschool care program with an educational or enrichment component may also be approved to serve afterschool snacks. Refer also to the description of the SMP below. These programs must

purchase domestic foods and food products processed in the United States substantially using domestic foods.

The NSLP/SBP's Seamless Summer Option (SSO) allows eligible SFAs and schools to offer free meals to children during the summer months, during extended breaks in schools with year-round schedules, and during unanticipated closures. SFAs and schools that elect to participate in the SSO follow the same site eligibility requirements and operate under the same service models as sponsors and sites that participate in the Summer Food Service Program including the new rural non-congregate option beginning in FY 2023 (refer to 2b). However, SFAs and schools that participate in the SSO serve meals that meet NSLP/SBP standards and use the NSLP/SBP process to claim reimbursement from USDA.

b. *SFSP* – The SFSP is directed toward children in low-income areas when school is not in session. It is locally operated by approved sponsors, which may include public or private non-profit SFAs, public or private non-profit residential summer camps, or units of local, municipal, county, or state governments, or other private non-profit organizations that develop a special summer or other school vacation program providing food service similar to that available to children during the school year under the NSLP and SBP.

Residential camps and migrant sites may receive reimbursement for up to three meals, or two meals and one snack, per child per day, whereas all other sites may receive reimbursement for any combination of two meals (except lunch and supper) or one meal and one snack per child per day. As of FY23, approved rural SFSP sponsors may provide non-congregate meals in areas where no congregate meal service is available. Sponsors operating non-congregate meal service may provide up to ten days' worth of meals at a time for children (or parents/guardians, where permitted) to take home (from grab and go sites) or delivered to the home.

All participating children receive their meals free. Participating summer camps must identify children eligible for free or reduced price meals and may receive SFSP meal reimbursement only for meals served to eligible children.

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

c. *SMP* – The SMP provides milk to children in schools and child-care institutions that do not participate in other federal meal service programs. However, schools operating the NSLP and/or SBP may also participate in the SMP to provide milk to children in half-day pre-kindergarten and

kindergarten programs where children do not have access to the NSLP and SBP. An SFA or institution operating the SMP as a pricing program may elect to serve free milk but there is no federal requirement that it do so. The SMP has no reduced price benefits. SFAs must also purchase milk that is domestic and processing must occur in the United States.

d. *FFVP* – The FFVP provides free fresh fruits and vegetables to children enrolled in high need elementary schools during the school day. The program prioritizes schools with the highest percentage of children certified as eligible for free and reduced price meals. The goal is to introduce children to fresh fruits and vegetables, to include new and different varieties, and to increase overall acceptance and consumption of fresh, unprocessed produce among children. The FFVP also encourages healthier school environments by promoting nutrition education.

C. Program Funding

FNS provides funds to state agencies by letter of credit. The state agencies use meal reimbursement funds to support program operations by SFAs, institutions, and sponsors under their oversight, and administrative funds to fund their own administrative costs.

1. *Funding Program Benefits*

FNS provides cash reimbursement to each state agency for each meal served under the NSLP, SBP, and SFSP and for each half pint of milk served under the SMP. The state agency's entitlement to cash assistance for NSLP and SBP meals, NSLP snacks, and SMP milk not reimbursed at the "free" rate is determined by multiplying the number of units served within the state by a "national average payment rate" set by FNS. Cash reimbursement to a state agency under the SFSP is the product obtained by multiplying the number of meals served by maximum rates of reimbursement established by FNS.

The basic rate is increased by two cents for each lunch served in SFAs in which 60 percent or more of the lunches served during the second preceding school year were served free or at a reduced price. A "severe need" school receives a higher rate and is one in which at least 40 percent of the school lunches served in the second preceding school year were served free or at reduced price. Milk served free under the SMP is funded at the average cost of milk. In addition, performance-based cash reimbursement is currently 9 cents per lunch for eligible schools.

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

FNS adjusts the national average payment rates and maximum rates for reimbursement annually for NSLP, SBP, and SFSP to reflect changes in the Consumer Price Index and for the SMP to reflect changes in the Producer Price Index. FNS adjusts donated food assistance rates annually to reflect changes in the Price Index for Food Used in Schools and Institutions. The current announcements of all these assistance rates is available at http://www.fns.usda.gov/school-meals/rates-reimbursement (7 CFR sections 210.4(b), 220.4(b), 215.1) and at https://www.fns.usda.gov/sfsp-reimbursement-rates (7 CFR 225.9(d)(9)).

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

A state agency's FFVP grant is determined by FNS using an allocation formula per Section 19 of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1769a. Eligible elementary schools must submit an FFVP application to the state agency. The selected elementary schools receive an amount per student for each school year. The exact amount of per student funding is determined by the state agency based on the total funds allocated to the state agency and the student enrollment at participating schools.

2. *Funding State-Level Administrative Costs*

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

a. *State Administrative Expense (SAE) Funds* – These funds are granted under ALN 10.560, which is not included in the Child Nutrition Cluster.

b. *SFSP State Administrative (SAF) Funds* – In addition to regular SAE grants, administrative funds are made available to state agencies under ALN 10.559 to assist with administrative costs of the SFSP (7 CFR section 225.5). The state agency must describe its intended use of the funds in a Program Management and Administrative Plan submitted to FNS for approval (7 CFR section 225.4).

Source of Governing Requirements

The programs included in this cluster are authorized by the Richard B. Russell National School Lunch Act, as amended (NSLA) (42 USC 1751 et seq.) and the Child Nutrition Act of 1966, as amended (CNA) (42 USC 1771 et seq.). The implementing regulations for each program are codified in parts of 7 CFR as indicated: National School Lunch Program (NSLP), Part 210; School Breakfast Program (SBP), Part 220; Special Milk Program for Children (SMP), Part 215;

and Summer Food Service Program for Children (SFSP), Part 225. Regulations at 7 CFR Part 245 address eligibility determinations for free and reduced price meals and free milk in schools and institutions. Regulations at 7 CFR Part 250 give general rules for the receipt, custody, and use of USDA donated foods provided for use in the Child Nutrition Cluster of programs.

Availability of Other Program Information

Other program information is available online at USDA's public website. The Child Nutrition Programs site pages are at https://www.nutrition.gov/child-nutrition-programs . The USDA Foods sites pages for the Child Nutrition Programs are at https://www.fns.usda.gov/usda-foods.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	N	N	Y	N	Y	N	Y

A. Activities Allowed or Unallowed

Reimbursement for meals served is not based on costs; it is determined solely by applying the applicable meals times rates formula.

An SFA is required to account for all revenues and expenditures of its non-profit school food service in accordance with state and federal requirements. An SFA must operate its

food services on a non-profit basis; all revenue generated by the school food service must be used to operate and improve its food services (7 CFR sections 210.14(a), 210.14(c), 210.19(a)(2), 215.7(d)(1), 220.2, and 220.7(e)(1)(i)).

1. ***School Nutrition Programs (NSLP and SBP)*** – Revenues received by the nonprofit food service are to be used only for the operation or improvement of that food service except that, facilities, equipment, and personnel support with funds provided to a school food authority under this part may be used to support a nonprofit nutrition program for the elderly. Revenues received by the nonprofit school food service must not be used to purchase land or buildings or to construct buildings (7 CFR 220.7(e)(1)(ii)-(iii); 7 CFR 210.14).

2. ***SMP*** - Nonprofit milk service is maintained by or on behalf of the school or child-care institution for the benefit of the children, all of the income from which is used solely for the operation or improvement of such milk service (7 CFR 215.2).

3. ***FFVP*** - Eligible elementary schools may only use the awarded subgrant funds for allowable costs of purchasing, preparing, and serving the fresh fruits and fresh vegetables during school day; these funds may not be used for the service of school meals.

4. ***SFSP*** - All Program reimbursement funds must be used solely for the conduct of the nonprofit food service operation (7 CFR 225.15(a)(4)).

E. Eligibility

1. Eligibility for Individuals

Any child enrolled in a participating school or summer camp, or attending a SFSP meal service site, who meets the applicable program's definition of "child," may receive meals under the applicable program. For the NSLP and SBP, children belonging to households meeting nationwide income eligibility requirements may receive meals at no charge or at reduced price. Children who have been determined ineligible for free or reduced price school meals pay the full price, set by the SFA, for their meals. Children participating in a SFSP meal service receive their meals at no charge (7 CFR sections 225.15(f), 245.1(a), and 245.3(c); definition of "subsidized lunch (paid lunch)" at 7 CFR section 210.2; and definitions of "camp," "closed enrolled site," "open site," and "restricted open site" at 7 CFR section 225.2).

a. *General Eligibility*

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

(1) *School Nutrition Programs (NSLP and SBP)* – A "child" is defined as (a) a student of high school grade or under (as determined by the

state educational agency) enrolled in an educational unit of high school grade or under, including students who are mentally or physically handicapped (as determined by the state) and who are participating in a school program established for the mentally or physically handicapped; (b) a person who has not reached his/her twenty-first birthday and is enrolled in a public or non-profit private residential child care institution; or (c) for snacks served in afterschool care programs operated by an eligible school, a person who is 18 years of age or under, except that children who turn 19 during the school year remain eligible for the duration of the school year (42 USC 1766a(b); definition of "child" at 7 CFR sections 210.2 and 220.2).

(2) *SFSP* – A "child" is defined as (a) any person 18 years of age and under; and (b) a person over 18 years of age, who has been determined by the state educational agency or a local public educational agency to be mentally or physically handicapped, and who participates in a public or non-profit private school program established for the mentally or physically handicapped (Definition of "children" at 7 CFR section 225.2).

(3) *SMP* – Schools operating this program use the same definition of "child" that is used in the NSLP and SBP, except for provision (3) under the definition of "child" at 7 CFR section 210.2 regarding snacks served in afterschool care programs. Where the program operates in child-care institutions, as defined in 7 CFR section 215.2, a "child" is any enrolled person who has not reached his/her nineteenth birthday (7 CFR section 215.2).

(4) *FFVP* – Only elementary school-aged children attending eligible elementary schools as defined in section 8101(19) of the Elementary and Secondary Education Act of 1965 (20 USC 7801) per the NSLA section 19 (42 USC 1769a(d)(1)(C)) that also operate the NSLP (42 USC 1769a(d)(1)(A)(i)) are eligible to participate.

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

(1) *General Rule: Annual Certification* – A child's eligibility for free or reduced price meals under a Child Nutrition Cluster program may be established by the submission of an annual application or statement which furnishes such information as family income and family size. Local educational agencies (LEAs), institutions, and sponsors determine eligibility by comparing the data reported by the child's household to published income eligibility guidelines. In addition to publishing income eligibility information in the *Federal Register*, FNS makes it available on the FNS website at

http://www.fns.usda.gov/school-meals/income-eligibility-guidelines.

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

(b) *SFSP* – While all SFSP meals are served at no charge, the sponsors of certain types of meal service sites must make individual determinations of eligibility for free or reduced price meals in accordance with 7 CFR section 225.15(f). See III.E.3, "Eligibility - Eligibility for Subrecipients," for more information.

(c) *SMP* – Eligibility for free milk in SFAs electing to serve free milk is limited to children of households meeting the income eligibility criteria for free meals under the School Nutrition Programs. The SMP has no provision for reduced price benefits (definition of "free milk" at 7 CFR section 215.2, and 7 CFR sections 215.7(b), 245.3, and 245.6).

(2) *Direct Certification* – Annual eligibility determinations may also be based on the child's household receiving benefits under the Supplemental Nutrition Assistance Program (SNAP), Food Distribution Program on Indian Reservations (FDPIR), the Head Start Program (ALN 93.600) (42 USC 1758(b)(6)(A)), or, under most circumstances, the Temporary Assistance for Needy Families (TANF) program (ALN 93.558) (42 USC 1758(b)). A household may furnish documentation of its participation in one of these programs; or the school, institution, or sponsor may obtain the information directly from the state or local agency that administers these programs. Certain foster, runaway, homeless, and migrant children are categorically eligible for free school lunches and breakfasts (42 USC 1758(b)(5); 7 CFR section 245.6(b)).

(3) *Direct Certification for Children Receiving Medicaid Benefits* – Under demonstration authority in Section 9(b)(15) of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1758(b)(15) (NSLA), FNS released an RFA inviting State agencies to establish

new demonstration projects to evaluate the impact of using Medicaid data to directly certify students for free meal eligibility in the NSLP and SBP. Two States participate under this demonstration: Kentucky and New York. In addition, FNS conducts demonstration projects pursuant to the authority in Section 18(c) of the NSLA, to test the effectiveness of using Medicaid data to directly certify students for both free *and* reduced price meal eligibility in the NSLP and SBP. As of SY 24-25 there are 41 States approved to conduct these demonstration projects: Alabama, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

For the purpose of these demonstration projects, an eligible child is a child who receives, or lives in the household (as defined in 7 CFR section 245.2) with a child who receives medical assistance under the Medicaid program **and** is a member of a family with an income, as measured by the Medicaid program, before the application of any expense, block, or other income disregard that does not exceed the NSLP family size and income eligibility standards.

- **Free** school meal eligibility, 130 percent of the Federal Poverty Level (FPL) for the family size used by Medicaid (except for two States from the initial demonstration project that continue to participate under the free only eligibility of 133%);

- **Reduced price** school meal eligibility, 185 percent of the FPL for the family size used by Medicaid.

Households with eligible children directly certified for free meals under the demonstration projects are not required to submit applications for school meal benefits and are not subject to the verification requirements at 7 CFR section 245.6a (42 USC 1758(b)(15)).

(4) *Exceptions* – The following are exceptions to the requirement for annual determinations of eligibility for free or reduced price meals and free milk under the Child Nutrition Cluster programs.

(a) *Puerto Rico* - Puerto Rico continues to elect the option to provide free meals and milk to all children participating in

the School Nutrition Programs, regardless of each child's economic circumstances. Instead of counting meals and milk by type, they may determine the percentage that each type comprises of the total count using statistical surveys. The survey design must be approved by FNS (7 CFR section 245.4).

(b) *Special Assistance Certification and Reimbursement Alternatives* – Special Assistance Certification and Reimbursement Alternatives, provisions 1, 2, 3, and the Community Eligibility Provision (CEP) are authorized by Section 11(a)(1) of the NSLA (42 USC 1759a(a)(1)) and Section 104 of HHFKA. Provision 1 may be used in schools where at least 80 percent of the children enrolled are eligible for free or reduced price meals. Under Provision 1, eligibility determinations for children eligible for free meals under the School Nutrition Programs must be made once every two consecutive school years. Children who qualify for reduced price meals are certified annually (42 USC 1759a(a)(1)(B) and (F); 7 CFR section 245.9(a)).

For provisions 2, 3, and the CEP, extended cycles are allowed for eligibility determinations.

(c) *SFSP Open Sites and Restricted Open Sites* – Determinations of individual household eligibility are not required for meals served free at SFSP "open sites" or at restricted open sites. Refer to 3. "Eligibility for Subrecipients," for information on area eligibility.

c. *Reduced Price Charges for Program Meals*

The SFA sets meal prices. However, the price for a reduced price lunch or breakfast may not exceed $0.40 and $0.30, respectively.

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

Not Applicable

3. Eligibility for Subrecipients

Administering agencies may disburse program funds only to those organizations that meet eligibility requirements. Under the NSLP, SBP, SMP, and FFVP this means the definition of "school food authority" (SFA) as described at 7 CFR sections 210.2, 215.2, and 220.2, respectively and in 2 CFR 200 under the definition of "subrecipient".

Eligible SFSP organizations are described at 7 CFR section 225.2 under the definition of “sponsor” and in 2 CFR 200 under the definition of “subrecipient”. State agencies may only approve SFSP sponsor applications that demonstrate the applicants' ability to meet the program's three performance standards: financial viability, administrative capability, and program accountability (7 CFR section 225.6(d)). States must require management plans from all sponsors; those plans must demonstrate the sponsors’ ability to meet the program's performance standards (7 CFR section 225.6(e)). New sponsors and sponsors that have experienced significant operational problems in the prior year must submit complete management plans to their states (7 CFR section 225.6(c)(2(i)); states may, at their option, accept simplified management plans from experienced sponsors (7 CFR sections 225.6(c)(3)(i) and 225.6(e)(3)).

Additional organizational eligibility requirements apply to the SFSP, NSLP Afterschool Snacks, and the SBP at the school or site level (see detail below).

a. *SFSP* – Federal regulations at 7 CFR section 225.2 define sites in four ways:

(1) *Open Sites* – At an open site, meals are made available to all children in the area where the site is located. This area must be one in which poor economic conditions exist (one in which at least 50 percent of the children are from households that would be eligible for free or reduced price school meals under the NSLP and the SBP). Data to support a site’s eligibility may include (a) free and reduced price eligibility data maintained by schools that serve the same area; (b) census data; or (c) other statistical data, such as information provided by departments of welfare and zoning commissions.

(2) *Restricted Open Sites* – A restricted open site is one that was initially open to broad community participation, but at which the sponsor has restricted attendance for reasons of safety, security, or control. A restricted open site must serve an area in which poor economic conditions exist, and its eligibility may be documented with the same kinds of data listed above for open sites.

(3) *Closed Enrolled Sites* – A closed enrolled site makes meals available only to enrolled children, as opposed to the community at large. Its eligibility is based not on serving an area where poor economic conditions exist, but on the eligibility of enrolled children for free or reduced price school meals. At least 50 percent of enrolled children must be eligible for free or reduced price school meals. The sponsor may determine their eligibility through the application process described at 7 CFR section 225.15(f), or by documenting their eligibility using any of the data sources listed above for open sites.

(4) *Camps* – Eligible camps include residential summer camps and nonresidential day camps that offer regularly scheduled food service as part of organized programs for enrolled children. A camp need not serve an area where poor economic conditions exist. Instead, the camp's sponsor must determine each enrolled child's eligibility for free SFSP meals through the application requirements at 7 CFR sections 225.15(e) and (f). Unlike other sponsors, the sponsor of a camp receives reimbursement only for meals served to children eligible for free or reduced price school meals (7 CFR section 225.14(d)(1)). EXCEPTION: National Youth Sports Program (NYSP) sites may document eligibility using any of the data sources listed above for open sites.

(5) *Non-congregate meal service sites* – The Consolidated Appropriations Act, 2023 established a permanent non-congregate option for the SFSP and the NSLP's SSO. The legislation permits states to serve non-congregate meals through one of the options developed by USDA and the states through earlier USDA-authorized demonstration projects. Interim Final Regulations developed by USDA allow approved sponsors to provide non-congregate summer meals in rural areas when congregate meal service is not available. If the rural area meets the definition of an "area in which poor economic conditions exist" (per Program regulations at 7 CFR 225.2), then the meals for all children may be claimed for reimbursement. If the rural area does not meet the definition of an "area in which poor economic conditions exist", only the meals served to children who are eligible for free or reduced price meals under the National School Lunch Program (NSLP) may be claimed.

b. *SBP – Severe Need Schools* – In addition to the national average payment, FNS makes additional payments for breakfasts served to children qualifying for free or reduced price meals at schools that are in severe need. The administering agency must determine whether a school is eligible for severe need reimbursement based on the following eligibility criteria: (1) the school is participating in or desiring to initiate a breakfast program, and (2) 40 percent or more of the lunches served to students at the school in the second preceding school year under the NSLP were served free or at a reduced price. Administering agencies must maintain on file, and have available for reviews and audits, the source of the data to be used in making individual severe need determinations (42 USC 1773(d); 7 CFR section 220.9(d)).

c. *NSLP – Afterschool Snacks* – Reimbursement for afterschool snacks is made available to those school districts which (1) operate the NSLP in one or more of their schools and (2) sponsor or operate afterschool care programs with an educational or enrichment purpose. In the case of snacks

served at an eligible site located in the attendance area of a school in which at least 50 percent of the enrolled children are certified eligible for free and reduced price school meals, all snacks are served free and are reimbursed at the free rate regardless of individual eligibility. Schools and sites not located in such an area may also participate, but they must count and claim snacks as free, reduced price and paid, depending on the eligibility status of the children served, and they must maintain documentation of eligibility for children receiving free or reduced price snacks (42 USC 1766a).

d. *FFVP* – Funding is awarded as a subgrant from the State agency only to eligible elementary schools as defined in section 8101(19) of the Elementary and Secondary Education Act of 1965 (20 USC 7801) per NSLA section 19 (42 USC 1769a(d)(1)(C)) that also operate the NSLP (42 USC 1769a(d)(1)(A)(i)) and are eligible to participate.

I. Procurement and Suspension and Debarment

1. *Procurement – All procurements must adhere to the requirements found in 2 CFR 200.318-322 and 400.2 except where these regulations are superseded by 2 CFR 416.1(a) or program regulations (7 CFR 210, 215, 220, and 225).*

   a. A prospective contractor that develops or drafts specifications, requirements, statements of work, invitations for bids, requests for proposals, contract term and conditions, or other documents for use by a state under this program shall be excluded from competing for such procurements. Such prospective contractors are ineligible for contract awards resulting from such procurements regardless of the procurement method used. However, prospective contractors may provide states with specification information related to a state procurement and still compete for the procurement if the state, and not the prospective contractor, develops or drafts the specifications, requirements, statements of work, invitations for bid, and/or requests for proposals used to conduct the procurement (2 CFR 200.319(b) and 416.1(a)).

   b. Procurements by states under this program shall be conducted in a manner that prohibits the use of statutorily or administratively imposed in-state or local geographic preferences except as provided for in 2 CFR section 200.319(b) (2 CFR section 416.1(b)).

   c. Notwithstanding the requirements noted in paragraph 1.b above, an SFA, institution, or sponsor operating one or more Child Nutrition Cluster programs may use a geographical preference for the procurement of unprocessed agricultural products, both locally grown and locally raised (7 CFR sections 210.21(g), 215.14a(e), 220.16(f), 225.17(e) and 226.22(n)).

2. *Before Award*

Before awarding a contract to a food service management company, or amending such a contract, an SFA operating the NSLP and SBP and sponsors operating the SFSP must: (1) obtain its administering agency's review and approval of the contract terms; (2) incorporate all changes required by the administering agency; (3) obtain written administering agency approval of any changes made by the SFA or sponsor or its food service management company to a pre-approved prototype contract; and (4) when requested, submit procurement documents for administering agency inspection (7 CFR sections 210.16(a)(10), 210.19(a)(5), 220.7(d)(1)(ix), and 225.15(m)(4)).

3. SFAs must, to the maximum extent practicable, purchase commodities produced in the United States and food products processed in the United States substantially using commodities produced in the United States 7 CFR section 210.21(d). For SFAs to comply with Section 12(n) of the NSLA, 42 USC 1760(n) and Program regulations at 7 CFR section 210.21(d), all food solicitations should include terms that require contractors to respond with prices and award contracts to responsive bidders and offerors to supply domestic foods and food products that comply with 7 CFR 210.21(d). Food suppliers include distributors, meal vendors, food service management company contracts, and processors of USDA Foods.

4. *Cost-Reimbursable Contracts*

The cost-reimbursable contract provisions below apply to all cost-reimbursable contracts awarded by SFAs. This contract type is often awarded to distributors of perishable and non-perishable foods and food products, produce, milk, bread, food service management companies, processors of USDA Foods, and labor surplus firms.

a. Cost-reimbursable contracts awarded by SFAs operating the NSLP, SMP, and SBP, including contracts with cost-reimbursable provisions and solicitation documents prepared to obtain offers of such contracts, must include the following provisions:

(1) Allowable costs will be paid from the nonprofit school food service account to the contractor net of all discounts, rebates, and other applicable credits accruing to or received by the contractor or any assignee under the contract, to the extent those credits are allocable to the allowable portion of the costs billed to the SFA.

(2) Billing documents submitted by the contractor will either separately identify allowable and unallowable portions of each cost or include only allowable costs and a certification that payment is sought only for such costs.

(3) The contractor's determination of its allowable costs must be made in compliance with applicable departmental and program regulations and the OMB cost principles.

(4) The contractor must identify the amount of each discount, rebate, and other applicable credit on bills and invoices presented to the SFA for payment and individually identify the amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit. If approved by the state agency, the SFA may permit the contractor to report this information on a less frequent basis than monthly, but no less frequently than annually.

(5) The contractor must identify the method by which it will report discounts, rebates, and other applicable credits allocable to the contract that are not reported prior to conclusion of the contract.

(6) The contractor must maintain documentation of costs and discounts, rebates, and other applicable credits, and must furnish such documentation upon request to the SFA, the state agency, or the USDA (7 CFR section 210.21(f)).

b. Costs resulting from a cost-reimbursable contract may not be paid from the SFA's nonprofit school food service account if (a) the underlying contract does not include the provision in paragraph a.(1) above; or (b) such disbursement would result in the contractor receiving payments in excess of the contractor's actual, net allowable costs (7 CFR sections 210.21(f)(2), 215.14a(d)(2), and 220.16(e)(2)).

5. *Suspension and Debarment*

Entitlement or mandatory awards required by statute that pass-through entities to subrecipients are excluded from the suspension and debarment rules (2 CFR section 417.215(a)(1)).

L. Reporting

1. Financial Reporting

a. SF-270, *Request for Advance or Reimbursement* - Not Applicable.

b. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable

c. SF-425, *Federal Financial Report* – Applicable

d. FNS-10: *Report of School Program Operations (PRA 0584-0594)* and FNS-418: *Report of the Summer Food Service Program for Children (PRA 0584-0594)*

Claims for Reimbursement - SFAs and sponsors must submit monthly claims for reimbursement for meals and snacks served to eligible students within 60 days following the last day of the month covered by the claim (7 CFR sections 210.8, 220.11, 215.10, and 225.15(c)). The State agency has an additional 30 days to submit a consolidated report to FNS via the FNS-10 for NSLP/SBP and the FNS-418 for SFSP (7 CFR 210.5(d), 220.13(b)(2), 215.11(c)(2), and 225.8).

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Accountability for USDA-Donated Foods

The following compliance requirements do not apply to recipient agencies (as defined at 7 CFR section 250.2), including SFAs and SFSP sponsors. Auditors making audits of recipient agencies are not required to test compliance with these requirements.

Compliance Requirements

a. *Maintenance of Records*

Distributing and subdistributing agencies (as defined at 7 CFR section 250.2) must maintain accurate and complete records with respect to the receipt, distribution, and inventory of USDA-donated foods, including end products processed from donated foods. Failure of the distributing agency, recipient agency, processor, or other entity to comply with recordkeeping requirements must be considered prima facie evidence of improper distribution or loss of donated foods and may result in a claim against such party for the loss or misuse of donated foods, in accordance with § 250.16, or in other sanctions or corrective actions. (7 CFR sections 250.19(a))

b. *Inventory Management*

The distributing agency must ensure that donated foods at all storage facilities used by the distributing agency (or by a sub-distributing agency) are stored in a manner that permits them to be distinguished from other foods, and must ensure

that a separate inventory record of donated foods is maintained. The distributing agency's system of inventory management must ensure that donated foods are distributed in a timely manner and in optimal condition. On an annual basis, the distributing agency must conduct a physical review of donated food inventories at all storage facilities used by the distributing agency (or by a sub-distributing agency), and must reconcile physical and book inventories of donated foods. The distributing agency must report donated food losses to FNS, and ensure that restitution is made for such losses. (7 CFR section 250.12(b)).

Audit Objectives Determine whether an appropriate accounting was maintained for USDA-donated foods, an annual physical inventory was taken, and the physical inventory was reconciled with inventory records.

Suggested Audit Procedures

a. Determine the storage facility for USDA Foods direct delivery products. Obtain a copy of the distributing agency’s procedures for conducting the required annual physical inventory, the inventory results for the USDA Foods at commercial storage facilities, state storage facilities and any claim determinations. The distributing agency must report USDA Foods food losses to FNS and ensure that restitution is made for such losses.

b. Perform analytical procedures and obtain explanation and documentation for unusual or unexpected results. Consider the following:

   (1) Compare receipts, distribution, losses, and ending inventory of donated foods for the audit period to the previous period.

   (2) Compare distribution by entity for the audit period to the previous period.

c. Ascertain the validity of the required annual physical inventory. Consider performing the following steps, as appropriate:

   (1) Observe the annual inventory process at selected locations and recount a sample of donated food items.

   (2) If the annual inventory process is not observed, select a sample of significant donated foods on hand as of the physical inventory date and, using the donated food records, “roll forward” the balance on hand to the current balance observed.

   (3) On a test basis, recompute physical inventory sheets and related summarizations.

   (4) Ascertain that the annual physical inventory was reconciled to donated food records. Investigate any large adjustments between the physical inventory and the donated food records.

d. On a sample basis, test the mathematical accuracy of the donated food records and related summarizations. From the donated food records, vouch a sample of receipts, distributions, and losses to supporting documentation. Ascertain that activity is properly recorded, including correct quantity, proper period and, if applicable, correct recipient agency.

2. Non-Profit School Food Service Accounts

Compliance Requirements

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

Audit Objectives Determine whether a separate accounting is made of the school food service, federal reimbursement payments are correctly credited to the school food service account and transfers out of the school food service account are for allowable costs of the school food service.

Suggested Audit Procedures

a. Review the school food service accounting records and ascertain if a separate accounting is made for the school food service.

b. Test federal reimbursement payments received monthly from the administering agency to ascertain if correctly credited to the food service account.

c. Test transfers out of the school food service account and ascertain if the transfers were for the benefit of the school food service.

IV. OTHER INFORMATION

FNS no longer requires recipient agencies to inventory USDA-donated food separately from purchased food. However, the value of donated foods used during a state or recipient agency's fiscal year is considered federal awards expended in accordance with 2 CFR section 200.40 definition of "federal financial assistance" and must be valued in accordance with 2 CFR section 200.502(g). Therefore, recipient agencies must report the value of donated foods used according to the fair market value of donated foods at the time of receipt or the assessed value provided by the federal agency for this purpose.

FNS is particularly interested in ensuring that procurements adhere to federal standards regarding potential conflicts of interest and proper documentation and disclosure of any less than arm's-length transactions.

UNITED STATES DEPARTMENT OF AGRICULTURE

ASSISTANCE LISTING 10.557 WIC SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

I. PROGRAM OBJECTIVES

The objective of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) is to provide to provide low-income pregnant, breastfeeding, and postpartum women, infants, and children to age 5 who have been determined to be at nutritional risk, supplemental nutritious foods, nutrition education, and referrals to health and social services at no cost. WIC also promotes and supports breastfeeding as the feeding method of choice for infants, provides substance abuse education, and promotes immunization and other aspects of healthy living. The USDA's Food and Nutrition Service (FNS) makes funds available to participating state agencies (usually health departments). State agencies distribute the funds to participating local agencies, which operate WIC clinics. State and local agencies use WIC funds to pay the costs of specified supplemental foods provided to WIC participants, and to pay for specified Nutrition Services and Administration (NSA) costs, including the cost of nutrition assessments, blood tests for anemia, nutrition education, breastfeeding promotion and support, and health care referrals.

II. PROGRAM PROCEDURES

A. Administration

The USDA's FNS administers the WIC program through grants awarded to state health departments or comparable state agencies, Indian tribal organizations, bands or intertribal councils, or groups recognized by the Bureau of Indian Affairs, US Department of the Interior, or the Indian Health Service (IHS) of the US Department of Health and Human Services (HHS) ("ITOs"). A state agency administering the WIC program must sign a federal/state agreement that commits it to observe applicable laws and regulations in carrying out the program. The state agencies, in turn, award subgrants to local agencies to certify applicants' eligibility for WIC program benefits and deliver such benefits to eligible persons.

B. Program Funding

The WIC program is a grant program that is 100 percent federally funded. No state matching requirement exists. Funds are awarded by FNS on the basis of funding formulas prescribed in the WIC program regulations.

FNS allocates federally appropriated funds to WIC state agencies as grants, which are divided into two parts: a component for food costs and a component for NSA costs. Resources made available to a state agency under these two components of its initial federal WIC formula grant may be modified by the cumulative effect of the following requirements:

1. *Reallocations and Recoveries*

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

2. *Conversion Authority*

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

3. *Spending Options*

   Federal legislation and regulations authorize a state agency to shift a portion of its federal WIC formula grant between grant periods (federal fiscal years) (see III.H, "Period of Performance").

4. *Rebates*

   A state agency may contract with a food manufacturer to receive a rebate on each unit of the manufacturer's product purchased with food instruments (FIs) redeemed by program participants. Such rebates are credits for food costs that are reported in the month in which the rebate was received.

5. *Vendor, Participant, and Local Agency Collections*

   A state agency is authorized to retain federal program funds recovered through claims action against vendors, participants, and local agencies, and to use such recoveries for program purposes (see III.B, "Allowable Costs/Cost Principles").

6. *Program Income*

   Certain miscellaneous receipts a state agency collects as the result of WIC program operations are classified as program income (see III.J, "Program Income").

7. *State Funding*

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

C. Certification

Applicants for WIC program benefits are screened at WIC clinic sites to determine whether they meet the eligibility criteria in the following categories: categorical, residency, income, and nutritional risk (see III.E.1, "Eligibility – Eligibility for Individuals").

D. Benefits

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

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

E. Food Benefit Delivery

Supplemental foods are provided to participants in any one of three ways, which are defined in program regulations at 7 CFR section 246.12(b) as follows:

Direct Distribution Food Delivery Systems (used in West Virginia, Delaware, Pennsylvania, Maryland, and in parts of Illinois, for example)

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

Home Food Delivery Systems (used in parts of Alaska)

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

Retail Food Delivery System (used by most state agencies)

Negotiable FIs are issued directly to individual participants, who use them to obtain authorized supplemental foods at retail stores approved as vendors by the state agency. FIs can be either paper checks/vouchers or electronic benefit transfer (EBT) cards and may be processed by a bank and/or processor or the WIC state agency itself. For paper checks, the participant must use an FI within 30 days of the first date of use printed on the FI, and the vendor must submit the FI for payment within 60 days of that date. For EBT cards, the participant must redeem all benefits by the end of 30 days from the first date on which it was issued except for the first month of issuance. The benefit balance

associated with the EBT account cannot be redeemed after the end date specifically authorized by the state agency management information system.

Negotiable paper cash-value vouchers (CVVs) or EBT cash-value benefits (CVBs) are issued directly to participants, who use them to obtain authorized fruits and vegetables from WIC-authorized vendors or farmers or farmers' markets authorized by the state agency (if the state agency elects to authorize farmers or farmers' markets). FIs and CVVs/CVBs share several features. Both are negotiable for stated periods of time. Unlike other FIs, CVVs, and CVBs are issued with face values in standard denominations. Under EBT systems, the CVB is established as a separate food category with a benefit unit of dollars rather than food quantities. No additional EBT card or voucher is issued by the state agency.

Each paper FI or CVV issued to a participant must have a unique serial number. In EBT, the card number represents the unique serial number for off-line benefit tracking, while a unique benefit identification (ID) number is used for on-line tracking. A state agency is required to determine the ultimate disposition of all FIs and CVVs by serial number or ID number within 120 days of the first valid date for participant use. The state agency must adjust previously reported obligations for WIC food costs in order to account for actual FI or CVV redemptions and other changes in the status of FIs or CVVs. For EBT, the CVB is accounted for as a unique benefit in the same manner as other items in the food balance.

F. Cost Containment Requirements

In an effort to use their food funding more efficiently, WIC state agencies in the 50 states, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Marianas Islands, and ITOs have implemented various types of cost containment measures. Managing the average food cost per person enables WIC to reach more participants with a given amount of funds. The most successful strategy has been the negotiation of competitive rebate contracts between state agencies and infant formula companies. Such contracts provide for the state agency to receive rebates on infant formula used in the program. Other cost containment measures used by state agencies include competitive bidding for infant cereal, infant meats, infant fruits, and infant vegetables; selection of retail vendors based on competitive prices; setting maximum redemption amounts for FIs or food items for EBT; authorizing the use of store or generic brands of supplemental foods; and using a home delivery or direct distribution food delivery system.

1. *Vendor Cost Containment*

   Requirements for selecting and paying vendors on the basis of competitive prices are in 7 CFR section 246.12(g)(4). These requirements do not apply to farmers, farmers' markets, or to CVVs transacted by retail vendors. Unless FNS has granted a state agency an exemption, the state agency is required to:

a. Maintain (and assess and modify, as necessary) a vendor peer group system, whereby authorized vendors are classified into groups on the basis of common characteristics or criteria that affect food prices. At least one such criterion must be a measure of geography, such as metropolitan or other statistical areas that form distinct labor and products markets.

b. Select and authorize vendors by applying competitive price criteria.

c. Set limits on payments to vendors within each peer group.

d. Identify vendors (called "above-50-percent vendors") that derive more than 50 percent of their annual food sales revenue from WIC FIs.

e. Comply with requirements designed to ensure that the use of above-50-percent vendors is cost neutral to the program (that is, that it does not result in higher WIC food costs than would have been the case if WIC participants had transacted their WIC FIs only at regular vendors). (See III.N.4, "Special Tests and Provisions – Authorization of Above-50-Percent Vendors.")

2. Infant Formula Cost Containment

As provided above, the most successful cost containment strategy is competitively bid infant formula rebate contracts between State agencies and infant formula manufacturers, as required by the Child Nutrition Act of 1966 (42 U.S.C. 1786), as amended, and implementing regulations. For 2022, total rebates received for WIC were approximately $1.5 billion, the cost of providing benefits to an average of 1.32 million participants each month, or 21 percent of the estimated average monthly WIC caseload.

State agencies use savings generated by these kinds of strategies to provide benefits to more participants within the same total budget.

In response to a major infant formula manufacturer voluntarily recalling certain powder infant formula and related supply chain disruptions in 2022, FNS provided flexibility to WIC State agencies on certain federal requirements to ensure WIC participants could access the safe infant formula available in the marketplace. Further, the Access to Baby Formula Act of 2022 (P.L. 117-129) amended Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) to provide USDA with permanent waiver authority to help ensure continuity of WIC services during emergency periods and supply chain disruptions impacting WIC. The Access to Baby Formula Act of 2022 (P.L. 117-129) also set forth requirements in section 17(h)(8)(L) of the Child Nutrition Act of 1966 (42 U.S.C. 1786) for State agencies to include language in their WIC infant formula rebate contracts that describes remedies in the event of an infant formula recall, including how an infant formula manufacturer would protect against disruption to program participants in the State.

All contracts entered into or renewed on or after May 21, 2022, the date of enactment of the Access to Baby Formula Act of 2022 (P.L. 117-129), must meet this requirement. FNS considers a new contract to be entered into upon award after a competitively bid process. Therefore, this requirement does not apply to contracts that were awarded and/or signed prior to May 21, 2022.

G. Federal Oversight and Compliance Mechanisms

FNS oversees state operations through an organization consisting of headquarters and seven regional offices. Federal program oversight encompasses review of the nine functional areas of the program through management evaluations (MEs): Organization and Management; Funding and Participation; Vendor Management; Information Systems; Certification, Eligibility, and Coordination; Nutrition Services; Civil Rights; Monitoring and Audits; and Food Delivery. Each year, FNS issues a WIC ME Target Area Memorandum, which instructs regional offices what to evaluate via MEs the following year. Target Areas are established in order to focus FNS's oversight efforts on key areas related to WIC program integrity and operations. Usually, the Target Area comprises one functional area and risk-based MEs.

Although FNS uses technical assistance extensively to promote improvements in state operation of the WIC program, enforcement mechanisms are also present. The misuse of funds through state or local agency negligence or fraud may result in the assessment of a claim. Claims may be established for funds lost due to FI or CVV theft or embezzlement or for unreconciled FIs or CVVs. FNS has other mechanisms to recover other losses and the cost of negligence. For other forms of noncompliance, FNS has the authority to give notice and, if improvements do not occur, withhold administrative funds for failure to implement program requirements.

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

Source of Governing Requirements

The WIC Program is authorized by Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786). Program regulations are found at 7 CFR Part 246.

Availability of Other Program Information

For other information, contact the applicable FNS regional office. Regional office contact information and the states each regional office serves may be found on FNS's website (http://www.fns.usda.gov/wic). The WIC program regulations can be found at that website as well.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	N	Y	Y	N	N	N	N

A. Activities Allowed or Unallowed

1. *General Rule*

   a. Funds allocated to a state agency for food must be expended to purchase supplemental foods for participants or to redeem FIs or CVVs issued for that purpose. When supplemental foods are provided to participants via direct distribution, the related warehouse facilities costs shall be allowable food costs. Food funds can also be used to purchase breast pumps for participants (7 CFR sections 246.14(a) and (b)). Federal program funds may not be used to pay for retroactive benefits to participants (7 CFR section 246.14(a)(2)).

   b. Funds allocated for NSA must be used for the costs incurred by the state or local agency to provide participants with nutrition education, breastfeeding promotion and support, and referrals to other social and medical service providers; and to conduct participant certification, caseload management, food benefit delivery, vendor management, voter

registration, and program management (42 USC 1786(h)(1)(C)(ii); 7 CFR sections 246.14(c) and (d)).

2. *Exceptions*

a. Funds allocated for food costs may be converted (be applied to NSA costs) (1) as a result of a state's plan to exceed participation levels projected by the federal funding formula; or (2) after recovery as vendor or participant collections. Conversion due to planned participation increases is allowed only if such increases are expected to result from an approved cost containment plan (7 CFR sections 246.14(e) and 246.16(f)).

b. Funds allocated for NSA costs but not needed for such costs may be applied to food costs (7 CFR section 246.14(a)(2)).

c. USDA has authority under the Access to Baby Formula Act of 2022 (P.L. 117-129) to waive or modify any statutory requirement under Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) or any regulatory requirement in the event of a public health emergency and any subsequent renewals as declared by the Secretary of Health and Human Services, a presidentially declared major disaster, a presidentially declared emergency, and a supply chain disruption, provided that the following two conditions are met: 1) such requirements cannot be met by WIC State agencies under the conditions that prompted the emergency period, and 2) exercising the waiver authority is necessary to serve participants and does not substantially weaken the nutritional quality of supplemental foods. FNS is currently pursuing rulemaking to codify the Access to Baby Formula Act of 2022 (P.L. 117-129) requirements, including waiver authority, which is expected to publish in December 2023.

3. *Distinguishing WIC from Non-WIC Services*

Under no circumstances may the WIC NSA grant component be charged for costs that are demonstrably outside the scope of the WIC program. WIC services may include (a) some screening (excluding laboratory tests other than the blood work [hematological test] described below, which is required for determining WIC eligibility); (b) referrals for other medical/social services, such as immunizations, prenatal (before birth) care, perinatal care (near the time of birth from the 28th week of pregnancy through 28 days following birth), and well child care and/or family planning; and (c) follow-up on participants referred for such services. However, the cost of the services performed by other health care or social service providers to which the participant has been referred shall not be charged to the WIC grant. For example, the cost to screen, refer, and follow-up on immunizations for WIC participants may be charged to the WIC grant, but the cost to administer the shot, or to purchase the vaccine or vaccine-related equipment, may not be charged to the WIC grant.

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

B. Allowable Costs/Cost Principles

1. *Applicable Credits*

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

a. *Rebates* – Rebates are credits for food costs that are reported in the month in which the rebate was received (7 CFR section 246.14(f)).

b. *Vendor Collections* – Post-payment vendor collections are funds collected through claims assessed against food vendors for errors and overcharges. Pre-payment vendor collections are improper payments prevented as a result of reviews of FIs or CVVs prior to payment; they are credits against vendor billings.

c. *Participant Collections* – These are recoveries of improperly issued food benefits as the result of a participant, guardian, or caretaker intentionally making a false or misleading statement or withholding information.

d. *Local Agency Collections* – These are funds collected as a result of claims assessed against local agencies for program funds that were misused or otherwise diverted from program purposes due to local agency negligence or fraud.

A state agency must recognize, use, and account for these items in accordance with WIC program regulations. At its discretion, the state agency may credit vendor, participant, and local agency collections against expenditures for food and/or NSA costs. The state agency may apply vendor, participant, and local agency collections to food and/or NSA expenditures of: (1) the fiscal year in which the initial obligation was made; (2) the fiscal year in which the claim arose; (3) the fiscal year in which the collection is received; or (4) the fiscal year following the fiscal year in which the collection is received (42 USC 1786(f)(21); 7 CFR section 246.14(e)).

2. *Capital Expenditures*

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

and to the local agencies under its oversight, provided certain requirements apply and the state agency receives written notice.

b. Automated Data Processing (ADP) projects. FNS requires WIC state agencies to obtain prior approval to incur costs for certain ADP projects and to provide notification and/or documentation for others (7 CFR section 246.14(d)). Approval procedures are in FNS Handbook 901, Advance Planning Document Handbook (available at https://www.fns.usda.gov/apd/handbook-and-guidance).

Approval levels are as follows:

(1) A state agency must notify the applicable FNS regional office within 60 days of the initial expenditure or contract award for an ADP project costing in excess of $4,999 but less than $100,000; and

(2) A state agency must receive prior approval for (a) an ADP project that has a cost greater than $99,999; or (b) any ADP project associated with planning, developing, or deploying a new automation system.

C. Cash Management

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

E. Eligibility

1. Eligibility for Individuals

Applicants for WIC program benefits are screened at WIC clinic sites to determine their WIC eligibility. To be certified eligible, they must meet the following eligibility criteria (7 CFR sections 246.7(c), (d), (e), (g), and (l)):

a. *Categorical* – Eligibility is restricted to pregnant, postpartum, and breastfeeding women, infants, and children up to their fifth birthday (7 CFR sections 246.2 (definition of each category) and 246.7(c)).

b. *Identity and Residency* – Except in limited circumstances, WIC applicants must be physically present for eligibility screenings and provide proof of identity and residency. An applicant also must meet the state agency's residency requirement. Except in the case of ITOs, the applicant must reside in the jurisdiction of the state. ITOs may require applicants to reside within their jurisdiction. All state agencies may designate service areas for any local agency and may require that applicants reside within the service area. A state agency must establish procedures, in accordance with

guidance from FNS, to prevent the same individual from receiving duplicate benefits through participation at more than one local agency. Documentation of these determinations may consist of descriptions of documents evidencing the applicants' identities and residency (e.g., notations in the participant's file identifying specific documents that local agency staff have viewed and found acceptable), copies of the documents themselves, and/or the applicants' written statements of identity and residency when no other documentation exists. Certification procedures prescribed by the state agency set conditions for relying on these different forms of documentation (42 USC 1786(f)(23); 7 CFR sections 246.7(c)(1) and (c)(2)(i) and 246.7(i)(3) and (4)).

c. *Income* – An applicant must meet an income standard established by the state agency or be determined to be automatically (adjunctively) income-eligible based on documentation of his/her eligibility, or certain family members' eligibility, for the following federal programs: (1) Temporary Assistance for Needy Families; (2) Medicaid; or (3) Supplemental Nutrition Assistance Program (formerly the Food Stamp Program). State agencies also may determine an individual automatically income-eligible based on documentation of his/her eligibility for certain state-administered programs. Documentation of income eligibility determinations may consist of descriptions of documents evidencing the sources and gross amounts of all income, such as wages, disability or Social Security/SSI payments, child support, alimony, etc., received by applicants and/or any members of their households (e.g., notations in the participant's file identifying specific documents that local agency staff have viewed and found acceptable), copies of the documents themselves, and/or the applicant's signed affidavit that his/her household income does not exceed the current WIC income eligibility guidelines when no other documentation exists. With limited exceptions, applicants who are not adjunctively or automatically income-eligible for WIC must provide documentation of family income at their initial or subsequent certification (42 USC 1786(d)(3)(D); 7 CFR sections 246.2 (definition of "family"), 246.7(c), and 246.7(d)).

Income Guidelines – The income standard established by the state agency may be up to 185 percent of the poverty income guidelines issued annually by HHS or state or local income guidelines used for free and reduced-price health care. However, in using health care guidelines, the income guidelines for WIC must be between 100 and 185 percent of the poverty income guidelines. These WIC income guidelines are issued each year in the *Federal Register* and are available on FNS's WIC website at http://www.fns.usda.gov/wic. Local agency income guidelines may vary as long as they are based on the guidelines used for free and reduced-price health care (7 CFR section 246.7(d)(1)). Income determinations based on state or local health care guidelines are subject to the definition of "family" in 7 CFR section 246.2, the definition of "income" in 7 CFR

section 246.7(d)(2)(ii), and the exclusions from income in 7 CFR section 246.7(d)(2)(iv) (7 CFR sections 246.2 and 246.7(d)(2)).

Income Eligibility Determination – Except for applicants determined to be automatically income-eligible, income is based on gross income and other cash readily available to the family or economic unit. Certain federal payments and benefits, listed at 7 CFR section 246.7(d)(2)(iv), are excluded from the computation of income. The following payments to members of the Armed Forces and their families also are excluded: Family Subsistence Supplemental Allowance (7 CFR section 246.7(d)(2)(iv)(D)(33)); combat pay included under Chapter V of Title 37 (42 USC 1758(b)), as amended by Section 734(b) of Pub. L. No. 111-80.

Payments to Filipino veterans under the Filipino Veterans Equity Compensation Fund (section 1002 of American Recovery and Reinvestment Act (ARRA), 123 Stat. 200) are also excluded. In addition, the state agency may exclude:

(1) Housing allowances received by military services personnel residing off military installations or in privatized housing, whether on or off-base (7 CFR section 246.7(d)(2)(iv)(A)(1)); and

(2) Any cost-of-living allowance provided to military personnel who are on duty outside the contiguous states of the United States (7 CFR section 246.7(d)(2)(iv)(A)(2)).

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

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

State agencies may instruct local agencies to consider family income over the preceding 12 months or the family's current rate of income, whichever indicator more accurately reflects the family's income status. To provide more consistency and accountability, WIC has encouraged state agencies to define a family's current rate of income as all income received by the household during the month (30 days) prior to the date the application for

WIC benefits is made, or, if the income assessment is being done prospectively, all income that will be available to the family in the next 30 days (see WIC Policy Memorandum No. 2013-3, Income Eligibility Guidance, issued April 26, 2013, which is available at https://www.fns.usda.gov/wic/income-eligibility-guidance (7 CFR sections 246.7(d)(2)(i) and (v)).

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

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

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

Pregnant women are certified for the duration of their pregnancy and for up to six weeks postpartum. Breastfeeding women may be certified approximately every six months, or up to one year postpartum or until the woman ceases breastfeeding, whichever occurs first (7 CFR section 246.7(g)(1)). Infants are certified at intervals of approximately six months,

except that infants under six months of age may be certified for a period extending up to the child's first birthday, provided the quality and accessibility of health care services are not diminished. Children are certified for six-month intervals ending with the last day of the month in which the child reaches the fifth birthday. State agencies also have the option to certify children for a period of one year if the state agency ensures that the child receives the required health and nutrition assessments (7 CFR section 246.7(g)(1)). Non-breastfeeding women are certified for up to six months postpartum. All categories of participants may be certified up to the last day of the last month of the certification period (7 CFR section 246.7(g)(1)).

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

Not Applicable

3. Eligibility for Subrecipients

A state agency may award WIC subgrants only to organizations meeting the regulatory definition of "local agency." Such organizations include public or private nonprofit health agencies, human service agencies that provide health services, IHS health units, and ITOs described in the WIC program regulations (see definition of "local agency" in 7 CFR section 246.2).

H. Period of Performance

1. *Spend-Forward Option* – A state agency may spend NSA funds up to an amount equal to 3 percent of its total WIC formula grant for NSA costs of the following federal fiscal year. With prior approval from its FNS regional office, the state agency may also spend NSA funds, in an amount that does not exceed one-half of 1 percent of its total WIC formula grant, for management information systems development costs during the following federal fiscal year. Food funds may not be "spent forward" (42 USC 1786(i)(3)(A)(ii)(I); 7 CFR section 246.16(b)(3)(ii)).

2. *Backspend Option* – A state agency may:

   a. Spend up to 1 percent of the food component of its grant for food costs of the federal fiscal year preceding the fiscal year for which the grant was awarded. This backspend authority may be raised as high as 3 percent with prior approval from FNS.

   b. Spend up to 1 percent of its NSA grant component for food and/or NSA costs of the federal fiscal year preceding the fiscal year for which the grant was awarded (7 CFR section 246.16(b)(3)(i)).

UNITED STATES DEPARTMENT OF AGRICULTURE

ASSISTANCE LISTING 10.558 CHILD AND ADULT CARE FOOD PROGRAM

I. PROGRAM OBJECTIVES

The Child and Adult Care Food Program (CACFP) assists states, through grants-in-aid and donated foods, to initiate and maintain nonprofit food service programs for the provision of nutritious foods that contribute to the wellness, healthy growth, and development of eligible children and elderly or impaired adults receiving care in nonresidential day care facilities and child care homes.

II. PROGRAM PROCEDURES

A. Overview

The US Department of Agriculture's (USDA) Food and Nutrition Service (FNS) administers the CACFP through grants-in-aid to states. The program is administered within most states by the state educational agency. In a few states, it is administered by an alternate agency, such as the state department of health or social services. At the discretion of the governor, different agencies within a state may administer the program's child care and adult day care components.

CACFP benefits consist of nutritious meals and snacks served to eligible children and adults who receive care at participating child care centers, adult day care centers, outside-school-hours care centers, at-risk afterschool programs, family and group day care homes, and emergency shelters, as defined in 7 CFR 226.2.

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

Public, private nonprofit, and certain for-profit adult day care facilities that provide structured, comprehensive services to nonresidential adults who are functionally impaired, or aged 60 and older.

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

At-risk afterschool programs are structured, supervised programs that are organized primarily to provide care to children through age 18 after school hours and on weekends and holidays during the school year; provide educational or enrichment activities; and located in low-income areas. Examples of organizations that typically offer such programs include the Boys & Girls Clubs, and the YMCA.

Public and private nonprofit emergency shelters that provide temporary shelter and food services to homeless children. Eligible shelters may receive reimbursement for serving up to three meals each day to residents ages 18 and younger.

A family or group day care home is a private home licensed or approved to provide day care services.

Child and adult day care centers and outside-school-hours care centers (often referred to collectively in this discussion as "centers"), as well as at-risk afterschool programs and emergency shelters, may operate independently under agreements with their state agencies, or they may participate under the auspices of sponsoring organizations. Day care homes may participate only through sponsoring organizations. An entity with which a state agency enters into an agreement for the operation of the CACFP, be it an independent center or a sponsoring organization, is known as an "institution."

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

B. Program Funding

Program funds are provided to states through letters of credit issued under the FNS Integrated Program Accounting System. The states, in turn, use the funds to reimburse institutions for costs of CACFP operations and to support state administrative expenses.

1. *Types of Assistance and Pricing of Meals*

   FNS provides a cash payment (called a "national average payment") to each state agency for each meal served under the CACFP which is adjusted on July 1 of each year. A state's entitlement to national average payments is mainly determined by the same performance-based (meals-times-rates) formula used by state agencies to compute reimbursement payments to institutions. From the state's standpoint, all funds received via this formula are pass-through funds that the state must use for reimbursement payments to institutions under its oversight.

   Child care, adult day care, and outside-school-hours care centers may charge a single fee to cover tuition, meals, and all other day care services; such arrangements are called non-pricing programs. Alternatively, they may operate pricing programs, in which separate fees are charged for meals. An institution must describe its pricing policy in a free and reduced price policy statement submitted to its state agency. The vast majority of these centers operate non-pricing programs. Nevertheless, institutions must determine the eligibility of children and adults enrolled at these centers for free or reduced price meals because such determinations affect the reimbursement rates for meals served to

the participants. Family day care homes are prohibited from charging separately for meals. At-risk afterschool programs and emergency shelters are prohibited from charging for meals altogether.

Independent centers, sponsors of centers, and sponsors of day care homes may be approved to claim reimbursement for up to two reimbursable meals (breakfast, lunch, or supper) and one snack, or two snacks and one meal, per enrolled participant per day. Operators of at-risk afterschool programs may claim reimbursement for one meal (typically supper) and one snack per child per day. Emergency shelters may claim up to three meals served to each resident child each day. The specific types of meals for which an institution may claim reimbursement payments are stated in its agreement with its state agency.

In addition to cash assistance, USDA makes donated foods, or cash-in-lieu of donated foods, available for use by institutions in operating the CACFP. FNS enters into agreements with state distributing agencies for the distribution of USDA-donated foods to CACFP institutions; the distributing agencies, in turn, enter into agreements with the institutions. The distributing agency may be the state CACFP state agency or a separate state agency.

Source of Governing Requirements

The CACFP is authorized at section 17 of the Richard B. Russell National School Lunch Act (NSLA) (42 USC 1766), as amended. The program regulations are codified at 7 CFR Part 226. Regulations at 7 CFR Part 250 provide general rules for the receipt, custody, and use of USDA-donated foods provided for use in the CACFP.

Availability of Other Program Information

Other program information is available from the FNS website at https://www.fns.usda.gov/cacfp Information on USDA Foods available for the CACFP can be found on the USDA Foods in Schools Foods Available List at https://www.fns.usda.gov/usda-fis/usda-foods-available.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not

being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	N	N	Y	N	N	Y	Y

A. Activities Allowed or Unallowed

1. *Reimbursement for Operating Costs of Child and Adult Care Centers*

   CACFP centers and sponsors of centers shall be reimbursed solely according to the meals-times-rates formula outlined in II, "Program Procedures." Costs claimed by the institution as operating costs must be related to preparing and serving meals to children and/or adults under the CACFP (7 CFR 226.11(c) and definition of "operating costs" in 7 CFR 226.2).

2. *Reimbursement for Operating Costs of Day Care Homes*

   Day care homes under a sponsoring organization shall be reimbursed according to the meals-times-rates formulas based on whether the homes qualify as Tier I or Tier II. (See Section E on Eligibility).

3. *Reimbursement for Sponsoring Organizations' Administrative Costs*

   Administrative costs are those related to planning, organizing, and managing a food service under the CACFP (7 CFR 226.2).

   a. Sponsoring Organizations of Centers – There is no provision for sponsoring organizations of centers to receive reimbursement for administrative costs. However, a sponsor may retain a portion of a center's meal reimbursement, not to exceed 15 percent, for its own administrative expenses (42 USC 1766(f)(2)(C)(i); 7 CFR 226.16(b)(1)).

   b. Sponsoring Organizations of Family Day Care Homes – In addition to their meal reimbursement payments, sponsoring organizations of family day care homes may receive reimbursement for their administrative costs (7 CFR 226.12). The formula for administrative costs payments is the product of multiplying the appropriate administrative reimbursement rate,

which is announced annually in the Federal Register, by the number of day care homes submitting claims for reimbursement during the month. FNS maintains links to current and past year Federal Register notices on https://www.fns.usda.gov/cacfp/reimbursement-rates.

4. *Use of Reimbursements*

Reimbursement payments shall be used solely for the conduct of the food service operation or to improve such food service operations, principally for the benefit of the enrolled participants (7 CFR 226.15(e)(13)).

B. Allowable Costs/Cost Principles

Institutions must account for all costs of operation through the consistent use of U.S. generally accepted accounting principles (U.S. GAAP). Some of these costs will be allowable operating or administrative costs of the Program while others will be unallowable.

1. Allowable cost must be reasonable, necessary and authorized.

2. In determining which costs are allowable, sponsoring organizations should refer to FNS Instruction 796-2, Revision 4. Sections VII Basic Guidelines for Determining Allowability of Costs and VIII Standards for Allowable Costs describe, in general terms, the types of administrative and operating costs that institutions may cover with CACFP funds. These sections also provide standards for assessing allowability. Section VIII - I Selected Items of Cost provides an alphabetical list of costs, by type, that are commonly incurred by CACFP institutions. (Auditors should use this list as a reference in determining the allowability of specific costs.) For quick reference, Exhibit C is an index that provides the page number for some of the costs and financial management subjects included in this Instruction.

3. In addition, sponsoring organizations must follow 2 CFR 200 Subpart E, Cost Principles, and 48 CFR Part 31, Contract Cost Principals and Procedures, as applicable, when developing a cost allocation plan.

E. Eligibility

1. Eligibility for Individuals

a. *General Eligibility*

Any individual may receive meals under the CACFP if he/she:

(1) Meets the definition of “children” or “adult participant” at 7 CFR 226.2. These definitions are:

(a) "Children" means (i) persons 12 years of age and under; (ii) children of migrant workers 15 years of age and under; (iii) persons of any age who have one or more disabilities and who are enrolled in an institution or child care facility serving a majority of persons who are age 18 and under; (iv) for emergency shelters, persons age 18 and under; and (v) for at-risk afterschool care centers, persons age 18 and under at the start of the school year (see definitions of "children," "enrolled child," and "persons with disabilities" at 7 CFR 226.2).

(b) "Adult participant" means "a person enrolled in an adult day care center who is functionally impaired...or 60 years of age or older" (definitions of "adult participant" and "enrolled participant" are available at 7 CFR 226.2).

(2) Receives care at a participating institution. The individual must:

(a) Be enrolled in a child or adult care center or other nonresidential institution that provides day care;

(b) Reside in an emergency shelter; or

(c) Attend an at-risk afterschool program or outside-school-hours care center (7 CFR 226.15(e)(2), definitions of "enrolled child" and "enrolled participant" are available at 7 CFR 226.2).

b. *Eligibility for Free or Reduced Price Meals*

(1) *Children and Adults Enrolled in Centers* – While an independent center or sponsoring organization of centers receives federal cash reimbursement for all meals served in centers, it receives higher levels of reimbursement for meals served to children and adults who meet Income Eligibility Criteria published by FNS for meals served free or at reduced price. Participants from households with incomes at or below 130 percent of poverty are eligible for free meals; and participants with household incomes between 130 percent and 185 percent of poverty are eligible for reduced price meals. The Income Eligibility Guidelines and Reimbursement Rates are published in the *Federal Register* and on the FNS website at https://www.fns.usda.gov/cn/income-eligibility-guidelines. Institutions must determine each enrolled participant's eligibility for free and reduced price meals in order to claim reimbursement for the meals served to that individual at the correct rate (7 CFR sections 226.15(e)(2), 226.17(b)(8), 226.19(b)(7)(i), and 226.19a(b)(8)).

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

(a) General Rule: Household Application – The participant's household may submit an income eligibility statement that provides information about household size and income. The information submitted by each household is compared with USDA's published Income Eligibility Guidelines. A household is not required to furnish documentation to support the information given in its income eligibility statement; however, that information is subject to verification under 7 CFR 226.23(h) (7 CFR 226.23(e)(1)(ii) and (iii), and 226.23(e)(4)).

(b) Exception: Categorical Eligibility – Children and adults may be determined categorically eligible for free and reduced price meals by virtue of their participation in certain other programs. For children, such programs include the Supplemental Nutrition Assistance Program (SNAP), Food Distribution Program on Indian Reservations (FDPIR), or state programs funded through Temporary Assistance for Needy Families (TANF). Categorically eligible adults include those who receive SNAP, FDPIR, Supplemental Security Income (SSI), or Medicaid benefits. Categorically eligible participants must indicate on the income eligibility statement the other program for which they are eligible. No income eligibility statement is required for foster children or children participating in the Head Start program or for pre-kindergarten children participating in the Even Start program, nor is any eligibility determination required beyond documenting their participation in Head Start or Even Start (7 CFR 226.23 (e)(1)(iv) and (v); 42 USC 1766(c)(6)).

(2) *Children Enrolled in Family Day Care Homes* – A tiering structure prescribed by program statute and regulations forms the basis for meal reimbursement payments to sponsoring organizations of day care homes. A home is classified as tier I or tier II, depending on the home's location or the provider's income eligibility.

Tier I day care homes are those operated by providers whose own household meets the income standards for free or reduced price meals, as outlined above, or those located in low-income areas. A low-income area is one where at least 50 percent of the children are eligible for free or reduced price school meals. Sponsoring organizations may use school enrollment data or census data to

determine if a home is located in a low-income areas (7 CFR sections 226.2 (definitions of "low-income area" and "tier I day care home") and 226.15 (e)(3) and (f)).

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

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

(3) *Children Attending At-Risk Afterschool Programs* – Eligible afterschool programs must be located in geographical areas where 50 percent or more of the children are eligible for free or reduced price meals under the School Nutrition programs (Assistance Listing 10.553 and 10.555), as demonstrated by the free and reduced price eligibility data maintained by the school serving the area. Individual eligibility determinations for children attending these programs are not required (42 USC 1766(r)).

(4) *Children Residing in Emergency Shelters* – Children residing in emergency shelters are categorically eligible to receive meals at no charge (42 USC 1766(t)(5)(C)).

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

Not Applicable

3. Eligibility for Subrecipients

a. An institution must meet the definition of "independent center" or "sponsoring organization" at 7 CFR 226.2. These definitions are:

(1) *Independent center* means a child care center, at-risk afterschool care center, emergency shelter, outside-school-hours care center or adult day care center which enters into an agreement with the state

agency to assume final administrative and financial responsibility for program operations.

(2) *Sponsoring organization* means a public or nonprofit private organization that is entirely responsible for the administration of the food program in:

(a) One or more day care homes;

(b) A child care center, emergency shelter, at-risk afterschool care center, outside-school-hours care center, or adult day care center, which is a legally distinct entity from the sponsoring organization;

(c) Two or more child care centers, emergency shelters, at-risk afterschool care centers, outside-school-hours care center, or adult day care centers; or

(d) Any combination of child care centers, emergency shelters, at-risk afterschool care centers, outside-school-hours care centers, adult day care centers, and day care homes. The term "sponsoring organization" also includes an organization that is entirely responsible for administration of the program in any combination of two or more child care centers, at-risk afterschool care centers, adult day care centers or outside-school-hours care centers, which meet the definition of for-profit center in this section and are part of the same legal entity as the sponsoring organization.

(3) *For-profit center* means a child care center, outside-school-hours care center, or adult day care center providing nonresidential care to adults or children that does not qualify for tax-exempt status under the Internal Revenue Code of 1986. For-profit centers serving adults must meet the criteria described in paragraph (a) of this definition. For-profit centers serving children must meet the criteria described in paragraphs (b)(1) or (b)(2) of this definition, except that children who only participate in the at-risk afterschool snack and/or meal component of the program must not be considered in determining the percentages under paragraphs (b)(1) or (b)(2) of this definition.

(a) A for-profit center serving adults must meet the definition of adult day care center as defined in this section and, during the calendar month preceding initial application or reapplication, the center receives compensation from amounts granted to the states under title XIX or title XX and 25 percent of the adults enrolled in care are

beneficiaries of title XIX, title XX, or a combination of titles XIX and XX of the Social Security Act.

(b) A for-profit center serving children must meet the definition of child care center or outside-school-hours care center as defined in this section and one of the following conditions during the calendar month preceding initial application or reapplication:

(i) Twenty-five percent of the children in care (enrolled or licensed capacity, whichever is less) are eligible for free or reduced-price meals; or

(ii) Twenty-five percent of the children in care (enrolled or licensed capacity, whichever is less) receive benefits from title XX of the Social Security Act and the center receives compensation from amounts granted to the states under title XX.

Children who participate only in the at-risk afterschool component of the program must not be considered in determining whether the institution met this 25 percent threshold (42 USC 1766(a)(2)(B); 7 CFR 226.11(c)(4)).

b. All institutions must meet the eligibility requirements stated in 7 CFR 226.15 and 42 USC 1766(a)(6) and (d)(1). In addition, as applicable, institutions must meet the type definitions in 7 CFR 226.2 and applicable additional requirements.

- Sponsoring organizations: 7 CFR 226.16;
- Child care centers (whether independent or sponsored): 7 CFR 226.17;
- Day care homes (which must be sponsored): 7 CFR 226.18;
- Outside-school-hours centers: 7 CFR 226.19;
- Adult day care centers (whether independent or sponsored): 7 CFR 226.19a;
- At-risk afterschool programs: 7 CFR 226.17a;
- Emergency shelters: 42 USC 1766(t).

I. Procurement and Suspension and Debarment

1. *Procurement* - For procurements covered by the USDA adoption of 2 CFR Part 200.318 and the regulations at 2 CFR section 416.1, the following applies:

   a. A prospective contractor that develops or drafts specifications, requirements, statements of work, invitations for bids, requests for proposals, contract term and conditions, or other documents for use by a state under this program shall be excluded from competing for such procurements. Such prospective contractors are ineligible for contract awards resulting from such procurements regardless of the procurement method used. However, prospective contractors may provide states with specification information related to a state procurement and still compete for the procurement if the state, and not the prospective contractor, develops or drafts the specifications, requirements, statements of work, invitations for bid, and/or requests for proposals used to conduct the procurement (2 CFR 416.1(a)).

   b. Procurements by states under this program shall be conducted in a manner that prohibits the use of statutorily or administratively imposed in-state or local geographic preferences.

   c. Notwithstanding the requirements in paragraph 1.b above, an institution operating the CACFP may use a geographical preference for the procurement of unprocessed agricultural products, both locally grown and locally raised (7 CFR 226.22(c) and Section 9(j) of the NSLA (42 USC 1758(j)).

2. *Suspension and Debarment*

   Mandatory awards by pass-through entities to subrecipients are excluded from the suspension and debarment rules (2 CFR section 417.215(a)(1)).

M. Subrecipient Monitoring

As explained in 7 CFR 226.16(d) each sponsoring organization must provide adequate supervisory and operational personnel for the effective management and monitoring of the program at all facilities it sponsors. Each sponsoring organization must employ monitoring staff sufficient to meet the requirements of 7 CFR 226.16(b). At a minimum, Program assistance must include:

Pre-approval visits to each child care and adult day care facility for which application is made to discuss Program benefits and verify that the proposed food service does not exceed the capability of the child care facility;

1. ***Review elements.*** Reviews that assess whether the facility has corrected problems noted on the previous review(s), a reconciliation of the facility's meal counts with enrollment and attendance records for a five-day period, as specified in 7 CFR

226.16 (d)(4)(ii), and an assessment of the facility's compliance with the Program requirements pertaining to:

a. The meal pattern;

b. Licensing or approval;

c. Attendance at training;

d. Meal counts;

e. Menu and meal records; and

f. The annual updating and content of enrollment forms (if the facility is required to have enrollment forms on file, as specified in 7 CRR 226.15(e)(2) and (3) §§ 226.15(e)(3)s

2. ***Reconciliation of meal counts.*** Reviews must examine the meal counts recorded by the facility for five consecutive days during the current and/or prior claiming period. For each day examined, reviewers must use enrollment and attendance records (except in those outside-school-hours care centers, at-risk afterschool care centers, and emergency shelters where enrollment records are not required) to determine the number of participants in care during each meal service and attempt to reconcile those numbers to the numbers of breakfasts, lunches, suppers, and/or snacks recorded in the facility's meal count for that day. Based on that comparison, reviewers must determine whether the meal counts were accurate. If there is a discrepancy between the number of participants enrolled or in attendance on the day of review and prior meal counting patterns, the reviewer must attempt to reconcile the difference and determine whether the establishment of an overclaim is necessary.

3. ***Frequency and type of required facility reviews.*** Sponsoring organizations must review each facility three times each year, except as described in 7 CFR 226.16 (d)(4)(iv). In addition:

a. At least two of the three reviews must be unannounced;

b. At least one unannounced review must include observation of a meal service;

c. At least one review must be made during each new facility's first four weeks of Program operations;

d. Not more than six months may elapse between reviews;

e. The timing of unannounced reviews must be varied so that they are unpredictable to the facility; and

f. All types of meal service must be subject to review.

4. ***Follow-up reviews.*** If, in conducting a facility review, a sponsoring organization detects ***one*** or more serious deficiency, the next review of that facility must be unannounced. Serious deficiencies are those described at 7 CFR 226.16 (l)(2), regardless of the type of facility.

5. ***Standard agreements between sponsoring organizations and sponsored centers.*** State agencies are required to develop and provide for the use of a standard form of agreement between each sponsoring organization and day care home or sponsored center that would specify the rights and responsibilities of each party (see 7 CFR 226.6(p)). The standard agreement requires the center to:

a. Allow visits by sponsoring organizations or State agencies to review meal service and records;

b. Promptly inform the sponsoring organization about any change in its licensing or approval status;

c. Meet any State agency approved time limit for submission of meal records; and

d. Distribute to parents a copy of the sponsoring organization's notice to parents if directed to do so by the sponsoring organization.

N. Special Tests and Provisions

1. Accountability for USDA-Donated Foods

Compliance Requirements

a. Maintenance of Records

Distributing and subdistributing agencies (as defined at 7 CFR 250.3) must maintain accurate and complete records with respect to the receipt, distribution, and inventory of USDA-donated foods, including end products processed from donated foods. Failure to maintain records required by 7 CFR 250.16 shall be considered prima facie evidence of improper distribution or loss of donated foods, and the agency, processor, or entity may be required to pay USDA the value of the food or replace it in kind (7 CFR 250.16(a)(6) and 250.15(c)).

b. Physical Inventory

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

The compliance requirements do not apply to recipient agencies (as defined at 7 CFR 250.3), including CACFP institutions. Auditors making audits of recipient agencies are not required to test compliance with these requirements.

Audit Objectives Determine whether an appropriate accounting was maintained for USDA-donated foods, an annual physical inventory was taken, and the physical inventory was reconciled with inventory records.

Suggested Audit Procedures

a. Determine storage facility, processing, and end use locations of all donated foods, including end products processed from donated foods. Ascertain the donated food records maintained by the entity and obtain a copy of procedures for conducting the required annual physical inventory. Obtain a copy of the annual physical inventory results.

b. Perform analytical procedures and obtain explanation and documentation for unusual or unexpected results. Consider the following:

(1) Compare receipts, distributions, losses, and ending inventory of donated foods for the audit period to the previous period.

(2) Compare distribution by entity for the audit period to the previous period.

c. Ascertain the validity of the required annual physical inventory. Consider performing the following steps, as appropriate:

(1) Observe the annual inventory process at selected locations and recount a sample of donated food items.

(2) If the annual inventory process is not observed, select a sample of significant donated foods on hand as of the physical inventory date and, using the donated food records, "roll forward" the balance on hand to the current balance observed.

(3) Recompute a sample of physical inventory sheets and related summarizations.

(4) Ascertain that the annual physical inventory was reconciled to donated food records. Investigate any large adjustments between the physical inventory and the donated food records.

d. On a sample basis, test the mathematical accuracy of the donated food records and related summarizations. From the donated food records, vouch a sample of receipts, distributions, and losses to supporting documentation. Ascertain that activity is properly recorded, including correct quantity, proper period and, if applicable, correct recipient agency.

IV. OTHER INFORMATION

The value of donated foods used during a state or recipient agency's fiscal year is considered federal awards expended in accordance with 2 CFR 200.40, definition of "federal financial assistance," and should be valued in accordance with 2 CFR 200.502. Therefore, recipient agencies must determine the value of donated foods used. FNS recommends that recipient agencies use the value of donated food delivered to them during the fiscal year being audited for this purpose.

UNITED STATES DEPARTMENT OF AGRICULTURE

ASSISTANCE LISTING 10.565 COMMODITY SUPPLEMENTAL FOOD PROGRAM

ASSISTANCE LISTING 10.568 EMERGENCY FOOD ASSISTANCE PROGRAM (ADMINISTRATIVE COSTS)

ASSISTANCE LISTING 10.569 EMERGENCY FOOD ASSISTANCE PROGRAM (FOOD COMMODITIES)

I. PROGRAM OBJECTIVES

The objective of the Food Distribution Cluster is to strengthen the nutrition safety net through the provision of US Department of Agriculture (USDA)-donated foods (USDA Foods) to low-income persons. Included in the cluster are the Commodity Supplemental Food Program (CSFP) and the Emergency Food Assistance Program (TEFAP).

CSFP provides a package of USDA Foods to low-income elderly people at least 60 years of age. CSFP food packages are not intended to provide a complete diet, but rather provide the nutrients that are typically lacking in the diets of the target population.

TEFAP provides USDA Foods to low-income households for home consumption or for use in prepared meals at emergency feeding sites for low-income persons.

II. PROGRAM PROCEDURES

The Food and Nutrition Service (FNS) of the USDA enters into agreements with state distributing agencies for the distribution of USDA Foods and provides funding for the administrative costs these organizations incur in performing this function. State agencies may administer both CSFP and TEFAP or either, as well as other USDA nutrition assistance programs. These agencies are often the state departments of agriculture, health, social services, or education.

State agencies may further enter into agreements with one or more subrecipients for local program operations. In food distribution program regulations and in the sections of this Food Distribution Cluster that refer to both TEFAP and CSFP, subrecipients are referred to as “recipient agencies.” The TEFAP specific term for subrecipients is “Eligible Recipient Agencies” (ERA). The CSFP specific term is “local agencies.” The types of organizations that may operate Food Distribution Cluster programs locally are described below under “Program Descriptions.” State agencies pass most administrative funding down to these recipient agencies.

Program Descriptions

Common Characteristics

CSFP and TEFAP are variants of a basic program design having the following characteristics:

a. USDA purchases and provides food and administrative funds to state agencies, which in turn provide the USDA Foods and a portion of the administrative funds to recipient agencies.

b. State agencies must submit a plan of operation to the applicable FNS Regional Office and have a federal-state agreement on file. In CSFP, the plan of operation is referred to as the state plan. In TEFAP, it is referred to as the distribution plan.

c. Public agencies and private nonprofit organizations possessing tax-exempt status under the Internal Revenue Code can participate in the programs as recipient agencies. Examples include food banks, food pantries, and community action organizations.

d. Program participants must meet income eligibility requirements to qualify for household distribution of USDA Foods. Determinations are generally made by recipient agencies in accordance with the criteria and procedures established by the state agencies.

e. The program benefits generally consist of USDA Foods issued to program participants for use in meal preparation at home. The one exception is that some TEFAP ERAs operate emergency feeding sites where USDA Foods are used in preparing meals for service to low-income persons.

Characteristics of Individual Programs

a. *CSFP* – Elderly people at least 60 years of age may be eligible for CSFP if they meet all eligibility criteria. Prior to passage of the Agriculture Act of 2014 (2014 Farm Bill) (Pub. L. No. 113-79), pregnant and breastfeeding women, women up to one year postpartum, infants, and children up to age 6 also were eligible to participate in CSFP on the same basis as elderly persons. However, Section 4102 of the 2014 Farm Bill amended CSFP eligibility requirements to phase out the participation of this population and transition it to a seniors-only program. The phase-out was completed in 2020.

   Program participation is limited each year based upon available resources and appropriated funding. Each participating state agency receives an authorized caseload level. Caseload is the number of people each state agency is permitted to serve on an average monthly basis over the course of the caseload cycle (January through December).

Administrative funding is provided each fiscal year per each caseload slot assigned to the state agency and is adjusted annually for inflation. State agencies may retain a percentage of administrative funding but must provide the remainder to local agencies unless FNS approves the state agency to retain a larger amount.

To gain access to its USDA Foods and administrative funds, a state agency must have a state plan and a federal-state agreement on file with the applicable FNS regional office. The state plan must include the criteria listed at 7 CFR section 247.6(c), including a plan for the storage and distribution of USDA Foods.

State agencies may enter into an agreement with a subdistributing agency, such as another state agency, a local governmental agency, or a nonprofit organization, to perform most functions that are normally performed by the state agency, such as entering into agreements with local agencies, ordering USDA Foods, or making arrangements for the storage and transportation of USDA Foods to local agencies. Ultimately, however, the state agency is responsible for all aspects of CSFP administration. CSFP currently operates in 50 states, six Indian tribal organizations, the District of Columbia, and Puerto Rico.

b. *TEFAP* – USDA Foods are distributed through TEFAP either for household use or for use at feeding sites that serve prepared meals to needy persons.

At the local level, the program is operated by ERAs. ERAs include Emergency Feeding Organizations (EFOs), charitable institutions (such as hospitals and retirement homes), summer camps for children, child nutrition programs that provide food service, nutrition programs under the Older Americans Act of 1965 (Nutrition Program for the Elderly) (Pub. L. No. 89-73), and disaster relief programs. EFOs include public and private nonprofit organizations that provide nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, such as food banks, food pantries, and soup kitchens.

An ERA may receive a TEFAP subgrant directly from the state agency or from another ERA. In designating ERAs, a state agency may give priority to existing food bank networks and other organizations whose primary function is to facilitate the distribution of food to low-income households, including food from sources other than USDA. However, a state agency must provide USDA Foods to all EFOs within its distribution network before providing USDA Foods to other types of ERAs. A state may delegate its storage and distribution functions to one or more food banks or other ERAs.

USDA provides USDA Foods to state agencies, and the state agencies arrange for their delivery to ERAs. State agencies are prohibited from charging ERAs any type of fee for providing this service (7 CFR section 251.9(d)). FNS also awards each state agency a cash grant for the administrative cost of carrying out its TEFAP food delivery and oversight functions. The state agency, in turn, awards subgrants to its ERAs and/or incurs administrative costs on their behalf. The

amounts of USDA Foods and administrative funds a state agency may receive are determined through an allocation formula described at 7 CFR section 251.3(h). USDA may provide bonus USDA Foods in addition to the formula-generated entitlement USDA Foods. Bonus foods are foods purchased by USDA under its market support authorities and donated to FNS.

To gain access to USDA Foods and administrative funds, a state agency must have a distribution plan and a federal-state agreement on file with the applicable FNS regional office. The distribution plan gives the state agency's criteria for awarding subgrants to ERAs and for certifying households eligible for TEFAP benefits. Both the federal-state agreement and the state agency's agreements with its ERAs may be amended at any time due to program changes or at the request of either party. State agencies may also, on an annual basis, submit an amendment to their distribution plan to receive Farm to Food Bank Project funding, which can be used to harvest, process, package, or transport commodities donated by agricultural producers, processors, or distributors for use by EFOs.

The ERAs that conduct household issuance and/or prepared meal activities are known as "distribution sites." Some distribution sites use mostly paid employees to carry out their missions, while others rely heavily on the services of volunteers.

Source of Governing Requirements

CSFP is authorized by sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (7 USC 612c note; Pub. L. No. 93-86), as amended. Program regulations are found at 7 CFR parts 247 and 250; if these conflict, 7 CFR Part 247 prevails.

TEFAP is authorized by the Emergency Food Assistance Act of 1983 (Pub. L. No. 98-8) (7 USC 7501-7516), as amended. Program regulations are found at 7 CFR parts 250 and 251; if these conflict, 7 CFR Part 251 prevails.

Availability of Other Program Information

More information on the Food Distribution Cluster programs can be found on the FNS Food Distribution Programs website. The web link for CSFP information is http://www.fns.usda.gov/csfp/commodity-supplemental-food-program-csfp. The web link for TEFAP information is http://www.fns.usda.gov/tefap/emergency-food-assistance-program-tefap.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance

requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	Y	N	N	Y	N	N	N	Y

A. Activities Allowed or Unallowed

Administrative Activities – For both CSFP and TEFAP, a state agency or recipient agency must use its administrative funds for activities for the administration of the programs. Such activities include but are not limited to transporting and storing USDA Foods within the state or within a recipient agency's service area, determining the eligibility of program applicants, publishing the times and locations of food distribution, and issuing USDA Foods to eligible persons (7 CFR sections 247.25 and 251.8(e)).

1. *CSFP* – In addition to the activities listed above, examples of activities for which CSFP administrative funds can be used include nutrition education, program outreach, and monitoring and review of program operations (7 CFR section 247.25(a)).

2. *TEFAP* – In addition to the activities listed above, allowable activities include processing USDA Foods. Under certain circumstances, a state agency may also use these funds for transporting USDA Foods to other states and transporting non-USDA Foods in from other states (7 CFR section 251.8(e)(1)).

   An ERA that receives USDA Foods from programs other than TEFAP may not use its administrative funds for the distribution of these foods, unless these foods were re-donated to TEFAP (see Food Distribution National Policy Memorandum FD-095, which is available at http://www.fns.usda.gov/use-tefap-administrative-funds-expenses-associated-foods-secured-other-sources-0). In addition, a state agency or ERA may use its administrative funds for certain activities associated with the distribution of non-USDA Foods donated by private individuals and organizations (7 CFR section 251.8(e)(1)).

E. Eligibility

1. Eligibility for Individuals

a. *CSFP*

Receipt of USDA Foods for Household Use – A local agency certifies households as eligible to receive a CSFP food package by applying categorical and income eligibility criteria as follows:

(1) Categorical Eligibility. Eligibility is limited to the elderly (persons at least 60 years of age) (7 CFR section 247.9(a)).

(2) Income Eligibility. State agencies determine income eligibility guidelines for program participants, within the parameters of the income eligibility guidelines provided in program regulations. The state agency must set income eligibility limits that are at or below 130 percent of the federal poverty income guidelines (7 CFR sections 247.9(b) though (e)). The income guidelines must be approved in advance by FNS as part of the state agency's state plan.

(3) Eligibility Criteria at State's Discretion – In addition to categorical and income eligibility, the state agency may also require that applicants (a) be at nutritional risk, as determined by a physician or by local agency health staff; and/or (b) reside within the service area of a local agency when applying for benefits (7 CFR section 247.9(e)).

b. *TEFAP*

(1) Receipt of USDA Foods for Household Use – An ERA certifies households eligible to receive USDA Foods for household consumption by applying income eligibility criteria established by the state agency (7 CFR section 251.5(b)). These criteria are approved in advance by FNS as part of the state agency's distribution plan (7 CFR section 251.6(a)).

(2) Receipt of Prepared Meals – There is no means test for eligibility of persons receiving prepared meals. Their eligibility is derived from the ERA's eligibility to receive USDA Foods from TEFAP and use them in prepared meals (7 CFR section 251.5(a)(2)).

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

Not Applicable

3. Eligibility for Subrecipients

a. A recipient agency must be either a public agency or a private entity possessing tax-exempt status under the Internal Revenue Code and must enter into a written agreement with the state agency, or with another recipient agency where permitted, binding it to perform the duties of a recipient agency (7 CFR sections 247.4, 247.7(a), 251.3(d), and 251.5(a)).

b. For TEFAP, the state agency's distribution plan identifies the classes of organizations with which it will enter into such agreements (7 CFR section 251.6).

c. For TEFAP, recipient agencies providing prepared meals must have demonstrated, to the satisfaction of the state agency, or ERA to which they have applied for USDA Foods or administrative funds, that they serve predominantly needy persons (7 CFR section 251.5(a)(2)).

N. Special Tests and Provisions

1. Accountability for USDA Foods

Compliance Requirements Accurate and complete records must be maintained with respect to the receipt, distribution/use, and inventory of USDA Foods, including end products processed from USDA Foods in TEFAP. Failure to maintain records required by 7 CFR section 250.19 is considered prima facie evidence of improper distribution or loss of USDA Foods, and the agency processor or entity is liable for the value of the food or replacement of the food in kind (7 CFR sections 250.16 and 250.19(a)).

State distributing agencies must conduct an annual physical inventory of all storage facilities used by the distributing agency or by a subdistributing agency. Such inventory must be reconciled annually with the storage facility's inventory records and maintained on file by the agency which contracted with or maintained the storage facility. Corrective action must be taken immediately on all deficiencies and inventory discrepancies and the results of the corrective action forwarded to the distributing agency (7 CFR section 250.12(b)). In CSFP, a physical inventory also must be conducted annually at all storage and distribution sites where USDA Foods are stored (7 CFR section 247.28).

Audit Objectives Determine whether an appropriate accounting was maintained for USDA Foods, an annual physical inventory was taken, and the physical inventory was reconciled with inventory records.

Suggested Audit Procedures

a. Determine storage facility, processing, and end use locations of all USDA Foods, including end products processed from donated foods. Determine the USDA Foods records maintained by the entity and obtain a copy of procedures for conducting the required annual physical inventory. Obtain a copy of the annual physical inventory results.

b. Perform analytical procedures and obtain explanation and documentation for unusual or unexpected results. Consider the following:

(1) Compare receipts, usage/distribution, losses, and ending inventory of USDA Foods for the audit period to the previous period.

(2) If auditing at the state distributing agency level, compare distribution by entity for the audit period to the previous period.

(3) If auditing at the ERA level in TEFAP, compare relationship of usage of USDA Foods to production, meals served, or similar activity reports for the audit period to the same relationship for the previous period.

c. Ascertain the validity of the required annual physical inventory. Consider performing the following steps, as appropriate:

(1) Observe the annual inventory process at selected locations and recount a sample of USDA Foods items.

(2) If the annual inventory process is not observed, select a sample of significant USDA Foods on hand as of the physical inventory date and, using the USDA Foods records, "roll forward" the balance on hand to the current balance observed.

(3) On a test basis, recompute physical inventory sheets and related summarizations.

(4) Ascertain that the annual physical inventory was reconciled to USDA Foods records. Investigate any large adjustments between the physical inventory and the USDA Foods records.

d. On a sample basis, test the mathematical accuracy of the USDA Foods records and related summarizations. From the USDA Foods records, vouch a sample of receipts, usage/distributions, and losses to supporting documentation. Ascertain that activity is properly recorded, including the correct quantity, proper period, and, if applicable, correct ERA.

UNITED STATES DEPARTMENT OF AGRICULTURE

ASSISTANCE LISTING 10.566 NUTRITION ASSISTANCE FOR PUERTO RICO

I. PROGRAM OBJECTIVES

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

II. PROGRAM PROCEDURES

A. Administration

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

B. Benefits

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

A household receives its monthly benefit payment electronically. PR issues each client household a debit card with which to access the benefits. All of the benefits (100 percent) are issued for food purchases.

The Administration of the Socio-Economic Development of the Family (ADSEF) will continue supporting the Family Markets by setting aside a 4% of benefits exclusively to purchase nutritious fresh food at the Family Markets in participating regions and municipalities. The 4 % portion is included in the monthly adjustment as an "electronic voucher" and is calculated by applying the formula of the monthly adjustment.

C. Benefit Redemption

NAP benefits are administered through an electronic benefit transfer (EBT) system. PR establishes a benefit account to control the issuance and use of each household's benefits. Beginning in 2001, NAP program rules provided that 75 percent of NAP benefits were redeemable for eligible food items at certified NAP retailers through EBT; the remaining 25 percent of benefits were available as cash and intended food purchases. Section 4025 of the Agricultural Act of 2014 requires the secretary to review cash nutrition assistance benefits in Puerto Rico by studying the history of cash benefits, barriers to redemption with non-cash benefits, usage of cash benefits for the purchase of nonfood items, and other factors. The provision also restricts the secretary from approving any nutrition assistance plan for FY 2017 that provides more than 20 percent of benefits in cash. Due to disasters, there was a temporary hold at 20 percent into FY 2018, which ended on December 31, 2017. In FY 2018, cash was limited to 15 percent of benefits; in FY 2019, cash is limited to 10 percent of benefits; in FY 2020, cash is limited to 5 percent; and in FY 2021, no benefits shall be in the form of cash. The secretary may make exemptions if discontinuation of cash benefits will have significant adverse effects.

ATM transactions generate charges against the client's cash account. Purchases at authorized retailers generate on-line charges against the client's noncash account; these are resolved by crediting the retailers for the amount of client purchases. PR must reconcile the funds exiting the EBT system and paid to retailers with amounts drawn from its EBT benefit account with Banco Popular. Cash drawn from PR's letter-of-credit is used to settle accounts with Banco Popular. A service provider is used to process NAP EBT transactions.

PR obtains an examination by an independent auditor of the EBT service provider (service organization) regarding the issuance, redemption, and settlement of benefits in accordance with the American Institute of Certified Public Accountants (AICPA) Statement on Standards for Attestation Engagements (AT) Section 801, Reporting on Controls at a Service Organization. Appendix VIII to the Supplement provides additional guidance on these examinations. In testing compliance under the NAP, an auditor may use these SOC 1 type 2 reports to gain an understanding of internal controls and obtain evidence about their operating effectiveness.

Source of Governing Requirements

The NAP is authorized by Section 19 of the Food and Nutrition Act of 2008. USDA regulations pertaining to NAP are found in 7 CFR Part 285. Many program requirements are established through PR's approved annual plan of operation.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	N	Y	N	N	Y	N	Y

A. Activities Allowed or Unallowed

The annual plan of operation submitted by the PR Department of the Family must include a description of PR's program for providing nutrition assistance to needy persons. The nutrition assistance PR actually provides must conform to the approved plan (7 CFR section 285.3(b)(3); PR Annual Plan of Operation). In FY 2021, no benefits shall be in the form of cash. The secretary may make exemptions if discontinuation of cash benefits will have significant adverse effects.

E. Eligibility

1. Eligibility for Individuals

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

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

H. Period of Performance

Payments received by PR for a fiscal year may not exceed the amount authorized for the grant or the total NAP cost eligible for funding, whichever is less, for that fiscal year.

Funds for payments for any prior fiscal year expenditures must be claimed against the funding for that fiscal year; however, funds collected from claims are credited to the fiscal year in which the collection occurred (7 USC 2027(e); 7 CFR section 285.2(b)).

PR may carry forward not more than 2 percent of its grant for use in the following fiscal year (7 USC 2028(a)(2)(D); Section 4124 of Pub. L. No. 107-171, 116 Stat. 325-326, May 13, 2002).

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

d. *FNS-778, Financial Status Report – PR* – This report captures PR's cumulative outlays (expenditures) and unliquidated obligations of federal funds for NAP as a whole, for the administrative and benefits components of PR's NAP grant, and for the cost of key functions supported by the NAP grant's administrative cost component. FNS uses the data captured by this report to monitor PR's NAP costs and cash draws. The FNS-778 also functions as a work paper that feeds the SF-425 (Government of Puerto Rico State Plan of Operation for FY 2019, pages 48 and 50).

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

1. Line 10.b. – *Total outlays this report period*

2. Line 10.c. – *Less: Program income credits*

3. Line 10.j. – *Total federal share of unliquidated obligations*

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. EBT Reconciliation

Compliance Requirements PR must perform all the following:

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

b. Perform the following reconciliations (PR Annual Plan of Operation, H., Program Administration, 2.a., Reconciliation System (EBT)):

(1) Benefits authorized equal benefits posted.

(2) Benefits accessed by recipients (net EBT account debits/credits) equal benefit amount transactions approved by the EBT services provider.

(3) Net EBT account debits/credits equal amount paid to merchants and financial institutions (plus/minus authorized adjustments).

(4) Amount paid to merchants and financial institutions equal funds requested by the EBT services provider (plus/minus authorized adjustments).

PR's EBT service provider maintains transaction trails that document the cycle of household transactions from the posting of point-of-sale transactions at retailers through the settlement of retailer credits (PR Annual Plan of Operation, G., Criteria for Distribution of Funds, 7, Electronic Benefit Transfer – EBT Family Card, and H., Program Administration, 2.a., Reconciliation System (EBT)).

Audit Objectives Determine whether PR performs the required comparisons and reconciliations.

Suggested Audit Procedures

a. Ascertain if PR has a process in place to perform the required comparisons and reconciliations.

b. Test a sample of comparisons and reconciliations to ascertain if they are properly performed and that there is proper follow-up and resolution of discrepancies.

UNITED STATES DEPARTMENT OF AGRICULTURE

ASSISTANCE LISTING 10.606 FOOD FOR PROGRESS PROGRAM

I. PROGRAM OBJECTIVES

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

II. PROGRAM PROCEDURES

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

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

The criteria for determining what qualifies as an eligible foreign country is as follows.

Food for Progress Program – Commodities made available under this program, regardless of funding source, must be donated for use in developing countries and emerging democracies that have made commitments to introduce or expand free enterprise elements in their agricultural economies. Within these constraints, USDA gives priority consideration to proposals for countries that:

a. Have economic and social indicators that demonstrate the need for assistance, including indicators related to income, undernourishment, movement toward freedom, and food imports; or

b. Are in transition, either politically or economically, including countries that show potential toward strong private sector growth and development or that are recovering from conflict.

Program Operation

Bellmon Amendment

Adopted as Section 212 of the International Development and Food Assistance Act of 1977 and codified at 7. U.S.C. 1773(a), it applies to commodities under the Food for Peace Act. The authorizing legislation for Food for Progress incorporates the programs by reference to the amendment. The amendment says that implementing agencies (referred to herein as XXX) must determine before supplying in-kind food aid to a country, that adequate storage facilities are available in that country and that the distribution of the proposed commodities will not result in a substantial disincentive to, or interference with, domestic production or marketing to recipient countries.

General

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

Direct Distribution

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

Recipient Agencies

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

Monetization

A monetization agreement authorizes the cooperating sponsor to sell the commodities in the applicable foreign country and use the sales proceeds to support its programmatic activities in accordance with the signed agreement. To the maximum extent possible, the cooperating sponsor is expected to conduct the sale of commodities through the private sector of the host country’s

economy. A cooperating sponsor's agreement with the CCC may also provide for bartering commodities in exchange for goods and services to support program operations.

In addition to commodities, the CCC's agreement with the cooperating sponsor may provide the cooperating sponsor cash assistance to fund program administrative and operational expenses.

Program regulations also authorize cash advances for this purpose. Such cash awards may be made only after approval of a program operating budget submitted by the cooperating sponsor.

Source of Governing Requirements

Commodity donations is authorized by the Food for Progress Act of 1985 (7 USC 1736o) (Food for Progress Program). Implementing regulations are found at 7 CFR Part 1499.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	Y	N	N	N	Y	Y	N	Y

A. Activities Allowed or Unallowed

1. *Use of Funds*

The Plan of Operation and agreement set forth the description of the activities for which commodities, monetized proceeds, or program income shall be used. Except as approved in advance by CCC, the cooperating sponsor shall ordinarily bear all costs incurred subsequent to CCC's delivery of commodities at US ports or intermodal points (7 CFR section 1499.7(d)).

With prior written approval from CCC, the cooperating sponsor may use CCC funds for administrative expenses under the Food for Progress Program. Administrative expenses include expenses incurred for the purchase of goods and services directly related to program administration and monitoring of distribution and monetization operations (7 CFR section 1499.7(b)(3)).

2. *Use of Commodities and Monetization Proceeds*

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

C. Cash Management

1. *Cash Advances from the CCC*

A cooperating sponsor may request an advance of up to the total amount specified in the agreement. Cash advances furnished by the CCC must be deposited in interest bearing accounts. Any interest earned on such advances must be used for the same purposes as the cash advances themselves (7 CFR sections 1499.6(f)(8)).

2. *Commodity Monetization Proceeds*

A cooperating sponsor must deposit all proceeds from the sale of USDA-donated commodities under monetization agreements into interest bearing accounts.

Exceptions are permitted where this practice is prohibited by local law or custom of the importing country, or the CCC determines that enforcing the requirement would impose an undue burden on the sponsor (7 CFR section 1499.11(g)).

F. Equipment and Real Property Management

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

J. Program Income

Program income includes interest on sale proceeds and money received by the cooperating sponsor, other than monetization proceeds, as a result of carrying out approved activities (7 CFR section 1499.1). A cooperating sponsor must use program income for program purposes identified in its agreement with the CCC (7 CFR section 1499.5).

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271 – Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

d. *Semi Annual Financial Report (SAFR)* (OMB Control No. 0551-0035)– Per 7 CFR section 1499.13 a cooperating sponsor must submit a financial report with amounts in U.S. dollars to the FAS semiannually for each agreement. The report must provide an accurate accounting of sale proceeds, CCC-provided funds, interest earned, program income and voluntary committed cost sharing or matching contributions. This accounting is directly entered into the online Food Aid Information System (FAIS) as indicated here: https://omb.report/icr/202012-0551-002/doc/106826501. For access to these reports, please request copies from the auditee.

Key Line Items – Data reported under *Expenses this Reporting Period* contain critical line item information for the follow sections:

1. Monetization Sales Proceeds ($) – (Relating to expenses utilizing commodity sales proceeds.)

2. CCC/FAS Cash ($) - (Relating to expenses utilizing Commodity Credit Corporation funding provided, separate from monetization)

3. Cost Share ($) (Relating to expenses utilizing resources contributed by the recipient)

4. Monetization and Sales Deposits (Relating to sales deposit, interest earned, other project income, disbursements, and other monetization transaction details actualized during the reporting period)

2. Performance Reporting

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

Key Line Items – The following line items contain critical information that are supported by the sponsor accounting records and other source data:

1. *Commodity Delivery Table* – The following data relating to shipping of each commodity provided for in the agreement:

    a. *Amount received at port*

    b. *Ocean losses/damages*

    c. *Amount received at warehouse*

    d. *Inland losses/damages*

2. *Freight Charges* – The dollar amount of claims for a reduction or recovery of freight charges in both local currency and US dollar (USD) equivalents. Claims generated by the ocean and inland portions of the shipment should be separately identified.

3. *Warehouse Losses* – The following data relating to storage of each commodity provided for in the agreement:

    a. *Warehouse losses/damages*

    b. *Balance available for distribution*

4. *Direct Distribution* – The following data relating to direct distribution of each commodity provided for in the agreement:

    a. *Amount distributed*

    b. *Distribution losses/damages*

    c. *Type of institution reached and number of institutions reached*

    d. *Number of benefiting individuals*

5. *Warehouse Inventory Status* – The warehouse inventory status of each commodity provided for in the agreement: beginning inventory, total received in warehouse, total dispatched from warehouse, warehouse losses, and ending inventory.

b. CCC Form 621, *Monetization Report (OMB No. 0551-0035)* – A cooperating sponsor must submit this report to the FAS semiannually for each agreement that provides for monetization of the commodities. Reports are required until all the commodities have been sold and the proceeds disbursed for authorized purposes. If a monetization project involves a revolving loan program, current FAS policy requires the cooperating sponsor to submit reports only through repayment of the first loan cycle. For access to this report, please request a copy from the auditee.

Methods a cooperating sponsor may use to determine prevailing local market prices for monetization purposes include, but are not limited to, soliciting sealed bids, using public auctions, involving commodity exchanges, or obtaining written statements from the agricultural attaché or minister for foreign agricultural affairs in the host country. The FAS home page provides agricultural attaché contact information https://apps.fas.usda.gov/overseas_post_directory/printable_directory.asp.

Key Line Items – The following line items contain critical information that are supported by the sponsor accounting records and other source data:

1. Part I – *Sales*

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

2. Part II – *Barter*

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

3. Part III – *Deposits to Special Funds Account*

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

4. Part IV – *Disbursements from Special Funds Account*

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

5. Part V – *Balance of Special Funds Accounts*

Beginning and ending balances of special fund accounts, both in local currency and in USD.

c. *Semi-Annual Performance Report (SAPR)* (OMB Control No. 0551-0035) – Per 7 CFR section 1499.13 a cooperating sponsor must submit a performance report regarding progress measured against established indicators, baseline values, and targets to the FAS semiannually for each agreement. This reporting is directly entered into the online FAIS as indicated here: https://omb.report/icr/202012-0551-002/doc/106826501. For access to these reports, please request copies from the auditee. Implementers use indicators for monitoring progress in achieving results. Standard indicators are a common set of required indicators identified by FAS that must be used by all recipients, if applicable to the project. Custom indicators are additional project-specific performance indicators not included in the FAS list of standard indicators. More information about these indicators can be found at: https://fas.usda.gov/sites/default/files/2019-06/fad_indicator_handbook_feb_2019_0.pdf.

Key Line Items – Only the data reported in the column "*FY202X Actual"* for the applicable standard and custom indicators contain critical line item information measuring actual progress relative to the current yearly target.

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Recipient Agencies

Compliance Requirements The Plan of Operation is required to describe the recipient agencies that will be involved in the program and to provide a description of each recipient agency's capability to perform its responsibilities (7 CFR section 1499.5(a)(3)). A recipient agency is defined as an entity located in the foreign country that receives commodities or commodity sale proceeds from a cooperating sponsor for the purpose of implementing activities (7 CFR section 1499.1).

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

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

Audit Objectives Determine whether (1) the cooperating sponsor entered into written agreements with the recipient agencies, (2) the use of the recipient agencies was consistent with the Plan of Operation, and (3) the cooperating sponsor monitored the activities of recipient agencies to ensure proper performance of assigned activities and use of commodities, monetized proceeds, and program income.

Suggested Audit Procedures

Select a sample of recipient agencies and ascertain if:

a. The cooperating sponsor entered into a written agreement with the recipient agency.

b. The cooperating sponsor's use of the recipient agency was consistent with the Plan of Operation.

c. The cooperating sponsor appropriately monitored the activities of the recipient agency to ensure proper performance of assigned activities and use of commodities, monetized proceeds, and program income. Appropriate monitoring by the cooperating sponsor would be evidenced by *monitoring trip reports, semi-annual performance reports, semi-annual financial reports, and mid-term and final evaluation reports*."

UNITED STATES DEPARTMENT OF AGRICULTURE

ASSISTANCE LISTING 10.646 Summer Electronic Benefits Transfer Program for Children

I. PROGRAM OBJECTIVES

The objective of the Summer Electronic Benefits Transfer Program for Children (Summer EBT) is to provide EBT benefits to children who lose access to free and reduced price meals through the National School Lunch Program (NSLP) and School Breakfast Program (SBP) during the summer when school is not in session.

II. PROGRAM PROCEDURES

A. Administration

The Summer EBT Program is administered at the federal level by the Food and Nutrition Service (FNS) of the U.S. Department of Agriculture (USDA) through grants awarded to States, U.S. territories, and Indian Tribal Organizations (ITOs). For the purposes of Summer EBT, States are defined as the 50 States, the District of Columbia, and all U.S. territories. These agencies are typically the state departments of agriculture, health, social services, or education. In states where more than one agency administers the Summer EBT program, one agency must be designated as the coordinating agency and the other as the partnering agency. Each agency administering the Summer EBT program that will receive a Federal grant for administrative funds must sign a FNS-529 that commits it to observe applicable laws and regulations in carrying out the program.

B. Federal Funding of Benefits and State Administrative Costs

The federal government pays 100 percent of the value of Summer EBT benefits and reimburses Summer EBT agencies for 50 percent of their costs to administer the program. Summer EBT's authorizing statute places no cap on the amount of funds available to reimburse Summer EBT agencies at the 50 percent rate for allowable administrative expenses.

C. Eligibility

Eligibility for Summer EBT is based primarily on household income and resources. Children must also be enrolled in an NSLP/SBP-participating school or be able to be directly certified to be eligible for Summer EBT. A key feature of this program is its status as an entitlement program with standardized eligibility and benefits. Students from households with incomes at or below 185% of the federal poverty standard are eligible to receive Summer EBT benefits.

1. *Application Process for Summer EBT Benefits*

The application process for Summer EBT benefits includes the completion and filing of an application form, verification of student enrollment, and verification of household income upon request. In addition to using information supplied by the household, Summer EBT agencies may use data from other agencies to verify the household's identity, income, and other eligibility criteria.

2. *Streamlined Certification*

Eligibility of children who are of compulsory school age per State or local law can also be established through household participation in other federal programs; most students will be identified as eligible via the process of streamlined certification. Streamlined certification is the process through which the State/ITO/territory consolidates data from sources including the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), Food Distribution Program on Indian Reservations (FDPIR), and Medicaid (as approved), and determines a child eligible for a benefit based on participation in these other federal programs with no application needed. Students can also be streamline certified for Summer EBT if they are participating in the State/ITOs' foster, homeless, migrant, runaway, and/or Head Start programs.

D. Benefits

1. Issuance

Each eligible child received $40 per summer month, or one lump sum of $120, in 2024. In 2025 and subsequent years the benefit will be adjusted to reflect the changes in the cost of food as measured by the Thrifty Food Plan (TFP). The benefits are issued in the form of debit cards, which recipients can use to purchase food. This is known as electronic benefits transfer (EBT). States, Territories, and ITOs may choose to provide households with a Summer EBT-specific EBT card, or benefits may be co-loaded onto an existing EBT card.

2. Redemption

Summer EBT benefits administered by a State or Territory that administers SNAP can be redeemed for SNAP-eligible foods at any SNAP-authorized retailer. Generally, households must use program benefits to purchase foods for preparation and consumption at home. However, exceptions to this policy do exist for those participants who are residents of certain group living institutions, or whose parent or guardian is senior, a disabled person, and/or experiencing homelessness. For example, eligible guardians of Summer EBT recipients 60 years of age or over may use Summer EBT benefits to purchase for the child meals that are prepared for and delivered to them by an FNS-authorized nonprofit

meal delivery service, or meals prepared at an FNS-authorized communal dining facility for that purpose.

Summer EBT benefits administered by an ITO that administers the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) can be redeemed at any WIC retailer authorized by the ITO for supplemental foods, as defined by the ITO and approved by FNS.

Summer EBT benefits administered by a Territory that administers the Nutrition Assistance Program (NAP) can be redeemed for NAP-authorized foods at any NAP-authorized retailer.

E. State/Territory/ITO Responsibilities

The Summer EBT coordinating agency or agencies within each State, Territory, or ITO that will receive a Federal grant for administrative funds must sign an FNS-529 agreement that commits it to observe applicable laws and regulations when using the funds awarded by the FNS-529 to carry out the program. Both the law and regulations prescribe detailed requirements for meeting program goals. In States with multiple agencies collaborating to operate the Summer EBT program, an inter-agency written agreement should outline the assignment of responsibilities. These include, but are not limited to, certification and enrollment of children, issuance of Summer EBT benefits, verification, developing and maintaining fair hearings procedures, submitting accurately and timely program plans, forms and reports, and other program integrity measures. This inter-agency agreement is submitted to the National Office annually as an attachment to the State or ITO annual Plan for Operations and Management (POM), which serves to outline the State or ITO's plan and budget for administering Summer EBT and use of administrative funds across multiple agencies.

F. Federal Oversight

FNS oversees State, Territory, and ITO operations through an organization consisting of headquarters and seven regional offices. FNS program oversight includes program plan review and approval, budget review and approval, and reviews of financial reports monthly, quarterly, and annually.

Source of Governing Requirements

Section 13A of the Richard B. Russell National School Lunch Act (42 U.S.C. 1762)

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements

have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the Federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	Y	N	Y	N	Y	N	Y

A. Activities Allowed or Unallowed

Funds made available for administrative costs must be used to screen and certify applicants for program benefits, issue benefits to eligible households, conduct fraud investigations and prosecutions, provide fair hearings to households for which benefits have been denied or terminated, prepare financial and special reports, operate automated data processing (ADP) systems, and otherwise administer the program (7 CFR Part 292).

B. Allowable Costs/Cost Principles

1. *Allowable costs.* In accordance with 2 CFR 200.403, examples of allowable costs under this grant include, salaries of personnel, outreach, equipment, supplies, support services (to include contracts for staffing or system related work that show clear allocation to the FY 2024 Summer EBT program), or other expenses associated with the administration of the FY 2024 Summer EBT program. These examples are not meant to be exhaustive, and other items may be approved, provided they are designed to administer the FY 2024 Summer EBT program.

   Unallowable costs are those expenses that are: 1) not necessary or reasonable for the administration of the FY 2024 Summer EBT program; and (2) expenses already covered under another federal award.

2. *Automated Data Processing (ADP) projects*. FNS requires Summer EBT agencies to obtain prior approval to incur costs for certain ADP projects and to provide notification and/or documentation for others (7 CFR 292 11(a)). Approval procedures are in FNS Handbook 901, Advance Planning Document Handbook. A link to the handbook is available at State Systems Office | Food and Nutrition Service. Approval levels are as follows:

    a. A State agency must:

        (1) Notify the applicable FNS regional office within 60 days of the initial expenditure or contract award for an ADP project costing in excess of $4,999 but less than $100,000; and

        (2) Receive prior approval for (a) an ADP project that has a cost greater than $99,999; or (b) any ADP project associated with planning, developing, or deploying a new automation system.

    b. An ITO must:

        (1) Notify the applicable FNS regional office within 60 days of ADP project initiation or contract execution for an ADP project costing in excess of $4,999 but less than $100,000; and

        (2) Receive prior FNS approval for (a) limited ADP project documentation costing greater than or equal to $100,000 to $999,999; and (b) an ADP project that has a cost greater than or equal to $1,000,000.

E. Eligibility

1. Eligibility for Individuals

Eligibility for Summer EBT may be established in several ways, as noted below. [7 CFR Part 292 Subpart B]. Children eligible for Summer EBT include children who in the instructional year immediately preceding the summer or during the summer operational period:

a. Attend an NSLP/SBP-participating school, and have been certified as eligible for free or reduced price school meals through an NSLP/SBP application or direct certification;
b. Attend an NSLP/SBP-participating Community Eligibility Provision (CEP) or special provision school (Provision 2 or 3) and are directly

certified, or categorically eligible;

c. Attend an NSLP/SBP-participating school but are not already certified either by application or direct certification and are otherwise certified by a Summer EBT application. This includes children attending a special provision school and/or children who were not certified as eligible for free and reduced price during the preceding instructional year;

d. Do not attend an NSLP/SBP-participating school but are of compulsory age, per State or local law, and are able to be directly certified (e.g., through SNAP, TANF, or Medicaid, where approved).

Students from households with incomes at or below 185% of the federal poverty standard are eligible to receive Summer EBT benefits. Households may establish eligibility for Summer EBT at any point between the start of the immediately preceding instructional year through the last day of the summer operational period. The summer operational period will be defined by the Summer EBT agency and will generally reflect the period between the end of classes during the prior school year and the start of classes for the next school year. For example, for summer 2024, a child that meets the eligibility criteria listed above anytime during school year 2024-25 through the summer operational period in 2025, is eligible for benefits. This includes the children who do not attend NSLP/SBP-participating schools but are able to be directly certified. Children who are certified as eligible for Summer EBT during the summer will be issued the full summer benefit.

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

Not applicable.

3. Eligibility for Subrecipients

Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

The State or ITO is required to pay 50 percent of the costs of administering the program [7 CFR 292.20(c)]. Exceptions to the 50 percent reimbursement rate include 100 percent grants to:

a. *Territories*. Certain territories (those defined as “insular areas”)

operating Summer EBT are not required to provide the 50 percent administrative cost match due to recognized financial challenges under the statutory authority found in 48 U.S.C. 1469a(d). These territories are Guam, Northern Mariana Islands, U.S. Virgin Islands, and American Samoa.

2. Level of Effort
Not Applicable.

3. Earmarking
Not Applicable.

I. Procurement and Suspension and Debarment

1. *Procurement* – All procurements must adhere to the requirements in 2 CFR 200.317-327, Appendix II to Part 200, and Parts 400 and 415, as applicable, except where superseded by 2 CFR 416.1 (7 CFR 292.28).

    a. A prospective contractor that develops or drafts specifications, requirements, statements of work, invitations for bids, requests for proposals, contract term and conditions, or other documents for use by a state under this program shall be excluded from competing for such procurements. Such prospective contractors are ineligible for contract awards resulting from such procurements regardless of the procurement method used. However, prospective contractors may provide states with specification information related to a state procurement and still compete for the procurement if the state, and not the prospective contractor, develops or drafts the specifications, requirements, statements of work, invitations for bid, and/or requests for proposals used to conduct the procurement (2 CFR 200.319(b) and 416.1(a)).

    b. Procurements by states under this program shall be conducted in a manner that prohibits the use of statutorily or administratively imposed in-state or local geographic preferences except as provided for in 2 CFR section 200.319(b) (2 CFR section 416.1(b)).

2. *ADP Systems Development:* If an EBT services contract established for the purpose of benefit issuance includes Summer EBT, the State Systems Advance Planning Document (APD) must be followed for States and ITOs (7 CFR section 292.11; 7 CFR section 292.11).

    a. *APD Procurement Process for States* – For competitive acquisitions of ADP equipment and services costing $6 million or

more (combined federal and state shares), the state must submit an Advanced Planning Document (APD) for the costs to be approved and allowable as charges to FNS. This threshold is for the total project cost. Once a project is subject to the APD process, an As Needed APD Update will be required if project costs increase by $10 million or 10%, whichever is less, when costs are added, when the cost allocation is changed, or when something significant changes in the EBT system design. Contracts resulting from the noncompetitive procurement of more than $1 million and contracts for EBT systems, regardless of cost, also must be provided to FNS for prior written approval (7 CFR section 277.18; 7 CFR Part 292).

b. *APD Procurement Process for ITOs* – FNS requires Summer EBT ITOs to obtain prior approval to incur costs for certain ADP projects and to provide notification and/or documentation for others (7 CFR section 246.12; 7 CFR Part 292). Approval procedures are in FNS Handbook 901, Advance Planning Document Handbook. A link to the handbook is available at State Systems Office | Food and Nutrition Service. Approval levels are as follows:

i. A Summer EBT ITO must notify the applicable FNS regional office within 60 days of ADP project initiation or contract execution for an ADP project costing in excess of $4,999 but less than $100,000;

ii. A Summer EBT ITO must receive prior FNS approval of limited ADP project documentation costing greater than or equal to $100,000 to $999,999:

1. Description of needs
2. Explanation of purchases
3. Budget
4. Cost allocation (if applicable)
5. Procurement documents (Request For Proposals (RFPs) and contracts)

iii. A Summer EBT ITO must receive prior approval for an ADP project that has a cost greater than or equal to $1,000,000. A Planning Advanced Planning Document (PAPD) and Implementation APD (IAPD) review and approval process applies.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement*
Not Applicable.

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable.

c. *SF-425, Federal Financial Report* – Applicable.

d. *FNS-46, Issuance Reconciliation Report* (OMB No. 0584-0594) is due monthly from States and territories. The report includes funding from the Summer EBT benefit grant.

e. *FNS-388, Benefit Issuance and Participation Estimates* (OMB No. 0584-0594) is due monthly from States and territories. The report includes funding from the Summer EBT benefit grant.

f. *FNS-366A, Program and Budget Summary* (OMB No. 0584-0083) is due annually from States, territories, and ITOs. The report includes funding from the Summer EBT administrative funding grant.

2. Performance Reporting
Not Applicable.

3. Special Reporting
Not Applicable.

4. Special Reporting for Federal Funding Accountability and Transparency Act
Not Applicable.

N. Special Tests and Provisions

1. EBT Card Security

Compliance Requirements The State/Territory/ITO is required to maintain adequate security over, and documentation/records for, EBT cards, to prevent their theft, embezzlement, loss, damage, destruction, unauthorized transfer, negotiation, or use (7 CFR section 292.16).

Audit Objectives Determine whether the State/Territory/ITO maintains security over EBT cards.

Suggested Audit Procedures

i. Verify the existence of written policies for the physical security over EBT cards, and/or other negotiable instruments used in the issuance process as specified in 7 CFR 292.16(h)(3)(i).

ii. Verify the existence of written policies and safeguards for any returned EBT cards or destroying them when returned through the USPS.

UNITED STATES DEPARTMENT OF AGRICULTURE

ASSISTANCE LISTING 10.665 SCHOOLS AND ROADS – GRANTS TO STATES

ASSISTANCE LISTING 10.666 SCHOOLS AND ROADS – GRANTS TO COUNTIES

I. PROGRAM OBJECTIVES

The objectives of these programs are to (1) share federal receipts from the national forests with the states in which the national forests are situated (Assistance Listing 10.665), and (2) share federal receipts from the national grassland with the counties in which the national grasslands are situated (Assistance Listing 10.666). Generally, these funds are to be used for the benefit of public schools and public roads of the county or counties in which the national forest is situated.

II. PROGRAM PROCEDURES

A. General

Since the early 1900s, the Congress has enacted laws directing that a state or county be compensated for the presence of federal lands in the state. The compensation may be based on federal acreage or a county's population, but in most instances, the payments relate to a percentage of the receipts generated on federal land. Federal laws requiring payments to states, based on national forest receipts, provide the basis and methodology of the compensation payments to the states but allow states to prescribe how the funds are spent for schools and roads in the county or counties in which the national forest is situated. All disbursement transactions are processed through the US Treasury.

B. Program Operation

1. *Assistance Listing 10.665 – Schools and Roads – Grants to States*

   25-Percent Payment – An amount equal to the annual average of 25 percent of all amounts received for the applicable federal fiscal year (FY) and each of the preceding six FYs from each national forest is paid to the states. Payments are to be used to benefit public schools and public roads of the county or counties in which the national forest is situated. The Forest Service calculates the payments and sends letters to the states advising them of the amount and of each county's historic percentage of the payment based on the county's acreage in the national forest. The Forest Service notifies the US Treasury of the amounts to be paid, and the funds are electronically transmitted to the states. Payments are made around April following the close of the FY for which receipts were received. Payments are always made the year after the receipt year, which is used to calculate those payments made in the following payment year. The states verify the amount of each deposit with information received from the Forest Service, and then distribute the funds to the counties in which the national forests are situated.

State Payment (Secure Rural Schools and Community Self-Determination Act Payment) (SRS) – Each eligible county elects to receive either its share of the 25-Percent Payment, as described above, or its share of the state payment. The SRS program expired on October 1, 2023 and has not been reauthorized beyond FY 2023.

Quinault Special Payment – Forty-five percent of the gross receipts generated by the Quinault Special Management Area is distributed to the state of Washington for the benefit of public roads and public schools. This amount is combined with the 25-Percent Payment to Washington State to make one payment. Washington State distributes Quinault payments to the counties as part of its 25-Percent Payment. These funds are separate from the 45 percent of gross receipts generated by the Quinault Special Management Area transferred to the secretary of the interior for use by the Quinault Indian Nation.

Arkansas Quartz Payment – Fifty percent of the receipts from the sale of quartz mined on the Ouachita National Forest in Arkansas is distributed to Arkansas for the benefit of public roads and public schools of the counties in which the national forest is situated. The Forest Service calculates these payments by subtracting the quartz receipts from the forest receipts and applying the 50 percent rate to these quartz receipts. The quartz payment is added to the state's 25-Percent Payment and distributed in one payment.

Payments to Minnesota – Three-quarters of 1 percent of the fair appraised value of specified national forest lands in Cook, Lake, and St. Louis counties is paid to the state. The Forest Service adds this amount to the 25-Percent Payment for the remainder of Minnesota and makes one payment to the state. The state distributes funds to Cook, Lake, and St. Louis counties according to the fair appraised value of the specified national forest lands in each county.

2. *Assistance Listing 10.666 – Schools and Roads – Grants to Counties*

National Grasslands Payment – Twenty-five percent of net revenues from national grasslands and land utilization projects (LUPs) administered under Title III of the Bankhead-Jones Farm Tenant Act (grazing receipts collected by the Forest Service and mineral receipts collected by the Department of the Interior, Office of Natural Resource Revenue, and transmitted to the Forest Service for distribution) is distributed to the 6 counties containing Forest Service national grasslands. Payments are made directly to the counties where the national grasslands and LUPs are located.

Source of Governing Requirements

25-Percent Payment – 16 USC 500

State Payment (Secure Rural Schools and Community Self-Determination Act Payment) – 16 USC 7101 to 7153, as amended and reauthorized in Section 524 of Pub. L. No. 114-10, 129 Stat. 178, April 16, 2015.

Quinault Special Payment – Pub. L. No. 100-638, Section 4(b)(2)

Arkansas Quartz Payment – Pub. L. No. 100-446, Section 323

Payments to Minnesota – 16 USC 577g and 577g-1

National Grasslands Payment – 7 USC 1012

Infrastructure Investment and Jobs ACT – Pub. L. No. 117-58

Availability of Other Program Information

Program information for the Secure Rural Schools and Community Self-Determination Act may be found at Secure Rural Schools Program | US Forest Service (usda.gov).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	Y	Y	N	N	Y	N	Y

A. Activities Allowed or Unallowed

1. The *25-Percent Payment* funds must be used for public roads and public schools of the county or counties in which the national forest is situated (16 USC 500).

2. *State Payment* funds must be used for:

   a. Title I – Public roads and public schools of the county or counties in which the national forest is situated (16 USC 500);

   b. Title II – Special projects on federal land as defined in 16 USC 7102(7) and on nonfederal land where projects would benefit the resources on federal land. This portion of the state payment allocated to Title II is not paid to states or counties. It is reserved for special projects recommended by a Secure Rural Schools Act resource advisory committee and approved by the secretary of agriculture or authorized designee (16 USC 7101, 7112, and 7121-7128); or

   c. Title III – This portion is paid to the state and then distributed by the state to the participating county. These are referred to in the authorizing legislation as "county funds" (16 USC 7141). A participating county shall use Title III county funds only to:

      (1) Carry out activities under the Firewise Communities program to provide to homeowners in fire-sensitive ecosystems education on, and assistance with implementing, techniques in home siting, home construction, and home landscaping that can increase the protection of people and property from wildfires;

      (2) Reimburse the participating county for search and rescue and other emergency services, including firefighting, that are

         (a) performed on federal land, as defined in 16 USC 7102(7), after the 45-day public comment period (see III.N, "Special Tests and Provisions – Public Comment," below); and

         (b) paid for by the participating county; and

      (3) Develop community wildfire protection plans in coordination with the appropriate secretary concerned (16 USC 7142).

      (4) Cover training costs and equipment purchases directly related to the emergency service

      (5) Provide or expand access (Pub. L. No. 117-58) to—

         (a) broadband telecommunications services at local schools; or

(b) the technology and connectivity necessary for students to use a digital learning tool at or outside of a local school campus.

(6) No county funds made available under this title may be used by any participating county for any lobbying activity, regardless of the purpose for which the funds are obligated on or before that date.

3. *Quinault Special Payment* funds must be used for public schools and roads of the county or counties in which the national forest is situated (Pub. L. No. 100-638, Section 4(b)(2)).

4. *Arkansas Quartz Payment* funds must be used for public roads and public schools in the counties in Arkansas in which the Ouachita National Forest is located (Pub. L. No. 100-446, Section 323).

5. *Payments to Minnesota* funds have no restrictions on use (16 USC 577g and g-1).

6. *National Grasslands Payment* funds must be used for roads or schools in the county in which the land is located (7 USC 1012).

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort

Not Applicable

3. Earmarking

a. Public Law 117-70 allowed for county title allocation elections in FY 2022 and payment (1908 Act vs SRS) and title allocation elections (Title I, II, III) percentages in FY23.

(1) a county election will receive a formula payment in FY2023 between Title I, II, III by determining the different percentages in each title, which is determined by the certain distribution type (a minor, modest or major formula);

(2) a county election will receive a share of the state's 25-Percent Payment or a share of the state (formula) payment by determining which formula payment would benefit the county the most; and

(3) a county election will allocate the share of the formula payment for titles II and III, will be different for FY2022 and FY2023 since

counties now had the ability to change those title allocation percentages (P.L 117-58).

A county may opt to return its allocation, in whole or part, to the US Treasury. Similar information is posted on the Forest Service website (Title III FAQs | US Forest Service (usda.gov)).

b. County Allocations of State Payments (16 USC 7112)

(1) For $100,000 or less. For payments for FY 2022 and FY2023, an eligible county that receives $100,000 or less, could allocate 100 percent of its share to benefit public schools and roads under Title I. The total percentage allocated for the benefit of public schools and roads must be no less than 80 percent and no more than 85 percent.

(2) For $100,001 and equal to or less than $349,999. For payments for FY 2022 and FY2023, the county was required to allocate 15 percent to 20 percent of its share to Title II, Title III, or a combination of the two titles, or return this portion of the state payment to the US Treasury.

(3) For $350,000 or greater. For payments for FY 2022 and FY2023, if the county share of the state payment was $350,000 or greater, the county was required to allocate 80-85 for Title I, 8-20% percent of its share to Title II, no more than7 percent or less to Title III The county may also decide to return this portion of the state payment to the US Treasury.

H. Period of Performance

The authority to initiate Title III projects terminates on September 30, 2025. Any county funds not obligated by September 30, 2026, shall be returned to the US Treasury (P.L 117-58).

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

d. *County's Certification of Title III Expenditures and Unobligated Funds (OMB No. 0596-0220)* – Not later than February 1 of the year after the year in which any Title III county funds were expended by a participating county, the participating county must submit a certification that the county funds expended in the applicable year have been used for the uses authorized under this title, including a description of the amounts expended and their uses. The participating county certification also must include the amount of Title III funds not obligated by September 30 of the previous year. Additional information about the annual certification of Title III expenditures is available at Secure Rural Schools - Categories | US Forest Service (usda.gov) https://www.fs.usda.gov/working-with-us/secure-rural-schools/categories.

Key Line Items – The following sections contain critical information:

1. *Expenditures*

2. *Funds Not Obligated*

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Public Notice and Comment Period

Compliance Requirements A participating county can use Title III county funds only after a 45-day public comment period, at the beginning of which the participating county must:

a. Publish in any publications of local record a proposal that describes the proposed use of the county funds; and

b. Submit the proposal to any resource advisory committee established under 16 USC 7125 for the participating county (16 USC 7142(b)).

Audit Objectives Determine whether the county has provided the required public notice.

Suggested Audit Procedures

a. Verify that the county provided public notice 45 days prior to using Title III funds.

b. Verify that the county submitted its proposal to use Title III county funds to the resource advisory committee, if any, 45 days prior to using the funds.

UNITED STATES DEPARTMENT OF AGRICULTURE

ASSISTANCE LISTING 10.760 WATER AND WASTE DISPOSAL SYSTEMS FOR RURAL COMMUNITIES

I. PROGRAM OBJECTIVES

The Water and Waste Program is designed to assist rural communities in obtaining safe drinking water and adequate waste disposal facilities, which are prerequisites for economic growth. In recent years, water and waste systems have been subject to increasingly stringent regulation under the Safe Drinking Water Act and Clean Water Act. This program is instrumental in providing the financing to build or upgrade rural water and waste disposal facilities.

II. PROGRAM PROCEDURES

A. Overview

Under this program, the United States Department of Agriculture's (USDA) Rural Utilities Service (RUS) awards direct loans, loan guarantees, and project grants for new and improved water and waste disposal systems serving rural areas where financing is not available from commercial sources at reasonable rates and terms. The Water and Waste Program is authorized to provide loan and grant assistance to eligible applicants for water and waste disposal facilities in rural areas and incorporated areas up to 10,000 people. Eligible applicants include (1) a public body, such as a municipality, district, county, authority, or other political subdivision of a state, territory, or commonwealth; (2) an organization operated on a not-for-profit basis, such as a cooperative, association, or private corporation; or (3) Indian tribes on state and federal reservations and other federally recognized tribes (7 CFR 1780, section 1780.7(a)(3)).

B. Direct Loans for Water and Waste Disposal Systems

To establish its eligibility for a loan, an applicant must demonstrate to RUS that it cannot finance the proposed project from its own resources or obtain sufficient credit to do so at reasonable terms or rates. In addition, the applicant must have the legal authority to construct, operate, and maintain the proposed facility, and to give security for and repay the proposed loan (7 CFR 1780, section 1780.7). A loan is repayable based on the useful life of the facility, state statute, or 40 years from the date of the note, whichever is sooner. Interest is charged at a poverty rate, intermediate rate, or market rate depending on the circumstances (7 CFR 1780, section 1780.13).

C. Project Grants for Water and Waste Disposal Systems

RUS makes grants in conjunction with direct loans for water and waste disposal projects serving the most financially needy communities in order to reduce user costs to a

reasonable level. Maximum grant amounts are based on a graduated scale that provides higher amounts for projects in communities that have lower income levels; however, a

grant amount may never exceed 75 percent of RUS eligible project development costs. To establish grant eligibility, an applicant must demonstrate to RUS that it serves a rural area whose median household income (MHI) falls below the statewide nonmetropolitan median household income (7 CFR 1780, section 1780.10). Grant monies are not necessarily awarded at the grant caps. The grant, if any, awarded represents the amount of subsidy needed to maintain reasonable rates for its users. As each system has unique costs associated with the delivery of safe and potable water, MHI is not the sole driver of grant contributions. Rather, the award amount is dependent upon financial review and determined on a case-by-case basis.

D. Guaranteed Loans for Water and Waste Disposal Systems

RUS provides guaranteed loans and will guarantee up to 90 percent of eligible loan loss. The interest rate and term for guaranteed loans are negotiated between the recipient and the lender (7 CFR 1779, sections 1779.30 and 1779.33).

Source of Governing Requirements

The program is authorized by Section 306 of the Consolidated Farm and Rural Development Act (7 USC 1926). Implementing regulations are at 7 CFR parts 1779 and 1780.

Availability of Other Program Information

RUS maintains a home page that provides general information about this program at http://www.rd.usda.gov/programs-services/water-waste-disposal-loan-grant-program.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	N	Y	N	Y	N	N

A. Activities Allowed or Unallowed

1. Loan and grant funds may be expended on eligible project costs, as approved by RUS. These expenditures include items such as land acquisition, water rights, legal fees, engineering fees, construction costs, and the purchase of equipment (7 CFR 1780, section 1780.9).

2. Loan and grant funds may not be used for the following (7 CFR 1780, section 1780.10):

   a. Facilities that are not modest in size, design, and cost.

   b. Loan or grant finder’s fees.

   c. The construction of any new combined storm and sanitary sewer facilities.

   d. Any portion of the cost of a facility which does not serve a rural area.

   e. That portion of project costs normally provided by a business or industrial user, such as wastewater pretreatment, etc.

   f. Rental for the use of equipment or machinery owned by the applicant.

   g. For other purposes not directly related to operating and maintaining the facility being installed or improved.

   h. The payment of a judgement which would disqualify an applicant for a loan under 1780.7.

B. Allowable Costs/Cost Principles

The auditor should test costs for allowable/unallowable activities when agency funds are used or when interim financing is used during construction.

G. Matching, Level of Effort, Earmarking

1. Matching

Under the direct loan and grant programs, borrowers may be required to provide funds from their own or other sources as required in the grant agreement and the letter of conditions issued, or security instruments, such as the grant agreement or loan documentation by RUS (7 CFR sections 1780.44(d) and (f)).

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

L. Reporting Requirements

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

d. *Form RD 442-2, Statement of Budget, Income and Equity (OMB No. 0575-0015)* – This report covers financial operations relating to the borrower's water or waste disposal project. A borrower may submit this financial data on other forms, provided the forms are in a similar format and signed and dated by the organization's official to certify the correctness of the information. Also, an annual audit may be submitted in lieu of this form (7 CFR 1780, section 1780.47).

Key Line Items – Page 1 only. Supplemental data is not tested by the auditor.

e. *Form RD 442-3, Balance Sheet (OMB No. 0575-0015)* – This report presents the financial status of the borrower's water or waste disposal project. A borrower may submit this financial data on other forms, provided the forms are in a similar format and signed and dated by the organization's official to certify the correctness of the information. Also, an annual audit may be submitted in lieu of this form (7 CFR 1780, section 1780.47).

Key Line Items – All the sections, line items, and data elements in the report contain critical information.

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

IV. OTHER INFORMATION

Interim Financing

After RUS has made a commitment on a loan, the borrower may be required to obtain interim financing from commercial sources (e.g., a bank loan) for the construction period (7 CFR 1780, section 1780.39(d)). Interim financing is required for all loans over $500,000, except in documented instances where financing cannot be obtained at reasonable rates. Expenditures from these commercial sources that will be repaid from the proceeds of the RUS loan should be considered federal awards expended, included in determining Type A programs, and reported in the Schedule of Expenditures of Federal Awards.

Status of Outstanding Loan Balance After Project Completion

In years after the program funds are expended and construction is completed, and the only ongoing financial activity of the program is the payment of principal and interest on outstanding loan balances, the prior loan balances are not considered to have continuing compliance requirements under 2 CFR 200, section 200.502(d). Prior loans that do not have continuing compliance requirements other than to repay the loans are not considered federal awards expended and, therefore, are not required to be audited under 2 CFR Part 200, Subpart F.

However, this does not relieve the borrower of the requirement to file financial reports on these loans (which are not required to be audited) or otherwise comply with program requirements (e.g., maintaining insurance, depositing funds in federally insured banks, obtaining prior approval for sales of plant).

UNITED STATES DEPARTMENT OF AGRICULTURE

ASSISTANCE LISTING 10.766 COMMUNITY FACILITIES LOANS AND GRANTS

I. PROGRAM OBJECTIVES

The objective of the Community Facilities (CF) direct loan, guaranteed loan, and grant programs is to provide loan or grant funds for the development of essential community facilities for public use in rural communities. Funds may be used to construct, enlarge, extend, or otherwise improve essential community facilities providing essential services primarily to rural residents and rural businesses. Funds are made available to public bodies, nonprofit organizations, and federally recognized Indian tribes that are providing essential services to rural communities when financing is not available from their own resources or from commercial credit at reasonable rates and terms.

II. PROGRAM PROCEDURES

A. Overview

These programs are administered at the headquarters level by the United States Department of Agriculture (USDA) Rural Housing Service, and Community Facilities Programs and in the field by USDA Rural Development field offices. The Rural Housing Service authorizes, monitors, and provides funding for administration of CF loans and grants. Funds are made available directly to local governments, nonprofit organizations, and Indian tribes in the form of direct loans, guaranteed loans, and grants. Funds are used for the development of essential community facilities in rural areas and towns of up to 20,000 population. For guaranteed loans, rural area is defined as any area of a state not in a city or town that has a population of more than 50,000 inhabitants and which excludes certain populations pursuant to 7 USC 1991 (a) (13) (H), according to the latest decennial census of the United States and not in the urbanized area contiguous and adjacent to a city or town that has a population or more than 50,000 inhabitants. The USDA Rural Development state, area, and local, offices monitor and evaluate the progress of the CF financed projects.

Applicant eligibility for CF direct and guaranteed loan and grant assistance is based on (1) the type of organization applying for the loan (public body, nonprofit organization, or federally recognized Indian tribe); (2) whether the applicant can demonstrate that it is unable to finance the proposed project from its own resources or from commercial credit at reasonable rates and terms; (3) whether the applicant has authority to develop, own, and operate the proposed facility; and (4) whether the applicant can legally borrow money and make payments on debts obligated. In the case of CF grants, there are additional requirements based on the median household income of the community.

Applicants must have the legal authority to borrow and repay loans, pledge security for loans, and construct, operate, and maintain the facility. They must also be financially

sound and able to organize and manage the facility effectively. Repayment of the loan must be based on tax assessments, revenues, fees, or other sources of money sufficient for operation and maintenance of reserves and debt retirement. The amount of CF grant assistance must be the minimum amount sufficient for feasibility purposes, which will provide for facility operation and maintenance, reasonable reserves, and debt repayment. The applicant's excess funds must be used to supplement eligible project costs.

B. Subprograms/Program Elements

1. *Direct Loans*

The purpose of the CF direct loan program is to provide affordable funding to develop essential community facilities for health care, public safety, education, and community and public services in rural areas. Funds may be used to construct, purchase, or improve essential community facilities. Under the provision of re-lending found at 7 CFR section 1942.30, the Agency may also make CF direct loans to eligible re-lenders who then in turn re-lend the funds to eligible applicants for eligible projects.

2. *Guaranteed Loans*

The purpose of the CF guaranteed loan program is to improve, develop, or finance essential community facilities in rural areas. This purpose is achieved through bolstering the existing private credit structure through the guarantee of quality loans that will provide lasting community benefits. Guaranteed loans are loans made and serviced by a lender and guaranteed by Rural Development. The processing of the loan and ensuring that the requirements placed on the borrower are met are the lender's responsibility.

3. *CF Grants*

Grant funds may be used to assist in the development of essential community facilities for health care, public safety, education, and community and public services in rural areas. Grants are targeted to the neediest communities that meet population criteria for loans and have a median household income below the higher of the poverty line or the eligible percentage (60, 70, 80, or 90 percent) of the state nonmetropolitan median household income. The amount of CF grant funds provided for a facility may not exceed 75 percent of the cost of developing the facility.

Source of Governing Requirements

The program is authorized under the Consolidated Farm and Rural Development Act of 1972 (7 USC 1926).

Implementing regulations are:

- CF Direct Loans 7 CFR Part 1942, Subpart A
- CF Fire and Rescue Loans 7 CFR Part 1942, Subpart C
- CF Grant Programs 7 CFR Part 3570, Subpart B

Availability of Other Program Information

Program regulations, Administrative Notices, and other program literature can be found on the USDA website at https://www.rd.usda.gov/programs-services/community-facilities.

CF Guaranteed Loans 7 CFR Part 5001.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	N	Y	N	N	N	N	Y

A. Activities Allowed or Unallowed

1. *Activities Allowed*

Funds may be used to construct, enlarge, extend, or otherwise improve essential community facilities providing essential services primarily to rural residents and rural businesses. Examples of essential community facilities are fire, rescue, and public safety facilities; health services facilities; educational facilities; facilities providing community, social, or cultural services; transportation facilities such as streets, roads, and bridges; hydroelectric generating facilities; and recreation facilities (guaranteed loans only). Funds are used to pay reasonable fees and costs

associated with the loan, interest on loans for up to two years, and the costs of acquiring interest in land and rights. Under certain circumstances, funds may also be used to purchase or lease equipment, pay initial operating expenses, refinance debts, and pay obligations for construction incurred before issuance of conditional commitment. The projects (including costs) are described in the Letter of Conditions for direct loans and grants or Conditional Commitment for loan guarantees as prepared by USDA Rural Development (7 CFR sections 1942.17(d), 3570.61(b), and section 5001.451).

2. *Activities Unallowed*

Loan funds may not be used to finance (a) on-site utility systems or businesses; (b) industrial buildings in connection with industrial parks; (c) community antenna television services; (d) electric generation except for hydroelectric or transmission facilities and telephone systems; (e) facilities which are not modest in size, design, or cost; and (f) loan or grant finder's fee (7 CFR sections 1942.17(d)(2), 3570.63, and section 5001.116).

N. Special Tests and Provisions

1. Protection and Disposition of Funds

Compliance Requirements Borrowers shall establish accounts into which borrower funds, Agency loan proceeds, the revenues of the facility financed, and any other income shall be deposited in accordance with the loan resolution(s) authorizing the incurrence of indebtedness related to the Agency loan proceeds. The accounts will be maintained in accordance with the loan resolution(s) as long as the authorized indebtedness to the Agency is outstanding. Accounts may include but are not limited to the following: (a) construction account, (b) general account, (c) debt service account, and (d) reserve account. (2 CFR 1942.17(i))

Audit Objectives Determine whether the accounts were properly established, required deposits were made, and disbursements were only made for purposes authorized in the loan resolution(s).

Suggested Audit Procedures

a. Ascertain if the appropriate accounts have been established either as bookkeeping accounts or as separate bank accounts.

b. Ascertain if the funds have been deposited in institutions insured by the state or federal government or invested in readily marketable securities backed by the full faith and credit of the United States. (2 CFR 200.305(b)(10))

c. Select a sample of deposits in each required account and ascertain the proper amount has been made to the appropriate account except when the reserve account has been fully funded.

d. Select a sample of disbursements from the reserve account and ascertain if they were approved by the Agency and were made for the approved purpose.

IV. OTHER INFORMATION

Interim Financing
After USDA has made a commitment on the loan, the borrower may be required to obtain interim financing from commercial sources (e.g., a bank loan) during the construction period (7 CFR section 1942.17(n)(3)). Expenditures from these commercial loans that will be repaid from a CF loan should be considered federal awards expended, included in determining Type A programs, and reported in the Schedule of Expenditures of Federal Awards.

Years after Project Completion – Continuing Compliance

For CF direct loans, the Agency requires a promissory note or bond and security that will adequately protect the interest of the Agency during the repayment period of the loan. In the case of a CF guaranteed loan, the borrower executes a promissory note or bond with the lender and the lender is responsible for obtaining adequate security to protect the interest of the lender, any holder, and the government. Loan terms cannot exceed 40 years, the useful life of the facility or state statute, whichever is less. The borrower is required to repay the principal and interest according to the term of the note or bond. The full outstanding balance on the note or bond should be considered federal awards expended, included in determining Type A programs, and reported as loans on the Schedule of Expenditures of Federal Awards in accordance with 2 CFR Part 200 Subpart F. CF borrowers are required to fund reserves, maintain insurance, deposit funds in Federally insured banks, meet financial covenants, maintain sufficient debt service ratios, and in some cases comply with additional requirements established as part of the loan approval process. These requirements indicate the continuing compliance requirements that CF borrowers must meet. USDA expects borrowers to comply with these continuing compliance requirements and meet the requirements specified in 2 CFR 200, Subpart F when the borrower's federal funding, including its outstanding CF loan balances, exceeds the audit threshold in 2 CFR 200.501.

CF awardees are reminded that a program-specific audit under 2 CFR 507(b) is an option when the CF program is the awardee's only federal funding and the expenditures, including the loan balance, exceed the audit threshold in 2 CFR 200.501. USDA has noted situations where some awardees have not been aware of that option.

U.S DEPARTMENT OF COMMERCE

ASSISTANCE LISTING 11.028 - CONNECTING MINORITY COMMUNITIES PILOT PROGRAM

I. PROGRAM OBJECTIVES

Under the National Telecommunications and Information Administration (NTIA) the Office of Internet Connectivity and Growth (OICG) administers the Connecting Minority Communities (CMC) Pilot Program. The CMC Pilot Program provides new federal funding for the Assistant Secretary to make grants for the expansion of broadband internet access, connectivity, and digital inclusion.

The objective of CMC is to provide funding to eligible recipients in anchor communities. The CMC Pilot Program accomplishes this objective through activities that include: the purchase of broadband internet access service or any eligible equipment, or to hire and train information technology personnel; to facilitate educational instruction and learning, including through remote instruction; to operate a minority business enterprise (MBE); or to operate a tax-exempt 501(c)(3) organization. CMC also authorizes grants to a consortium, led by an eligible recipient institution (i.e., educational institution), that includes an MBE or a tax-exempt 501(c)(3) organization.

II. PROGRAM PROCEDURES

The CMC Pilot Program directly addresses the lack of broadband access, connectivity, adoption and equity at our nation's Historically Black Colleges and Universities (HBCUs), Tribal Colleges and Universities (TCUs), and Minority-Serving Institutions (MSIs), and in their surrounding anchor communities. Accordingly, Congress has directed NTIA to provide grants to HBCUs, TCUs, and MSIs to facilitate educational instruction and learning, including through remote instruction; and to consortia including MBEs or tax-exempt 501(c)(3) organizations to operate that MBE or tax-exempt 501(c)(3) organization. Eligible recipients may use grant funds to: (1) purchase broadband internet access service, including the installation or upgrade of broadband facilities on a onetime, capital improvement, basis to increase or expand broadband capacity and/or connectivity at the eligible institution; (2) purchase or lease eligible equipment and devices for student or patron use, subject to any restrictions and prohibited uses; and (3) hire and train information technology personnel who are a part of the eligible anchor institution, MBE, or tax-exempt 501(c)(3) organization.

The CMC Pilot Program expands educational instruction and remote learning opportunities, spur economic development, create opportunities for employment and entrepreneurship, by building the digital capacity of the eligible institutions and furthering broadband access, adoption, and digital skills within those institutions and in their surrounding anchor communities. NTIA is collaborating with HBCU, TCU, and MSI anchor institutions to develop innovative solutions to address digital gaps.

Section 902(c)(1)(A) of the Consolidated Appropriations Act, 2021, Division N, Title IX, Section 902, Public Law 116-260, 134 Stat. 1182 (Dec. 27, 2020) ("the CAA") required NTIA to promulgate rules establishing CMC Pilot Program, which NTIA has at 47 CFR Section 302 (86 FR 31638). Section 902(c)(1)(B) of the CAA requires that NTIA in these rules establish a method to: identify, determine, and verify applicant eligibility; identify which eligible recipients in anchor communities have the greatest unmet financial needs; and ensure that grants under the CMC Pilot Program are made to eligible recipients in a manner that best achieves the purposes of the CMC Pilot Program, among other requirements.

Source of Governing Requirements

The CMC Pilot Program is authorized by the CAA, 2021, Division N, Title IX, Section 902, Public Law 116-260, 134 Stat. 1182 (Dec. 27, 2020).

Availability of Other Program Information

Other program information is available at:

- BroadbandUSA
- Connecting Minority Communities Program
- Connecting Minority Communities Pilot Program Notice of Funding Opportunity (NOFO) (Original released on August 3, 2021)*
- Connecting Minority Communities Pilot Program NOFO (Amended November 9, 2021)*
- DOC Financial Assistance Standard Terms and Conditions
- BroadbandUSA Technical Assistance Hub

*The NOFO was originally released on August 3, 2021 but was amended on November 9, 2021. Links to both documents are included for reference.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the *Safe Harbor Status* discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	Y	N	N	Y	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

Based on the purpose and scope of the CMC Pilot Program and the program regulations, below are non-exclusive examples of how an eligible recipient may generally leverage grant funds within applicant-designated anchor communities:

a. *General Use:*

(1) Fund personnel costs, including salaries and fringe benefits for staff and consultants required for the implementation of the CMC Pilot Program (such as project managers, program directors, subject matter experts, grant administrators, financial analysts, accountants, and attorneys) (NOFO: Section IV.J.1.a.i);

(2) Fund increases in broadband networking capability, hardware, software, and other digital technology for broadband services, remote education, and distance learning (NOFO: Section IV.J.1.a.ii);

(3) Fund equipment and devices (such as laptops, tablets, and hotspots, but excluding mobile phones) to support connectivity for remote education (NOFO: Section IV.J.1.a.iii);

(4) Fund, provide and implement affordable broadband programs, that facilitate greater access to broadband services, devices, and equipment; including providing free or reduced-cost broadband service and preventing disconnection of existing broadband service (NOFO: Section IV.J.1.a.iv);

(5) Fund, provide and implement digital training, education, technology support, outreach and awareness programs including curricula and web-based resources that facilitate remote education (NOFO: Section IV.J.1.a.v);

(6) Fund access to broadband services including improvement of broadband services and equipment in eligible institutions (NOFO: Section IV.J.1.a.vi);

(7) Conduct needs assessments and develop plans for increasing broadband adoption and access to remote education (NOFO: Section IV.J.1.a.vii);

(8) Fund Program Evaluation and Data Collection activities to collect data and document best practices for replicable and sustainable programs. Eligible activities include: gathering data through different methodologies (including surveys, case studies, focus groups, etc.); conducting evaluations of the programs funded by the grant to determine their effectiveness and develop best and replicable practices; and conducting research, publish and disseminate those findings (NOFO: Section IV.J.1.a.viii);

(9) Fund subawards and contractual costs associated with carrying out programmatic activities of a CMC Pilot Program grant, including for program implementation and consulting services. Recipients are responsible for monitoring the activities and expenditures of subrecipients (sometimes referred to as "subawards" or as "subgrants") and vendors, and are responsible for Ensuring that all solicitation documents reflect activities within the scope of the CMC Pilot Program (NOFO: Section IV.J.1.a.ix);

(10) Fund other allowable costs necessary to carrying out programmatic activities of an award, not to include ineligible costs described below in Section IV.J.2 of the NOFO (NOFO: Section IV.J.1.a.xi); and

(11) Fund other allowable costs necessary to carrying out programmatic activities of an award, not to include ineligible costs described below in Section IV.J.2 of the NOFO (NOFO: Section IV.J.1.a.xi).

b. *Where the eligible recipient will build the broadband capacity of the institution of higher education to provide educational instruction and learning opportunities, including through remote instruction:*

(1) Purchase laptops, hotspots, or other broadband internet and instructional equipment, excluding mobile phones:

(2) Pay for broadband internet services (through bulk purchase agreements). NTIA encourages grant recipients to negotiate bulk discounts from broadband service and equipment providers;

(3) Pay for software, online licensing fees and resources including online program; management, distance learning platforms, learning management systems, cybersecurity and/or other learning support services;

(4) Pay for technology support and IT services;

(5) Pay for installations and/or upgrades of campus computer systems and broadband facilities on a one-time capital basis;

(6) Provide digital skills, cybersecurity and IT-related professional development training for students, faculty, and staff; and

(7) Pay for staffing required to carry out these activities including internships, stipends, and apprenticeships.

c. *Where the eligible recipient will focus on students to participate in educational instruction and learning, including through remote instruction and where the eligible recipient's priority is low-income students:*

(1) Purchase laptops, Wi-Fi hotspots, or other broadband related equipment, excluding mobile phones;

(2) Pay for broadband internet access services (through bulk purchase agreements);

(3) Pay for educational software, online licensing fees and resources;

(4) Provide assistance to students to sign up for other available low-cost internet access programs and device subsidies;

(5) Provide technology support and training; and

(6) Manage and administer broadband equipment and subsidy programs.

d. *Where the eligible recipient will hire and train information technology personnel:*

(1) Provide advanced digital skills training including STEM/STEAM, coding, cybersecurity, technician, IT-related training programs within applicant designated anchor communities;

(2) Provide apprenticeship and internship programs within applicant-designated anchor communities; and

(3) Provide IT-related professional development opportunities for faculty, students and staff, and to develop a diverse IT workforce within applicant-designated anchor communities.

e. *Where the eligible recipient is a consortium (led by an eligible institution of higher education, and includes a MBE or Tax-Exempt 501(c)(3) Organization) and will focus on promoting access and adoption of broadband internet services and digital inclusion to eligible recipients in anchor communities:*

(1) Provide tech support and IT services;

(2) Provide digital skills training and train information technology personnel within applicant-designated anchor communities;

(3) Promote broadband adoption and computer access within applicant-designate anchor communities;

(4) Provide technical assistance to residents within applicant-designated anchor communities to sign up for other available low-cost; internet access programs and device subsidies; and

(5) Pay for staffing required to carry out these activities including internships, stipends, and apprenticeships.

f. *Where the eligible recipient is a consortium and the eligible MBE or Tax-Exempt 501(c)(3) Organization will focus on supporting their broadband and IT-related operations:*

(1) Hire and train IT personnel;

(2) Purchase laptops, Wi-Fi hotspots, or other broadband related equipment, excluding mobile phones, to include distribution for community use (within applicant-designated anchor communities); and

(3) Pay for broadband internet access services within applicant-designated anchor communities.

g. *Where the eligible recipient is a consortium and the eligible MBE or Tax-Exempt 501(c)(3) Organization will focus on promoting inclusive innovation, workforce and economic development, and entrepreneurship in anchor communities:*

(1) Hire and train IT personnel;

(2) Provide advanced training including STEM/STEAM, coding, cybersecurity, Smart technologies within applicant-designated anchor communities;

(3) Provide IT related business support, workforce and economic development centers, business incubators within applicant-designated anchor communities; and

(4) Provide IT apprenticeship and internship programs within applicant-designated anchor communities.

B. Allowable Costs/Cost Principles

1. *Costs Allowed*

Grant recipients may only use federal award funds and any non-federal cost share committed to an award to pay for allowable costs under the CMC Pilot Program. Allowable costs are determined in accordance with the cost principles identified in 2 CFR Part 200, including Subpart E of such regulations and in 48 CFR Part 31 for commercial organizations, as well as in the grant program's authorizing legislation. In addition, costs must be reasonable, necessary, allocable, and allowable for the proposed project, and conform to generally accepted accounting principles. Federal and non-federal funds committed to an award may only be used to cover eligible costs incurred during the period of performance and for allowable closeout costs incurred by the recipient during the grant closeout process.

a. Under the CMC Pilot Program regulations, grant recipients may only use federal award funds and any non-federal cost share committed to an award to pay for:

(1) The purchase of broadband internet access service, including the installation or upgrade of broadband facilities on a one-time, capital improvement, basis to increase or expand broadband capacity and/or connectivity at the eligible institution;

(2) The purchase or lease of eligible equipment and devices for student or patron use, subject to any restrictions and prohibited uses; and

(3) To hire and train information technology personnel who are a part of the eligible anchor institution, MBE, or Tax-Exempt Organization.

2. *Costs Unallowed*

Ineligible costs include those costs that are unallowable under the applicable federal cost principles. Please note that costs ineligible for the CMC Pilot Program may not be paid for with non-federal cost share committed to an award (NOFO: Section IV.J.2). In addition, the following costs are specifically identified as prohibited under the CMC Pilot Program. These cost prohibitions apply to all eligible recipients, including consortium members:

a. **Prohibition on use of grant funds for certain telecommunications and video surveillance services or equipment –** A recipient may not use grant funds received under the Connecting Minority Communities Pilot Program, or voluntary cost share (if any) committed to a Connecting Minority Communities Pilot Program award, to procure, obtain or support certain telecommunications and video surveillance services or equipment identified in 2 CFR 200.216.(NOFO: Section IV.J.2.a);

b. **Prohibition on profit and fees –** A profit, fee, or other incremental charge above actual cost is not an allowable cost under this program. (NOFO: Section IV.J.2.b);

c. **Prohibited uses of equipment**. **–** The sale or transfer of any portion of the grant funded equipment for a thing (including a service) of value during the life of equipment is prohibited, per 47 CFR 302.7(d). Recipients are required to comply with the property standards, including the use and disposition requirements, contained in 2 CFR 200.311-316, and with the terms and conditions set forth in the grant award. NOFO: Section IV.J.2.c);

d. **Construction activities** –Activities related to construction are not allowable under this program. (NOFO: Section IV.J.2.d);

e. **Loan collateral** – An eligible recipient may not use grant amounts as collateral for a loan made by any public or private lender. (NOFO: Section IV.J.2.g);

f. **Previously incurred costs –** An eligible recipient may not use grant funds to pay for previously incurred administrative costs (aside from certain pre-application expenses, as described above) or previously purchased equipment. (NOFO: Section IV.J.2.h);

g**. Duplication of funding** – An eligible recipient may not use grant funds to pay for the costs of providing broadband service or eligible equipment to any locations or individuals that are already receiving funding for such services or equipment from other sources (including other Federal agencies). (NOFO: Section IV.J.2.i)

F. Equipment and Real Property Management

1. Eligible equipment is defined as (NOFO: I.B.h.):
   a. a Wi-fi hotspot;
   b. a modem;
   c. a router;
   d. a device that combines a modem and router;
   e. a connected device; or
   f. any other equipment used to provide access to broadband internet service.

2. In accordance with 2 CFR 200.316, real property, equipment, and intangible property, that are acquired or improved with a federal award must be held in trust by the recipient or subrecipient as trustee for the beneficiaries of the project or program under which the property was acquired or improved. NTIA may require the non-Federal entity to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a Federal award and that use and disposition conditions apply to the property. Awards issued pursuant to this NOFO may contain specific award conditions pertaining to the use and disposition of grant-acquired property and to a requirement that the recipient or subrecipient file certain public notices (e.g., UCC-1, Covenant of Purpose, Use and Ownership, etc.) with respect to grant-acquired property. (NOFO: Section IV.D.5).

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort

Not Applicable

3. Earmarking

Reasonable pre-application expenses in an amount not to exceed $50,000. Pre-application expenses, which include expenses related to preparing an CMC Pilot Program Notice of Funding Opportunity – 32 August 3, 2021 application, may be reimbursed if they are incurred after the publication date of this NOFO and prior to the date of issuance of the grant award from NTIA, except that lobbying costs and contingency fees are not reimbursable from grant funds. Pre-application costs should be clearly identified in the proposed project budget. Additionally, pre-application costs are incurred at the sole risk of the applicant and will not be reimbursed by NTIA if the proposed project does not receive an award pursuant to this program. (NOFO: Section IV.J.1.a.x)

H. Period of Performance

The CAA, as amended, requires Eligible Entities to complete their projects within two years of their receipt of grant funds. If an applicant is awarded funding, neither NTIA nor the Grants office is under any obligation to provide any additional future funding in connection with that award or to make any future award(s). Amendment of an award to extend the period of performance is at the discretion of NTIA and the Grants Officer.

L. Reporting

The following reporting requirements as listed in 47 CFR 302.9 and described in Sections A.01, Reporting Requirements, of the Department of Commerce Financial Assistance

Standard Terms and Conditions (dated November 12, 2020), apply to awards in this program:

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

Each award recipient will be required to submit an SF-425, Federal Financial Report on a semi-annual basis for the periods ending March 31 and September 30 of each year. Reports will be due within 30 days after the end of the reporting period to the NTIA Federal Program Officer, Grants Officer and Grants Specialist named in the award documents. A final financial report is due within 120 days after the end of the project period.

2. Performance Reporting.

a. **Report Title**: Connecting Minority Communities Pilot Program Performance (Technical) Report
PRA number: OMB Control No. 0660-0048
Report Authority: 2 CFR section 200.329 and Department of Commerce Financial Assistance Standard Terms and Conditions dated November 12, 2020, Section A.01
Reporting period/submission date/s: Semi-annual/April 30 & October 30
Link to report and report instructions:
https://broadbandusa.ntia.doc.gov/node/8119
https://broadbandusa.ntia.doc.gov/node/8122

Keyline Items – The following line items contain critical information:

1. Line 3a – Total Cost
2. Line 5a – Total Cost
3. Line 5d – Deployment Cost
4. Line 5d – Ongoing Cost
5. Line 8a. – Personnel
6. Line 8b. – Fringe Benefits
7. Line 8c. – Travel
8. Line 8d. – Equipment
9. Line 8e. – Supplies
10. Line 8f. – Contractual
11. Line 8g. – Construction
12. Line 8h. – Other
13. Line 8i. – Total Direct Charges (sum of 8a thru 8h)

14. Line 8j. – Indirect Charges
15. Line 8k. – Totals (sum of 8i+8j)

3. Special Reporting

a. **Report Title**: Connecting Minority Communities Pilot Program Baseline Report
OMB PRA number: OMB Control No. 0660-0048
Report Authority: 2 CFR section 200.329 and Department of Commerce Financial Assistance Standard Terms and Conditions dated November 12, 2020, Section A.01
Reporting period/submission date/s: Within 45 calendar days of award date
Link to report and report instructions:
https://broadbandusa.ntia.doc.gov/node/8117
https://broadbandusa.ntia.doc.gov/node/8122

Keyline Items – The following line items contain critical information:

1. Line 3a – Total Cost
2. Line 5a – Total Cost
3. Line 5c – Average Cost to Recipient
4. Line 5d – Deployment Cost
5. Line 5d – Ongoing Cost

3. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

M. Subrecipient Monitoring

See Part 3.M for audit guidance.

U.S. DEPARTMENT OF COMMERCE

ASSISTANCE LISTING 11.029 TRIBAL BROADBAND CONNECTIVITY PROGRAM

I. PROGRAM OBJECTIVES

Under the Tribal Broadband Connectivity Program (TBCP), the National Telecommunications and Information Administration (NTIA) awards grants to eligible entities—which include tribal governments, tribal colleges or universities, the Department of Hawaiian Home Lands on behalf of the Native Hawaiian Community (including the Native Hawaiian Education Programs), tribal organizations, or Alaskan Native Corporations—for the deployment and adoption of broadband service on Tribal Land.

The objective of the TBCP is to improve quality of life, spur economic development and commercial activity on Tribal Lands, create opportunities for remote employment and online entrepreneurship, remote learning, and telehealth by expanding broadband access and providing digital training and inclusion programs to Native American communities. The TBCP accomplishes this objective through activities that include: (1) Broadband infrastructure deployment projects support for the establishment of carrier-neutral submarine landing stations, middle mile projects, last mile projects, and network interconnection including proposals for planning, engineering, feasibility, and sustainability studies; and (2) projects that promote the adoption and use of broadband services through broadband and digital inclusion planning, training staff and Tribal community members, and providing technical support and capacity building for Tribal institutions.

For round one of funding NTIA will make up to $980,000,000 available for federal assistance under the TBCP. To meet the equitable distribution requirement of the Act, NTIA allocated up to $500,000 to each of the Federally Recognized Tribes delineated by the Department of the Interior's Bureau of Indian Affairs (including those listed parenthetically), in accordance with Section B.3 of the Notice of Funding Opportunity (NOFO). All eligible entities, including Federally Recognized Tribes, had to submit a single application by the application deadline to be eligible for TBCP funding.

In the second round of funding for TBCP, NTIA will make approximately $980 million available on Native American, Alaska Native and Native Hawaiian lands for deployment of Internet infrastructure, affordability programs, telehealth and distance learning initiatives.

II. PROGRAM PROCEDURES

A. Broadband Infrastructure Deployment

Broadband Infrastructure Deployment grants are subject to, and administered in accordance with, the Department of Commerce Standard Financial Assistance Terms and Conditions (dated November 12, 2020, as may be periodically amended); Bureau specific administrative standard award conditions; any specific award conditions imposed by NTIA on a case-by-case basis; Line item budget requirements; 2 CFR Part 200, Uniform administrative requirements, cost principles, and audit requirements, as adopted

pursuant to 2 CFR Section 1327.101; Department of Commerce pre-award notification requirements for grants and cooperative agreements (ref: 79 FR 78390); and the recipient's approved plans (approved funding proposal/scope of work and multi-year budgets for the audit period). These documents are incorporated by reference into the nonfederal entity's Financial Assistance Form CD-450 (*US Department of Commerce Financial Assistance Award*), which functions as the grant agreement. If NTIA approves any amendments to the award, including any changes to these documents incorporated by reference, NTIA will document this amendment with a CD-451 form (*US Department of Commerce Amendment to Financial Assistance Award*) or an administrative change letter. There is no expectation that program income will be generated under these awards. However, if program income is generated, it is subject to all the provisions of 2 CFR Part 200 and must be used to further the purposes of the project from which it was generated. There is also no requirement to provide matching contributions. The period of performance is up to four years; however, the Assistant Secretary may extend the period of performance beyond four years if certain conditions are met. Any permissible subawards will be shown in the approved project budget. The terms and conditions of each grant agreement apply (i.e., flow down) to subawards as well, unless a particular section of 2 CFR Part 200 or the terms and conditions of the cooperative agreement specifically indicate otherwise.

B. Broadband Use and Adoption

Broadband Use and Adoption grants are subject to, and administered in accordance with, the Department of Commerce Standard Financial Assistance Terms and Conditions (dated November 12, 2020, as may be periodically amended); Bureau specific administrative standard award conditions; ; any specific award conditions imposed by NTIA on a case-by-case basis; Line item budget requirements; 2 CFR Part 200, Uniform administrative requirements, cost principles, and audit requirements, as adopted pursuant to 2 CFR § 1327.101; Department of Commerce pre-award notification requirements for grants and cooperative agreements (ref: 79 FR 78390); and the recipient's approved plans (approved funding proposal/scope of work and multi-year budgets for the audit period). These documents are incorporated by reference into the nonfederal entity's Financial Assistance Form CD-450 (*US Department of Commerce Financial Assistance Award*), which functions as the grant agreement. If NTIA approves any amendments to the award, including any changes to these documents incorporated by reference, NTIA will document this amendment with a CD-451 form (*US Department of Commerce Amendment to Financial Assistance Award*) or an administrative change letter. There is no expectation that program income will be generated under these awards. However, if program income is generated, it is subject to all the provisions of 2 CFR Part 200 and must be used to further the purposes of the project from which it was generated. There is also no requirement to provide matching contributions. The period of performance is up to four years; however, the Assistant Secretary may extend the period of performance beyond four years if certain conditions are met. Any permissible subawards will be shown in the approved project budget. The terms and conditions of each grant agreement apply (i.e., flow down) to subawards as well, unless a particular section of 2 CFR Part 200 or the terms and conditions of the cooperative agreement specifically indicate otherwise.

Source of Governing Requirements

The Tribal Broadband Connectivity Program is authorized by the Consolidated Appropriations Act, 2021, Division N, Title IX, Section 905(c), Public Law 116-260, 134 Stat. 1182 (Dec. 27, 2020) (Act), as amended by the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law, Division F, Title II, Section 60201, Public Law 117-58, 135 Stat. 429 (Nov. 15, 2021) (IIJA).

Availability of Other Program Information

Other program information is available at:

- Tribal Broadband Connectivity Program
- Tribal Broadband Connectivity Program NOFO - Round 1
- Tribal Broadband Connectivity Program NOFO - Round 2
- DOC Financial Assistance Standard Terms and Conditions
- BroadbandUSA Technical Assistance Hub

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	Y	N	N	Y	Y	N

A. Activities Allowed or Unallowed

1. Activities Allowed

Section 905(c)(5) of the Act states that an eligible entity may use grant funds made available under the Tribal Broadband Connectivity Program for:

(1) Broadband infrastructure deployment, including support for the establishment of carrier-neutral submarine cable landing stations (NOFO: Section D.7.a.A);

(2) Affordable broadband programs, including— (i) providing free or reduced-cost broadband service; and (ii) preventing disconnection of existing broadband service (NOFO: Section D.7.a.B);

(3) Distance learning (NOFO: Section D.7.a.C);

(4) Telehealth (NOFO: Section D.7.a.D);

(5) Digital inclusion efforts (NOFO: Section D.7.a.E); and

(6) Broadband adoption activities (NOFO: Section D.7.a.F);

2. Activities Unallowed

Proposing to conduct planning activities or prepare feasibility or sustainability studies that are not part of a project proposal to deploy broadband infrastructure or construct broadband networks (NOFO: Section D.7.e).

B. Allowable Costs/Cost Principles

1. Costs Allowed

Grant recipients may only use federal award funds to pay for allowable costs under the Tribal Broadband Connectivity Program. Allowable costs are determined in accordance with the cost principles identified in 2 CFR Part 200, including Subpart E of such regulations and in the grant program's authorizing legislation. In addition, costs must be reasonable, necessary, allocable, and allowable for the proposed project, and conform to generally accepted accounting principles. Grant funds may be used to cover only eligible costs incurred by the recipient during the period of performance, and for allowable costs incurred by the recipient during the grant closeout process.

a. Based on the broad parameters of eligible uses of the Tribal Broadband Connectivity Grant Program, eligible costs will generally include the following categories of expenses:

(1) Personnel costs, including salaries and fringe benefits for staff and consultants providing services directly connected to the implementation of the Tribal Broadband Connectivity Program grants (such as project managers, program directors, and subject matter experts) (NOFO: Section D.7.a).

(2) Subawards and contractual costs associated with carrying out programmatic activities of the Tribal Broadband Connectivity Grants, including for program implementation and consulting services. Recipients are responsible for monitoring the activities and expenditures of subrecipients (sometimes referred to as "subawards" or as "subgrants") and vendors, and are responsible for ensuring that all solicitation documents reflect activities within the scope of the Tribal Broadband Connectivity Grant Program (NOFO: Section D.7.a).

(3) Fund other allowable costs necessary to carrying out programmatic activities of an award (NOFO: Section D.7.a).

(4) Reimbursement of reasonable costs associated with preparing the grant application. Allowable pre-application expenses, which include expenses related to preparing an application, may be reimbursed if they are incurred after the publication date of this NOFO and prior to the date of issuance of the grant award from NTIA, except that lobbying costs and contingency fees are not reimbursable from grant funds. Pre-application costs should be clearly identified in the proposed project budget.

(5) Fund other allowable costs necessary to carrying out programmatic activities of an award, not to include ineligible costs described below.

b. ***Eligible Costs Specific to Broadband Infrastructure Deployment Activities***

This category is for projects that expand the availability of broadband services by deploying new or upgraded broadband infrastructure on Tribal Lands. Section 905(c)(8) of the Act requires that, in using grant funds received under the Tribal Broadband Connectivity Program for new construction of broadband infrastructure, an eligible entity must prioritize projects that deploy broadband infrastructure to unserved households. Recipients may generally use grant funds to:

(1) Fund the costs of construction, improvement, replacement, extension or acquisition of facilities and telecommunications equipment required to provide qualifying broadband service, including infrastructure for backhaul, middle and last mile networks, as well as for submarine cable landing stations (NOFO: Section D.7.b.i);

(2) Fund the cost of long-term leases (for terms greater than one year) of

facilities required to provide qualifying broadband service, including indefeasible right-of-use (IRU) agreements (NOFO: Section D.7.b.ii);

(3) Fund the costs of planning, feasibility, and sustainability studies;

(4) Fund the costs of engineering and network design, including route mapping for broadband infrastructure, permitting and work related to environmental, historical, and cultural reviews (NOFO: Section D.7.b.iv);

(5) Fund the costs of performance bonds or irrevocable Letters of Credit or other surety (NOFO: Section D.7.b.v);

(6) Workforce training (NOFO: Section D.7.b.vi); and

(7) Fund other allowable costs necessary to carrying out programmatic activities of an award (NOFO: Section D.7.b.vii).

c. Eligible Costs Specific to Broadband Adoption and Use Activities

This category is for projects that expand the adoption of broadband services by Native American/Alaska Native/Native Hawaiian communities; enable Tribal anchor institutions to provide affordable broadband programs, remote learning, telework, or telehealth services; and build the capacity of Native American/Alaska Native/Native Hawaiian communities to access and fully benefit from these online services. Recipients may generally use grant funds to:

(1) Acquire broadband-related equipment, instrumentation, networking capability, hardware, software, and other digital technology for broadband services, telehealth and remote education (NOFO: Section D.7.c.i);

(2) Provide affordable broadband programs, including providing free or reduced-cost broadband service and preventing disconnection of existing broadband service (NOFO: Section D.7.c.ii);

(3) Provide digital training, education, technology support, outreach and awareness programs including curricula and web-based resources (NOFO: Section D.7.c.iii);

(4) Facilitate access to broadband services including public computer centers; public WiFi networks; broadband in public housing; improvement of broadband services and equipment in schools, libraries, health centers, workforce development centers and other Tribal anchor institutions (NOFO: Section D.7.c.iv);

(5) Implement affordable broadband programs that facilitate greater access to broadband services, devices, and equipment; and prevent disconnection of existing broadband services (NOFO: Section D.7.c.v);

(6) Conduct needs assessment and develop plans for increasing broadband adoption, digital inclusion, online education, telehealth, and digital workforce (NOFO: Section D.7.c.vi);

(7) Gather data and conduct evaluation of the digital inclusion and broadband adoption programs funded by the grant to determine their effectiveness and develop best practices to facilitate digital inclusion and broadband adoption on Tribal Lands (NOFO: Section D.7.c.vii); and

(8) Fund other allowable costs necessary to carrying out programmatic activities of an award (NOFO: Section D.7.c.viii).

(9) The following non-exclusive list includes some examples of generally allowable costs for broadband use and adoption projects:

1. Personnel salaries, wages, and fringe benefits for persons working directly on the grant;

2. Travel expenses for key project staff and consultants;

3. Equipment related directly to project activities;

4. Subaward and third-party contractor costs;

5. Equipment and devices to support connectivity for telehealth and remote education such as laptops, tablets, and hotspots;

6. Design and printing for training and outreach materials;

7. Staff and volunteer training;

8. Stipends, internships and/or fellowships.

2. Unallowable Costs

Ineligible costs include those costs that are unallowable pursuant to 2 C.F.R. part 200, including under Subpart E. Ineligible costs specific to funds awarded under the Tribal Broadband Connectivity Program also include:

a. Funding for infrastructure that was completed prior to the grant award period. (Projects that were started but not completed or that deploy upgraded broadband infrastructure may be funded under this program, not to include

costs associated with activities that occurred prior to the grant award period.).

b. A profit, fee, or other incremental charge above actual cost is not an allowable cost under this program (NOFO: Section D.7.e).

c. Costs attributable to any other activities not authorized by the eligible use categories specified in the Act (NOFO: Section D.7.e).

d. Project costs that are otherwise covered by other federal or state funding. (NOFO: Section D.7.e)

e. Project costs that are duplicative of or otherwise covered by other federal or state funding. This includes, but is not limited to, deploying broadband infrastructure to locations that are already subject to an Enforceable Buildout Commitment to deploy Qualifying Broadband Service through funding from federal or state programs (NOFO: Section D.7.e).

f. Prohibition On Use for Covered Communications Equipment or Services – Pursuant to section 905(e)(4) of the Act, an eligible entity may not use grant funds received under the Tribal Broadband Connectivity Program to purchase or support any covered communications equipment or service (as defined in section 9 of the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. 1608)).

F. Equipment and Real Property Management

In accordance with 2 CFR 200.316, real property, equipment, and intangible property, that are acquired or improved with a federal award must be held in trust by the recipient or subrecipient as trustee for the beneficiaries of the project or program under which the property was acquired or improved. In this connection, NTIA may require the non-Federal entity to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a federal award and that use and disposition conditions apply to the property. Awards issued pursuant to this NOFO may contain specific award conditions pertaining to the use and disposition of grant-acquired property and to a requirement that the recipient or subrecipient file certain public notices (e.g., UCC-1, Covenant of Purpose, Use and Ownership, etc.) with respect to grant-acquired property.

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort

Not Applicable

3. Earmarking

a. Two percent cap on administrative expenses: Section 905(c)(6)(A) of the Act, as amended, prohibits an Eligible Entity from using more than 2 percent of grant funds received under the TBCP for administrative purposes, except that an Eligible Entity that proposes to use grant funds for the construction of broadband infrastructure may use an amount of the grant funds equal to not more than 2.5 percent of the total project cost for planning, feasibility, and sustainability studies related to the project. For this purpose, the 2 percent limitation on administrative expenses includes the combined total of indirect costs and direct administrative costs charged to an award. (NOFO: Section D.7.e).

b. Reimbursement of reasonable costs associated with preparing the grant application not to exceed five (5) percent of the award. Allowable pre-application expenses, which include expenses related to preparing an application, may be reimbursed if they are incurred after the publication date of this NOFO and prior to the date of issuance of the grant award from NTIA, except that lobbying costs and contingency fees are not reimbursable from grant funds. Pre-application costs should be clearly identified in the proposed project budget. (NOFO: Section D.7.a).

c. The costs of planning, feasibility, and sustainability studies are not to exceed one percent of the total project cost (NOFO: Section D.7.b.iii).

H. Period of Performance

Section 60201(1)(B)(i) of Pub. L. 117-58, 135 Stat. 1208, November 15, 2021, requires Eligible Entities to complete their projects within four years of their receipt of grant funds. The Assistant Secretary, however, may extend the award period for broadband infrastructure construction projects if the Eligible Entity certifies that: (1) it has a plan for the use of the grant funds; (2) the construction project is underway; or (3) extenuating circumstances require an extension of time to allow the project to be completed.

I. Reporting

The following reporting requirements described in Section A.01 Reporting Requirements of the Department of Commerce Financial Assistance Standard Terms and Conditions, apply to awards in this program.

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

Each award recipient will be required to submit an SF-425, Federal Financial Report on a semi-annual basis for the periods ending March 31 and September 30 of each year. Reports will be due within 30 days after the end of the reporting period to the NTIA Federal Program Officer, Grants Officer and Grants Specialist named in the award documents. A final financial report is due within 120 days after the end of the project period.

2. Performance Reporting

Report Title: Tribal Broadband Connectivity Program Performance (Technical) Report
OMB PRA number: OMB Control No. 0660-0047
Report Authority: 2 C.F.R. section 200.329 and Department of Commerce Financial Assistance Standard Terms and Conditions dated November 12, 2020, Section A.01
Reporting period/submission date/s: Semi-annual/April 30 & October 30
Link to report and report instructions: https://broadbandusa.ntia.gov/technical-assistance/TBCP_Performance_Technical_Report_Template.

Keyline Items – The following line items contain critical information

1. Line 12a. – Administrative and legal expenses
2. Line 12b. – Land, structures, rights-of way, appraisals, etc.
3. Line 12c. – Relocation expenses and payments
4. Line 12d. – Architectural and engineering fees
5. Line 12e. – Other architectural and engineering fees
6. Line 12f. – Project inspection fees
7. Line 12g. – Site work
8. Line 12h. – Demolition and removal
9. Line 12i. – Construction
10. Line 12j. – Equipment
11. Line 12k. – Miscellaneous
12. Line 12l. – Contingencies

13. Line 13a. – Personnel
14. Line 13b. – Fringe Benefits
15. Line 13c. – Travel
16. Line 13d. – Equipment
17. Line 13e. – Supplies
18. Line 13f. – Contractual
19. Line 13g. – Construction
20. Line 13h. – Other
21. Line 13i. – Total Direct Charges (sum of 13a thru 13h)
22. Line 13j. – Indirect Charges

3. Special Reporting

Not Applicable.

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

M. Subrecipient Monitoring

See Part 3.M for audit guidance.

U.S. DEPARTMENT OF COMMERCE

ASSISTANCE LISTING 11.032 STATE DIGITAL EQUITY PLANNING AND CAPACITY GRANT PROGRAM

I. PROGRAM OBJECTIVES

The Digital Equity Act (DEA), passed as part of the Infrastructure Investment and Jobs Act (IIJA), aims to promote the achievement of digital equity and support digital inclusion activities. The DEA provides $2.75 billion to the National Telecommunications and Information Administration (NTIA) to establish three grant programs, two of which are covered by this section, to ensure that all people and communities have the skills, technology, and capacity needed to reap the full benefits of the digital economy. The DEA creates a carefully structured process to address the core concerns of digital equity and digital inclusion.

The two programs that comprise the State Digital Equity Planning and Capacity Grant Program covered by this compliance supplement section are the State Digital Equity Planning Grant (SDEPG) Program and the State Digital Equity Capacity Grant (SDECG) Program. The Digital Equity Competitive Grant Program has a separate Assistance Listing Number (ALN)11.036) and is not covered by this compliance supplement section.

The first part of NTIA's execution of the DEA is to fund digital equity planning efforts through the SDEPG Program, which makes up to $60 million available to States (including the District of Columbia and Puerto Rico) to develop State Digital Equity plans. The second part is the SDECG Program, under which NTIA will award $1.44 billion over 5 fiscal years to States, possessions/territories, and Tribal entities for the purpose of implementing their State Digital Equity Plans.

Under the DEA, states and territories interested in participating in the SDECG Program must first apply for a SDEPG and complete their State Digital Equity Plans. The SDECG Program must begin no later than two years after the date NTIA begins awarding the SDEPGs. Upon receipt of the planning funds, states have one year to complete their Digital Equity Plans. Once completed, states will be eligible to apply for funds to implement the plans through the SDECG Program. Because of the interconnection of these two grant programs, with participation in the SDEPG a condition of participating in the SDECG Program, using the same ALN. NTIA allocated13 awards for the SDECG Program and expects to award grants to the 50 states, the District of Columbia, the Commonwealth of Puerto Rico and four U.S. Territories by the first quarter of fiscal year 2025.

II. PROGRAM PROCEDURES

NTIA launched the SDEPG Program on May 13, 2022, with the release of the Notice of Funding Opportunity (NOFO). After allocating a percentage of the funds for administrative purposes, NTIA awarded $53.7 million to the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and four U.S. Territories, to develop Digital Equity Plans which identify the barriers

to digital adoption for each of the 8 Covered Populations identified in the statute. With this funding, the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, will have for the first time developed Digital Equity Plans designed to identify the barriers to digital equity faced by the Covered Populations, as defined in Section I.C of the NOFO.

The Digital Equity Plans will establish measurable objectives for documenting and promoting the availability of, and affordability of:

- Access to fixed and wireless broadband services;
- Online accessibility and inclusivity of public resources and services;
- Digital literacy and skills;
- Awareness of cybersecurity and protection of online privacy; and
- The availability of affordable consumer devices.

SDEPG and SDECG grants are subject to, and administered in accordance with, the Department of Commerce Standard Financial Assistance Terms and Conditions (dated November 12, 2020, as may be periodically amended); Bureau specific administrative standard award conditions; any specific award conditions imposed by NTIA on a case-by-case basis; Line item budget requirements; 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements, as adopted pursuant to 2 CFR section 1327.101; U.S. Department of Commerce pre-award notification requirements for grants and cooperative agreements (ref: 79 FR 78390); and the recipient's approved plans (approved funding proposal/scope of work and budgets for the audit period). These documents are incorporated by reference into the nonfederal entity's Financial Assistance Form CD-450 (*US Department of Commerce Financial Assistance Award*), which functions as the grant or cooperative agreement. If NTIA approves any amendments to the award, including any changes to these documents incorporated by reference, NTIA will document these amendments with a CD-451 form (*US Department of Commerce Amendment to Financial Assistance Award*) or an administrative change letter.

Source of Governing Requirements

The DEA of 2021, which establishes the SDEPG Program and the SDECG Program, is authorized by Division F, Title III of the Infrastructure Investment and Jobs Act of 2021, Public Law 117-58, 135 Stat. 429 (November 15, 2021) (IIJA or Act), also commonly known as the Bipartisan Infrastructure Law (BIL) and codified at 47 USC 1721 *et seq*. 47 USC 1723 establishes the SDECG Program, and 47 USC 1723(c) establishes the SDEPG Program.

Availability of Other Program Information

Information about the Digital Equity Act programs is available at:

- State Digital Equity Planning Grant
- Digital Equity Capacity Grant Program
- Technical Assistance Hub
- DOC Financial Assistance General Terms and Conditions (10-01-2024)

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	Y	N	N	Y	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed – SDEPG*

   a. As set forth in Section 60304(c)(3)(E) of the Infrastructure Act, an eligible State to which a SDEPG is awarded must, through its designated Administering Entity, use the grant funds only for the following purposes:

      (1) To develop the State Digital Equity Plan of the State (SDEPG NOFO: Section IV.C.1.b); and

      (2) To make subgrants to any of the following entities to assist in the development of the State Digital Equity Plan of the State SDEPG NOFO: Section IV.C.1.a.2):
         a. Community anchor institutions;
         b. County and municipal governments;
         c. Local educational agencies;
         d. Indian Tribes, Alaska Native entities, or Native Hawaiian

organizations;
e. Nonprofit organizations;
f. Organizations that represent—
i. Individuals with disabilities, including organizations that represent children with disabilities;
ii. Aging Individuals;
iii. Individuals with language barriers, including—
1. Individuals who are English learners; and
2. Individuals who have low levels of literacy;
iv. Veterans; and
v. Individuals in the State who are incarcerated in facilities other than Federal correctional facilities;
g. Civil rights organizations;
h. Entities that carry out workforce development programs;
i. Agencies of the State that are responsible for administering or supervising adult education and literacy activities in the State;
j. Public housing authorities in the State; and
k. A partnership between any of the entities described above.

b. If the Administering Entity for a State makes a subgrant described above, the Administering Entity shall, with respect to the subgrant, provide to the State the assurances required under Section 60304(e) of the Infrastructure Act. (SDEPG NOFO: Appendix B)

2. *Activities Allowed – SDECG*

a. Applicants must comply with the requirements of 47 USC section 1723(d)(3)(D) of the DEA and the NOFO. An Eligible State or Territory to which a SDECG is awarded must, through its designated Administering Entity or Administering Organization (as applicable), use the grant funds only for the following purposes (SDECG NOFO: Section III.C.3.a):

(1) To update or maintain the State Digital Equity Plan of the State or Territory.

(2) To implement the State Digital Equity Plan of the State or Territory.

(3) To make subgrants to any of the eligible entities identified at 47 USC 1724(b) that are located in the State or Territory to: (a) assist in the implementation of the Digital Equity Plan of the State or Territory; (b) pursue digital inclusion activities in the State or Territory consistent with the Digital Equity Plan of the State or Territory; and (c) report to the State or Territory regarding the digital inclusion activities of the entity.

3. *Activities Unallowed – SDEPG*

   a. A profit, fee, or other incremental charge above actual cost is not an allowable cost under this program. (SDEPG NOFO: Section IV.C.2.b)

   b. Grant funds awarded pursuant to this program may not be used, whether directly or indirectly as an offset for other funds, to support or oppose collective bargaining. (SDEPG NOFO: Section IV.C.2.c)

4. *Activities Unallowed – SDECG*

   a. In general, deployment of broadband infrastructure to connect broadband serviceable locations should be accomplished through other programs, including the Broadband Equity, Access, and Deployment program (SDECG NOFO: Section II.c.vi).

   b. A profit, fee, or other incremental charge above actual cost is not an allowable cost under this Program (SDECG NOFO: Section II.c.vii).

   c. Grant funds awarded pursuant to this program may not be used, whether directly or indirectly as an offset for other funds, to support or oppose collective bargaining (SDECG NOFO: II.c.viii).

   d. Grantees are prohibited from using Capacity Grant funds to conduct website upgrades or other accessibility projects that are otherwise required by law. (SDECG NOFO: II.C.2.v).

G. Matching, Level of Effort, Earmarking

1. Matching

Not applicable.

2. Level of Effort

2.1 **Level of Effort –** *Maintenance of Effort*

Not Applicable.

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

Not Applicable

3. Earmarking

SDECG:

a. No more than twenty (20) percent of the amount of the grant may be used to update or maintain the Digital Equity Plan of the State or of the Territory (as applicable) (SDECG NOFO: Section II.c.i).

b. No more than five (5) percent of the amount of the grant may be used to evaluate the efficacy of the efforts funded by grants made to subgrantees to: (a) assist in the implementation of the Digital Equity Plan of the State or Territory; or (b) pursue digital inclusion activities in the State or Territory consistent with the Digital Equity Plan of the State or Territory; and report to the State or Territory regarding the digital inclusion activities of the entity (SDECG NOFO: Section II.c.ii).

c. No more than three (3) percent of the amount of the grant may be used for administrative costs (exclusive of costs for program evaluation and updating the Digital Equity plan) in carrying out allowable activities under this Program and described in a SDECG Program award. For this purpose, the three (3) percent limitation on administrative expenses includes the combined total of indirect and direct administrative costs charged to an award. The applicant must clearly describe in the budget narrative how it applied or calculated the three (3) percent limitation on administrative costs (SDECG NOFO: Section II.c.iii).

d. No more than ten (10) percent of the amount of the grant may be used to fund subsidies for the provision of broadband services through affordable broadband programs (SDECG NOFO: Section II.c.iv).

H. Period of Performance

SDEPG:

As established in Section 60304(c)(3)(D)(ii) of the Infrastructure Act, the award period for the SDEPG Program is one year beginning on the date on which the grantee is awarded the grant funds. Within one year of the date on which a State is awarded SDEPG Program funds, that State must develop a State Digital Equity Plan that includes elements outlined in the statute and herein, solicit and respond to public comments on the draft plan, and finalize that plan. Each State's State Digital Equity Plan will be a key component of any application the State may later submit seeking a State Digital Equity Capacity Grant. (SDEPG NOFO: Section I.A). The award period may be extended by NTIA, in consultation with the National Institute of Science and Technology (NIST) Grants Officer, for up to 180 days based on a written request from a recipient if certain conditions are met and subject to the limitations contained in Section 60304(c)(3)(D)(ii)(II) of the Infrastructure Act, the terms and conditions of an award, and the NOFO. An applicant may submit a request for an

extension of the one-year award period not later than ninety (90) calendar days before the end of the award period. (SDEPG NOFO: Section II.B). In no event will NTIA, NIST, or the Department of Commerce be responsible for application preparation costs.

SDECG:

As established in 47 USC section 1723(d)(3)(B), Eligible States "shall expend the grant funds during the 5-year period beginning on the date on which the Eligible State is awarded grant funds." Under the terms of the NOFO, U.S. Territories will likewise be required to expend the grant funds during the 5-year period beginning on the date on which the entity is awarded grant funds (SDECG NOFO: Section II.A.2). In no event will NTIA, NIST, or the Department of Commerce be responsible for application preparation costs. (SDECG NOFO: Section VI.C.)

L. Reporting

SDEPG and SDECG:

Grantees will be required to comply with reporting requirements. In addition to the reporting requirements found in 2 CFR Part 200, NTIA will provide additional reporting instructions in connection with the requirements set forth in the NOFO, including details on the manner and format in which recipients will be required to report information in support of federal agency obligations under the Access Broadband Act, 47 USC section 1307, and Section 60105 of the Infrastructure Act.

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement – Not Applicable*

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Program – Not Applicable*

c. *SF-425, Federal Financial Report – Applicable*

Each award recipient will be required to submit an SF-425, Federal Financial Report on a semiannual basis for the periods ending March 31 and September 30 of each year. Reports will be due within thirty (30) days after the end of the reporting period to the NTIA Federal Program Officer, Grants Officer, and Grants Specialist named in the award documents. If awarded, further instructions on where and how to submit reports will be provided via a specific award condition. A final financial report is due within 120 days after the end of the project period.

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

U.S. DEPARTMENT OF COMMERCE

ASSISTANCE LISTING 11.033 MIDDLE MILE (BROADBAND) GRANT PROGRAM

I. PROGRAM OBJECTIVES

The Middle Mile Broadband Infrastructure Grant (MMG) Program provides funding for the construction, improvement, or acquisition of middle mile infrastructure. The objective of the grant program is to expand and extend middle mile infrastructure to reduce the cost of connecting areas that are unserved or underserved to the internet backbone. The National Telecommunications and Information Administration (NTIA) will make up to $980 million available for federal assistance under the MMG Program. NTIA retains 2% of the appropriated funds to support the administration of the grant program, from pre-award, through application review, and post award. NTIA expects to make awards under this program within $5 million to $100 million per grant. This range is not a required minimum or maximum, but eligible entities requesting amounts for projects outside of this range must provide a reasonable explanation for the variance in their project size.

Middle Mile infrastructure does not reach the end user's location, but typically aggregates large quantities of traffic for carriage between networks. The variety of middle mile arrangements is broad. Middle Mile infrastructure might carry traffic via undersea cable to remote locations such as Hawaii or American territories and possessions elsewhere in the Pacific, may "backhaul" wireless traffic via a fiber-optic link from an antenna mounted on a tower to the provider's wired network, may bring the internet to previously unserved Tribal or Native lands, or may simply connect neighboring towns. Middle Mile service, moreover, might be offered by a wide range of entities, from traditional retail Internet Service Providers (ISPs), large technology companies that do not offer retail broadband at all, or electric utilities that increasingly recognize their capability to transform the communications market. Regardless of who deploys and operates them, middle mile connections are crucial to connectivity and competition.

To apply for the MMG Program an entity must be a State, political subdivision of a State, Tribal government, technology company, electric utility, utility cooperative, public utility district, telecommunications company, telecommunications cooperative, nonprofit foundation, nonprofit corporation, nonprofit institution, nonprofit association, regional planning council, Native entity, economic development authority, or any partnership of two (2) or more of these entities.

II. PROGRAM PROCEDURES

Source of Governing Requirements

The MMG Program is authorized by the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law, Division F, Title II, Section 60401, Public Law 117-58, 135 Stat. 429 (Nov. 15, 2021) (IIJA).

Availability of Other Program Information

Additional program information is available at:

- Middle Mile Grant Program Notice of Funding Opportunity (NOFO)
- BroadbandUSA
- BroadbandUSA Technical Assistance Hub
- DOC Financial Assistance Standard Terms and Conditions

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	N	N	N	Y	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

Based on the scope of the MMG Program, below are non-exclusive examples of eligible uses of MMG Program funds:

a. Construction, improvement, and/or acquisition of facilities and telecommunications equipment required to deploy middle mile broadband facilities (NOFO: Section IV.I.1.a);

b. Engineering design, permitting and work related to environmental, historical and cultural reviews (NOFO: Section IV.I.1.b);

c. Personnel costs, including salaries and fringe benefits for staff and consultants required for the implementation of the MMG Program (such as project managers, program directors, subject matter experts, grant administrators, financial analysts, accountants, and attorneys) (NOFO: Section IV.I.1.c);

d. Pre-application expenses, which include expenses related to preparing an application, may be reimbursed if they are incurred after the publication date of this NOFO and prior to the date of issuance of the grant award from NTIA, except that lobbying costs and contingency fees are not reimbursable from grant funds. These costs should be clearly identified in the proposed project budget and must be approved by NTIA and the Grants Officer in writing to be considered allowable. (NOFO: Section IV.I.1.d); and

e. Other costs necessary to carrying out programmatic activities for an award, not to include ineligible costs as described below (NOFO: Section IV.I.1.e).

2. *Activities Unallowed*

a. Please note that costs ineligible for the MMG Program may not be paid for with the non-federal cost share committed to an award (NOFO: Section IV.I.2). In addition, the following costs are specifically identified as prohibited under the MMG Program:

(1) An award recipient or subrecipient (including contractors and subcontractors) may not use grant funds received under the MMG Program to purchase or support any covered communications equipment or service (as defined in Section 9 of the Secure and Trusted Communications Networks Act of 2019 (47 USC Section 1608)) (NOFO: Section IV.I.2.a).

(2) An award recipient or subrecipient may not use grant funds received under the MMG Program for broadband infrastructure costs that are not necessary to complete the project that was proposed by the recipient and approved by NTIA (NOFO: Section IV.I.2.d).

B. Allowable Costs/Cost Principles

1. Allowable Costs

Grant recipients may only use federal award funds and any non-federal cost share committed to an award to pay for allowable costs under the MMG Program. Allowable costs are determined in accordance with the cost principles identified in 2 CFR Part 200, including Subpart E of such regulations for States and non-profit organizations, as well as in the grant program's authorizing legislation. In addition, costs must be reasonable, necessary, allocable, and allowable for the proposed project, and conform to generally accepted accounting principles. Except as set out in paragraph 4 below (addressing allowable pre-application expenses), federal and non-federal funds committed to an award may only be used to cover allowable costs incurred and for allowable closeout costs incurred during the grant closeout process.

2. Unallowable Costs

Ineligible costs include those costs that are unallowable under the applicable federal cost principles. Please note that costs ineligible for the MMG Program may not be paid for with the non-federal cost share committed to an award. In addition, the following costs are specifically identified as prohibited under the MMG Program:

a. **Prohibition On Use of Grant Funds For Covered Communications Equipment Or Services under the Secure and Trusted Communications Networks Act** – An award recipient or subrecipient (including contractors and subcontractors) may not use grant funds received under the MMG Program to purchase or support any covered communications equipment or service (as defined in Section 9 of the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. § 1608)) (NOFO: Section IV.I.2.a).

b. **Prohibition on Profit and Fees –** A profit, fee, or other incremental charge above actual cost incurred by an award recipient or subrecipient is not an allowable cost under this Program. (NOFO: Section IV.I.2.b).

c. **Prohibition on Use of Grant Funds to Support or Oppose Union Organizing –** An award recipient or any subrecipient may not use grant funds, whether directly or indirectly, to support or oppose union organizing. (NOFO: Section IV.I.2.c).

d. **Prohibition on Use of Grants Funds for Non-Middle Mile Infrastructure –** An award recipient or subrecipient may not use grant funds received under the MMG Program for broadband infrastructure costs that are not necessary to complete the project that was proposed by the recipient and approved by NTIA. (NOFO: Section IV.I.2.d).

e. **Other** – As a condition of receiving a grant under the MMG Program, a provider of broadband service that is receiving the grant is prohibited from using grant amounts:

(1) As collateral for a loan made by any public or private lender (NOFO: Section IV.I.3.a);

(2) For pre-application expenses, including previously incurred administrative costs or previously purchased equipment or construction activities, except as allowed in Section IV.I.1.d of this NOFO (NOFO: Section IV.I.3.b).

F. Equipment and Real Property Management

In accordance with 2 CFR Section 200.316, real property, equipment, and intangible property, that are acquired or improved with a federal award must be held in trust by the recipient or subrecipients trustee for the beneficiaries of the project or program under which the property was acquired or improved. In this connection, NTIA may require the non-Federal entity to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a federal award and that use and disposition conditions apply to the property. Awards issued under the MMG Program may contain specific award conditions pertaining to the use and disposition of grant-acquired property and to a requirement that the recipient or subrecipient file certain public notices (e.g., UCC-1, Covenant of Purpose, Use and Ownership, etc.) with respect to grant-acquired property (NOFO: Section VI.D.5).

G. Matching, Level of Effort, Earmarking

1. Matching

a. The amount of a MMG awarded to an eligible entity may not exceed 70 percent of the total project cost with the remainder being the match requirement of the recipient. Except for grants made to Tribal Governments and Native entities, the Infrastructure Act does not contemplate waiver of this requirement, and the Assistant Secretary will not entertain requests for such waivers (Infrastructure Investment and Jobs Act of 2021, Division F, Title IV, § 60401(f), Public Law 117-58, 135 Stat. 429, November 15, 2021).

b. Matching funds may be in the form of either cash or in-kind contributions consistent with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR Part 200. In-kind contributions, which include third-party in-kind contributions, are non-cash donations of property, goods or services, which benefit a federally assisted project, and which may count toward satisfying the non-federal matching requirement of a project's total budgeted costs when such contributions meet certain criteria. In-kind contributions must be allowable and allocable project expenses. The rules governing allowable in-kind contributions are detailed

and encompass a wide range of properties and services within 2 CFR, Section 200.316.

c. NTIA encourages applicants to thoroughly consider potential sources of in-kind contributions, which, depending on the particular property or service and the applicable federal cost principles, could include employee or volunteer services; equipment; supplies; indirect costs; computer hardware and software; and use of facilities. In the broadband context, in-kind contributions could include, consistent with federal cost principles, access to rights of way, pole attachments, conduits, easements, or access to other types of infrastructure. It is important to note that federal funds may not be used as non-federal match, except as expressly provided by federal statute (NOFO: Section III.C).

2. Level of Effort

Not Applicable

3. Earmarking

a. Reasonable, post-NOFO, pre-application expenses in an amount not to exceed $50,000. These costs should be clearly identified in the proposed project budget and must be approved by NTIA and the Grants Officer in writing to be considered allowable. (NOFO: Section IV.I.1.d).

L. Reporting

The following reporting requirements described in Section A.01 Reporting Requirements of the U.S. Department of Commerce Financial Assistance Standard Terms and Conditions apply to awards in this program.

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

Each award recipient will be required to submit an SF-425, Federal Financial Report on a semi-annual basis for the periods ending March 31 and September 30 of each year. Reports will be due within 30 days after the end of the reporting period to the NTIA Federal Program Officer, Grants Officer and Grants Specialist named in the award documents. A final financial report is due within 120 days after the end of the project period.

2. Performance Reporting

a. Report Title: Middle Mile Bi-Annual and Final Performance Report
OMB PRA number: OMB Control No. 0660-0052/Expires 2/28/2027
Report Authority: 2 C.F.R. section 200.329 and Department of Commerce Financial Assistance Standard Terms and Conditions dated November 12, 2020, Section A.01
Reporting period/submission date/s: Semi-annual/April 30 & October 30
https://broadbandusa.ntia.doc.gov/sites/default/files/2024-03/Middle_Mile_Biannual_and_Final_Performance_Report_Template.pdf

Keyline Items – The following line items contain critical information:

1. Line 5g – Awarded Funds
2. Line 5h – Expenditures to Date
3. Line 5i. – Remaining Grant Balance
4. Line 5j. – Percent of Work Complete
5. Line 6b. – Federal Funds
6. Line 6c. – Non-Federal Funds
7. Line 6d. – Total Project Budget
8. Line 6e. – Total Federal Funds Expended to Date
9. Line 6f. – Total Non-Federal Funds Expended to Date
10. Line 6g. – Total Funds Expended
11. Line 6h. – Percent of Federal Funding Expended to Date (Cumulative)

3. Special Reporting

Not Applicable.

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

U.S. DEPARTMENT OF COMMERCE

ASSISTANCE LISTING 11.035 BROADBAND EQUITY, ACCESS, AND DEPLOYMENT PROGRAM

I. PROGRAM OBJECTIVES

The Broadband Equity, Access, and Deployment (BEAD) Program provides $42.45 billion in new federal funding for the National Telecommunications and Information Administration (NTIA) to grant to all States of the United States, the District of Columba, Puerto Rico (States), American Samoa, Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands (Territories) (referred to herein as "Eligible Entities"), for broadband planning, deployment, mapping, equity, and adoption activities.

The BEAD program's principal focus is on deploying broadband service to unserved locations (*i.e.*, broadband-serviceable locations that lack access to Reliable Broadband Service at speeds of at least 25 Mbps downstream and 3 Mbps upstream and latency levels low enough to support real- time, interactive applications) or underserved locations (those without broadband service offering speeds of 100 Mbps downstream/20 Mbps upstream). Eligible Entities demonstrating the ability to ensure service to all unserved and underserved locations may then direct funding to deploy gigabit connections to community anchor institutions, such as libraries and community centers. Eligible Entities may apply remaining funding to other eligible uses. With respect to the deployment of last-mile broadband infrastructure, the BEAD program prioritizes projects designed to provide fiber connectivity directly to the end user. It also requires all projects to provide a low-cost option to eligible subscribers, requires all states to have plans to address middle-class affordability, and further prioritizes proposals that improve affordability to ensure that networks built using BEAD funding are accessible to all Americans.

NTIA issued *Policy Notice: Tailoring the Application of the Uniform Guidance to the BEAD Program* (Policy Notice: BEAD) which applies to BEAD subawards for which the major purpose of the subaward is a broadband infrastructure "project," as the term project is defined in the Section I.C.(t) of the BEAD Notice of Funding Opportunity (NOFO). This Policy Notice does not apply to subawards for which the major purpose of the subaward is a non-deployment use, as that term is used in Section IV.B.7.a.iii. of the BEAD NOFO. NTIA, as the agency responsible for administering the BEAD program, provides guidance on the implementation of exceptions, adjustments, and clarifications to certain provisions of the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance), codified at 2 CFR Part 200, and the application of related provisions of the Uniform Guidance to the BEAD Program. This Policy Notice is not a substitute for the terms and conditions of specific awards. Should this Policy Notice and the BEAD award terms differ, the terms and conditions of a specific BEAD award govern. This Policy Notice covers the following:

- Program income;
- Fixed amount subawards and cost principles;
- Procurement standards for fixed amount subawards;
- Property standards for fixed amount awards;
- Federal interest period; and
- Audit requirements.

II. PROGRAM PROCEDURES

NTIA will make up to $41,601,000,000 (This amount reflects the $42,450,000,000 appropriated for the BEAD program minus the two percent of that sum allocated for administrative purposes. *See* Section 60102(d) of the Infrastructure Act.) available for federal financial assistance under BEAD. Funding is distributed primarily based on the relative number of unserved locations in each State and Territory. Each State is eligible to receive a minimum initial allocation of $100,000,000 and each Territory is eligible to receive a minimum initial allocation of $25,000,000.

States may request up to $5,000,000 of their initial minimum allocation in Initial Planning Funds. Territories may request up to $1,250,000 of their initial minimum allocation in Initial Planning Funds. Each Eligible Entity's Total Allocation is the sum of the Eligible Entity's (i) Minimum Initial Allocation; (ii) High-Cost Allocation; and (iii) Remaining Funds Allocation. The High-Cost Allocation for each Eligible Entity is calculated by (i) dividing the number of unserved locations in high-cost areas in the Eligible Entity by the total number of unserved locations in high-cost areas in the United States and (ii) multiplying the quotient obtained by $4.245 billion. The funds remaining after subtracting each of (i) the total Minimum Initial Allocations; and (ii) the total High-Cost Allocation from $41,601,000,000 are the "Remaining Funds. Each Eligible Entity's Remaining Funds Allocation is computed by dividing the number of unserved locations in the Eligible Entity by the total number of unserved locations in the United States and multiplying the result by the Remaining Funds.

The BEAD program establishes a multi-step, multi-year process as reflected in the table below.

STAGE	TIMELINE
Letter of Intent	**Deadline:** July 18, 2022
Request for Initial Planning Funds	**Deadline:** Upon submission of the Letter of Intent and by August 15, 2022. NTIA awarded 56 planning awards to each State and Territory.
Five-Year Action Plan: establishes the Eligible Entities' broadband goals and priorities and serves as a comprehensive needs assessment to inform the Initial Proposal	**Deadline:** Due within 270 days of Eligible Entities' receipt of Initial Planning Funds.
Program Fund Allocation and Notice of Available Amounts	**Deadline:** NTIA announced how it allocated the BEAD funding on June 26, 2023. Eligible Entities received formal notification of their allocation amounts on June 30, 2023.
Initial Proposal	**Deadline:** Due no later than December 27, 2023 (180 days from receipt of the Notice of Available Amounts)
Challenge Process	**Deadline:** After submission of its Initial Proposal and before allocating BEAD funds received for the deployment of broadband networks
Subgrantee Selection Process	**Deadline:** Upon approval of the Initial Proposal and up to one year
20% Funding Release	**Deadline:** Once NTIA's Assistant Secretary approves the Eligible Entity's Initial Proposal, NTIA will make

	available not less than 20% of the total grant funds allocated to the Eligible Entity
Final Proposal	**Deadline:** 365 days after the approval of the Initial Proposal

Source of Governing Requirements

BEAD Program, authorized by the Infrastructure Investment and Jobs Act of 2021, Division F, Title I, Section 60102, Public Law 117-58, 135 Stat. 429 (November 15, 2021) (Infrastructure Act or Act) also known as the Bipartisan Infrastructure Law.

Availability of Other Program Information

Additional program information is available at:

- BEAD NOFO
- Broadband Equity Access and Deployment Program | BroadbandUSA
- BroadbandUSA Technical Assistance Hub
- DOC Financial Assistance Standard Terms and Conditions

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	N	Y	N	Y	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

a. Activities Allowed – Initial Planning Funds

Eligible Entities that receive Initial Planning Funds may use those funds for the following planning and pre-deployment activities:

1) Research and data collection, including initial identification of unserved locations and underserved locations consistent with the rules, regulations, and processes the Federal Communications Commission (FCC) has established for making these determinations in the Broadband DATA Maps (NOFO: Section IV.B.2.1);

2) The development of a preliminary budget for pre-planning activities (NOFO: Section IV.B.2.2);

3) Publication, outreach, and communications support related to broadband planning, deployment, mapping, equity and adoption (NOFO: Section IV.B.2.3);

4) Providing technical assistance to potential subgrantees, including through workshops and events (NOFO: Section IV.B.2.4);

5) Training for employees of the broadband program or office of the Eligible Entity or employees of political subdivisions of the Eligible Entity, and related staffing capacity or consulting or contracted support to effectuate the goals of the BEAD program (NOFO: Section IV.B.2.5);

6) Establishing, operating, or increasing capacity of a broadband office that oversees broadband programs and broadband deployment in an Eligible Entity (NOFO: Section IV.B.2.6);

7) Asset mapping across the Eligible Entity to catalogue broadband adoption, affordability, equity, access, and deployment activities occurring within the Eligible Entity (NOFO: Section IV.B.2.7);

8) Conducting surveys of unserved, underserved, and underrepresented communities to better understand barriers to adoption (NOFO: Section IV.B.2.8);

9) Costs associated with meeting local coordination requirements set forth in Section IV.C.1.c of the BEAD NOFO, including capacity building at the local and regional levels of contracted support (NOFO: Section IV.B.2.9);

10) Reasonable post-NOFO, pre-Initial Planning Funds expenses in an amount not to exceed $100,000 relating to the preparation of program submissions to NTIA (such as the Letter of Intent) or adding additional capacity to State or Territorial broadband offices in preparation for the BEAD program may be reimbursed if they are incurred after the publication date of the BEAD NOFO and prior to the date of issuance of the grant award from NTIA (NOFO: Section IV.B.2.10); and

11) Other uses approved in advance writing by the Assistant Secretary (including in response to an Eligible Entity's request) that support the goals of the Program (NOFO: Section IV.B.2.11).

b. Activities Allowed – Initial Proposal Preparation

In drafting an Initial Proposal, an Eligible Entity may allocate grant funds for the following:

1) Deploying and/or upgrading broadband network facilities in connection with an Unserved Service Project or an Underserved Service Project (NOFO: Section IV.B.5.b. Para. 4.1);

2) Deploying and/or upgrading broadband network facilities to provide or improve service to an eligible community anchor institution (NOFO: Section IV.B.5.b. Para. 4.2);

3) Data collection, broadband mapping, and planning to the extent necessary beyond the planning fund allocation to facilitate the goals and deliverables of the BEAD program (NOFO: Section IV.B.5.b. Para. 4.3);

4) Installing internet and Wi-Fi infrastructure or providing reduced-cost broadband within a multi-family residential building, with priority given to a residential building that has substantial share of unserved households or in a location in which the percentage of individuals with a household income that is at or below 150 percent of the poverty line applicable to a family of the size involved is higher than the national percentage of such individuals (NOFO: Section IV.B.5.b. Para. 4.4);

5) Broadband adoption, including programs to provide affordable internet-capable devices (NOFO: Section IV.B.5.b. Para. 4.5);

6) Training and workforce development (NOFO: Section IV.B.5.b. Para. 4.6); and

7) Other uses, including other Digital Equity programs not already included above, proposed by the Eligible Entities and approved in

advance in writing by the Assistant Secretary that supports the goals of the BEAD program (NOFO: Section IV.B.5.b. Para. 4.7).

c. Activities Allowed – Broadband Deployment projects

Eligible uses of funding in connection with last-mile broadband deployment projects include the following:

1) Construction, improvement, and/or acquisition of facilities and telecommunications equipment required to provide qualifying broadband service, including infrastructure for backhaul, middle- and last-mile networks, and multi-tenant buildings (NOFO: Section IV.B.7.a.ii. Para.2.1);

2) Long-term leases (for terms greater than one year) of facilities required to provide qualifying broadband service, including indefeasible right-of use (IRU) agreements (NOFO: Section IV.B.7.a.ii. Para..2.2). A long-term lease is an eligible cost for projects whether it is treated as a purchase of assets or as a lease arrangement under Generally Accepted Accounting Principles (GAAP – Financial Accounting Standards Board (FASB) or Governmental Accounting Standards Board (GASB), as applicable), but its classification as either a purchase or a lease may have implications as to how much of the cost may be funded during the up to four-year BEAD period of performance;

3) Deployment of internet and Wi-Fi infrastructure within an eligible multi-family residential building (NOFO: Section IV.B.7.a.ii. Para..2.3);

4) Engineering design, permitting, and work related to environmental, historical and cultural reviews (NOFO: Section IV.B.7.a.ii. Para..2.4);

5) Personnel costs, including salaries and fringe benefits for staff and consultants providing services directly connected to the implementation of the BEAD program (such as project managers, program directors, and subject matter experts) (NOFO: Section IV.B.7.a.ii. Para..2.5);

6) Network software upgrades, including but not limited to cybersecurity solutions (NOFO: Section IV.B.7.a.ii. Para..2.6);

7) Training for cybersecurity professionals who will be working on BEAD-funded networks (NOFO: Section IV.B.7.a.ii. Para..2.7); and

8) Workforce development, including Registered Apprenticeships and

pre-apprenticeships, and community college and/or vocational training for broadband-related occupations to support deployment, maintenance, and upgrades (NOFO: Section IV.B.7.a.ii. Para.2.8).

d. Activities Allowed – Non-Deployment Uses

An Eligible Entity that can demonstrate it has a plan for bringing affordable, high-speed broadband service to all unserved and underserved locations within its jurisdiction may also allocate funding to non-deployment activities. Such eligible non-deployment uses include, but are not limited to, the following:

1) User training with respect to cybersecurity, privacy, and other digital safety matters (NOFO: Section IV.B.7.a.iii.1);

2) Remote learning or telehealth services/facilities (NOFO: Section IV.B.7.a.iii.2);

3) Digital literacy/upskilling (from beginner-level to advanced) (NOFO: Section IV.B.7.a.iii.3);

4) Computer science, coding and cybersecurity education programs (NOFO: Section IV.B.7.a.iii.4);

5) Implementation of Eligible Entity digital equity plans (to supplement, but not to duplicate or supplant, Planning Grant Funds received by the Eligible Entity in connection with the Digital Equity Act of 2021 (NOFO: Section IV.B.7.a.iii.5).

6) Broadband sign-up assistance and programs that provide technology support (NOFO: Section IV.B.7.a.iii.6);

7) Multi-lingual outreach to support adoption and digital literacy (NOFO: Section IV.B.7.a.iii.7);

8) Prisoner education to promote pre-release digital literacy, job skills, online job-acquisition skills, etc. (NOFO: Section IV.B.7.a.iii.8);

9) Digital navigators (NOFO: Section IV.B.7.a.iii.9);

10) Direct subsidies for use toward broadband subscription, where the Eligible Entity shows the subsidies will improve affordability for the end user population (and to supplement, but not to duplicate or supplant, the subsidies provided by the Affordable Connectivity Program (NOFO: Section IV.B.7.a.iii.10);

11) Costs associated with stakeholder engagement, including travel,

capacity-building, or contract support (NOFO: Section IV.B.7.a.iii.11); and

12) Other allowable costs necessary to carrying out programmatic activities of an award, not to include ineligible costs described in Section V.K.2 of the BEAD NOFO (NOFO: Section IV.B.7.a.iii.12).

B. Allowable Costs/Cost Principles

1. The following costs are specifically identified as prohibited under the BEAD Program:

Prohibition On Use of Grant Funds for Covered Communications Equipment or Services under the Secure and Trusted Communications Networks Act – An Eligible Entity or subgrantee (including contractors and subcontractors of subgrantees) may not use grant funds received under the BEAD Program to purchase or support any covered communications equipment or service (as defined in Section 9 of the Secure and Trusted Communications Networks Act of 2019 (47 USC 1608)) (NOFO: Section V.H.2.a).

Prohibition on Profit and Fees – A profit, fee, or other incremental charge above actual cost incurred by an Eligible Entity or subgrantee is not an allowable cost under this Program (NOFO: Section V.H.2.b). (A profit, fee, or other incremental charge cannot be added to the actual allowable cost of the service or asset being constructed, purchased, or leased under this Program. This prohibition does not apply to user or subscriber fees (which include a profit margin) charged for subsequent broadband service delivery.)

a. Prohibition on Use of Grant Funds to Support or Oppose Collective Bargaining – An Eligible Entity or a subgrantee may not use grant funds, whether directly or indirectly, to support or oppose collective bargaining (NOFO: Section V.H.2.c).

b. Ineligible costs – Include those costs that are unallowable under the applicable federal cost principles. Costs ineligible for the BEAD Program may not be paid for with matching funds committed to an award. If an Eligible Entity is found to have used grant or matching funds on a prohibited cost, the Assistant Secretary may take remedial action, including but not limited to deobligation or clawback of funding (NOFO: Section V.H.2).

F. Equipment and Real Property Management

1. In accordance with 31 USC 503; 2 CFR section 200.316, any real property, equipment, or intangible property acquired or improved with a federal award must be held in trust by the Eligible Entity or subgrantee as trustee for the beneficiaries of the project, other eligible activity, or program under which the property was

acquired or improved. This trust relationship exists throughout the duration of the property's estimated useful life, as determined by the Grants Officer in consultation with the Program Office, during which time the federal government retains an undivided, equitable reversionary interest in the property (Federal Interest). In this connection, NTIA may require the non-federal entity to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a federal award and that use and disposition conditions apply to the property. Awards issued pursuant to this NOFO may contain specific award conditions pertaining to the use and disposition of grant-acquired property and to a requirement that the recipient or subgrantee file certain public notices (e.g., UCC-1, Covenant of Purpose, Use and Ownership, etc.) with respect to grant-acquired property. NTIA will provide information regarding the useful life schedules associated with assets acquired with grant funds. (NOFO: Section VII.D.5)

Depreciation of real property, equipment, and intangible property shall be in accordance with 2 CFR 200.436.

G. Matching, Level of Effort, Earmarking

1. Matching

a. **Matching Generally –** Except in certain specific circumstances described in the BEAD NOFO (including projects in designated "high-cost areas" and other cases in which NTIA has waived the matching requirement), in the context of subgrants used to fund broadband network infrastructure deployment, each Eligible Entity shall provide, require its subgrantee to provide, or provide in concert with its subgrantee, matching funds of not less than 25 percent of project costs. Funds from other Federal programs (including funds from the Commission's Universal Service Fund programs) generally may not be used as matching funds; however, the Infrastructure Act expressly provides that matching funds for the BEAD Program may come from a federal regional commission or authority and from funds that were provided to an Eligible Entity or a subgrantee for the purpose of deploying broadband service under the Families First Coronavirus Response Act (Public Law 116-127; 134 Stat. 178 26 USC 7805; 26 CFR section 31.3221-5); the CARES Act (Public Law 116-136; 134 Stat. 281 26 USC 7805; 26 CFR section 31.3111-6), the Consolidated Appropriations Act, 2021 (Public Law 116-260; 134 Stat. 1182); or the American Rescue Plan Act of 2021 (Public Law 117-2; 135 Stat. 4), to the extent permitted by those laws (NOFO: Section III.B.1, para. 1).

In some cases, a match requirement could deter participation in the BEAD Program by small and non-traditional providers, in marginalized or low-income communities, or could threaten affordability (*i.e.*, if an applicant seeks to offset the cost of a substantial match through higher end user prices). In those cases, an Eligible Entity should consider ways to cover part or all of the provider's match through Eligible Entity or other funds or

seek a match waiver through the process explained below (NOFO: Section III.B.1, para. 2).

A matching contribution may be provided by the subgrantee, an Eligible Entity, a unit of local government, a utility company, a cooperative, a nonprofit or philanthropic organization, a for- profit company, regional planning or governmental organization, a federal regional commission or authority, or any combination thereof (NOFO: Section III.B.1, para. 3). An Eligible Entity may seek, and the Assistant Secretary may grant, a partial or full waiver of the non-federal match requirement where warranted (NOFO: Section III.B.5).

1) Preference for Maximum Subgrantee Contribution and Minimal BEAD Subsidy

While the match may be provided by multiple sources, Eligible Entities are encouraged to require a match from the subgrantee rather than utilizing other sources where it deems the subgrantee capable of providing matching funds. This approach will maximize the impact of Eligible Entity funds and funds provided via other federal programs. Eligible Entities are also required to incentivize matches of greater than 25 percent from subgrantees wherever feasible (especially where expected operational costs and revenues are likely to justify greater investment by the subgrantee) by focusing on minimizing the BEAD funding outlay on a particular project, to the extent consistent with other programmatic goals described in the BEAD NOFO (NOFO: Section III.B.2).

2) Matches from Other Federal Programs and Entities

Except as expressly provided for in the Infrastructure Act, funds from other Federal programs (including funds from the Commission's Universal Service Fund programs) may not be used as matching funds. The Infrastructure Act expressly provides that matching funds for the BEAD Program may come from a federal regional commission or authority and from funds that were provided to an Eligible Entity or a subgrantee for the purpose of deploying broadband service under the Families First Coronavirus Response Act (Public Law 116-127; 134 Stat. 178); the CARES Act (Public Law 116-136; 134 Stat. 281), the Consolidated Appropriations Act, 2021 (Public Law 116-260; 134 Stat. 1182); or the American Rescue Plan Act of 2021 (Public Law 117-2; 135 Stat. 4), to the extent permitted by those laws. Eligible Entities are encouraged to consider terms and conditions that may be associated with potential sources of match funds and how those may impact the project overall. Loan funding issued through a federal agency, such as through the USDA ReConnect Program, may also be used as match (NOFO: Section III.B.3).

3) In-Kind Matches

Matching funds may be provided in the form of either cash or in-kind contributions, so long as such contributions are made consistent with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards set forth at 2 C.F.R. Part 200. In-kind contributions, which may include third-party in-kind contributions, are non-cash donations of property, goods or services, which benefit a federally assisted project, and which may count toward satisfying the non-federal matching requirement of a project's total budgeted costs when such contributions meet certain criteria. In-kind contributions must be allowable and allocable project expenses. Potential sources of in-kind contributions, depending on the particular property or service and the applicable federal cost principles, could include employee or volunteer services; equipment; supplies; indirect costs; computer hardware and software; and use of facilities. In the broadband context this could include, consistent with federal cost principles, waiver of fees associated with access to rights of way, pole attachments, conduits, easements, or access to other types of infrastructure (NOFO: Section III.B.4).

4) Match Waivers

It is NTIA's policy to ensure that BEAD funds are used to bring affordable broadband to all Americans. Thus, the Assistant Secretary will generally seek to minimize the BEAD funding outlay on a particular project to extend the Program's reach, and expects to grant waivers only in special circumstances, when waiver is necessary to advance objectives that are critical to the Program's success. To be considered for a waiver, an Eligible Entity must submit a request that describes the special circumstances underlying the request and explains how a waiver would serve the public interest and effectuate the purposes of the BEAD Program. The Assistant Secretary retains the discretion to waive any amount of the match, including up to the full 25 percent requirement (NOFO: Section III.B.5).

2. Level of Effort

2.1 Level of Effort-*Maintenance of Effort*

Not Applicable

2.2 Level of Effort-*Supplement not supplant*

Grant funds awarded to an Eligible Entity under this program shall be used to supplement, and not supplant, the amounts that the Eligible Entity would

otherwise make available for the purposes for which the grant funds may be used (NOFO: Section V.H.2).

3. Earmarking

a. Administrative Expenses

An Eligible Entity may not use more than two percent (2% Cap) of the grant amounts received under the BEAD Program for expenses relating (directly or indirectly) to administration of the grant under Section 60102(d)(2)(B) of the Infrastructure Act. NTIA will release further guidance on what expenses qualify as "expenses relating (directly or indirectly) to administration of the grant" subject to the statutory two percent limitation on these expenses (NOFO: Section V.H.3).

The following is a nonexclusive listing of guidelines for classifying programmatic versus administrative costs related to the (2% Cap):

1) Programmatic costs and administrative costs that are not for the administration of the Eligible Entity's grants do not count towards the 2% Cap.

2) The 2% Cap includes any subcontracts or subawards made to assist in the administration of the Eligible Entity's grant.

3) The 2% Cap on costs related to the administration of the Eligible Entity's grant administrative costs does not apply to funds allocated during the Initial Planning Funds phase of the BEAD Program.

4) The 2% Cap may include expenses that are both indirect and direct administrative costs so long as those expenses are related to the administration of the Eligible Entity's grant.

5) Costs related to the subgrantee selection process are not subject to the 2% cap. Subgrantee selection process is a key programmatic component and therefore not an expense related to the administration of an Eligible Entity's grant.

6) Costs associated with the actual subgranting process (contracting, monitoring, disbursement of funds, etc.) are administrative costs but are not expenses related to the administration of the Eligible Entity's grant subject to the 2% Cap.

Additional information relating to the application of the 2% Cap can be found at:

- 2% Grant Admin Guidance Primer
- BEAD FAQs

I. Procurement and Suspension and Debarment

1. All funds made available through the BEAD Program for broadband infrastructure must comply with the Build America, Buy America Act. The Build America, Buy America Act requires that all the iron, steel, manufactured products (including but not limited to fiber-optic communications facilities), and construction materials used in the project or other eligible activities are produced in the United States unless a waiver is granted. Under the Build America, Buy America Act and the Buy America Guidance issued by the Office of Management and Budget on April 18, 2022, the Secretary of Commerce (Secretary) may waive the application of this preference when (1) applying the domestic content procurement preference would be inconsistent with the public interest; (2) types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or (3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project or other eligible activities by more than 25 percent.

2. Consistent with the waiver principles detailed in Section 70921(b)(1) of the Build America, Buy America Act and the Buy America Guidance, the Secretary has approved a waiver for the BEAD Program that is limited in duration and scope. For those BEAD awards obligated on or after the effective date of this waiver, February 22, 2024, through February 22, 2029 (i.e., five years from the effective date), the waiver will apply to funds expended by award recipients and subrecipients during the entire period of performance of the award. For awards obligated prior to the effective date of this waiver, the waiver only applies to funds expended by award recipients and subrecipients after the effective date and for the remainder of the period of performance of the award (BABA Waiver Signed.pdf). Further information regarding the BEAD BABA waiver is available on the DOC Build America Buy America website, https://www.commerce.gov/oam/build-america-buy-america.

L. Reporting

The following reporting requirements described in Section A.01 Reporting Requirements of the Department of Commerce Financial Assistance Standard Terms and Conditions, apply to awards in this program.

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

Each award recipient will be required to submit an SF-425, Federal

Financial Report on a semi-annual basis for the periods ending March 31 and September 30 of each year. Reports will be due within 30 days after the end of the reporting period to the NTIA Federal Program Officer, Grants Officer and Grants Specialist named in the award documents. A final financial report is due within 120 days after the end of the project period.

2. Performance Reporting

a. *Report Title: BEAD Initial Report*
OMB PRA number: Section 60102(o) of the Infrastructure Investment and Jobs Act (IIJA) specifically exempts the BEAD Program from the requirements of the Paperwork Reduction Act (44 USC 3506).
Report Authority: 2 C.F.R. section 200.329 and Department of Commerce Financial Assistance Standard Terms and Conditions dated November 12, 2020, Section A.01
Reporting period/submission date/s: 90 calendar days following the award date listed on the CD-450
Link to report and report instructions:
https://broadbandusa.ntia.doc.gov/node/8176
https://broadbandusa.ntia.doc.gov/node/8175

Keyline Items – The following line items contain critical information:

1. Initial Planning Funds – Line 1 through 11

2. Other BEAD Program Funding – Line 1 through 20

3. Special Reporting

a. Report Title: *BEAD Semi-Annual Report (Technical) Report*
OMB PRA number: Section 60102(o) of the Infrastructure Investment and Jobs Act (IIJA) specifically exempts the BEAD Program from the requirements of the Paperwork Reduction Act (44 USC 3506).
Report Authority: 2 C.F.R. section 200.329 and Department of Commerce Financial Assistance Standard Terms and Conditions dated November 12, 2020, Section A.01
Reporting period/submission date/s: Semi-Annual/April 30 & October 30
Link to report and report instructions:
BEAD Semi-Annal Report Attachment Template

Keyline Items – The following line items contain critical information:

1. Tab – Staffing – FTE %

2. Tab – Subgrantees – Awarded Funds

3. Tab – Subgrantees – Expenditures to Date

4. Tab – Subgrantees – Balance

5. Tab – Contracts – Contract Amount (Federal Funds)

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

M. Subrecipient Monitoring

1. In addition to demonstrating how it expects to satisfy the subrecipient monitoring and management requirements identified in 2 C.F.R. Part 200 Subpart D, each Eligible Entity must include sufficient accountability procedures within its program to ensure subgrantee compliance with all applicable Program requirements. Each Eligible Entity must, at a minimum, include in any subgrant agreement reasonable provisions allowing for recovery of funds in the event of a subgrantee's noncompliance with the BEAD Program's requirements, including but not limited to failure to deploy network infrastructure in accordance with mandated deadlines.

2. Each Eligible Entity must, at a minimum, employ the following practices:

a. Distribution of funding to subgrantees for, at a minimum, all deployment projects on a reimbursable basis (which would allow the Eligible Entity to withhold funds if the subgrantee fails to take the actions the funds are meant to subsidize);

b. The inclusion of clawback provisions (*i.e.*, provisions allowing recoupment of funds previously disbursed) in agreements between the Eligible Entity and any subgrantee;

c. Timely subgrantee reporting mandates; and

d. Robust subgrantee monitoring practices.

DEPARTMENT OF COMMERCE

ASSISTANCE LISTING 11.300 INVESTMENTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT FACILITIES

ASSISTANCE LISTING 11.307 ECONOMIC ADJUSTMENT ASSISTANCE

I. PROGRAM OBJECTIVES

The programs covered by this section of the Compliance Supplement in the two assistance listings provided above, 11.300 (Investments for Public Works and Economic Development Facilities (Public Works)) and 11.307 (Economic Adjustment Assistance) have parallel program objectives. The Public Works program assists communities to revitalize and expand their physical and economic infrastructure and also supports the creation and retention of jobs for area residents by helping eligible recipients with their efforts to promote the economic development of their local economies. The Economic Adjustment Assistance program assists communities experiencing actual or threatened severe unemployment or adverse economic changes that may occur suddenly or over time, including but not limited to those caused by military base closures or realignments, depletion of natural resources, presidentially declared disasters or emergencies, or international trade.

Supplementary funds appropriated to the Economic Development Administration (EDA) pursuant to the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the American Rescue Plan (ARP) Act are administered under the Economic Adjustment Assistance program (Assistance Listing 11.307). To award CARES Act funds, EDA published the Addendum to the FY 2020 Public Works and Economic Adjustment Assistance Notice of Funding Opportunity (NOFO) for EDA's CARES Act Recovery Assistance, and EDA separately invited some existing recipients to apply for non-competitive awards. To award ARP Act funds, EDA published six NOFOs: Build Back Better Regional Challenge; Good Jobs Challenge; Economic Adjustment Assistance; Indigenous Communities; Travel, Tourism and Outdoor Recreation; and Statewide Planning, Research and Networks. All awards made under the six ARP Act NOFOs fall under the Economic Adjustment Assistance program (Assistance Listing 11.307). EDA is no longer making new awards under the CARES Act or ARPA, but will continue to make disbursements until September 30, 2027.

In FY 24, EDA continued the Good Jobs Challenge in a new NOFO under the Economic Adjustment Assistance program (Assistance Listing 11.307). The only substantive change to the program was the narrowing of eligible activities to design and implementation of sectoral partnerships and to incorporate distress criteria and associated matching requirements, all of which now follow standard EDA practices. The ARPA version of the Good Jobs Challenge was able to take advantage of special disaster rules that obviated the need to review distress criteria and permitted up to 100% match. With the reversion of the Good Jobs Challenge to EDA's regular authorities, standard distress and match criteria apply to the program like every other EDA program under these Assistance Listings.

II. PROGRAM PROCEDURES

Public Works grants may fund construction and related activities, such as design, engineering, and acquisition of related property, machinery, and equipment. Economic Adjustment Assistance grants may be used to develop a Comprehensive Economic Development Strategy (CEDS) or other strategy to alleviate long-term economic deterioration or a sudden and severe economic dislocation. Economic Adjustment Assistance grants may also fund a project implementing a CEDS or other strategy, including grants for construction and Revolving Loan Funds (RLFs). Like Public Works grants, Economic Adjustment Assistance grants for construction may include related activities, such as design, engineering, and acquisition of related property, machinery, and equipment.

Section 302 of the Public Works and Economic Development Act of 1965 (PWEDA) (42 USC section 3162) requires that Public Works and Economic Adjustment Assistance grants be consistent with a CEDS or equivalent EDA-accepted regional economic development strategy, except for planning projects (i.e., strategy grants) under the Economic Adjustment Assistance program. Pursuant to section 214 of PWEDA (42 USC section 3154), EDA may waive the CEDS requirements for Public Works and Economic Adjustment Assistance projects located in regions designated as "Special Impact Areas." If a project is located in a designated "Special Impact Area," such designation will be specified in the grant award documents.

Economic Adjustment Assistance grants to capitalize or recapitalize RLFs are most commonly made for the purpose of business lending but may also fund public infrastructure or other authorized lending purposes if specifically allowed for in the terms of the award. RLF recipients must administer RLFs in accordance with an RLF plan approved by EDA. RLF recipients must update the RLF plan as necessary in accordance with changing economic conditions in the region; at a minimum, RLF recipients must update their RLF plans at least once every five years. RLF recipients are responsible for ensuring that borrowers are aware of and comply with applicable federal statutory and regulatory requirements.

Source of Governing Requirements

The Public Works and Economic Adjustment Assistance programs are authorized by PWEDA (42 USC sections 3121–3234).

EDA's regulations are codified at 13 CFR chapter III, including program regulations for Public Works (Assistance Listing 11.300) at 13 CFR Part 305 and Economic Adjustment Assistance (Assistance Listing 11.307) at 13 CFR Part 307.

Availability of Other Program Information

Other program information on Public Works is available at https://www.eda.gov/funding/programs/public-works. Other program information on Economic Adjustment Assistance is available at https://www.eda.gov/funding/programs/economic-adjustment-assistance. EDA's CARES and ARP Act programs under the Economic Adjustment Assistance program are available at https://www.eda.gov/funding/programs/cares and https://www.eda.gov/funding/programs/american-rescue-plan, respectively.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	N	N	Y	Y	Y	Y

A. Activities Allowed or Unallowed

1. *Activities Allowed*

The grant award documents, which include the grant budget, specify the purpose, and use of funds, which include the following:

a. Construction: Construction grants made under the Public Works (Assistance Listing 11.300) or Economic Adjustment Assistance (Assistance Listing 11.307) programs can be made for the acquisition or development of land and improvements for use for a public works, public service, or development facility. Construction grants can also be made for the acquisition, design and engineering, construction, rehabilitation, alteration, expansion, or improvement of such a facility, including related machinery and equipment (42 USC section 3141(a); 42 USC section 3149(a); and 13 CFR sections 305.2(a) and 307.3).

b. Non-Construction, RLF: Economic Adjustment Assistance grants (Assistance Listing 11.307) to capitalize or recapitalize RLFs most

commonly fund business lending but may also fund public infrastructure or other authorized lending activities if specifically allowed for in the terms of an award (42 USC section 3149(a) and 13 CFR section 307.6).

c. Non-Construction, Other: Other activities that can be funded under the Economic Adjustment Assistance program (Assistance Listing 11.307) (in addition to grants for construction and RLFs) are grants for CEDS (or other strategy) development and grants for CEDS (or other strategy) implementation, which may include, among other things, market or industry research and analysis, technical assistance, public services, training, and other activities as justified by the strategy which meet applicable statutory and regulatory requirements (42 USC section 3149(a) and 13 CFR section 307.3).

d. Subaward, Economic Adjustment Assistance: A recipient of an Economic Adjustment Assistance grant (Assistance Listing 11.307) may directly expend the grant funds or, with prior EDA approval, may redistribute such grant assistance in the form of a loan or other appropriate assistance to nonprofit and private for-profit entities under an RLF (42 USC section 3154c and 13 CFR section 309.2).

2. *Activities Unallowed*

a. For awards made under the Economic Adjustment Assistance program for RLFs, there are special restrictions on the use of RLF Cash Available for Lending. RLF Cash Available for Lending (as defined at 13 CFR section 307.8) may not be used to:

(1) Acquire an equity position in a private business (13 CFR section 307.17(c)(1)).

(2) Subsidize interest payments on an existing RLF loan (13 CFR section 307.17(c)(2)).

(3) Provide a loan to a borrower for the purpose of meeting the requirements of equity contributions under another federal agency's loan programs (13 CFR section 307.17(c)(3)).

(4) Enable borrowers to acquire an interest in a business either through the purchase of stock or through the acquisition of assets unless sufficient justification is provided in the loan documentation. Sufficient justification may include acquiring a business to save it from imminent closure or to acquire a business to facilitate a significant expansion or increase in investment with a significant increase in jobs. The potential economic benefits must be clearly

consistent with the strategic objectives of the RLF (13 CFR section 307.17(c)(4)).

(5) Provide RLF loans to a borrower for the purpose of investing in interest-bearing accounts, certificates of deposit, or any investment unrelated to the RLF (13 CFR section 307.17(c)(5)).

(6) Refinance existing debt, unless (1) the RLF recipient sufficiently demonstrates in the loan documentation a sound economic justification for the refinancing (e.g., the refinancing will support additional capital investment intended to increase business activities; for this purpose, reducing the risk of loss to an existing lender(s) or lowering the cost of financing to a borrower shall not, without other indicia, constitute a sound economic justification); or (2) RLF cash available for lending will finance the purchase of the rights of a prior lien holder during a foreclosure action, which is necessary to preclude a significant loss on an RLF loan. RLF funds may be used for this purpose, only if there is a high probability of receiving compensation from the sale of assets sufficient to cover an RLF's costs plus a reasonable portion of the outstanding RLF loan within a reasonable time frame approved by EDA following the date of refinancing (13 CFR section 307.17(c)(6)).

(7) Serve as collateral to obtain credit or any other type of financing without EDAs prior written approval (13 CFR section 307.17(c)(7)).

(8) Support operations or administration of the RLF recipient (13 CFR section 307.17(c)(8)).

(9) Undertake any activity that would violate the requirements found at 13 CFR Part 314, including sections 314.3 ("Authorized Use of Property") and 314.4 ("Unauthorized Use of Property") (13 CFR section 307.17(c)(9)).

(10) Finance gambling activity, performances or products of a prurient sexual nature, or any illegal activity, including the cultivation, distribution, or sale of marijuana that is illegal under federal law (RLF Standard Terms and Conditions, Part II, section D) 4) a) (x)).

b. Subaward, Ineligible Entities: A recipient of a Public Works grant (Assistance Listing 11.300), or Economic Adjustment Assistance grant (Assistance Listing 11.307) may not redistribute award funds (e.g., subaward) to entities ineligible for award under the applicable NOFO (e.g., for-profit organizations) except in accordance with the procurement standards at 2 CFR sections 200.317 through 200.327.

B. Allowable Costs/Cost Principles

Unallowable Costs, RLF Awards: For RLF awards, costs incurred for ineligible loans, including loans made for one of the unallowed activities described in Section A.2. or made outside of the RLF lending area as discussed in Section N.2., are unallowable. The RLF capital base is always maintained in two forms: as RLF cash available for lending **or** as outstanding loan principal. It is unallowable for recipients of an RLF grant to use RLF funds for administrative costs in excess of the RLF income generated during the same recipient fiscal year without prior written approval from EDA. Any use in excess is unallowable.

Participant Support Costs: Awards made under the Public Works (Assistance Listing 11.300) and Economic Adjustment Assistance (Assistance Listing 11.307) typically do not allow funds to be used for participant support costs as provided at 2 CFR section 200.456. However, some awards made with ARP Act funds, in particular awards under the Good Jobs Challenge, may allow participant support costs.

G. Matching, Level of Effort, Earmarking

1. Matching

The amount of required matching share varies on a grant-by-grant basis and is set forth in the grant award. In nearly all cases, a recipient of a Public Works or Economic Adjustment Assistance grant is required to provide a matching share. In some instances, including grants to Indian tribes and to respond to natural disasters, EDA may award grants at investment rates up to and including one hundred percent (100 percent) (13 CFR section 301.4(b)). Prior to EDA approving the matching share at time of application, the recipient must demonstrate to EDA's satisfaction that the matching share is committed to the project, available as needed, and not conditioned or encumbered in any way that would preclude its use consistent with the requirements of the grant award (13 CFR section 301.5). The source of a recipient's matching share may change during the term of the grant award if EDA is notified and approves of the change in source.

Matching share may take a variety of forms. It may be in the form of allowable costs incurred by the recipient, but not charged to the federal award, third party cash contributions, or third party in-kind (non-cash) contributions. Additionally, with prior EDA approval, unrecovered indirect costs or program income may be used to meet the required matching share.

Matching funds must comply with the provisions of 2 CFR section 200.306, 13 CFR section 301.5, and the applicable NOFO, which provides detailed criteria for acceptable costs and contributions. Funds are acceptable for matching if they:

a. Are verifiable from the nonfederal entity's records.

b. Are not included as contributions for any other federal award.

c. Are necessary, allocable, and reasonable for accomplishment of project objectives.

d. Are allowed under the applicable cost principles.

e. Are not paid by the federal government under another federal award, except where the federal statute authorizing a program specifically provides for such use, which may sometimes include a letter from the federal agency authorizing the funds as match in the subject project, and EDA approves the use of the federal funds as match.

f. Are provided for in the approved budget when required by the EDA.

g. Conform to other applicable provisions of 2 CFR section 200.306 and any applicable laws, regulations, and provisions of grant or cooperative agreements.

Note that Part 3 for the audit objectives and suggested audit procedures for matching relating to internal control and compliance only applies to the disbursement phase of the RLF award, but not RLF awards in the revolving phase (as defined at 13 CFR section 307.8) where all funds have been previously disbursed by EDA.

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

J. Program Income

Program income may be earned pursuant to some Public Works (Assistance Listing 11.300) and Economic Adjustment Assistance (Assistance Listing 11.307) awards, but it is most prevalent in RLF awards.

Program income is a key feature of RLF awards. Known as “RLF income,” it is used to increase the RLF capital base and to pay eligible administrative costs that stem from operating the RLF. RLF income (as defined at 13 CFR section 307.8) includes interest earned on loan principal and accounts holding RLF funds, all fees received by the RLF, and other income generated from RLF operations. RLF income excludes repayments of loan principal. An RLF recipient is allowed to use RLF income to pay for allowable

administrative costs, provided such RLF income is earned and the administrative costs are accrued in the same fiscal year of the RLF recipient.

During the revolving phase (as defined at 13 CFR section 307.8), RLF income must either be used to pay allowable administrative costs or added to the RLF capital base. RLF income may be used to pay administrative costs only if the RLF income is accrued and the administrative costs are incurred in the same fiscal year of recipient. If the RLF income is not used for such costs, it must be added to the RLF capital base (13 CFR section 307.12(a)). A recipient may not withdraw funds from the RLF capital base in a subsequent fiscal year to pay administrative costs without the prior written consent of EDA (13 CFR section 307.12(a)(3)). RLF recipients must keep administrative costs to a minimum to maintain the RLF capital base (13 CFR section 307.12(a)(4)). When charging costs against RLF income, RLF recipients must comply with the cost principles at 2 CFR Part 200, Subpart E.

RLF income received before disbursement phase (as defined at 13 CFR section 307.8) closeout is retained by the RLF recipient, added to the RLF capital base, continues to be reported in the RLF Financial Report (Form ED-209). The RLF recipient may use program income only as an "addition" to the federal award pursuant to 2 CFR section 307(e)(2); the recipient may not use program income as a "deduction" to the federal award.

L. Reporting

1. Financial Reporting

a. *Form SF-270, Request for Advance or Reimbursement for Non-Construction Programs* – Applicable (required for non-construction awards until the award is fully disbursed)

b. *Form SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Applicable (required for construction awards until the award is fully disbursed)

c. *Form SF-425, Federal Financial Report* – Applicable

d. *Form ED-209, RLF Financial Report* – Applicable only for RLF awards (required to be submitted in a format and at a frequency determined by EDA for the duration of the RLF's operation, generally on a semiannual or annual basis). The following explains the Form ED-209 reporting requirements.

Form ED-209, *Revolving Loan Fund Financial Report (OMB No. 0610-0095)* – All EDA RLF recipients must submit Form ED-209 at a frequency as directed by EDA (13 CFR section 307.14(a)). The frequency is based on the results of the rating each RLF receives under the Risk Analysis

System. Generally, Form ED-209 (instructions available here: https://www.eda.gov/sites/default/files/2022-02/EDA_Form_ED209-Instructions.pdf) must be submitted corresponding to the RLF recipient's fiscal year on an annual basis for RLF awards that are highly rated under the Risk Analysis System, while it must be submitted on a semi-annual basis for RLF awards that are not highly rated under the Risk Analysis System.

Key Line Items – The following line items contain critical information, which should reconcile with the RLF recipient's financial documents and account balances:

1. *Current RLF capital base (Line II.C.6.)*
2. *RLF Cash Available for Lending, Net of Committed RLF $ (Line II.D.4.)*
3. *Total Active Loans (Line III.A.4., Number, RLF $ Loaned, and RLF Principal Outstanding)*
4. *Written Off Loans (Line III.A.5., Number, RLF $ Loaned, and Loan Losses)*
5. *Total Loans (Line III.A.7., Number, RLF $ Loaned, RLF Principal Outstanding, and Loan Losses)*
6. *RLF income used for Admin. Expenses, Fiscal Year (Line IV.C.2.)*
7. *RLF income earned during Fiscal Year (Line IV.C.3.)*
8. *Administrative Expenses % of Income, Fiscal Year (Line IV.C.2.)*
9. *Total $ Leveraged (Line IV.E.1., Active Loans and Total Loans)*
10. *Loan Leverage Ratio (Line IV.E.2., Active Loans and Total Loans*

2. Performance Reporting

a. Report Title: *ED-915: Economic Development Administration GPRA Data Collection Form,* Public Works, Economic Adjustment Infrastructure and Revolving Loan Fund Instruments. (The ED-915 is used for Public Works or Economic Adjustment Assistance projects that involve construction and legacy RLFs as directed in their grant award conditions.)

OMB PRA Number: OMB No. 0610-0098

Report Authority: Government Performance and Results Act of 1993, as amended by the GPRA Modernization Act of 2010

Reporting period/submission date/s: 3, 6, or 9 years after award

Link to report and report instructions: https://www.eda.gov/sites/default/files/filebase/files/tools/grantee-forms/ED-915_2021_fillable.pdf

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

1. Jobs Retained line – for RLF reporting, the number of private sector jobs retained as a result of the EDA funding are to be reported for periods 3 years after the award, 6 years after the award, and 9 years after the award. Auditors are not asked to confirm the accuracy of the jobs retained numbers, but only that grantee has documentation supporting that without the RLF assistance, the jobs would have been lost.

2. Private Investment Generated, Jobs Created, and Jobs Retained lines – there are special procedures for RLFs that were recapitalized. Auditors are not asked to confirm the accuracy of the data entered as private investment generated, jobs created, or jobs retained. Rather, to confirm that the grantee is reporting the data from the right date, the date of the recapitalization. For GPRA purposes, private investment and jobs reported in years 3, 6 and 9 following award of an RLF recapitalization should be reported from the date of the recap, not from the date of the initial RLF award. For example, if the RLF was initially awarded in 1995 and received a recapitalization award in 1999, only those jobs and private sector investments dollars generated from 1999 to the end of the appropriate reporting period should be reported.

EDA non-construction awards with periods of performance beginning prior to June 1, 2020 must continue to submit GPRA data collection Form ED-915. Awards after that date instead now report on the forms ED-916, 917 and 918.

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. RLF Awards: Priority of Payments on Defaulted and Written Off RLF Loans

Compliance Requirements When an RLF recipient receives proceeds on a defaulted RLF loan or written off RLF loan, such proceeds must be applied in the following order of priority: (1) towards any costs of collection; (2) towards outstanding penalties and fees; (3) towards any accrued interest to the extent due and payable; and (4) towards any outstanding principal balance (13 CFR section 307.12(c)).

Audit Objectives Determine whether proceeds from defaulted RLF loans were correctly applied in the order of priority.

Suggested Audit Procedures

Select a sample of defaulted **and** written off RLF loan files and verify that:

a. Documentation is available that supports that proceeds from defaulted and written off RLF loan files were correctly applied in the order of priority.

b. Any variance from this procedure would specifically be documented with an approval by the EDA Assistant Secretary and would be recorded in the file.

2. RLF Awards: Loan Requirements

Compliance Requirements The following requirements apply to RLF loans:

a. The standard loan documentation must include, at a minimum, the: (1) loan application, (2) loan agreement, (3) board of directors' meeting minutes approving the RLF loan or appropriate substitute documentation if board approval is not required, (4) promissory note, (5) security agreement(s) (if applicable), (6) deed of trust or mortgage (if applicable), (7) agreement of prior lien holder (if applicable), and (8) evidence demonstrating that credit is not otherwise available on terms and conditions that permit the completion or successful operation of the activity to be financed (13 CFR section 307.11(a)(1)(ii)). (Note, however, that EDA temporarily waived from 5/7/2020 to 6/30/2022 the requirement to collect evidence demonstrating that credit is not otherwise available; for more information, see https://www.eda.gov/funding/programs/cares/faq/rlf.)

b. An RLF recipient must make loans to implement and assist economic activity only within its EDA-approved lending area, as defined in the

terms and conditions of the award (as amended) and the EDA-approved RLF Plan (13 CFR section 307.18(a)(1)).

c. RLFs shall operate in accordance with generally accepted accounting principles ("GAAP") in effect in the United States and the provisions outlined in the audit requirements set out as Subpart F to 2 CFR Part 200 and this Compliance Supplement, which is Appendix XI to 2 CFR Part 200, as applicable.

d. In accordance with GAAP, a loan loss reserve may be recorded in the RLF recipient's financial statements to show the adjusted current value of an RLF's loan portfolio, provided this loan loss reserve is non-funded and is represented by a noncash entry. However, loan loss reserves may not be used to reduce the value of the RLF in the Schedule of Expenditures of Federal Awards ("SEFA") required as part of the RLF recipient's audit requirements under 2 CFR Part 200 (13 CFR section 307.15(a)(2)).

Audit Objectives Determine whether: (1) the required documentation is complete for all RLF loans, including evidence that credit was not otherwise available to the borrower; (2) the RLF recipient's financed activity is located in the EDA-approved lending area; and (3) properly recording a loan loss reserve in accordance with GAAP and with section 307.15(a)(2).

Suggested Audit Procedures

Select a sample of RLF loan files and verify that:

a. All required standard loan documents are complete for each loan, including documentation that credit was not otherwise available to the borrower. This can take the form of a market analysis of local credit conditions; the documentation does not have to be unique to the borrower.

b. The financed activity is located in the EDA-approved lending area.

c. RLF is operating in accordance with GAAP and with 2 CFR Part 200 (13 CFR section 307.15(a)(2)).

d. RLF is recording loan loss reserve in accordance with GAAP (13 CFR section 307.15(a)(2)).

3. RLF Awards: Loan Portfolio Sales and Securitizations

Compliance Requirements With prior written approval from EDA, an RLF recipient may enter into a sale or a securitization of all or a portion of its RLF loan portfolio, provided it: (1) uses all the proceeds of any sale or a securitization to make additional RLF loans, and (2) requests that EDA subordinate its interest in all or a portion of any RLF loan portfolio sold or securitized (13 CFR section

307.19).

Audit Objectives In the event an RLF recipient has sold or securitized RLF loans, verify whether the RLF recipient: (1) received EDA's prior approval, and (2) used all the proceeds from the sale or securitization to make additional RLF loans.

Suggested Audit Procedures

a. Determine whether RLF recipient has entered into sale or securitization of all or a portion of its RLF loan portfolio.

b. Verify that the RLF recipient has evidence of EDA's prior written approval to sell or securitize all or a portion of its RLF loan portfolio.

c. Ascertain that all the proceeds from the sale or securitization (net of reasonable transactions costs) were used to make additional RLF loans.

4. Wage Rate Requirements

See Part 4, 20.001 Wage Rate Requirements of the Department of Transportation Cross-Cutting Section of this Compliance Supplement.

IV. OTHER INFORMATION

Financial Statement and Account Balance

The recipients must have written procedures for preparing the audit report and evaluate for completeness and accuracy to reconcile with financial statements and account balances. In addition, the RLF income used for administrative expenses must be in accordance with terms of the award and cost principles.

RLF Awards: Schedule of Expenditures of Federal Awards

For purposes of completing the SEFA, each EDA RLF award (Assistance Listing 11.307) must be shown as a separate line item, separate from any other Economic Adjustment Assistance award received by the RLF recipient. Each RLF award must be identified as a loan program. (RLF awards are unique among Public Works and Economic Adjustment Assistance awards in this respect; all other Public Works and Economic Adjustment Assistance awards are not loan programs.) The SEFA for RLF awards must be calculated as follows:

1. Balance of RLF principal outstanding on loans at the end of the recipient's fiscal year, *plus*

2. Cash and investment balance in the RLF at the end of the recipient's fiscal year, *plus*

3. Administrative expenses paid using RLF income during the recipient's fiscal year, *plus*

4. Administrative expenses paid using award funds designated for administrative expenses during the recipient's fiscal year, *plus*

5. The unpaid principal of all loans written off during the recipient's fiscal year.

6. *Multiply* this sum (1+2+3+4+5) by the federal share of the RLF award. The federal share is defined as the federal participation rate (or the federal grant rate) as specified in the grant award (or as may be amended by EDA).

   Note: Consolidated or merged RLF awards must be shown as a single line item on the SEFA. In this case, the federal share will be specified in the amendment consolidating the RLF awards.

The federal grant rates for each EDA RLF can be found in the grant award documents; specifically, Form CD-450 or Form CD-451.

For the purposes of calculating federal expenditures, RLF recipients are not permitted to factor in an allowance for bad debt.

A note showing the figures used in this calculation must accompany the SEFA.

RLF Awards: Continuing Compliance Requirements for RLFs

EDA retains a federal interest in RLF award funds until the RLF award is terminated or EDA releases its federal interest in the RLF award funds. As such, required reporting and EDA oversight of the RLF also continue until the award is terminated or EDA releases its federal interest in the RLF award funds.

In the event EDA releases its federal interest in the RLF award funds, the RLF award must appear in the SEFA in the fiscal year of release, and be audited as appropriate, but the RLF must not be included in the SEFA in the fiscal years following release. In the fiscal year of release the SEFA must be calculated as the date of release, not as of the end of the recipient's fiscal year.

U.S. DEPARTMENT OF COMMERCE

ASSISTANCE LISTING 11.611 MANUFACTURING EXTENSION PARTNERSHIP

I. PROGRAM OBJECTIVES

Under the Hollings Manufacturing Extension Partnership (MEP) program, the National Institute of Standards and Technology (NIST) awards cooperative agreements to eligible entities—which include U.S. states and territories, local/tribal governments, institutions of higher education, and nonprofit organizations or consortia of nonprofit organizations—for the purpose of creating and supporting manufacturing extension partnership centers for the transfer of manufacturing technology and best business practices (hereafter referred to as "Centers"). The objective of the MEP program is to enhance competitiveness, productivity, and technological performance in US manufacturing. See 15 USC 278k(c). Centers accomplish this objective through activities that include: (1) the establishment of automated manufacturing systems and other advanced production technologies, based on institute-supported research, for the purpose of demonstrations and technology transfer; (2) the active transfer and dissemination of research findings and center expertise to a wide range of companies and enterprises, particularly small- and medium-sized manufacturers; and (3) the facilitation of collaborations and partnerships between small- and medium-sized manufacturing companies, community colleges, and area career and technical education schools, to help those entities better understand the specific needs of manufacturers and to help manufacturers better understand the skill sets that students learn in the programs offered by such colleges and schools (15 USC 278k(b)).

While the majority of program funds are used to create and support these centers (referenced hereafter as "base cooperative agreements"), NIST also disburses additional program funds to existing Centers, or consortia of centers, in the form of cooperative agreements for projects to solve new or emerging manufacturing problems (referred to in the authorizing statute as "competitive awards"). The problems to be addressed under competitive awards will be determined by the NIST director, in consultation with the director of the MEP program (hereafter "Director"), the MEP Advisory Board, other federal agencies, and small- and medium-sized manufacturers, and specified in the applicable Notice of Funding Opportunity (NOFO) for the Competitive Awards Program (CAP) established under 15 USC 278k-1. In addition, the CHIPS and Science Act of 2022 authorized the Expansion Awards Pilot Program pursuant to 15 USC 278k-2. In FY23, NIST utilized the Expansion Awards Pilot Program to fund cooperative agreements with MEP Centers to implement projects to expand existing MEP capabilities to provide National Supply Chain Optimization and to establish a supply chain Intelligence Network.

II. PROGRAM PROCEDURES

A. Cooperative Agreements to Create and Support Centers

Base cooperative agreements to create and support Centers are subject to, and administered in accordance with, 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; the U.S. Department of Commerce Financial Assistance General Terms and Conditions (dated October 1, 2024, as may be periodically amended and previous versions as applicable); the Hollings Manufacturing Extension Partnership General Terms and Conditions (March 7, 2024, as may be periodically amended) ("MEP General Terms and Conditions"); any specific award conditions imposed by NIST on a case-by-case basis; and the Center's approved plans (approved funding proposal/scope of work and multi-year budgets for the audit period). These documents are incorporated by reference into the non-federal entity's Financial Assistance Form CD-450 (*U.S. Department of Commerce Financial Assistance Award*), which documents the cooperative agreement. If NIST approves any amendments to the award, including any changes to these documents incorporated by reference, NIST will document this amendment with a CD-451 form (*U.S. Department of Commerce Amendment to Financial Assistance Award*) or an administrative change letter.

These base cooperative agreements are typically for a five-year period, with the possibility of a noncompetitive renewal for another five-year award. However, these multi-year awards are funded in yearly allotments, with annual funding contingent upon the continued availability of funds, satisfactory performance, and the continued relevance of the base cooperative agreement to program objectives and is at the sole discretion of the U.S. Department of Commerce. The latest NIST-approved budget is binding on the non-federal entity and should be used in conjunction with this compliance supplement to determine the allowability of costs, as documented in the Center's Single Year Budget Workbook and Five-Year Budget Summary Table for the audit period.

Except as otherwise provided in the applicable award documentation, base cooperative agreements to create and support Centers require non-federal matching funds. See 15 USC 278k(e)(2). The center's approved Single Year Budget Workbook and Five-Year Budget Summary Table indicate the total amount of non-federal cost share required for the funding period, as well as the source, amount, and nature of each contribution. Typically, non-federal cost share contributions comprise a mix of cash and in-kind contributions from the non-federal entity, subawardees, and third parties such as State agencies and municipalities, as well as program income. Program income is primarily generated from fees collected from manufacturers to partially offset the cost of providing manufacturing extension services under the program. Program income may also include revenue, such as but not limited to, registration fees for training programs offered by the center, fees for equipment rentals, and licensing fees or royalties on patents.

These base cooperative agreements permit the non-federal entity to make subawards to accomplish all or part of the approved plans. Any permissible subawards will be shown in the Center's approved Single Year Budget Workbook. The terms and conditions of

each base cooperative agreement flow down to subawards as well unless a particular section of 2 CFR Part 200 or the terms and conditions of the base cooperative agreement specifically indicate otherwise. Each Center that issues subawards must ensure that every subaward is clearly identified to the subrecipient as a subaward and includes all the required information at the time of the subaward per 2 CFR 200.332(a). In addition, each Center that issues subawards must comply with the subrecipient monitoring and management standards for pass-through entities as described in 2 CFR 200.331–200.333 (see also MEP General Terms and Conditions, Section A.9). It is important to note that a non-federal entity may be involved in manufacturing extension services beyond the scope of its cooperative agreement with NIST.

B. Cooperative Agreements to Solve New or Emerging Manufacturing Problems

In addition to base cooperative agreements to create and support Centers, NIST disburses additional program funds or funding from the Competitive Awards Program (CAP), per 15 USC 278k-1, to existing Centers, or consortia of Centers, in the form of cooperative agreements for projects to solve new or emerging manufacturing problems as determined by the NIST director, in consultation with the MEP Director, the MEP Advisory Board, other federal agencies, and small- and medium-sized manufacturers ("competitive awards") and specified in the applicable NOFO. These cooperative agreements are subject to, and administered in accordance with, 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, the U.S. Department of Commerce Financial Assistance Terms and Conditions, any specific award conditions imposed by NIST on a case-by-case basis, and all requirements listed in the NOFO that governs the project for which the Center or consortium of Centers was selected. These cooperative agreements are *not* subject to the MEP General Terms and Conditions; there is no expectation that program income will be generated under these awards. However, if program income is generated, it may be expended in accordance with any of the options set forth in 2 CFR 200.307, unless otherwise directed by the applicable NOFO or by a specific award condition. There is also no requirement to provide matching contributions. The period of performance varies for each award but may not exceed three years. Any permissible subawards will be shown in the approved project budget, which shall be attached to, or incorporated by reference in, the CD-450 (*U.S. Department of Commerce Financial Assistance Award*), which functions as the cooperative agreement. The terms and conditions of each cooperative agreement apply (i.e., flow down) to subawards as well, unless a particular section of 2 CFR Part 200 or the terms and conditions of the cooperative agreement specifically indicate otherwise.

C. Cooperative Agreements for Disaster Assessment

In response to Major or Emergency Disaster Declarations by the Federal Emergency Management Agency (FEMA Disaster Declaration), the NIST MEP Program awards cooperative agreements to existing NIST MEP Centers' pursuant to the authorities provided by 15 USC 278k-1 and the MEP Disaster Assessment Program (MDAP). These cooperative agreements are subject to and administered in accordance with 2 CFR Part

200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, the U.S. Department of Commerce Financial Assistance Terms and Conditions, any specific award conditions imposed by NIST on a case-by-case basis, and all requirements listed in the NOFO that governs the project for which the Center or consortium of Centers was selected. These cooperative agreements are *not* subject to the MEP General Terms and Conditions; there is no expectation that program income will be generated under these awards. However, if program income is generated, it may be expended in accordance with any of the options set forth in 2 CFR 200.307, unless otherwise directed by the applicable NOFO or by a specific award condition. There is no requirement to provide matching contributions. The period of performance varies for each award but may not exceed 18 months, unless otherwise extended in writing by the NIST Grants Officer during the term of a project. Any permissible subawards will be shown in the approved project budget, which shall be attached to, or incorporated by reference in, the CD-450 *(U.S. Department of Commerce Financial Assistance Award*), which documents the cooperative agreement. The terms and conditions of each cooperative agreement apply (i.e., flow down) to subawards as well, unless a particular section of 2 CFR Part 200 or the terms and conditions of the cooperative agreement specifically indicate otherwise.

D. Cooperative Agreements for MEP Expansion Awards Pilot Program (MEAPP)

The MEP Expansion Awards Pilot Program (MEAPP) is authorized pursuant to 15 USC 278k-2. Pursuant to the MEAPP, NIST MEP piloted a National Supply Chain Optimization and Intelligence Network program to support nationwide coordination of comprehensive supplier scouting, optimize supply network service offerings, and capture marketplace supplier data for public use. Awards were made to provide services that will improve the resiliency for domestic supply chains and to build capabilities in the MEP National Network™ for domestic supply chain resiliency and optimization. MEP Centers and their subrecipients may not charge clients for services provided under MEAPP awards as the funding under this program is an investment in building national ecosystem to improve supply chain resiliency and capacity. These cooperative agreements are subject to, and administered in accordance with, 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, the U.S. Department of Commerce Financial Assistance General Terms and Conditions, any specific award conditions imposed by NIST on a case-by-case basis, and all requirements listed in the Request for Application (RFA) that governs the project for which the Center or consortium of Centers was selected. These cooperative agreements are *not* subject to the MEP General Terms and Conditions; MEAPP cooperative agreements are not allowed to generate program income to an MEP Center or to its subrecipients. Should program income be generated, it must be promptly reported to NIST and handled in accordance with the deduction method as outlined in 2 CFR 200.307(e)(1). The period of performance is 24 months, unless otherwise extended in writing by the NIST Grants Officer during the term of a project. Any permissible subawards will be shown in the approved project budget, which shall be attached to, or incorporated by reference in, the CD-450 *(U.S. Department of Commerce Financial Assistance Award*), which functions

as the cooperative agreement. The terms and conditions of each cooperative agreement apply (i.e., flow down) to subawards as well, unless a particular section of 2 CFR Part 200 or the terms and conditions of the cooperative agreement specifically indicate otherwise.

Source of Governing Requirements

MEP Authorizing Statute - 15 USC 278k (https://uscode.house.gov/view.xhtml?hl=false&edition=prelim&req=granuleid%3AUSC-2015-title15-section278k&num=0).
NIST MEP Regulations - 15 CFR Part 290 (https://www.ecfr.gov/current/title-15/subtitle-B/chapter-II/subchapter-K/part-290).
Competitive Award Program (MEP CAP) and MEP Disaster Assessment Program (MDAP) - 15 USC 278k-1 (https://uscode.house.gov/view.xhtml?req=(title:15%20section:278k-1%20edition:prelim).
Expansion Awards Pilot Program (MEAPP) - 15 USC 278k-2, (https://uscode.house.gov/view.xhtml?req=15+usc+278k-2&f=treesort&fq=true&num=2&hl=true&edition=prelim&granuleId=USC-prelim-title15-section278k-2).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort,	Period Of Performance	Procurement and Suspension	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	Y	N	N	Y	Y	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

a. For base cooperative agreements to create and support Centers, the Center's approved plans will specify the type of activities permitted under the award. Each subaward will specify the types of activities permitted under the subaward, which must be consistent with the Center's approved plans but may be only a subset of those activities outlined in the Center's approved plans. In any case, all activities will fit broadly into the following types of activities:

(1) The establishment of automated manufacturing systems and other advanced production technologies, based on NIST-supported research, for the purpose of demonstrations and technology transfer (15 USC 278k(d)(1));

(2) The active transfer and dissemination of research findings and Center expertise to a wide range of companies and enterprises (15 USC 278k(d)(2)), particularly small- and medium-sized manufacturers; and

(3) The facilitation of collaborations and partnerships between small- and medium-sized manufacturing companies, community colleges, and area career and technical education schools, to help those entities better understand the specific needs of manufacturers and to help manufacturers better understand the skill sets that students learn in the programs offered by such colleges and schools (15 USC 278k(d)(3)).

b. Cooperative Agreements to Solve New or Emerging Manufacturing Problems.

The types of activities permitted under the award will be specified in the applicable NOFO and in the terms and conditions of each cooperative agreement.

c. Cooperative Agreements for Disaster Assessment.

The types of activities permitted under the award will be specified in the applicable NOFO and in the terms and conditions of each cooperative agreement.

d. Cooperative Agreements for MEAPP.

The types of activities permitted under the award will be specified in the applicable RFA or NOFO and in the terms and conditions of each cooperative agreement.

B. Allowable Costs/Cost Principles

1. For base and cooperative agreements to create and support Centers, allowable costs, including prior approval requirements for certain costs, are determined in accordance with 2 CFR Part 200, the U.S. Department of Commerce Financial Assistance General Terms and Conditions; the MEP General Terms and Conditions; and any specific award conditions imposed by NIST on a case-by-case basis and must be consistent with the approved project budget.

2. For cooperative agreements to solve new or emerging manufacturing problems, allowable costs, including prior approval requirements for certain costs, are determined in accordance with 2 CFR Part 200, the U.S. Department of Commerce Financial Assistance General Terms and Conditions; any specific award conditions imposed by NIST on a case-by-case basis and must be consistent with the approved project budget.

3. For cooperative agreements to identify and assess the impacts to small- and medium manufacturers affected by natural or other disasters, allowable costs, including prior approval requirements for certain costs, are determined in accordance with 2 CFR Part 200, the U.S. Department of Commerce Financial Assistance General Terms and Conditions; any specific award conditions imposed by NIST on a case-by-case basis and must be consistent with the approved project budget.

4. For cooperative agreements to provide services that will improve the resiliency for domestic supply chains and to build capabilities in the MEP National Network™ for domestic supply chain resiliency and optimization, allowable costs, including prior approval requirements for certain costs, are determined in accordance with 2 CFR Part 200, the U.S. Department of Commerce Financial Assistance General Terms and Conditions; any specific award conditions imposed by NIST on a case-by-case basis and must be consistent with the approved project budget.

C. Cash Management

1. *Grants and Cooperative Agreements to States*

Applicable

2. *Grants and Cooperative Agreements to non-Federal Entities Other Than States*

Applicable

3. *Cost-reimbursement Contracts under the Federal Acquisition Regulation*

Not applicable

4. *Loans, Loans Guarantees, Interest Subsidies, and Insurance*

Not applicable

5. *All Pass-Through Entities*

Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

a. Base Cooperative Agreements to Create and Support Centers

.

The Center and, if applicable, its partnering organizations (i.e., sub-Non-Federal Entities and/or third-party contributors) will obtain funding for not less than 50 percent of the capital and annual operating and maintenance funds required to establish and support the Center from sources other than NIST. The MEP authorizing statute requires that minimum cost share requirements must be met annually; there can be no carryover of excess cost share from one year to the next (15 USC 278k(f)(3)).

Any non-Federal matching share shown in the Center's approved budget for the audit (budget) period supersedes the statutory minimum and is binding on the Non-Federal Entity (*see* MEP General Terms and Conditions, Section B.5).

Contractors and MEP Center clients may not provide any form of the Center's cost share without the prior written approval of the NIST Grants Officer (*see* MEP General Terms and Conditions, Section B.5.A).

b. Cooperative Agreements to Solve New or Emerging Manufacturing Problems

Not applicable to this program, unless the recipient pledged "voluntary committed cost sharing" (as defined in 2 CFR 200.1) for its project, which is reflected in the approved budget for the subject award.

c. Cooperative Agreements for Disaster Assessment

Not applicable to this program, unless the recipient pledged "voluntary committed cost sharing" (as defined in 2 CFR 200.1) for its project, which is reflected in the approved budget for the subject award.

d. Cooperative Agreements for MEAPP.

Not applicable to this program, unless the recipient pledged "voluntary committed cost sharing" (as defined in 2 CFR 200.1) for its project, which is reflected in the approved budget for the subject award. Note, there is no generation of program income allowed on these awards.

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

J. Program Income

1. *Base Cooperative Agreements to Create and Support Centers*

a. In accordance with 2 CFR 200.307 and the below referenced MEP general terms and conditions, program income earned by the non-federal entity during the project period shall be retained by the non-federal entity and shall be used by the non-federal entity in the following order of priority during the funding period:

(1) First, to finance the non-federal share of the project (MEP General Terms and Conditions, Section B.12.B.1.). This amount is not included on the Schedule of Expenditures for Federal Awards (SEFA);

(2) Second, all program income earned in excess of that required to meet the minimum non-federal share shall be added to the funds committed to the project by MEP and the non-federal entity and must be used for the purposes and under the conditions of the MEP award (commonly referred to as the "additive approach"). Program income to be expended under the additive approach must be explained in detail in the Center's approved plans or in a separate written communication to the NIST Grants Officer and is subject to the prior written approval of the NIST Grants Officer (MEP General Terms and Conditions, Section B.12.B.2.). This amount is included on the SEFA; and

(3) Third, any remaining unexpended program income shall be deducted from the total allowable project costs to determine the net allowable program costs upon which the federal share of project costs is based, in accordance with written instructions from the NIST Grants Officer (commonly referred to as the "deductive approach") (MEP General Terms and Conditions, Section B.12.B.3.). This amount is not included on the SEFA.

b. Program income in excess of what is required annually to meet the non-federal portion of the annual operating budget may be carried over by the Center to the subsequent funding period if approved in writing by the NIST Grants Officer.

c. Upon close-out of a MEP award, the NIST Grants Officer will provide the non-federal entity with closeout instructions, including instructions regarding the disposition of program income (*see* MEP General Terms and Conditions, Section B.20.D).

2. *Cooperative Agreements to Solve New or Emerging Manufacturing Problems*
There is no expectation that program income will be generated under this program. If program income is generated, in accordance with 2 CFR 200.307, it must be expended for the purposes and under the conditions of the subject award (commonly referred to as the "additive approach"), with any remaining unexpended program income being deducted from the total allowable project costs to determine the net allowable program costs upon which the federal share of project costs is based (commonly referred to as the "deductive method").

3. *Cooperative Agreements for Disaster Assessment*
There is no expectation that program income will be generated under this program. If program income is generated, in accordance with 2 CFR 200.307, it must be expended for the purposes and under conditions of the subject award (commonly referred to as the "additive approach"), with any excess program income to be disposed of pursuant to the "deductive method" (see 2 CFR 200.307).

4. *Cooperative Agreements for MEAPP*
These agreements are not allowed to generate program income to an MEP Center or to its subrecipients.

L. Reporting

The following reporting requirements described in Section A.01 Reporting Requirements of the U.S. Department of Commerce Financial Assistance Standard Terms and Conditions, apply to awards in this program.

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable.

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* -Not Applicable.

c. *SF-425, Federal Financial Report* – Applicable

1. ***Base Cooperative Agreements to Create and Support Centers***- The recipient shall submit an SF-425, Federal Financial Report, into the MEP's Enterprise Information System (MEIS) on a semi-annual basis after the sixth and twelfth month of each operating year, unless other reporting intervals and/or due dates are identified by the NIST Grants Officer pursuant to a specific award condition. Reports will be due within 30 days after the end of each semi-annual reporting period. The recipient shall submit a final SF-425 within 120 days after the expiration date of the award.

2. ***Cooperative Agreements to Solve New or Emerging Manufacturing Problems***- The recipient shall submit an SF-425, Federal Financial Report, into the MEIS on a semi-annual basis after the sixth and twelfth month of each operating year, unless other reporting intervals and/or due dates are identified by the NIST Grants Officer pursuant to a specific award condition. Reports will be due within 30 days after the end of each semi-annual reporting period. For recipients of new awards and funded award amendments issued by NIST before November 2020, the recipient shall submit a final SF-425 within 90 days after the expiration date of the award. Recipients of new awards and funded award amendments issued by NIST after November 12, 2020, shall submit a final SF-425 within 120 days after the expiration date of the award.

3. ***Cooperative Agreements for Disaster Assessment***- The recipient shall submit an SF-425, Federal Financial Report, into the MEIS on a quarterly basis, unless other reporting intervals and/or due dates are identified by the NIST Grants Officer pursuant to a specific award condition. Reports will be due within 30 days after the end of each reporting period. For recipients of new awards and funded award amendments issued by NIST before November 2020,the recipient shall submit a final SF-425 within 90 days after the expiration date of the award. Recipients of new awards and funded award amendments issued by NIST after November 12, 2020, shall submit a final SF-425 within 120 days after the expiration date of the award.

4. ***Cooperative Agreements for MEAPP*** **-** The recipient shall submit an SF-425, Federal Financial Report, into the MEIS on a semi-annual basis, unless other reporting intervals and/or due dates are identified by the NIST Grants Officer pursuant to a specific award condition. Reports will be due within 30 days after the end of each reporting period. Recipients shall submit a final SF-425 within 120 days after the expiration date of the award.

2. Performance Reporting

Not Applicable.

3. Special Reporting

Not applicable.

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part L.3 for audit guidance.

DEPARTMENT OF DEFENSE

ASSISTANCE LISTING 12.400 MILITARY CONSTRUCTION, NATIONAL GUARD

I. PROGRAM OBJECTIVES

The National Guard Bureau (NGB) enters into Military Construction Cooperative Agreements (MCCA) with the 50 states, District of Columbia, Commonwealth of Puerto Rico, the Virgin Islands, and Guam (recipients) to provide support to the Army National Guard (ARNG) and Air National Guard (ANG) for the construction of military facilities, real property improvements, design services, and other projects authorized and directed by Congress or the Department of Defense to be performed by the recipients and the NGB.

II. PROGRAM PROCEDURES

The recipients, generally the Adjutant General (TAG) of the state military department, on behalf of the Governor, but could also be a recipient at the local government or Airport Authority level, if it is more beneficial for the National Guard, and the Federal Grant Officer, who is the United States Property & Fiscal Officer (USPFO) are responsible for the execution of the MCCA. Policy and administrative procedures to be followed in the execution and funding of an MCCA are contained in National Guard Regulation turned policy (NGP) 5-1, CNGBI 9101, and the individual National Guard Cooperative Agreement Awards., documents located at the following link: https://www.ngbpmc.ng.mil/.

An MCCA consists of four parts: The first part is a signed Cooperative Agreement (CA) which is the main body of the agreement which includes standard terms and conditions applicable to the technical Appendices. The remaining three parts are technical Appendices which contain technical information for the specific project (i.e., scope, design and construction).

The total amount of federal funding for MCCA projects is shown in the applicable cooperative agreement. Reimbursements to a recipient for an MCCA project or projects may not exceed the amount(s) approved by NGB, which includes any authorized/executed modifications to the original project amount.

Source of Governing Requirements

The NGB and recipients are authorized to enter into CAs under (1) 31 USC, Subtitle V, General Assistance Administration, Chapter 63, Using Procurement Contracts and Grant and Cooperative Agreements; 31 USC Ch. 63: Using Procurement Contracts and Grant and Cooperative Agreements (2) 31 USC Subtitle V, General Assistance Administration, Chapter 61, Program Information, and Chapter 65, Intergovernmental Cooperation; 31 USC Ch. 61: Program Information (3) 32 USC National Guard, Chapter 1, Organization; 32 USC Ch. 1: Organization (4) 32 USC 101(19); (5) 10 USC Chapter 18, (6); 32 USC 106 and 107, which authorize NGB to contribute funds for the support of the operation/training of the ARNG/ANG 32 USC Ch. 1: Organization.

Regulations, policies, and procedures to be followed for CA Awards are contained in 2 CFR 200, 32 CFR 21&22, and 2 CFR 200 Subtitle B Chapter XI and interpreted through the National Guard Grants and Cooperative Agreements Regulation turned Policy, NGP 5-1, CNBGI 9101, NGB General Terms and Conditions and, for facilities and engineering projects, ANG and ARNG issuances. For any discrepancies between any of the interpretive policies and procedures and 2 CFR 200, 2 CFR 200 will take precedence. For any discrepancies between the NGP 5-1and the NGB General Terms and Conditions, the NGB General Terms and Conditions shall take precedence. For any discrepancies between NGP 5-1 and CNGBI 9101, CNGBI 9101 shall take precedence.

Federal contribution is authorized by 10 USC 18233 and 18236, and Department of Defense (DoD) Instruction (DoDI) 1225.08 (10 May 2016) Enclosure 5.

Availability of Other Program Information

The National Guard Internal Review Office in each state and territory (which reports to the USPFO) can provide information about risk assessments and audits performed by their office, which may be helpful in planning the audit. Contact, Director of the National Guard Bureau Internal Review Office, at (703) 607-0759, or email ng.ncr.ngb-arng.mbx.ngb-audit-liaison@army.mil for information on the Internal Review Office for a particular state.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	Y	Y	Y	N	Y	N	N

A. Activities Allowed or Unallowed

Allowable activities are those designated as authorized in the Division II Award Specific Terms and Conditions, Part 5 Cost Principles, Article 1 Allowable Expenses of the Military Construction Cooperative Agreement

B. Allowable Costs/Cost Principles

1. Allowable costs under MCCAs are stated in NGP 5-1, Chapter 5, Paragraph 5-3 and the terms and conditions of the MCCA.

2. Indirect costs are unallowable except as stated in NGP 5-1, Chapter 5, Paragraph 5-3b.

G. Matching, Level of Effort, Earmarking

1. Matching

a. Recipient match is specified in the project design finance plan section of the ANG MCCA technical appendix and in the project construction budget section of the ARNG MCCA technical appendix.

b. Whenever the grants officer provides “in-kind” assistance the recipient is still required to provide its required match based on the combined value of the NGB assistance and the value of the in-kind assistance (NGP 5-1, Chapter 9, Paragraph 9-2).

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

H. Period of Performance

1. Federal MCCA design and construction funds must be obligated within five years from the date of the appropriation and are available for liquidation for an additional six years after the obligation period inclusive of the close out period.

2. Within 120 days after final completion of the project (execution date of the NGB Form 593-R, Project Inspection Report, by the recipient and the grant officer), or upon termination of the MCCA, whichever comes earlier, the recipient shall promptly deliver to NGB a full and final accounting of liquidating all payments or reimbursements under the MCCA. Costs incurred for performance of the project which are not disclosed by the recipient within 120 days after the period of performance (PoP) may not be eligible for reimbursement. This excludes costs reserved for unliquidated claims or undisbursed obligations arising from the recipient's performance of the MCCA; however, the recipient shall provide a good faith estimate of the total amount of unliquidated claims and undisbursed obligations no later than 110 days after the end of the PoP of the MCCA. At its sole discretion, NGB acting through its grants officer, may extend this 110-day limit for good cause for good cause not to exceed 1 year after the end of the MCCA PoP per 2 CFR 200.

3. An MCCA shall be executed by the grant officer and the recipient prior to any request for reimbursement or advance payment. Pre-award costs may be authorized as provided in the MCCA (General Terms and Conditions, Part 1, Section C "Pre-Award Costs), [PART/SUBPART] _ OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (non procurement).

L. Reporting

1. Financial Reporting

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

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* –Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

DEPARTMENT OF DEFENSE

ASSISTANCE LISTING 12.401 NATIONAL GUARD MILITARY OPERATIONS AND MAINTENANCE (O&M) PROJECTS

I. PROGRAM OBJECTIVES

The National Guard Bureau (NGB) enters into cooperative agreements (CA) with the 50 states, District of Columbia, Commonwealth of Puerto Rico, the Virgin Islands, and Guam (recipients) to provide support to the Army and Air National Guard (ARNG/ANG) in minor construction, maintenance, repair, or operation of facilities, and mission operational support to be performed by recipients as authorized by NGB through operations and maintenance (O&M) appropriated funding.

II. PROGRAM PROCEDURES

NGB uses a CA as the means of providing Federal financial assistance and other support to recipients for the operation of the NGB program in the recipient's jurisdiction, except for financial assistance and support provided under separate authority (e.g., military and technician pay and the military supply system). Recipients enter into a CA with the NGB. Generally, a CA consists of three parts: (1) Division 1- Signed Cover Sheet, (2) Division II- Award Specific Terms and Conditions, and (3) Division III- General Terms and Conditions. Funding for the CA is identified in each CA Award. The total sum of federal reimbursements to the recipient for a CA Award may not exceed the approved funding limits identified in the funding limitation section of the CA Award.

The recipient, generally the Adjutant General (TAG) of the state military department on behalf of the Governor, but could also be a recipient at the local government level or Airport Authority, if it is more beneficial for the National Guard, and the Federal Grant Officer, who is the United States Property & Fiscal Officer (USPFO) are responsible for the execution of the CAs.

Source of Governing Requirements

The NGB and recipients are authorized to enter into CAs under (1) 31 USC, Subtitle V, General Assistance Administration, Chapter 63, Using Procurement Contracts and Grant and Cooperative Agreements 31 USC Ch. 63: Front Matter; (2) 31 USC Subtitle V, General Assistance Administration, Chapter 61 31 USC Ch. 61: Front Matter, Program Information, and Chapter 65 31 USC Ch. 65: Intergovernmental Cooperation, Intergovernmental Cooperation; (3) 32 USC National Guard, Chapter 1, Organization 32 USC Ch. 1: Organization; (4) 32 USC 101(19) 32 USC 101: Definitions; (5) 32 USC 106 and 107 32 USC 106: Annual appropriations, which authorize NGB to contribute funds for the support of the operation/training of the ARNG/ANG.

Regulations, policies and procedures to be followed for CA Awards are 2 CFR 200, 32 CFR 21&22, and 2 CFR 200 Subtitle B Chapter XI as interpreted through the National Guard Grants and Cooperative Agreements Regulation turned Policy, NGP 5-1, CNBGI 9101, NGB General Terms and Conditions and, for facilities and engineering projects, in Air and Army National Guard Issuances. For any discrepancies between any of the interpretive policies and procedures and 2 CFR 200, 2 CFR 200 will take precedence. For any discrepancies between the NGP 5-1and the NGB General Terms and Conditions, the NGB General Terms and Conditions shall take precedence. For any discrepancies between NGP 5-1 and CNGBI 9101, CNGBI 9101 shall take precedence.

Availability of Other Program Information

The National Guard Internal Review Office in each state and territory (which reports to the USPFO) can provide information about risk assessments and audits performed by their office, which may be helpful in planning the audit. Contact, Director of the National Guard Bureau Internal Review Office, at (703) 607-0759, or email ng.ncr.ngb-arng.mbx.ngb-audit-liaison@army.mil for information on the Internal Review Office for a particular state.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	Y	Y	N	N	Y	N	N

A. Activities Allowed or Unallowed

1. Allowable activities for each CA Award are those designated as authorized in the template for that CA or for facilities for which support is authorized, as listed in the ANG and ARNG real property plans. Real property plans are not part of the CA Award, but a stand alone document listing all real property and support authorized.

2. Unallowable activities are those listed in the unauthorized activities/charges section of each individual CA Award.

B. Allowable Costs/Cost Principles

1. Indirect costs, except fringe benefits, are unallowable (NGP 5-1, Chapter 5).

2. Individual employee compensation comprises a significant portion of total costs charged to CA Awards. The auditor should give particular attention to the allocability of these costs. The distribution of individual employee compensation to projects must follow applicable federal cost principles, NGP 5-1, and the terms and conditions of the CA Award. The time and effort reporting system should support the distribution of compensation costs (NGP 5-1, Chapter 5).

3. States bill directly for the cost of premiums or self-insurance (e.g., unemployment, workers compensation). The amount billed for "insurance" is based on the proportion of state employees who work under NGB-funded CA Awards. The amount billed for retirement benefits is based on the wages of each employee working under NGB-funded Awards. In each case, those costs are adjusted by the requirement of recipient cost share (e.g., training areas are 100 percent federally supported and do not require cost share, armories require 50 percent cost share by the recipient).

   However, for these costs to be reimbursable, all the requirements of NGP 5-1, Chapter 5 have to be met:

   a. The individual cost items have to be reimbursable under the terms of individual CA Awards.

   b. Fringe benefit costs for which the state does not bill the state military department directly shall be reimbursable by applying a fringe benefit rate to the costs of actual salaries paid to employees.

   c. Fringe benefits, which are neither direct costs nor included in the billed central services section of the state's Central Service Cost Allocation Plan (CSCAP) approved by the Department of Health and Human Services (HHS), are not reimbursable.

G. Matching, Level of Effort, Earmarking

1. Matching

a. The recipient's required matching percentage varies by CA Award and is listed in Division II of each CA Award. The Recipient's share of all authorized charges for real property, unless expressly stated elsewhere in the CA Award, is based on the ANG and ARNG real property support code for the facility generating the expenditure. For example, the Recipient cost share is 25% for an employee, repair, supply, equipment, utility, and other costs directly and exclusively associated with a facility that is authorized 75 percent federal support. NGB federal financial assistance for costs generated for facilities authorized at several different support levels will be at a rate that reflects the actual level of effort but not to exceed 25 percent of such costs.

b. Whenever the grant officer provides "in-kind" assistance, the CA provides the value for that assistance, which is added to NGB funds received to determine the total amount on which the recipient's share is calculated.

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

H. Period of Performance

1. NGB O&M CAs are funded with one-year appropriations. Recipients may liquidate funds consistent with the established Period of Performance of the CA Award not to exceed six years inclusive of the final year of close out after the end of the Period of Performance (PoP)2 CFR 200.344.

2. A CA Award shall be executed by the grant officer and recipient prior to any request for reimbursement or advance payment. The recipient shall also have an approved CA Award covering each functional area for which the reimbursement or an advance is requested. The recipient shall not request reimbursement for any expenditure it made before the date that all required parties execute the CA Award unless the grants officer expressly authorizes expenditures made during the funding period, but prior to the date of final signature, the parties may also agree on a specific start or effective date

3. Within 120 days after the end of the CA Award or upon termination of the CA Award, whichever is earlier, the recipient shall promptly deliver to the grant officer a final accounting of all funding and disbursements under the agreement per 2 CFR 200.344.

4. If unliquidated claims and undisbursed obligations arising from the recipient's performance of the CA Award will remain 120 days after the end of the CA Award PoP, the recipient shall provide a detailed listing of uncleared obligations and a projected timetable for their liquidation and disbursement no later than 110 days after the end of the PoP of the CA Award. The grant officer shall then set an appropriate new timetable for the recipient to submit its final accounting 2 CFR 200 not to exceed one year after the end of the CA Award PoP.

5. Costs incurred during the PoP of the CA Award, which are not disclosed by the recipient within 120 days of the end of the PoP of the CA Award, except costs associated with unliquidated claims and undisbursed obligations arising from the recipient's performance of the CA that the recipient has reported, may not be eligible for reimbursement by NGB. The grant officer may extend the 120-day limit for good cause shown as per 2 CFR 200.

L. Reporting

1. Financial Reporting

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

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* –Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANCE LISTING 14.157 SUPPORTIVE HOUSING FOR THE ELDERLY

I. PROGRAM OBJECTIVES

The objective of Supportive Housing for the Elderly Program is to provide federal capital advances and project rental assistance under Section 202 of the National Housing Act of 1959 for development of housing projects serving very low-income elderly persons residing in projects financed by the Act.

II. PROGRAM PROCEDURES

A. Overview

Section 202 funds are awarded to private nonprofit groups (sponsors) and, in some cases, for-profit limited partnerships, provided that the sole general partner is either an otherwise qualifying nonprofit or a corporation wholly owned and controlled by the nonprofit. Only a sponsor may obtain a Section 202 capital advance fund reservation, which will be transferred to an owner entity to be organized by the sponsor after award. Capital advances (direct payments) are provided to finance the construction, reconstruction, moderate or substantial rehabilitation, or acquisition (with or without rehabilitation) of structures that will serve as supportive housing for very low-income elderly persons. HUD holds a non-amortizing mortgage on the property under the terms of the capital advance. No repayment is required, as long as the owner complies with the Regulatory Agreement with HUD to make available rental housing to very low-income elderly for at least 40 years (24 CFR section 891.170). Failure to comply with the terms of the capital advance and HUD's statutory and regulatory requirements may result in foreclosure under the mortgage.

Capital advance funds will be advanced on a monthly basis during construction for work in progress; however, projects that utilize tax credits may release the capital advance upon completion of the project. Projects are expected to start construction/rehabilitation within 18 months of the date of the fund reservation, with limited provision for extensions.

Operating subsidies are provided for the projects to help make them affordable. Project-based rental assistance is used to cover the difference between the HUD -approved operating costs of the project and the tenants' contributions toward rent (24 CFR section 891.410). Project rental assistance is provided under a Project Rental Assistance Contract (PRAC) and the initial rent is calculated based on operating cost standards established by HUD (24 CFR Section 891.150). The initial PRAC term is up to five years. Subsequent contracts are renewable for up to a five-year term subject to the availability of funds. Rents are adjusted annually on the anniversary of the PRAC Contract based on a budget-based rent increase in accordance with Housing Notice 2022-05.

The owner submits monthly vouchers to HUD for payment of rental assistance. The total amount of assistance equals total HUD-approved operating expenses for the project minus the tenant payments received for all units (PRAC paragraph 2.4(f)(1)). Tenants generally are required to pay rent in accordance with a PRAC. The owner receives assistance from HUD on vacant rental assistance units at a rate of 50 percent of operating expense for a unit under PRAC (PRAC paragraph 2.4(b)) for the first 60 days of vacancy, given certain conditions are met (24 CFR section 891.445).

This program is exempt from 2 CFR part 200, except subpart F and 2 CFR section 200.425, based on the 24 CFR section 84.2 definition of "Award," and 2 CFR section 200.40 definition of "federal financial assistance."

B. Financial Reporting

In accordance with HUD's Uniform Financial Reporting Standards rule, annually, an owner is required to submit a financial statement, prepared in accordance with generally accepted accounting principles (GAAP), in the electronic format specified by HUD. The unaudited financial statement is due three months after the owner's fiscal year end and the audited financial statement is due nine months after its fiscal year-end (24 CFR section 5.801). The financial statement must include the financial activities of this program.

C. Cost Certifications

Owners are required to submit one or two detailed cost certifications at the end of each project. These reports provide information on actual development cost breakdown and operating costs. The reports are HUD-92330, Mortgagor's Certificate of Actual Costs (OMB No. 2502-0112) and HUD-92330-A, Contractor's Certificate of Actual Costs (OMB No. 2502-0044). The HUD-92330-A is only required when there is an identity of interest between the mortgagor and the general contractor and when a cost-plus contract is required in nonprofit contracts.

Source of Governing Requirements

This program is authorized under Section 202 of the Housing Act of 1959, as amended (12 USC 1701q). Program regulations are in 24 CFR part 891.

Availability of Other Program Information

Other information about the Section 202 program, can be found in Supportive Housing for the Elderly (HUD Handbook 4571.3), Supportive Housing for the Elderly—Conditional Commitment—Final (HUD Handbook 4571.5), HUD Notice H96-102, and Housing Notice H 2014-10, Update to Housing Notice 2011-18, Process Guidance for the Section 202 Supportive Housing for the Elderly and Section 811 Supportive Housing for Persons with Disabilities Programs. These are available at HUD's Client Information Policy Systems (HUDCLIPS) https://www.hud.gov/program_offices/administration/hudclips or from the HUD Multifamily Clearinghouse at 1-800-685-8470.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/ Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	N	N	N	N	Y	N	Y

B. Allowable Costs/Cost Principles

1. HUD shall ensure that Owners have the managerial capacity to perform the coordination of services described in 12 U.S.C. 17011(g)(2). Any cost associated with the employment of a service coordinator shall also be an eligible cost. Additionally, HUD-approved service costs will be an eligible expense to be paid from the project rental assistance. The balance of service costs shall be provided from other sources, which may include co-payment by the tenant receiving the service. Such co-payments shall not be included in the Total Tenant Payment. The project shall provide the necessary services for the occupants, which may include, but are not limited to, health, continuing education, welfare, informational, recreational, homemaking, meal and nutritional services, counseling, and referral services as well as transportation where necessary to facilitate access to these services. (12 USC 1701q; 24 CFR sections 891.225 and 891.500).

2. PRAC project funds may be used only for expenses that are reasonable and necessary to the operation of the project as provided for in the Regulatory Agreement between HUD and the project owner.

3. Project facilities may not include infirmaries, nursing stations, or spaces for overnight care (24 CFR section 891.220).

4. Project must be modest in design. In supportive housing for the elderly, amenities not eligible for HUD funding in individual units include balconies and decks, atriums, bowling alleys, swimming pools, saunas, Jacuzzis, trash compactors, washers, and dryers. Sponsors may include certain excess amenities but must pay for them from sources other than Section 202 capital advance funds. They must also pay for the continuing operating costs associated with any excess amenities from sources other than the Section 202 project rental assistance contract (24 CFR section 891.120).

E. Eligibility

1. Eligibility for Individuals

Section 202 of the Housing Act of 1959 provides housing for the elderly. To qualify as elderly, one or more members of the household must be 62 years of age or more at the time of initial occupancy. Residents must also qualify as very low-income households, i.e., 50% of Area Median Income or below, to be eligible (24 CFR section 891.205 and section 891.105).

The owner, as applicable, must:

a. Verify the eligibility of applicants by (a) obtaining signed applications that contain the information needed to determine eligibility (including designation as elderly, disabled, or homeless, if applicable), income, rent, and order of selection; (b) conducting verifications of family income and other pertinent information (such as assets, full time student and immigration status, and unusual medical expenses) through third parties; (c) documenting inspections and tenant certifications, as appropriate; and, (d) determining that tenant income did not exceed the maximum limit set by HUD for the PHA's jurisdiction, as shown in HUD's published notice transmitting the Limits for Low-Income and Very Low-Income Families Under the Housing Act of 1937, Income Limits.

b. Determine the total tenant rent payment in accordance with 24 CFR section 5.628.

c. Select participants from the waiting list in accordance with the admission policies in its administrative plan and maintain documentation which shows that, at the time of admission, the family actually met the preference criteria that determined the family's place on the waiting list. (24 CFR section 891.410)

d. Reexamine family income and composition at least once every 12 months and adjust the total rent payment and housing assistance payment, as necessary (24 CFR section 891.410).

The owner is responsible for annually reexamining incomes of households occupying assisted units and making appropriate adjustments to the tenant payment and the project rental assistance payment (24 CFR section 891.410). Assistance applicants shall submit signed consent forms upon initial application and at reexamination (24 CFR section 5.230).

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

3. Eligibility for Subrecipients
Not Applicable

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable
b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
c. *SF-425, Federal Financial Report* – Not Applicable

2. Performance Reporting
Not Applicable

3. Special Reporting

a. *HUD-50059, Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures (OMB No. 2502-0204)* – This report is submitted electronically to HUD. A blank copy of the report can be found at https://www.hud.gov/sites/documents/50059.PDF

Key Line Items – The following line items contain critical information which is documented in the client file:

1. Section B, Item 12 – *Effective Date of Action*
2. Section B, Item 21 – *Unit Number*
3. Section B, Item 29 – *Contract Rent*
4. Section B, Item 30 – *Utility Allowance*
5. Section F, Item 108 – *Total Tenant Payment*
6. Section F, Item 112 – *Assistance Payment*

b. HUD-50058, *Family Report (OMB No.2577-0083)* – This is only applicable to Public Housing Agencies (PHA). The PHA is required to submit this form

electronically to HUD each time the PHA completes an admission, annual reexamination, interim reexamination, portability move-in, or other change of unit for a family. The PHA must also submit the Family Report when a family ends participation in the program or moves out of the PHA's jurisdiction under portability. A blank copy of the report can be found at https://www.hud.gov/sites/documents/50058.PDF.

Key Line Items – The following line items contain critical information which is documented within the client file:

1. Line 2a – *Type of Action*
2. Line 2b – *Effective Date of Action*
3. Line 3b, 3c – *Names*
4. Line 3e – *Date of Birth*
5. Line 3n – *Social Security Numbers*
6. Line 5a – *Unit Address*
7. Line 5h, 5i – *Unit Inspection Dates*
8. Line 7i – *Total Annual Income*
9. Line 13h – *Contract Rent to Owner*
10. Line 13k or 13x – *Tenant rent*

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements This applies to all Section 202 Capital Advance projects that are under construction. All laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) employed by contractors and subcontractors in the construction (including rehabilitation) of housing with 12 or more units assisted under this program shall be paid wages at rates not less than those prevailing in the locality, as determined by the secretary of labor in accordance with the Wage Rate Requirements. A group home for persons with disabilities is not covered by these labor standards (24 CFR section 891.155(d)). See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

2. Use of Project Funds

Compliance Requirements Owners are required to establish and maintain a separate project interest bearing account in federally insured depository. All rents, charges, income, and revenues arising from the project operation shall be deposited into this account. Project funds must be used for the operation of the project (including required insurance coverage) and to make required deposits to replacement reserve and the residual receipts accounts (24 CFR sections 891.400(e) and 891.600(e)).

Audit Objectives Determine whether the project fund was established in a federally insured depository account and the required deposits were made into this fund, and disbursements were only for allowed purposes.

Suggested Audit Procedures

a. Ascertain if the project funds receipts account has been established in a federally insured depository.
b. Select a sample of receipts to perform tests to ascertain if all rents, charges, income, and revenues arising from the project operation were deposited into the fund.
c. Test a sample of disbursements from the fund to ascertain if they were used only for the operation of the project or to make required deposits to the replacement reserve or the residual receipts account.

3. Contract Rent Adjustments

Compliance Requirements Owners must submit an operating budget on HUD Form 92457-A, Budget Worksheet (*OMB No. 2502-0324*), for all projects with an expiring PRAC. The owner applies or ensures annual adjustments to contract rents are applied. The annual adjustments methods are established by HUD (24 CFR 891.150). The PRAC contract specifies the method to be used to determine rent adjustments along with Housing Notice 2022-05.

Audit Objectives Determine whether contract rents are being adjusted in accordance with the approved annual adjustments.

Suggested Audit Procedures

a. Evaluate the documentation supporting the last annual adjustment included in the operating budget submission to determine if the owner complied with the contract and the rent increase requirements. Review the supporting data and certifications that were submitted to support the rent adjustments. Evaluate the owner's timeliness of submission of the rent increase and compliance with the PRAC Contract.

b. Select a sample of PRAC contract files and tenant files to verify that annual adjustments were applied correctly, appropriately vouchered.

4. Tenant Utility Allowances

Compliance Requirements The owner must (a) submit an analysis of any utility allowances applicable. Such data as changes in utility rates and other facts affecting utility consumption must be provided as part of this analysis to permit appropriate adjustments in the utility allowances for assisted units, (b) make an annual review of tenant utility allowances to determine their reasonableness, and (c) adjust the allowances, when appropriate (24 CFR section 891.440).

Audit Objectives Determine whether tenant utility allowances are established in accordance 24 CFR 891.440 and Housing Notice 2015-04.

Suggested Audit Procedures

a. Select a sample of units with tenant utility allowances and their related tenant files for review.

    1. Test owner requests, HUD determinations, and supporting documentation for utility determinations.

    2. Verify that the allowances were applied to tenants in accordance with HUD determinations.

5. Vacant Units

Compliance Requirements There are instances where special claims are allowed for vacancy losses, unpaid rent, and tenant damages on eligible units (24 CFR section 891.445).

Audit Objectives Determine whether payments to owners are reduced for vacant units and whether payments for special claims are in accordance with 24 CFR 891.445.

Suggested Audit Procedures

a. Select a sample of units that were vacated during the audit period and verify that payments to owners were reduced, as prescribed.

b. Select a sample of payments for special claims and verify that documentation exists to support the payments.

6. Replacement Reserve Account

Compliance Requirements Owners shall establish and maintain a replacement reserve to aid in funding extraordinary maintenance and repair and replacement of capital items. The replacement reserve funds must be deposited in a federally insured depository in an interest-bearing account. All earnings including interest on the reserve must be added to the reserve. An amount as required by HUD will be deposited monthly in the reserve fund (Regulatory

Agreement, item 5 A). All disbursements from the reserve must be approved by HUD (24 CFR sections 891.405 and 891.605).

Audit Objectives Determine whether the replacement reserve was properly established, required monthly deposits were made, and disbursements were only for HUD approved purposes.

Suggested Audit Procedures

a. Ascertain if a replacement reserve account has been established in a federally insured depository in an interest-bearing account.

b. Ascertain if the required monthly deposits have been made to the replacement reserve account.

c. Ascertain if interest earnings from the reserve were retained in the replacement reserve account.

d. Test a sample of disbursements from the replacement reserve account and ascertain if they were approved by HUD and were made for the approved purpose.

7. Residual Receipts Account

Compliance Requirements Any Surplus Cash in the project funds account (including earned interest) at the end of the fiscal year shall be deposited in a federally insured account within 90 days following the end of the fiscal year. Withdrawals from this account may be made only for project purposes and with the approval of HUD (24 CFR sections 891.400(e) and 891.600(e)).

Additionally, owners are allowed to maintain $250 per unit in this account, any amount over this threshold upon expiration and/or renewal of the PRAC must be remitted back to HUD in accordance with the Benjamin Metcalf Memorandum of September 30, 2015.

Audit Objectives Determine whether the residual receipts account was properly established, the required deposit was made within 90 days following year-end, and disbursements were only for project purposes and the approval of HUD.

Suggested Audit Procedures

a. Ascertain if residual receipts account has been established in a federally insured depository.

b. Ascertain if the required annual deposit was made within 90 days following year-end.

c. Test a sample of disbursements from the residual receipts account and ascertain if they were used for project purposes and approved by HUD.

d. Determine if the residual receipts balance exceeded $250 per unit on the date of the last contract expiration and/or renewal and if the funds in excess of this threshold were remitted to HUD.

IV. OTHER INFORMATION

1. *Capital Advance*

To protect its interest in a capital advance, HUD requires a note and mortgage for a 40-year term. The owner is not required to repay the principal or pay interest and the note is forgiven at maturity, as long as the owner provides housing for the designated class of people in accordance with applicable HUD requirements. However, the full outstanding balance on the note should be considered federal awards expended, included in determining Type A programs, and reported as loans on the Schedule of Expenditures of Federal Awards or accompanying notes in accordance with 2 CFR part 200, subpart F.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANCE LISTING 14.181 SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES

I. PROGRAM OBJECTIVES

The objective of Supportive Housing for Persons with Disabilities is to expand the supply of supportive housing for very low-income persons with disabilities through (1) providing federal capital advances under Section 811 of the Cranston-Gonzalez National Affordable Housing Act (Act) for development of housing projects serving persons with disabilities; and (2) providing rental assistance to very low-income (within 50 percent of the median income for the area) persons with disabilities residing in projects financed by the Act.

II. PROGRAM PROCEDURES

A. Overview

Section 811 funds are awarded to private nonprofit groups (sponsors) and, in some cases, for-profit limited partnerships, provided that one or more private nonprofit organizations hold all general partner interests. Only a sponsor may obtain a Section 811 capital advance fund reservation, which will be transferred to an owner entity to be organized by the sponsor after award. Capital advances (direct payments) are provided to finance the construction, reconstruction, moderate, or substantial rehabilitation, or acquisition of (with or without rehabilitation) structures to be used as supportive housing for persons with disabilities. The U.S. Department of Housing and Urban Development (HUD) holds a non-amortizing mortgage on the property under the terms of the capital advance. No repayment is required, as long as the owner complies with the Regulatory Agreement with HUD to make available rental housing to very low-income persons with disabilities for at least 40 years (24 CFR section 891.170). Failure to comply with the terms of the capital advance and HUD's statutory and regulatory requirements may result in foreclosure under the mortgage.

Capital advance funds will be advanced on a monthly basis during construction for work in progress; however, projects that utilize tax credits may release the capital advance upon completion of the project. Projects are expected to start construction/rehabilitation within 18 months of the date of the fund reservation, with limited provision for extensions.

Operating subsidies are provided for the projects to help make them affordable. Project rental assistance is used to cover the difference between the HUD-approved operating costs of the project and the tenants' contributions toward rent (24 CFR section 891.410). Project rental assistance is provided under a project rental assistance contract (PRAC) and the initial rent is calculated based on operating cost standards established by HUD (24 CFR section 891.150). Subsequent contracts are renewable annually for a one-year term subject to the availability of funds. Rents are adjusted annually on the anniversary of the PRAC

Contract based on a budget-based rent increase in accordance with Housing Notice 2022-05.

The owner submits monthly vouchers to HUD for payment of rental assistance. The total amount of assistance equals total HUD-approved operating expenses for the project minus the tenant payments received for all units (PRAC paragraph 2.4(f)(1)). Tenants generally are required to pay rent in accordance with a project rental assistance contract. The owner receives assistance from HUD on vacant rental assistance units at a rate of 50 percent of operating expense for a unit under PRAC (PRAC paragraph 2.4(b)) for the first 60 days of vacancy, given certain conditions are met (24 CFR section 891.445).

This program is exempt from 2 CFR Part 200 except Subpart F and 2 CFR section 200.425 based on the 24 CFR section 84.2 definition of "Award" and 2 CFR section 200.40 definition of "federal financial assistance."

B. Financial Reporting

In accordance with HUD's Uniform Financial Reporting Standards rule, annually, an owner is required to submit a financial statement, prepared in accordance with generally accepted accounting principles (GAAP), in the electronic format specified by HUD. The unaudited financial statement, is due three months after the owner's fiscal year-end, and the audited financial statement is due nine months after its fiscal year-end (24 CFR section 5.801). The financial statement must include the financial activities of this program.

C. Cost Certifications

Owners are required to submit one or two detailed cost certifications at the end of each project. These reports provide information on actual development cost breakdown and operating costs. The reports are HUD-92330, Mortgagor's Certificate of Actual Costs (OMB No. 2502-0112) and HUD-92330-A, Contractor's Certificate of Actual Costs (OMB No. 2502-0044). The HUD-92330-A is only required when there is an identity of interest between the mortgagor and the general contractor and when a cost-plus-contract is required in nonprofit contracts.

Source of Governing Requirements

This program is authorized under Section 811 of the Cranston-Gonzalez National Affordable Housing Act of 1990 (42 USC 8013). Implementing regulations for this program are 24 CFR Part 5, Subpart H, and Part 891, subparts A, C, and D.

Availability of Other Program Information

Other information about the Section 811 program, can be found in Supportive Housing for Persons with Disabilities (HUD Handbook 4571.2), Supportive Housing for Persons with Disabilities—Conditional Commitment—Final (HUD Handbook 4571.4), HUD Notice H96-102, and Housing Notice H 2014-10, Update to Housing Notice 2011-18, Process Guidance for the Section 202

Supportive Housing for the Elderly and Section 811 Supportive Housing for Persons with Disabilities Programs. These are available at HUD's Client Information Policy Systems (HUDCLIPS) https://www.hud.gov/program_offices/administration/hudclips or from the HUD Multifamily Clearinghouse at 1-800-685-8470.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	N	N	N	N	Y	N	Y

A. Activities Allowed or Unallowed

1. PRAC project funds must be used only for expenses that are reasonable and necessary to the operation of the project as provided for in the Regulatory Agreement between HUD and the project owner (24 CFR section 891.400(e)).

2. Project facilities may not include infirmaries, nursing stations, spaces dedicated to the delivery of medical treatment or physical therapy, padded rooms, or space for respite care or sheltered workshops, even if paid for from sources other than the HUD capital advance. Except for office space used by the owner exclusively for the administration of the project, project facilities may not include office space (24 CFR section 891.315).

3. Project must be modest in design. In independent living facilities for persons with disabilities, amenities not eligible for HUD funding in individual units include balconies and decks, atriums, bowling alleys, swimming pools, saunas, Jacuzzis, trash compactors, washers, and dryers. However, HUD funding is eligible to pay for washers and dryers in group homes for persons with disabilities. Sponsors may include excess amenities but must pay for them from sources other than Section 811 capital advance funds. They must also pay for the continuing operating costs associated with any excess amenities from sources other than the Section 811 PRAC (24 CFR section 891.120).

E. Eligibility

1. Eligibility for Individuals

Section 811 of the National Affordable Housing Act provides funding for housing for persons with disabilities. To qualify as disabled, the household must consist of at least one person who is an adult (18 years or older) with a disability, two or more persons with disabilities living together, or a surviving household member under certain circumstances (24 CFR section 891.305). Residents must also qualify as very low-income households (within 50 percent of the median income for the area) to be eligible (42 USC 8013).

The owner is responsible for annually reexamining incomes of households occupying assisted units and making appropriate adjustments to the tenant payment and the project rental assistance payment (24 CFR section 891.410). Assistance applicants shall submit signed consent forms upon initial application and at reexamination (24 CFR section 5.230).

The owner, as applicable, must:

a. Verify the eligibility of applicants by
(a) obtaining signed applications that contain the information needed to determine eligibility (including designation as disabled, or homeless, if applicable), income, rent, and order of selection;
(b) conducting verifications of family income and other pertinent information (such as assets, full time student and immigration status, and unusual medical expenses) through third parties;
(c) documenting inspections and tenant certifications, as appropriate; and,
(d) determining that tenant income did not exceed the maximum limit set by HUD for the Public Housing Authority's (PHA) jurisdiction, as shown in HUD's published notice transmitting the Limits for Low-Income and Very Low-Income Families Under the Housing Act of 1937.

b. Determine the total tenant rent payment in accordance with 24 CFR section 5.628.

c. Make selections in a nondiscriminatory manner without regard to considerations such as race, religion, color, sex, national origin, familial status, or disability. An Owner may, with the approval of the Secretary, limit occupancy within housing developed under this part 891 to persons with disabilities who have similar disabilities and require a similar set of supportive services in a supportive housing environment. However, the Owner must permit occupancy by any qualified person with a disability who could benefit from the housing and/or services provided regardless of the person's disability. (24 CFR section 891.410)

d. Reexamine family income and composition at least once every 12 months and adjust the total rent payment and housing assistance payment, as necessary (24 CFR section 891.410). An owner may elect to follow the provisions of 24 CFR 5.657(d): ***Streamlined income determination***—(1) *General.* An owner may elect to apply a streamlined income determination to families receiving fixed income as described below:
Definition of "fixed income". For purposes of this section, "fixed income" means periodic payments at reasonably predictable levels from one or more of the following sources:
(i) Social Security, Supplemental Security Income, Supplemental Disability Insurance.
(ii) Federal, state, local, or private pension plans.
(iii) Annuities or other retirement benefit programs, insurance policies, disability or death benefits, or other similar types of periodic receipts.
(iv) Any other source of income subject to adjustment by a verifiable COLA or current rate of interest.
Assistance applicants shall submit signed consent forms upon initial application and at reexamination (24 CFR section 5.230).

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

a. *HUD-50059, Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures (OMB No. 2502-0204)* – This report is submitted electronically to HUD. A blank copy of the report can be found at https://www.hud.gov/sites/documents/50059.PDF

b. *Key Line Items* – The following line items contain critical information which is documented in the client file:

1. Section B, Item 12 – *Effective Date of Action*
2. Section B, Item 21 – *Unit Number*
3. Section B, Item 30 – *Utility Allowance*
4. Section F, Item 108 – *Total Tenant Payment*
5. Section F, Item 112 – *Assistance Payment*

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements. This applies to all Section 811 Capital Advance projects that are under construction**.** All laborers and mechanics (other than volunteers under the conditions set out in 24 CFR Part 70) employed by contractors and subcontractors in the construction (including rehabilitation) of housing with 12 or more units assisted under this program shall be paid wages at rates not less than those prevailing in the locality, as determined by the secretary of labor in accordance with the Wage Rate Requirements.

A group home for persons with disabilities is not covered by these labor standards (24 CFR section 891.155(d)).

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

2. Use of Project Funds

Compliance Requirements Owners are required to establish and maintain a separate project interest bearing account in federally insured depository. All rents, charges, income, and revenues arising from the project operation shall be deposited into this account. Project

funds must be used for the operation of the project (including required insurance coverage), and to make required deposits to replacement reserve and the residual receipts accounts (24 CFR section 891.400(e)).

Audit Objectives Determine whether the project fund was properly established in a federally insured depository account and the required deposits were made into this fund, and disbursements were only for allowed purposes.

Suggested Audit Procedures

a. Ascertain if the project funds receipts account has been established in an interest-bearing account in a federally insured depository.

b. Select a sample of receipts to perform tests to ascertain if rents, charges, income, and revenues arising from the project operation were deposited into the fund.

c. Select a sample of disbursements from the fund to ascertain if they were used only for the operation of the project or to make required deposits to the replacement reserve or the residual receipts account.

3. Contract Rent Adjustments

Compliance Requirements Owners must submit an operating budget on HUD Form 92457-A, Budget Worksheet (*OMB No. 2502-0324*), for all projects with an expiring PRAC. The owner applies or ensures annual adjustments to contract rents are applied. The annual adjustments methods are established by HUD (HUD Handbook 4350.1, Chapter 7 *Project Servicing Handbook*). The PRAC contract and Housing Notice 2022-05 discuss the method to be used to determine rent adjustments and the supporting documentation needed by the owner.

Audit Objectives Determine whether contract rents are being adjusted properly in accordance with the approved annual adjustments.

Suggested Audit Procedures

a. Evaluate the documentation for the last annual adjustment included in the operating budget submission to determine if the owner complied with the contract and the rent increase requirements. Review the supporting documentation and certifications that were submitted to support the rent adjustments. Evaluate the owner's timeliness of submission of the rent increase and compliance with the PRAC Contract.

b. Select a sample of PRAC contract files and tenant files to verify that annual adjustments were applied correctly, appropriately vouchered.

4. Tenant Utility Allowances

Compliance Requirements The owner must (a) submit an analysis of any utility allowances applicable. Such data as changes in utility rates and other facts affecting utility consumption must be provided as part of this analysis to permit appropriate adjustments in the utility allowances for assisted units, (b) make an annual review of tenant utility allowances to determine their reasonableness, and (c) adjust the allowances, when appropriate (24 CFR sections 5.603, 880.610, 881.601, 882.510, 882.808(k), 883.701, 884.220, 886.126, 891.440 and 886.326).

Audit Objectives Determine whether tenant utility allowances are properly established in accordance 24 CFR 891.440 and Housing Notice 2015-04.

Suggested Audit Procedures

a. Select a sample of units with tenant utility allowances and their related tenant files for review.

   1. Test owner requests, HUD determinations, and supporting documentation for utility determinations.

   2. Verify that the allowances were applied to tenants correctly in accordance with HUD determinations.

5. Vacant Units

Compliance Requirements
The PHA or owner must reduce claims for assistance on vacant units under certain circumstances. However, there are instances where special claims are allowed for vacancy losses, unpaid rent, and tenant damages on eligible units (24 CFR sections 880.611, 881.601, 882.411, 882.808(f), 883.701, 884.106, 886.109, and 886.309).

Audit Objectives
Determine whether payments to owners are reduced for vacant units and whether payments for special claims are proper in accordance with 24 CFR 891.445.

Suggested Audit Procedures

a. Select a sample of units that were vacated during the audit period and verify that payments to owners were reduced, as prescribed.

b. Select a sample of payments for special claims and verify that documentation exists (e.g., *HUD-52670-A Part 2, Schedule of Special Claims or HUD-52671-C Special Claims for Regular Vacancies*) to support the payments.

6. Replacement Reserve Account

Compliance Requirements Owners shall establish and maintain a replacement reserve to aid in funding extraordinary maintenance and repair and replacement of capital items. The replacement reserve funds must be deposited in a federally insured depository in an interest-bearing account. All earnings including interest on the reserve must be added to the reserve. An amount as required by HUD will be deposited monthly in the reserve fund (Regulatory Agreement, item 5 (a)). All disbursements from the reserve must be approved by HUD (24 CFR section 891.405).

Audit Objectives Determine whether the replacement reserve was properly established, required monthly deposits were made, and disbursements were only for HUD-approved purposes.

Suggested Audit Procedures

a. Ascertain if a replacement reserve account has been established in a federally insured depository in an interest-bearing account.

b. Ascertain if the required monthly deposits have been made to the replacement reserve account.

c. Ascertain if interest earnings from the reserve were retained in the replacement reserve account.

d. Select a sample of disbursements from the replacement reserve account and ascertain if they were approved by HUD and were made for the approved purpose.

7. Residual Receipts Account

Compliance Requirements Any surplus funds in the project funds account (including earned interest) at the end of the fiscal year shall be deposited in a federally insured account within 60 days following the end of the fiscal year. Withdrawals from this account may be made only for project purposes and with the approval of HUD (24 CFR section 891.400(e)).

Audit Objectives Determine whether the residual receipts account was properly established, the required deposit was made within 60 days following year-end, and disbursements were only for project purposes and the approval of HUD.

Suggested Audit Procedures

a. Ascertain if residual receipts account has been established in a federally insured depository.

b. Ascertain if the required annual deposit was made within 60 days following year-

end.

c. Test a sample of disbursements from the residual receipts account and ascertain if they were used for project purposes and approved by HUD.

d. Determine if the residual receipts balance exceeded $250 per unit on the date of the last contract expiration and/or renewal and if the funds in excess of this threshold were remitted to HUD.

IV. OTHER INFORMATION

1. *Capital Advance*

To protect its interest in a capital advance, HUD requires a note and mortgage for a 40-year term. The owner is not required to repay the principal or pay interest and the note is forgiven at maturity, as long as the owner provides housing for the designated class of people in accordance with applicable HUD requirements. However, the full outstanding balance on the note should be considered federal awards expended, included in determining Type A programs and reported as loans on the Schedule of Expenditures of Federal Awards or accompanying notes in accordance with 2 CFR Part 200, Subpart F.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANCE LISTING 14.195 PROJECT BASED RENTAL ASSISTANCE (PBRA)

ASSISTANCE LISTING 14.249 SECTION 8 MODERATE REHABILITATION SINGLE ROOM OCCUPANCY

ASSISTANCE LISTING 14.856 LOWER INCOME HOUSING ASSISTANCE PROGRAM – SECTION 8 MODERATE REHABILITATION

I. PROGRAM OBJECTIVES

The objective of the Section 8 project-based rental assistance programs is to aid low-, very low- and extremely low-income families in obtaining decent, safe, and sanitary rental housing through the provision of housing assistance payments to participating owners on behalf of eligible tenants.

II. PROGRAM PROCEDURES

A. Overview

Housing assistance payments are used to make up the difference between the approved rent due to the owner for the dwelling unit and the occupant family's required contribution toward rent. Assisted families must pay the highest of (a) 30 percent of their monthly adjusted family income, (b) 10 percent of gross family income, or (c) the portion of welfare assistance designated for housing toward rent. Under these project-based programs, the rental subsidy is tied to a specific unit; when a family moves from the unit, it has no right to continued assistance (unless the owner opts out of the Section 8 contract, in which case the individual is entitled to enhanced vouchers). The project- based Section 8 Housing Assistance Payments (HAP) contracts are administered by the Department of Housing and Urban Development (HUD) or state, local, or other governmental entities or instrumentalities thereof qualifying as public housing agencies (PHAs). When a PHA is the contract administrator, HUD enters into annual contributions contracts with PHAs that enter into HAP contracts with private owners.

Contract administrators are required to maintain a HAP contract register or similar record in which to record the PHA's obligation for monthly housing assistance payments. This record provides information as to the name and address of the family; the name and address of the owner; dwelling unit size; the effective and expiration dates of the lease; the monthly contract rent payable to the owner; monthly rent payable by the family; and the monthly housing assistance payment. The record also provides data as to the date the family vacates and the number of days the unit is vacant, if any. This requirement is applicable to PHAs that are administering HAP program projects pursuant to the provisions of Annual Contributions Contracts. It is not applicable to Section 8 projects on which HUD has executed a HAP contract directly with an owner or PHA.

B. Subprograms/Program Elements

The Moderate Rehabilitation (Mod Rehab) program (including the Single Room Occupancy (SRO) program for homeless individuals) assists low-income families in affording decent, safe, and sanitary housing by encouraging property owners to rehabilitate substandard housing and lease the units with rental subsidies to low-income families. The PHA and the owner execute an Agreement to Enter into Housing Assistance Payments Contract under which the owner agrees to rehabilitate the unit to be subsidized and the PHA agrees to subsidize the units upon satisfactory completion of rehabilitation. Upon completion of the rehabilitation, the PHA and the owner execute a HAP contract. The PHA refers interested eligible families on its Section 8 waiting list to the owner to fill vacancies in moderate rehabilitation units.

Mod Rehab program assistance is considered a project-based subsidy because the assistance is tied to specific units under an assistance contract with the owner for a specified term. A family that moves from a unit with project-based assistance does not have any right to continued assistance, except in the case of certain "housing conversion actions," such as when the owner chooses to opt out of the Section 8 program. In such cases, tenants are entitled to enhanced vouchers.

Under the Mod Rehab SRO program, eligible applicants are PHAs or nonprofit organizations, which must contract with a PHA to administer the rental assistance. Eligible individuals must be homeless according to HUD's definition and may be located through owner outreach as well as from the PHA waiting list (24 CFR section 882.808). No single project may contain more than 100 assisted units. The SRO program is administered under an initial 10-year HAP term, with the possibility of subsequent one- year renewals. The program is administered at HUD Headquarters by the Office of Community Planning and Development (CPD).

C. Other

1. Financial Reporting

In accordance with HUD's Uniform Financial Reporting Standards rule, annually, a PHA or owner is required to submit its financial statement, prepared in accordance with generally accepted accounting principles (GAAP), in the electronic format specified by HUD. The unaudited financial statement is due three months after the PHA's or owner's fiscal year-end and the audited financial statement is due nine months after its fiscal year-end (24 CFR section 5.801). The financial statement must include the financial activities of the programs in this cluster.

2. Contract Renewals for Project Based Rental Assistance Contracts

The Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA), Title V of the HUD Fiscal Year 1998 Appropriations Act, Pub. L. 105-65, was enacted on October 27, 1997. MAHRA established policies for the renewal

of Section 8 project-based contracts based on market rents instead of the Fair Market Rent (FMR) standard. In general, MAHRA originally required that expiring Section 8 project-based contract be renewed under Section 524(a)(1) or 524(a)(2).

a. Section 524(a)(1) renewal required a Rent Comparability Study (RCS). If the RCS indicated rents were at or below comparable market rents, the contract was renewed at current rents adjusted by the Operating Cost Adjustment Factor (OCAF), unless the owners submitted documentation justifying a budget-based rent increase or participation in Mark Up to Market. In no case could renewal rents exceed comparable market rents. If the RCS indicated rents above comparable market rents, the contract was referred to the Office of Recapitalization for debt restructuring and/or rent reduction.

b. Section 524(a)(2) renewals were for projects identified as "exception" projects that were not eligible for debt restructuring. In some cases, these projects had rents greater than market. Examples of projects that do not qualify as eligible multifamily housing projects pursuant to Section 512(2) of MAHRA include a project that is not subject to a HUD-held or insured mortgage; or a project that has FHA Mortgage insurance or is HUD-held with rents at or below comparable market rents

c. At the time of renewal, an owner must choose from any of six renewal options for which the project is eligible. All provisions of the original Section 8 HAP contract are renewed expect the rent increase provisions which are defined in the renewal contract. See the Section 8 Renewal Guide at: https://www.hud.gov/sites/dfiles/Housing/documents/Section_8_Renewal_Guidebook-%20March_2023.pdf for more information about renewal options.

(1) Option One is Mark Up to Market

(2) Option Two: Contract Renewals for Other Projects with Current Rents at or Below Comparable Market Rents (existing rents adjusted by an OCAF or based on a budget not to exceed the comparable market rent).

(3) Option Three is referral to the Office of Recapitalization for processing because the contract rents are greater than market rents and the project has a HUD-insured or HUD-held mortgage.

(4) Option Four is renewal of contracts for "exception" projects under Section 524(b)91) of MAHRA.

(5) Option Five is the renewal of contracts for a) Portfolio Reengineering Demonstration project or b) Preservation project under Title II, Emergency Low Income Housing Preservation Act of 1987 (ELIHPA); or Title VI, Low Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA).

(6) Option Six is Opt-Out of the contract. Opt-outs are expiring Section 8 project-based contracts whose owners elect not to renew the contracts. Owners are required to provide one-year tenant notification of their intent to Opt-Out of the contract.

3. **Annual Adjustments**

Annual Adjustment Factor (AAF) for Original Term Contracts: The US Housing Act of 1937 requires that assistance contracts signed by owners participating in the Section 8 housing assistance payments programs provide for annual adjustment in the monthly rentals for units covered by the original Section 8 HAP contract. Each year there are revised annual adjustment factors (AAF) for adjustment of contract rents on assistance contract anniversaries, which are applied for those calendar months commencing after the effective date of the annual notice of the change in monthly rental. The AAF are based on a formula using data on residential rent and utilities cost changes from the most current annual Bureau of Labor Statistics Consumer Price Index survey.

Technical details and requirements related to AAF are described in HUD notices H 2002-10 (Section 8 Project-Based Rent Adjustments Using the Annual Adjustment Factor (AAF)), PIH 97-57 (Operating Cost Adjustment Factors (OCAF)), and the Section 8 Renewal Guide.

MAHRA Renewal Rent Adjustments: For projects for which the original Section 8 HAP contract has been renewed under the Multifamily Assisted Housing Reform and Affordability Act of 1997, Pub. L. No. 105-65, 111 Stat. 1384 (MAHRA), rent adjustments are governed by MAHRA rather than by the AAF.

a. Operating Cost Adjustment Factor (OCAF): Each year HUD publishes the new OCAF in the Federal Register. The application of an OCAF shall not result in a negative rent adjustment. FY24 OCAF: https://www.federalregister.gov/documents/2023/11/30/2023-26331/notice-of-certain-operating-cost-adjustment-factors-for-2024

b. Budget Based Rent Adjustment: An owner may prepare a budget-based adjustment request in connection with certain MAHRA contract renewal options and annual rent adjustments. Requirements are listed in Handbook 4350.1, Multifamily Asset Management Project Servicing, as modified by the Section 8 Renewal Guide Paragraph 2-15.

c. Fifth Year Rent Adjustments for Multiterm Contracts: Under Option one, Mark-Up-To-Market, Option Two, Contract Renewals for Other Projects with Current Rents at or Below Comparable Market Rent, and Option Five, Portfolio Re-engineering Demonstration Program contracts, if the contract is for a period greater than five years:

d. The owner submits a new Rent Comparability Study (RCS) at the end of each

5-year cycle of the RCS. The new RCS must be reviewed in accordance with the instructions found in Chapter 9 of the Section 8 Renewal Guide.

(1) If rents are:

(a) Above market, the Account Executive/Contract Administrator will reduce the rent to the comparable market rent.

(b) Below market, the Account Executive/Contract Administrator will increase the rents to the comparable market rent.

Utility Allowance Analysis: Multifamily property owners must establish baseline utility allowances for each of their bedroom sizes once every third year, which are determined using the baseline utility analysis described in Housing Notice 2015-04 https://www.hud.gov/sites/documents/15-04HSGN.PDF. For the two years after the baseline is established, O/As have the option to perform a factor-based analysis as described in the same Notice based on the utility allowance factors published by HUD annually at https://www.huduser.gov/portal/datasets/muaf.html.

Source of Governing Requirements

These programs (other than the Mod Rehab SRO program) are authorized by the US Housing Act of 1937, as amended (42 USC 1437a, c, and f; 42 USC 3535(d); 42 USC 12701; and 42 USC 13611 through 13619). Implementing regulations for post-1980 Section 8 contracts are 24 CFR parts 880 through 883, for Section 515 Rural Rental Housing Section 8 contracts are 24 CFR Part 884, and for Loan Management Set-Aside contracts are 24 CFR Part 886. The Mod Rehab SRO program is authorized under Section 441 of the McKinney-Vento Homeless Assistance Act, 42 USC 11401, and is subject to program regulations at 24 CFR Part 882, Subpart H.

Availability of Other Program Information

HUD maintains pages on its website at http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/mfhsec8 and ,https://www.hudexchange.info/programs/sro/ that provides general information about these programs. HUD notices are available at https://www.hud.gov/guidance

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement

(which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	N	N	N	N	Y	N	Y

A. Activities Allowed or Unallowed

1. HAP project funds may be used only for expenses that are reasonable and necessary to the operation of the project as provided for in the HAP contract and/or Regulatory Agreement between HUD and the project owner. Project funds must be used for the benefit of the project, to make required deposits to the replacement reserve in accordance with 24 CFR Part 880.602 and to provide distributions to the owner as provided in 24 CFR Part 880.205, 881.205 or 883.306 as appropriate.

2. Replacement reserves and residual receipts deposits must be made for the approved purpose.

C. Cash Management

1. Residual Receipts Deposits – for certain projects, any remaining funds must be deposited with the mortgagees or other HUD approved depository in an interest-bearing residual receipts account within 90 days following year-end purposes. Disbursements from this account will be made only for project purposes and with HUD approval.

    a. Residual receipts are generally required for projects that have a "new regulation" Section 8 Housing Assistance Payments (HAP) contract, meaning the contract contains a provision specifically stating that a residual receipts account must be maintained if the project generates surplus funds; this is usually found in Section 2.6(b) of the contract that contains a section captioned "Financial Requirements".

b. Most other HUD projects do not require a residual receipts account, especially older contracts that may not fall under the "new regulation" category. There may be an exception, although rare, if an AHAP or a HAP contract was amended to include a limitation on distributions, as authorized pursuant to 24 CFR §§ 880.104(b)(2), 881.104(b)(2), or 883.105(b)(2) of the new regulations, then the old regulation projects would be subject to a residual receipts account requirement.

2. Replacement Reserves - The owner shall establish and maintain a replacement reserve to aid in funding extraordinary maintenance and repair and replacement of capital items. The replacement reserve funds must be deposited in an interest-bearing account**.** All earnings including interest on the reserve must be added to the reserve account. All disbursements from the reserve must be as approved or directed by HUD or the state agency for 24 CFR Part 883 projects, as applicable. An amount as required by HUD or the state agency for 24 CFR Part 883 projects, as applicable, shall be deposited monthly in the reserve fund in accordance with the Regulatory Agreement or HAP contract (24 CFR sections 880.601, 880.602, 881.601 and 883.701).

E. Eligibility

1. Eligibility for Individuals

The PHA or owner, as applicable, must:

a. Verify the eligibility of applicants by (a) obtaining signed applications that contain the information needed to determine eligibility (including designation as elderly, disabled, or homeless, if applicable), income, rent, and order of selection; (b) conducting verifications of family income and other pertinent information (such as assets, full time student and immigration status, and unusual medical expenses) through third parties the PHA or owner must use HUD’s Enterprise Income Verification (EIV) system in its entirety: (i) as a third-party source to verify tenant employment and income information during annual and streamlined reexaminations of family composition and income, and to reduce administrative and subsidy payment errors 24 CFR 5.233; (c) documenting inspections and tenant certifications, as appropriate; and, (d) determining that tenant income did not exceed the maximum limit set by HUD for the PHA’s jurisdiction, as shown in HUD’s published notice transmitting the Limits for Low-Income and Very Low-Income Families Under the Housing Act of 1937. For the Mod Rehab SRO program, eligible individuals must be homeless upon entry into the program (24 CFR sections 880.603, 881.601, 882.514, 882.808, 833.701, 884.214, 886.119, and 886.318).

b. Determine the total tenant rent payment in accordance with 24 CFR section 5.628.

c. Select participants from the waiting list in accordance with the admission policies in its administrative plan and maintain documentation which shows that, at the time of admission, the family actually met the preference criteria that determined the family's place on the waiting list.

For the Mod Rehab SRO program, eligible individuals may be referred to the PHA for eligibility determination as a result of the owner's/sponsor's outreach or through the PHA waiting list (24 CFR sections 880.603, 881.601, 882.514, 882.808(b)(2), 883.701, 884.214, and 886 subparts A and C).

d. Reexamine family income and composition at least once every 12 months and adjust the total rent payment and housing assistance payment, as necessary (24 CFR sections 5.657, 880.603, 881.601, 882.515, 883.701, 884.218, 886.124, and 886.324). The PHA or owner may elect to apply a streamlined income determination to families receiving fixed income as described in 24 CFR 5.657 (d)(3). Definition of "fixed income". For purposes of this section, "fixed income" means periodic payments at reasonably predictable levels from one or more of the following sources:

(i) Social Security, Supplemental Security Income, Supplemental Disability Insurance.
(ii) Federal, state, local, or private pension plans.
(iii) Annuities or other retirement benefit programs, insurance policies, disability or death benefits, or other similar types of periodic receipts.
(iv) Any other source of income subject to adjustment by a verifiable COLA or current rate of interest.

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable
b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
c. *SF-425, Federal Financial Report* – Not Applicable
d. In lieu of the standard reports, the following reports are required on Section 8 project-based programs involving private-owners and HUD.

1. HUD-52670, *Housing Owner's Certification and Application for Housing Assistance Payments (OMB No. 2502-0182)* – submitted monthly.

e. In lieu of the standard reports, the following reports are required on Section 8 project-based programs involving PHA/private-owners and HUD/PHA owners.

1. HUD-52663, *Requisition for Partial Payment of Annual Contributions (OMB No. 2577-0169)* – submitted quarterly

2. HUD-52681, *Voucher for Payment of Annual Contributions and Operating Statement (OMB No. 2577-0169)* – submitted annually

2. Performance Reporting

Not Applicable

3. Special Reporting

a. *HUD-50059, Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures (OMB No. 2502-0204)* – This report is submitted electronically to HUD. A blank copy of the report can be found at https://www.hud.gov/sites/documents/50059.PDF

Key Line Items – The following line items contain critical information which is documented in the client file:

1. Section B, item 16. – *Certification Type*

2. Section B, Item 12 – *Effective Date of Action*

3. Section B, Item 29 – *Contract Rent*

4. Section B, Item 30 – *Utility Allowance*

5. Section C, Item 34 & 35 – *Names*

6. Section C, Item 41 – *Date of Birth*

7. Section C, Item 44 – *Social Security Numbers*

8. Section B, Item 21 – *Unit Number*

9. Section F, Item 86 – *Total Annual Income*

10. Section F, Item 106 - *Total Deduction*

11. Section F, Item 108 – *Total Tenant Payment*

12. Section F, Item 112 – *Assistance Payment*

b. HUD-50058, *Family Report (OMB No.2577-0083)* – The PHA is required to submit this form electronically to HUD each time the PHA completes an admission, annual reexamination, interim reexamination, portability move-in, or other change of unit for a family. The PHA must also submit the Family Report when a family ends participation in the program or moves out of the PHA's jurisdiction under portability. A blank copy of the report can be found at https://www.hud.gov/sites/documents/50058.PDF.

Key Line Items – The following line items contain critical information which is documented within the client file:

1. Line 2a – *Type of Action*

2. Line 2b – *Effective Date of Action*

3. Line 3b, 3c – *Names*

4. Line 3e – *Date of Birth*

5. Line 3n – *Social Security Numbers*

6. Line 5a – *Unit Address*

7. Line 5h, 5i – *Unit Inspection Dates*

8. Line 7i – *Total Annual Income*

9. Line 13h – *Contract Rent to Owner*

10. Line 13k or 13x – *Tenant rent*

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Contract Rent Adjustments

Compliance Requirements

The PHA or owner applies or ensures annual adjustments to contract rents are applied. The

HAP original term contract or renewal contract specifies the method to be used to determine rent adjustments. Adjustments must not result in material differences between rents charged for assisted units and comparable unassisted units except as those differences existed at contract execution.

Special adjustments to contract rents, within the original contract term, may also be made to the extent deemed necessary by the PHA or HUD (24 CFR sections 880.609, 881.601, 882.410, 882.808(e), 883.701, 884.109, 886.112, 886.312(c) and Section 524 of Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) Title V of the HUD Fiscal Year 1998 Appropriations Act, Pub. L. 105-65, as amended).

Audit Objectives
Determine whether contract rents are being adjusted properly in accordance with the approved annual adjustments, in pursuant to the Section 8 Renewal Policy Guide.

Suggested Audit Procedures

a. Evaluate the documentation for the last adjustment included in the operating budget submission to determine if the owner complied with the contract and the rent increase requirements. Review the supporting d~~oc~~umentation and certifications that were submitted to support the rent adjustments. Evaluate the owner's timeliness of submission of the rent increase and compliance with the PBRA Section 8 HAP Contract.

b. Select a sample of HAP contract files and tenant files to verify that annual adjustments were applied correctly, appropriately vouchered.

2. Tenant Utility Allowances

Compliance Requirements
The PHA or owner must (a) submit an analysis of any utility allowances applicable. Such data as changes in utility rates and other facts affecting utility consumption must be provided as part of this analysis to permit appropriate adjustments in the utility allowances for assisted units, (b) make an annual review of tenant utility allowances to determine their reasonableness, and (c) adjust the allowances, , when appropriate (24 CFR sections 5.603, 880.610, 881.601, 882.510, 882.808(k), 883.701, 884.220, 886.126, 891.440 and 886.326).

Audit Objectives
Determine whether tenant utility allowances are properly established in accordance 24 CFR 891.440 and Housing Notice 2015-04.

Suggested Audit Procedures

a. Select a sample of units with tenant utility allowances and their related tenant files for review.

b. Test owner requests, PHA determinations, and supporting documentation for utility

determinations.

c. Verify that the allowances were applied to tenants correctly in accordance with HUD determinations.

3. Housing Quality Standards

Compliance Requirements
The PHA or owner must provide housing that is decent, safe, and sanitary. To achieve this end, the PHA or owner must perform housing quality inspections at the time of initial occupancy and at least annually thereafter to ensure that the units are decent, safe, and sanitary (24 CFR sections 574.310(b)(1)-(2).

Audit Objectives
Determine whether the PHA or owner performs the required inspections to ensure that units meet housing quality standards.

Suggested Audit Procedures

a. Review the procedures used by the PHA or owner to identify those units on which housing quality inspections are due.

b. Select a sample of units on which HAP contracts were executed and examine inspection reports.

c. Examine records and ascertain that the PHA or owner ensures that the inspections and any needed repairs are completed timely.

d. Verify that the PHA reviewed the evidence of completion submitted by the owner on newly constructed or rehabilitated units accepted for occupancy.

4. Vacant Units

Compliance Requirements
The PHA or owner must reduce claims for assistance on vacant units under certain circumstances. However, there are instances where special claims are allowed for vacancy losses, unpaid rent, and tenant damages on eligible units (24 CFR sections 880.611, 881.601, 882.411, 882.808(f), 883.701, 884.106, 886.109, and 886.309).

Audit Objectives
Determine whether payments to owners are reduced for vacant units and whether payments for special claims are proper in accordance with 24 CFR 891.445.

Suggested Audit Procedures

a. Select a sample of units that were vacated during the audit period and verify that payments to owners were reduced, as prescribed.

b. Select a sample of payments for special claims and verify that documentation exists (e.g., *HUD*-52670-*A Part 2, Schedule of Special Claims or HUD-52671-C Special Claims for Regular Vacancies*) to support the payments.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANCE LISTING 14.218 COMMUNITY DEVELOPMENT BLOCK GRANTS/ENTITLEMENT GRANTS

ASSISTANCE LISTING 14.225 COMMUNITY DEVELOPMENT BLOCK GRANTS/SPECIAL PURPOSE GRANTS/INSULAR AREAS

I. PROGRAM OBJECTIVES

The primary objective of the Community Development Block Grant (CDBG) Entitlement Program (metropolitan cities and urban counties) (24 CFR Part 570 Subpart D) is to develop viable urban communities by providing decent housing, a suitable living environment, and expanding economic opportunities, principally for persons of low- and moderate-income (24 CFR sections 570.1, 570.200, 570.420, and 570.429).

The program is authorized under Title I of the Housing and Community Development Act (HCDA) of 1974, as amended. On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security (CARES) Act provided an emergency supplemental appropriation of CDBG funding for states, entitlement communities, and insular areas. This appropriation, referred to as CDBG-CV program funds, to distinguish it from the annual formula CDBG program, is to be used similarly as annual formula grants, but specifically to prevent, prepare for, and respond to coronavirus.

This supplement also includes CDBG Disaster Recovery (CDBG-DR) funds, CDBG Mitigation (CDBG-MIT) funds, and Neighborhood Stabilization Program (NSP1, NSP3) funds.
All of the above-referenced programs, appropriations, and funding have as their core statutory basis Title I of the Housing Community Development Act (HCDA) of 1974, as amended. Unless amended by statute, regulation, or notice, specific to the particular CDBG award, recipients of any and all CDBG funds must ensure that CDBG funds are used in accordance with all program requirements as promulgated in the HCDA and in the program regulations in Part 570.

II. PROGRAM PROCEDURES

A. Overview

The primary objective of CDBG is the development of viable urban communities. These viable communities are achieved by providing the following, principally for persons of low and moderate income:

1. Decent housing;

2. A suitable living environment; and

3. Expanded economic opportunities.

To achieve these goals, the CDBG statute and regulations set forth eligible activities and the national objectives that each activity must meet. As recipients of CDBG funds, grantees are charged with ensuring that these requirements are met.

The program objective is to be achieved in two ways. First, a grantee can only use funds to assist eligible activities that meet one or more of the following three CDBG national objectives: benefit low- and moderate-income persons, aid in the prevention of slums and blight or meet community development needs having a particular urgency. Every CDBG-CV funding recipient must document how each CDBG-CV funded activity prevents, prepares for, and responds to coronavirus. Second, the grantee must spend at least 70 percent of its funds, over a period of one, two, or three years as specified by the grantee in its certification, for activities that address the national objective of benefitting low- and moderate-income persons. For CDBG-CV, this 70 percent overall benefit test applies to total expenditures over the life of the grant, regardless of program year of expenditure and compliance is determined separately from the annual formula CDBG program.

Metropolitan cities and urban counties must submit certain certifications and a three- to five-year Consolidated Housing and Community Development Strategy and Plan (the "Consolidated Plan" or "Con Plan") describing how they propose to use the funds for housing and community development activities. They also must submit annually the certifications identified at 24 CFR section 91.225 and a one-year Action Plan indicating how they propose to use the funds to further their three- to five-year goals and objectives. The grant amount is determined by the higher of two formulas that consider a community's population, poverty level, extent of overcrowded housing, age of housing, and growth lag (42 USC 5306(b)). Insular areas, including American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the US Virgin Islands, may submit an abbreviated consolidated plan pursuant to 24 CFR 91.235.

Except for the following differences, non-entitlement counties in Hawaii (see Assistance Listing 14.228, II, "Program Procedures") must follow the requirements of CDBG Entitlement Grants (Assistance Listing 14.218): (1) their funding comes from Section 106(d) of the Housing and Community Development Act of 1974, as amended (42 USC 5306(d)); (2) funds are distributed using the formula contained in 24 CFR section 570.429(c); (3) reallocations due to grant reductions, or funds not applied for, go to the other non-entitlement counties in Hawaii on a pro rata basis (24 CFR section 570.429(d)); (4) non-entitlement counties are not eligible to use the exception criteria in 24 CFR section 570.208(a)(1)(ii); and (5) 24 CFR section 570.307 (Urban Counties) and 24 CFR section 570.308 (Joint Requests) would not apply to non-entitlement counties in Hawaii.

B. Subprograms/Program Elements

1. *CDBG-DR and CDBG-MIT Funding*

The primary objective for CDBG-DR is to provide disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster, declared

pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974.

Congress may appropriate funding for CDBG-DR grants to address disaster recovery needs that are not met by other sources of Federal disaster assistance. When available, HUD provides CDBG-DR grants to states, territories, and local governments particularly to be used for specific disaster recovery purposes.

Generally, all CDBG-DR activities must:

a. Be CDBG-eligible (or eligible under a waiver or alternative requirement);

b. Meet a CDBG national objective; and

c. Meet an unmet recovery need that addresses a direct or indirect impact from an eligible disaster.

Additionally, for informational awareness, CDBG-DR grantees, with the exception of local government grantees, must use at least 80 percent of their allocations to address unmet disaster needs or mitigation activities in the HUD-identified "most impacted and distressed" (MID) areas resulting from a qualifying major disaster. Local government grantees must use 100 percent of their allocations in the HUD-identified MID areas.

For CDBG Mitigation (CDBG-MIT), Congress appropriated $16,121,297,000 in CDBG funds specifically for mitigation activities for qualifying disasters in 2015, 2016, 2017, and 2018 under Public Law 115–123 and Public Law 116–20. CDBG-MIT is a unique and significant opportunity for eligible grantees to use this assistance in areas impacted by specific disasters to carry out strategic and high-impact activities to mitigate disaster risks and reduce future losses.

For CDBG-MIT, mitigation activities are defined as activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship by lessening the impact of future disasters. The mitigation objectives and efforts align with other federal programs that address hazard mitigation to create a more cohesive effort at the federal, state, and local level.

Similar to CDBG-DR funds, the use of CDBG-MIT funds must also occur within the CDBG framework. All CDBG-MIT activities must: (1) Meet the definition of mitigation activities above; (2) address current and future disaster risks; (3) be CDBG-eligible (or eligible under a waiver or alternative requirement); and (4) meet a CDBG national objective.

For informational awareness, at least 50 percent of all CDBG-MIT funds must be

used for mitigation activities that address identified risks within the HUD-identified "most impacted and distressed" (MID) areas.

The national objectives of the CDBG program are: (a) Providing benefit to low- and moderate-income persons; (b) preventing or eliminating slum and blighting conditions; or (c) addressing a severe and recently arising urgent community welfare or health need. Unlike other forms of Federal disaster recovery assistance, CDBG-DR and CDBG-MIT grants have a statutory focus on benefiting vulnerable lower-income people and communities and targeting the most impacted and distressed areas.

2. *Declared Disaster Recovery Fund (DDRF)*

Pursuant to 42 USC 5306(c)(4), in the event of a major disaster declared by the President, HUD may make available to metropolitan cities and urban counties located or partially located in areas affected by the disaster, any amounts that become available as a result of actions under 42 USC 5304(e) or 5311. These funds shall give priority to providing emergency assistance and recovery from the disaster and grant agreements or amendments for such funds may include special conditions governing their use. In all other respects, these reallocated funds shall follow the requirements of CDBG Entitlement Grants.

3. *Neighborhood Stabilization Program (NSP)*

The Housing and Economic Recovery Act of 2008 (HERA) (Pub. L. No. 110-289, July 30, 2008) provided funds for emergency assistance for redevelopment of abandoned and foreclosed homes and residential properties, and provides under a rule of construction that, unless HERA provides otherwise, the grants are to be considered CDBG funds. The grant program under Title III of HERA is referred to as the Neighborhood Stabilization Program (NSP). The NSP funding covered in this cluster is the funding provided under HERA. These HERA funds are also referred to as NSP1. Additional funding for NSP was authorized by Section 1497 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (Pub. L. No. 111-203, July 21, 2010), and is referred to as NSP3. NSP funding provided under the American Recovery and Reinvestment Act of 2009 (ARRA) is referred to as NSP2 and NSP-TA, which are covered by the Neighborhood Stabilization Program (Recovery Act Funded) (Assistance Listing 14.256) has its own separate Compliance Supplement section and is audited separately.

The NSP1 and NSP3 grants are special CDBG allocations to address the problem of abandoned and foreclosed homes. HERA and the Dodd-Frank Act established the need, targets the geographic areas, and limits the eligible uses of NSP funds. NSP3 requirements are in the NSP notice published on October 19, 2010 (75 FR 64322-64348), which lists allocations, requirements, and waivers. The NSP3 Notice incorporates the NSP1 Bridge Notice, changes made by ARRA, and

addition changes and clarification. The notices are available at https://www.hudexchange.info/programs/nsp/nsp-laws-regulations-and-federal-register-notices/.

4. *FY 2020 Emergency, Supplemental Appropriation – CDBG-CV*

The Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. No. 116-136, March 27, 2020) provided an emergency supplemental appropriation of CDBG funding for states, entitlement communities, and insular areas. Recipients may undertake a wide range of activities directed toward assisting their community to prevent, prepare for, and respond to coronavirus. Examples include, but are not limited to, public services designed to increase the capacity of the local health system to address the pandemic; emergency income payment programs to assist low- and moderate-income individuals and families with items such as food, clothing, housing, or utilities for a period of up to six consecutive months; interim assistance activities to address the public health emergency, such as "pop-up," temporary coronavirus testing sites; grants or loans to businesses to avoid or mitigate job losses caused by business loss due to social distancing guidelines; assistance to microenterprises or other for-profit entities when the recipient determines that the provision of such assistance is appropriate to carry out critical medical, food delivery, cleaning, and other services to support home health and quarantine; assistance for the acquisition, rehabilitation, or construction of facilities for coronavirus testing, diagnosis, or treatment; and coronavirus planning and capacity building activities.

Additional activities that address coronavirus were identified in the April 30, 2021, Quick Guide, CDBG-CV PPR Tieback Flexibilities. These include but are not limited to: providing technical assistance, grants, loans, and other financial assistance to establish, stabilize, and expand microenterprises to revitalize communities and local economies affected by coronavirus or to prepare for and prevent future outbreaks; providing working capital assistance to small businesses or entrepreneurs to enable creation and retention of jobs held by low- and moderate-income persons caused by business closures related to community mitigation measures or other job loss and economic disruption resulting from coronavirus; increasing the capacity and availability of daycare or after-school services serving low/mod areas in which parents have dropped out of the workforce since January 2020 to enable workers to rejoin the workforce as a public service; rehabilitation of single unit and multifamily housing units to respond to living conditions (such as mold, lead-based paint, and poor ventilation) associated with more severe coronavirus disease or poorer post-COVID health advice; conversion of public/commercial buildings into affordable housing and acquisition of property for housing to respond to residential over-crowding associated with coronavirus spread and with more severe coronavirus disease and poorer post-COVID health outcomes; new housing construction carried out by a qualified Community Based Development Organization (CBDO) to respond to residential over-crowding associated with coronavirus spread and with more severe coronavirus disease and

poorer post-COVID health outcomes; constructing a public facility such as a park serving a low and moderate income area to provide suitable outdoor fitness, and social space where insufficient facilities are available to support social distancing guidance; preventing or addressing the spread of coronavirus in a vulnerable population by acquiring and rehabilitating, or constructing, a group living facility for persons recovering from substance abuse disorder; and constructing a public improvement, such as extending broadband infrastructure in an underserved area or reconstructing degraded water lines, to support tele-school and telemedicine and to ensure potable water to homes, schools, and health providers.

Entitlement communities develop their own programs and funding priorities so long as programs/activities conform to the statutory standards and program regulations. Specific statutory provisions of CDBG-CV funds include the suspension of the Housing and Community Development Act provision that caps expenditures for public services activities; the submission of an amended Consolidated Plan, 2019 Action Plan, or 2020 Action Plan for use of CDBG-CV funds no later than August 16, 2021; the ability of a grantee to adopt and use expedited procedures to prepare, propose, modify, or amend its annual statement of activities (Annual Action Plan) to provide citizens with notice and a reasonable opportunity to comment of no less than five days; the suspension of in-person public hearings and the adoption of virtual public hearings to fulfill public hearing requirements for the use of all funds made available under the CARES Act as long as national or local health authorities recommend social distancing and limiting public gatherings for public health reasons; and the requirement that adequate procedures are in place to prevent duplication of benefits as required by the Stafford Act and in accordance with Disaster Recovery Reform Act of 2018.

Recipients may contract with other local agencies or nonprofit organizations to carry out part or all of their programs. CBDOs may carry out neighborhood revitalization, community economic development or energy conservation projects to further achieve the national objectives of the CDBG program. CDBG-CV funds may be used to cover or reimburse allowable costs consistent with preventing, preparing for, and responding to coronavirus incurred by a locality for costs incurred on or after January 21, 2020. All eligible activities must either benefit low- and moderate-income persons, aid in the prevention or elimination of slums or blight or meet other community development needs having a particular urgency that the grantee is unable to finance on its own.

Source of Governing Requirements

These programs are authorized by Title I of the Housing and Community Development Act of 1974, as amended (Pub. L. No. 93-383) (42 USC 5301). Implementing regulations are located at 24 CFR Part 570.

The Community Development Block Grant disaster recovery (CDBG-DR) and Community Development Block Grant mitigation (CDBG-MIT) are not codified programs. Congress appropriates disaster recovery funds on a periodic basis following major disasters. Funding is authorized under Title I of the HCDA. The following public laws were the appropriation acts that

provided funding for each disaster: Pub. L. nos. 117-328; 117-180; 117-43; 116-20; 115-254; 115-123; 115-72; 115-56 (Division B); 115-31 (Sec. 421); 114-254; 114-223; 114-113; 113-2; 112-55; 111-212; 110-329; 110-252; 110-116; 109-234; 109-148; 108-324; 107-206; 107-117; 107-73; and 107-38. HUD is authorized to administer CDBG-MIT under Title I of the HCDA. The public laws that appropriated funds for this purpose include Pub. L. nos. 115-123 (Division B) and 116-20 (Division B). The rules and regulations governing CDBG funds apply to CDBG-DR and CDBG-MIT funds unless otherwise waived or altered in a *Federal Register* notice. The auditor must consult the relevant public law and *Federal Register* notices for the CDBG-DR or CDBG-MIT award. The auditor can find links to the appropriate public laws and *Federal Register* notices at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations.

NSP1 is authorized by Title III of Division B of HERA. HUD published a "*Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes Grantees Under the Housing and Economic Recovery Act, 2008*" (NSP Notice) that advises the public of the allocation formula, allocation amounts, the list of grantees, alternative requirements, and the waivers of regulations provided to grantees (October 6, 2008, *Federal Register*, 73 FR 58330-58349). NSP3 is authorized by Title XII of ARRA (123 Stat. 217). The requirements of HERA have been updated by (1) a notice in the *Federal Register*, Docket No. FR-5255-N-02 (NSP1 Bridge Notice) on June 19, 2009 (74 FR 29223-29229), which provided revisions and technical corrections to the NSP Notice and changes to NSP made by ARRA; (2) a notice in the *Federal Register*, Docket No. 5321-N-03 (NSP Notice) on April 9, 2010 (75 FR 18228-18231) to note a change in definitions and modification to the NSP; (3) the Dodd-Frank Wall Street Reform and Consumer Protection Act of July 21, 2010 (Pub. L. No. 111-203); and (4) a notice in the *Federal Register*, Docket No. FR-5447-N-01 (NSP3 Notice) on October 19, 2010 (75 FR 64322-64348) to incorporate the bridge notice, the changes made by ARRA, and additional changes and clarifications. Most of these requirements were incorporated into the NSP3 Notice.

CDBG-CV is authorized in title 12 of Division B of the CARES Act. HUD published a "*Notice of Program Rules, Waivers, and Alternative Requirements Under the CARES Act for CDBG-CV Grants, FY 2019 and 2020 CDBG Grants, and for Other Formula Programs*" (CDBG-CV Notice) that advises the public of the program rules, alternative requirements, and the waivers of regulations provided to grantees (August 20, 2020, *Federal Register*, 85 FR 51457-51475).

Availability of Other Program Information
Additional information about CDBG-DR and CDBG-MIT is available at the HUD CDBG-DR website at https://www.hud.gov/program_offices/comm_planning/cdbg-dr.

Additional information about the NSP laws, regulations, and notices are available at https://www.hudexchange.info/programs/nsp/nsp-laws-regulations-and-federal-register-notices/.

Specific NSP notices are available at:

NSP Notice (Docket No. FR-5255-N-01) at
https://www.govinfo.gov/content/pkg/FR-2008-10-06/pdf/E8-23476.pdf

NSP1 Bridge Notice (Docket No. FR-5255-N-02) at

https://www.govinfo.gov/content/pkg/FR-2009-06-19/pdf/E9-14360.pdf

NSP "Definition and Modification" Notice (Docket No. 5321-N-03) at
https://www.govinfo.gov/content/pkg/FR-2010-04-09/pdf/2010-8131.pdf

NSP3 Notice (Unified NSP1 and NSP3 Notice) (Docket No. FR-5447-N-01) at
https://www.govinfo.gov/content/pkg/FR-2010-10-19/pdf/2010-26292.pdf

NSP Closeout Notice (November 27, 2012) at
https://www.govinfo.gov/content/pkg/FR-2012-11-27/pdf/2012-28642.pdf

Notice of Formula Allocations and Program Requirements for NSP1 and NSP3 Formula Grants; Amendment: Updated Foreclosure Data (May 21, 2013) at
https://www.govinfo.gov/content/pkg/FR-2013-05-21/pdf/2013-11999.pdf

Notice of Changes to NSP Closeout Requirements Related to Program Income (June 14, 2016) at
https://www.govinfo.gov/content/pkg/FR-2016-06-14/pdf/2016-14062.pdf

Notice of Changes to NSP Closeout Requirements Related to Program Income Amendment (September 12, 2019) at
https://www.govinfo.gov/content/pkg/FR-2019-09-12/pdf/2019-19708.pdf

Additional information about CDBG-CV, including the latest grantee guidance and any additional waivers or program flexibilities available to grantees are available at
https://www.hud.gov/program_offices/comm_planning/cdbg_programs_covid-19

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	N	Y	N	Y	Y	N	Y

A. Activities Allowed or Unallowed

1. All activities undertaken must meet one of three national objectives of the CDBG Entitlement Grants program (i.e., benefit low- and moderate-income persons, prevent or eliminate slums or blight, or meet community development needs having a particular urgency) (24 CFR sections 570.200, 570.208, and 570.420). Section III.B.5(f) of the CDBG-CV Notice, *Eligible Activities,* further specifies that a grantee may use CDBG–CV funds only for those activities carried out to prevent, prepare for, and respond to coronavirus. By law, use of funds for any other purpose is unallowable. Some funded activities may respond to the direct effects of the virus, others to the indirect effects. Some CDBG-eligible activities, such as public services, economic development and microenterprise assistance, and public facilities and improvements clearly tie back to the purposes of the CARES Act. HUD is not prohibiting grantees, however, from carrying out any particular CDBG eligible activity described in the HCDA and 24 CFR 570, because other CDBG eligible activities, such as acquisition of real property, can justifiably be used to fulfill the CARES Act purposes depending upon the circumstances.

   CDBG funds are to be used for the following activities:
   a. the acquisition of real property;
   b. the acquisition, construction, reconstruction, rehabilitation or installation of public works, facilities and sites, or other improvements, including removal of architectural barriers that restrict accessibility of elderly or severely disabled persons;
   c. clearance, demolition, and removal of buildings and improvements;
   d. payments to housing owners for losses of rental income incurred in temporarily holding housing for the relocated;
   e. disposition of real property acquired under this program;
   f. provision of public services (subject to limitations contained in the CDBG regulations);
   g. payment of the nonfederal share for another grant program for activities that are otherwise eligible;
   h. interim assistance where immediate action is needed prior to permanent improvements or to alleviate emergency conditions threatening public health and safety;

i. payment to complete a Title 1 Federal Urban Renewal project;
j. relocation assistance;
k. planning activities and program administrative costs, subject to the limitations at 24 CFR section 570.200(g);
l. acquisition, construction, reconstruction, rehabilitation, or installation of commercial or industrial buildings;
m. assistance to community-based development organizations;
n. activities related to privately owned utilities;
o. assistance to private, for-profit businesses, when appropriate to carry out an economic development project;
p. construction of housing assisted under Section 17 of the United States Housing Act of 1937;
q. reconstruction of properties;
r. direct homeownership assistance to facilitate and expand homeownership;
s. technical assistance to public or private nonprofit entities for capacity building;
t. housing services related to housing counseling or activity delivery costs that may include energy auditing, preparation of work specifications, loan processing, inspections, tenant selection, and management of HOME tenant-based rental assistance (TBRA);
u. assistance to institutions of higher education to carry out eligible activities;
v. assistance to public and private entities (including for-profits) to assist micro-enterprises;
w. payment for repairs and operating expenses for acquired “in Rem” properties;
x. residential housing rehabilitation;
y. code enforcement in deteriorated or deteriorating areas,
z. lead-based paint hazard evaluation and removal;
aa. construction or improvement of tornado-safe shelters for residents of manufactured housing and provision of assistance to nonprofit and for-profit entities for such construction or improvement (42 USC 5305(a); 24 CFR sections 570.201 through 570.206, as well as 570.207 for ineligible activities).

2. Entitlement grantees and Insular Area grantees may have loans guaranteed by HUD under Section 108 of the Housing and Community Development Act of 1974, (42 USC 5308). The guaranteed loan funds are to be used only for the following activities:
a. acquisition of real property;
b. housing rehabilitation;
c. rehabilitation of publicly owned real property;
d. eligible CDBG economic development activities;
e. relocation payments,
f. clearance, demolition, and removal;
g. payment of interest on Section 108 guaranteed obligations;
h. payment of issuance and other costs associated with private sector financing under this subpart;

i. site preparation related to redevelopment or use of real property acquired or rehabilitated pursuant to this subpart or for economic development purposes;
j. construction of housing by nonprofit organizations for home ownership under Section 17(d) of the US Housing Act of 1937 (12 USC 1715(l)) or Title VI of the Housing and Community Development Act of 1987;
k. debt service reserve;
l. acquisition, construction, reconstruction, rehabilitation, or installation of public works and site or other improvements, which serve "colonias" (as defined in Section 916 of the Housing Act of 1990 and amended by Section 810 of the Housing and Community Development Act of 1992); and
m. acquisition, construction, rehabilitation, or installation of public facilities (except for buildings for the general conduct of government), public streets, sidewalks, and other site improvements, and public utilities (24 CFR sections 570.700 through 570.710).

Under the Section 108 Loan Guarantee Program, CDBG grantees can borrow up to five times their most recent CDBG grant by issuing federally guaranteed notes.

To ensure that CDBG–CV funds are used for the purposes authorized by the CARES Act, HUD issued the following alternative requirement to sections 108(b) and (c) of the HCD Act (42 USC 5308(c)): CDBG–CV funds shall not be factored into a grantee's Section 108 borrowing authority. Regarding the use of CDBG-CV funds, A grantee may use CDBG–CV funds to make a direct payment of principal, interest, or any fees due under a Section 108 note only if the use of funds is to prevent, prepare for, and respond to coronavirus. The necessity of such use shall be documented by the grantee or the subrecipient that provided the assistance (e.g., if Section 108 funds were used by the grantee to provide assistance to a for-profit business in the form of a loan and the business is unable to make a payment due to the reduction in revenue caused by coronavirus, any restructuring of that loan must be supported by modification to loan documents that document the relationship to coronavirus). When CDBG–CV funds are used to subsidize or replace principal, interest, or fees due under a loan previously made with guaranteed loan funds as part of an activity to assist a for-profit or a subrecipient, and the CDBG–CV assistance is necessary to respond to the impact of coronavirus (e.g., a third-party business borrower whose loan is the intended source for repayment of a Section 108 loan is not collecting sufficient revenue due to local public health conditions), the documentation that the original assisted activity satisfies national objective criteria shall be sufficient to demonstrate that the use of the guaranteed loan funds and the additional CDBG-CV assistance meet a CDBG national objective.

3. All activities that a grantee undertakes during its CDBG program year must be identified in an annual action plan or an amended action plan. Plan amendments are required to reflect changes in activities or funding decisions (24 CFR Part 91, Subpart C, and 24 CFR section 91.505). A grantee was required to apply for CDBG-CV funds by submitting a substantial amendment to its most recently approved annual action plan (either the 2019 or 2020 Action Plan). As part of the application

submission, HUD temporarily waived the requirements (found at 42 USC 12706 and 91.225(a)(5)) that grantees certify that the housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan portion of the consolidated plan. HUD imposed a related alternative requirement that allowed grantees to submit those certifications when the grantees submit their next full (three–five year) consolidated plan due after the 2020 program year. Grantees may not have considered the needs associated with CDBG-CV funds when developing their current consolidated plan strategic plan and needs assessment. In conjunction, HUD temporarily waived 42 USC 5304(e) to the extent that it requires HUD to annually review grantee performance under the consistency criteria. This waiver also only applies until the grantee submits its next full (three–five year) consolidated plan due after the 2020 program year.

When the CDBG-CV application was submitted as a substantial amendment to either the 2019 or 2020 Action Plan, the substantial amendment must have included the CDBG-CV allocation as an available resource for the year. The amendment must have identified the proposed use of all funds and how the funds would be used to prevent, prepare for, and respond to coronavirus. To permit an expedited application process, HUD waived statutory provisions at 42 USC 12705(a)(2) to the extent they require updates to the housing and homeless needs assessment, (24 CFR 91.205 and 91.405), housing market analysis (24 CFR 91.210 and 91.410), and strategic plan (24 CFR 91.215 and 91.415. HUD also waived 24 CFR 91.220 (entitlements), to the extent those regulations limit the action plan to a specific program year, to permit grantees to prepare substantial amendments to either the 2019 or 2020 annual action plan).

HUD also issued a waiver and alternative requirement to 24 CFR 91.505 to facilitate the use of the CDBG-CV funds to the extent necessary to require submission of the substantial amendment to HUD for review in accordance with 24 CFR 91.500, and required that, to receive a CDBG-CV grant, a grantee must also submit a SF-424, SF-424D, and the certifications at 24 CFR 91.225(a) and (b).

When CDBG-CV funds were included in a substantial amendment to either the 2019 or 2020 Action Plan, existing cooperation agreements between a local government and an urban county governing other CDBG funds in the most recently submitted annual action plan (for purposes of either an urban county or a joint program) automatically covered CDBG-CV funding as well. These cooperation agreements will continue to apply to the use of CDBG-CV funds for the duration of the CDBG-CV grant.

The action plan submission procedures in 24 CFR Part 91 (including consultation and a public hearing) apply to grantees that choose to submit CDBG-CV applications by including CDBG-CV funds in a new annual action plan submission (2020 Action Plan). Content of action plans is described at 24 CFR 91.220.

The waivers and alternative requirements apply to all allocations of CDBG-CV

funds. HUD encourages grantees to apply for additional allocations of CDBG- CV funds as they are announced by submitting substantial amendments to the same annual Action Plan that they used to apply for the first CDBG-CV allocation.

An application submitted as a substantial amendment must include the CDBG- CV allocation as an available resource for the year and include the proposed use of all funds and how the funds will be used to prevent, prepare for, and respond to coronavirus.

HUD strongly encouraged grantees to apply for allocations through substantial amendments as they were announced. However, grantees that had not submitted applications for CDBG-CV funds when additional allocations were announced may submit a single application for all allocations as a substantial amendment to either the 2019 or 2020 annual Action Plan.

The CARES Act and the CDBG-CV Notice amend the submission deadline for the Consolidated Housing and Community Development Strategy and Plan (Consolidated Plan) or annual action plan amendment for the use of CDBG-CV funds and 2019 and 2020 federal fiscal year annual formula CDBG funds to no later than August 16, 2021. Please see III.N. “Special Tests and Provisions” of the Compliance Requirements below for additional waivers and alternative requirements regarding citizen participation prior to plan or plan amendment submission.

4. In compliance with the HCDA, CDBG funds are not to be used to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of such assistance. HUD has concluded, however, that when CDBG funding is used for purposes of the CARES Act, it is not considered to substantially replace the amount of local financial support previously provided to community development activities.

   All CDBG-CV grantees are required to establish and maintain adequate procedures to prevent any duplication of benefits for assisted activities (as discussed in Section III.B.9. of the CDBG-CV Notice). To demonstrate that no financial assistance has been received or is available to pay costs charged to a CDBG-CV grant, a grantee may demonstrate that no other funds are available for an activity by maintaining records of compliance with mandatory duplication of benefits requirements described in Section III.B.9.

5. The CARES Act and the CDBG-CV Notice eliminated the 15 percent limitation on the use of CDBG-CV and 2019 and 2020 federal fiscal year CDBG funds to prevent, prepare for, and respond to coronavirus for public service activities (i.e., those activities set forth in Section 105(a)(8) of the HCDA and 24 CFR 570.201(e) of the CDBG entitlement regulations). The cap is still routinely applied to all other 2019 and 2020 federal fiscal year CDBG-funded public service activities that do not address coronavirus.

CDBG funds may not be used for income payments, which are not included among eligible activities in section 105(a) of the HCD Act, and which are expressly prohibited by 24 CFR 570.207(b)(4) in the Entitlement CDBG regulations. The phrase income payments means a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage) or utilities, but excludes emergency payments made over a period of up to three consecutive months to the provider of such items or services on behalf of an individual or family. HUD has waived section 105(a)(8) of the HCD Act and 24 CFR 570.207(b)(4) only to the extent necessary to establish the following alternative requirement: CDBG-CV funds may be used to provide emergency payments for individuals or families impacted by coronavirus for items such as food, clothing, housing (emergency rental assistance or mortgage assistance) or utilities for up to six consecutive months. Emergency payments must be made to the provider of such items or services on behalf of an individual or family, and not directly to an individual or family in the form of income payments, debit cards, or similar direct income payments. CDBG-CV grantees must ensure that proper documentation is maintained to ensure that all costs incurred are eligible. Grantees using this alternative requirement must document, in their policies and procedures, how they will determine the amount of assistance to be provided is necessary and reasonable. This waiver is also applicable to 2019 and 2020 federal fiscal year CDBG funds used to prevent, prepare for, and respond to coronavirus.

6. CDBG funding can only be used for special economic development projects that meet the criteria in 24 CFR section 570.203. Grantees must have data to support that assistance provided to carry out special economic development projects is appropriate by meeting the public benefit standards for job creation and provision of goods and services described in 24 CFR section 570.209. CDBG-CV grantees providing assistance to for-profit entities are still required to adopt financial underwriting policies and procedures in accordance with the guidelines for evaluating project costs and financial requirements found in Appendix A of 24 CFR Part 570. To facilitate the use of CDBG-CV and 2019 and 2020 federal fiscal year CDBG funds used to prevent, prepare for, and respond to coronavirus for economic development activities, HUD has instituted the following alternative requirements to demonstrate national objective compliance:

   a. Removing the higher poverty rate required in some cases for central business districts, which is not required by statute. HUD is instituting an alternative requirement to modify the regulations at 24 CFR 570.208(a)(4)(v) by deleting the criteria at 24 CFR 570.208(a)(4)(v)(B). Under this alternative requirement, for purposes of the LMI job creation/retention national objective at 24 CFR 570.208(a)(4), a census tract qualifies for the presumptions under the criteria established in regulations at 24 CFR 570.208(a)(4)(v) if the poverty rate is at least 20 percent and if it evidences pervasive poverty and general distress using the criteria described in 24 CFR 570.208(a)(4)(v)(C).

   b. Notwithstanding that the definitions of low-income person and moderate-

income person in 24 CFR 570.3 are based on family income, for purposes of meeting the national objective criteria for job creation or retention at 24 CFR 570.208(a)(4), grantees and employers may consider individuals that apply for or hold jobs to be members of one-person families for activities that prevent, prepare for, and respond to coronavirus. HUD is also modifying related recordkeeping requirements at 24 CFR 570.506(b)(7) by adding the following additional presumption: the recipient may substitute records showing the type of job and the annual wages or salary of the job in lieu of maintaining records showing the person's family size and income to demonstrate that the person who filled or held/retained the job was a low- or moderate-income person, when required by paragraph 24 CFR 570.506(b)(5)(i)(B), (b)(5)(ii)(C), (b)(6)(iii) or (b)(6)(v). HUD will consider the person income-qualified if the annual wages or salary of the job is equal to or less than the Section 8 low-income limit established by HUD for a one-person family. Grantees will typically obtain such information from assisted businesses rather than each person who received a job.

In addition, for CDBG-CV and 2019 and 2020 federal fiscal year CDBG funds used to prevent, prepare for, and respond to coronavirus, HUD eliminated the aggregate public benefit standard and modified the individual public benefit standards for job creation and retention. HUD waived the individual standards at 24 CFR 570.209(b)(3) and imposed the following alternative requirement:

For activities subject to the public benefit standards, grantees must document that: a) the activity will create or retain at least one full-time equivalent, permanent job per $85,000 of CDBG funds used; b) the activity will provide goods or services to residents of an area such that the number of LMI persons residing in the area served by the assisted businesses amounts to at least one LMI person per $1,700 of CDBG funds used; or c) the assistance was provided due to business disruption related to coronavirus (in which case, no monetary standard applies because HUD has determined that there is sufficient public benefit derived from the provision of assistance to stabilize or sustain businesses in the grantee's jurisdiction that suffer disruption due to coronavirus).

Finally, through the CDBG-CV Notice, HUD clarifies an existing requirement of economic development activities that grantees may carry out pursuant to 24 CFR 570.203(b). Grantees may provide assistance, with CDBG-CV and 2019 and 2020 federal fiscal year CDBG funds used to prevent, prepare for, and respond to coronavirus, to an economic development project through a for-profit entity that passes the funds through a financing mechanism (e.g., Qualified Opportunity Funds and New Markets Tax Credit (NMTC) investment vehicles). The regulations at 24 CFR 570.203(b) already list forms of support by which grantees can provide assistance to private, for-profit businesses where the assistance is appropriate to carry out an economic development project. HUD has previously interpreted this provision to allow for CDBG assistance to NMTC investment vehicles. This

clarification makes clear that such assistance through any financing mechanism (which is not limited to NMTC investment vehicles) is eligible under 24 CFR 570.203(b). The regulation also does not apply to states, but states may consider 24 CFR 570.203(b), as clarified by the following alternative requirement, as guidance in the same way that they may consider other Entitlement CDBG regulations. HUD is not waiving 24 CFR 570.203(b) and other statutory and regulatory requirements remain in place.

The CDBG-CV Notice also established an alternative requirement, for the same grouping of funds mentioned in the last paragraph, that expanded the authority in section 105(a)(15) of the HCD Act and 24 CFR 570.204 to permit grantees subject to entitlement CDBG regulations to assist nonprofit organizations serving the development needs of their jurisdiction by carrying out community economic development projects through a financing mechanism. The nonprofit may pass assistance through a financing mechanism to another entity based on the language in section 105(a)(15) of the HCD Act. Grantees subject to entitlement regulations must document that the assisted nonprofit is serving the development needs of the jurisdiction and that the assistance is used for a community economic development project that is necessary to prevent, prepare for, and respond to coronavirus.

7. When CDBG funds are used to finance rehabilitation, the rehabilitation is to be limited to privately owned buildings and improvements for residential purposes; low-income public housing and other publicly owned residential buildings and improvements; publicly or privately owned commercial or industrial buildings, subject to the limitations at 24 CFR 570.202(a)(3); and manufactured housing when it constitutes part of the community's permanent housing stock (24 CFR 570.202(a)).

8. For NSP funds, HERA requirements supersede some CDBG requirements (see III.A.1) to allow for the eligible uses in section 2301(c)(3) of HERA. The NSP categories and CDBG entitlement grant regulations are listed in Section II.H.3.a. of NSP3 Notice, 75 FR 64332-64333. The NSP eligible uses are to:

   a. Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties including such mechanisms as soft-seconds, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers.

   b. Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon for later sale, rent, or redevelopment.

   c. Establish and operate land banks for homes and residential properties that have been foreclosed upon.

   d. Demolish blighted structures.

   e. Redevelop demolished or vacant properties.

9. The NSP3 Notice lists the CDBG-eligible activities HUD has determined best correlate to these specific NSP-eligible uses. Grantees must receive written HUD approval to undertake activities other than those listed in Section II.H., Eligibility and Allowable Costs, of NSP3 Notice (Section 2301(c)(3) of HERA; Section II.H. of NSP3 Notice, 75 FR 64332-64333).

   For NSP funds, NSP requirements supersede existing CDBG requirements (see III.A.1) to permit the use of only the low- and moderate-income national objective for NSP-assisted activities. A NSP activity may not qualify using the "prevent or eliminate slums and blight" or "address urgent community development needs" national objectives. The HERA redefines and supersedes the definition of "low- and moderate-income," effectively allowing households whose incomes exceed 80 percent of area median income but do not exceed 120 percent of median income to qualify as if their incomes did not exceed the published low- and moderate-income levels of the regular CDBG program (Section III.E. of NSP3 Notice, 75 FR 64329-64331). HUD will refer to this new income group as "middle income" and maintain the regular CDBG definitions of "low-income" and "moderate-income" currently in use (Section 2301(f)(3)(A) of HERA).

   For purposes of NSP only, an activity may meet the HERA established low- and moderate-income national objective if the assisted activity (a) provides or improves permanent residential structures that will be occupied by a household whose income is at or below 120 percent of area median income; (b) serves an area in which at least 51 percent of the residents have incomes at or below 120 percent of area median income; or (c) serves a limited clientele whose incomes are at or below 120 percent of area median income (Section 2301(f)(3)(A) of HERA; Section II.E. of NSP3 Notice, 75 FR 64329-64331).

10. In addition to the activities allowed for State and Entitlement CDBG, the below flexibilities and unique requirements generally apply to CDBG-DR and CDBG-MIT funds:

    a. Program administrative costs;

    b. Program planning costs;

    c. The HUD Secretary may provide waivers or specify alternative requirements if such waiver is not inconsistent with the overall purpose of Title I of the Housing and Community Development Act of 1974. Common CDBG-DR and CDBG-MIT activities that are eligible and/or modified through a waiver and alternative requirement include:

       (1) *New housing construction:* HUD waives 42 U.S.C. 5305(a) and 24 CFR 570.207(b)(3) to the extent necessary to permit new housing construction.

       (2) *Buyouts*: HUD waives 42 U.S.C. 5305(a) and establishes an

alternative requirement only to the extent necessary to create a new eligible activity for buyouts. The term "buyouts" means the acquisition of properties located in a floodway, floodplain, or other Disaster Risk Reduction Area that is intended to reduce risk from future hazards.

(3) *Public benefit for activities that support economic revitalization*: HUD waives the public benefit standards for only those economic development activities designed to create or retain jobs or businesses; please consult applicable *Federal Register* notices for additional details.

d. CDBG-DR and CDBG-MIT grantees are required to establish and maintain adequate procedures to prevent any duplication of benefits (DOB). Grantees must consult their applicable *Federal Register* notices;

As outlined below, some flexibilities and requirements only apply to certain disaster classes of CDBG-DR awards and to CDBG-MIT awards:

(1) CDBG-DR awards after 2013

i. Assistance for rehabilitation and housing incentives to second homes are prohibited.

ii. Business assistance is limited to small businesses.

(2) CDBG-DR awards for 2015 disasters and beyond

i. *Use of administrative funds across multiple grants*: The applicable Appropriations Acts authorize special treatment of grant administrative funds. Beginning in 2015, grantees that have received CDBG-DR or CDBG-MIT grants in the past or in any future acts, may use eligible administrative funds appropriated by these acts for the cost of administering any CDBG–DR or CDBG–MIT grant without regard to the particular disaster appropriation from which such funds originated.

(3) CDBG-DR awards for disasters which occurred in 2017 and beyond

i. Disaster funds cannot be used for rehabilitation/reconstruction assistance to persons with incomes that exceed 120 percent area median income or the national median if they are in a floodplain and did not obtain flood insurance for the damaged property.

(4) CDBG-DR awards subject to the Consolidated Notice (2020, 2021, 2022 disasters)

i. *CDBG-DR mitigation set-aside*: The applicable Appropriations Acts require HUD to include in any allocation of CDBG-DR funds for unmet needs an additional amount of 15 percent for mitigation activities, which HUD refers to as the "CDBG-DR mitigation set-aside." Unlike recovery activities where grantees must demonstrate that their activities "tie-back" to the specific disaster and address a specific unmet recovery need for which the CDBG-DR funds were appropriated, activities funded by the CDBG-DR mitigation set-aside do not require such a "tie-back" to the specific qualified disaster that has served as the basis for the grantee's allocation.

ii. *Interchangeability of disaster funds*: The applicable Appropriations Acts give the Secretary authority to authorize grantees that receive an award for 2020, 2021, and 2022 disasters and under prior or future appropriations to use those funds interchangeably and without limitation for the same activities related to unmet recovery needs in the "most impacted and distressed" (MID) areas resulting from a major disaster in the Appropriations Acts or in prior or future appropriation acts, when the MID areas overlap and when the use of the funds will address unmet recovery needs of major disasters in the Appropriations Acts or in any prior or future appropriation acts.

iii. *Prioritizing economic revitalization*: Under the Consolidated Notice, grantees are required to prioritize assistance to disaster-impacted businesses that serve underserved communities and spur economic opportunity for underserved communities that were economically distressed before the disaster.

iv. *Assistance to utilities*: Contrary to prior awards, the applicable Appropriations Acts provide that funds "may be used by a grantee to assist utilities as part of a disaster-related eligible activity under section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a))."

(5) CDBG-MIT

i. Program administrative costs for the cost of administering any of these grants without regard to the particular disaster

appropriation from which such funds originated.

For applicable CDBG-DR and CDBG-MIT waivers or alternative requirements, auditors should consult the CDBG-DR Laws, Regulations, and Federal Register Notices on HUD.gov: https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations. This page includes the relevant Public Laws that appropriated CDBG-DR and CDBG-MIT funds, the applicable *Federal Register* notices governing those funds, and a short description of the subject or purpose of each *Federal Register* notice listed.

B. Allowable Costs/Cost Principles

1. All items of cost listed in 2 CFR Part 200, Subpart E, that require prior federal agency approval are allowable without prior approval, except for the following:

   a. Depreciation methods for fixed assets shall not be changed without the approval of the federal cognizant agency.

   b. Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances, and personal living expenses (goods or services for personal use), regardless of whether reported as taxable income to the employees, require prior HUD approval.

   c. Organization costs require prior HUD approval.

2. Fines, penalties, damages, and other settlements are unallowable (24 CFR section 570.200(a)(5)).

3. Grantees may use CDBG-CV funds only for those activities carried out to prevent, prepare for, and respond to coronavirus. By law, use of funds for any other purpose is unallowable. The CARES Act provides that CDBG-CV funds may be used to cover or reimburse allowable costs of activities to prevent, prepare for, and respond to coronavirus incurred by a state or locality incurred on or after January 21, 2020. The term "locality" is not defined by the CARES Act, the HCD Act, or the CDBG program regulations. For purposes of CDBG-CV grants, a "locality" shall mean units of general local government, as defined in section 102 of the HCD Act. The CARES Act also requires that all costs reimbursed with CDBG-CV funds be allowable costs, meaning they comply with all grant requirements. Therefore, as set forth in Section III.B.5.(b) of the CDBG-CV Notice, HUD has adopted the following waivers and alternative requirements to 24 CFR 570.200(h) to facilitate the use of CDBG-CV funds to reimburse allowable costs by modifying current regulations that are inconsistent with CARES Act reimbursement authority and imposing safeguards to help ensure the allowability of all costs charged to the CDBG-CV grant:

Grantees shall not reimburse costs incurred before January 21, 2020, without written approval from HUD's Office of Block Grant Assistance (OBGA), by emailing the contact person listed at the beginning of the CDBG-CV Notice. HUD is imposing a presumption that costs of activities undertaken before January 21, 2020, the date the Centers for Disease Control and Prevention confirmed the first case of coronavirus in the United States in the State of Washington, are highly unlikely to be eligible for reimbursement because they likely are not costs to prevent, prepare for, and respond to coronavirus. The need to pay for coronavirus-related costs incurred after this date far exceeds the amount of CDBG-CV funds available. HUD cautions that it will only consider granting written approval in extraordinary cases where the clear link to the purposes of the CARES Act is documented by substantial evidence provided to HUD by the grantee. Inquiries related to this requirement can be submitted to the contact identified in the CDBG-CV Notice.

HUD has waived the requirements of 570.200(h) to the extent necessary to authorize a grantee to permit reimbursement of pre-application costs of subrecipients, units of general local government, and itself, in addition to pre- agreement and pre-award costs. However, an environmental review must be performed, and a release of funds must be obtained in accordance with 24 CFR Part 58 prior to committing CDBG-CV funds to reimburse such costs. After the grantee signs a CDBG-CV agreement, it may reimburse a unit of general local government or subrecipient for costs incurred before the unit of general local government or subrecipient applies to the grantee for assistance.

For grantees subject to the entitlement CDBG regulation at 24 CFR 570.200(h), the following waivers and alternative requirements apply:

In lieu of the effective date described at 570.200(h), the grantee shall use the date in Box 4 of Form HUD-7082, Funding Approval/Agreement.

HUD is waiving the requirement at 570.200(h)(1)(i) and (ii) that the activity for which costs are incurred must be included in a consolidated plan action plan or amended consolidated plan action plan before incurring the costs. Instead, the activity for which costs were incurred must be included in the grantee's CDBG- CV application before CDBG-CV funds are used to reimburse those costs. Or, if the use of CDBG-CV funds for reimbursements is not included in the CDBG-CV application, this use may be included in a subsequent amendment to the annual action plan that describes the use of the CDBG-CV funds (following the grantee's citizen participation plan procedures for amendments).

To facilitate the use of funds provided under a one-time grant rather than an annual appropriation, HUD is waiving the time limitation and the monetary limitation on reimbursements in 570.200(h)(1)(v) and (vi) and related provisions at 570.200(h)(2). HUD is not waiving the requirement at 570.200(h)(1)(iii) to comply with the environmental review procedures stated in 24 CFR Part 58.

All grantees may authorize subrecipients to incur pre-award costs in accordance with pre-award cost authority under 24 CFR 570.200(h), as modified above.

F. Equipment and Real Property Management

1. Except for awards to faith-based organizations, the real property requirements at 2 CFR Part 200 do not apply. The requirements that apply are in 24 CFR 570.505 (24 CFR section 570.502(a)(5)).

2. NSP grantees that have established and currently operate land banks for homes and residential properties that have been foreclosed upon shall have in place a land bank management plan that will facilitate management and eventual disposition of the land bank inventory. Please reference *Federal Register* Notice of Neighborhood Stabilization Program; Closeout Requirements and Recapture (77 FR 70799).

   The CDBG definition of the eligible activity of disposition, at 24 CFR 570.201(b), includes the "reasonable costs of temporarily managing such property." HUD interprets this to include ongoing maintenance such as board-up, lawn-mowing, spot repairs, and other related functions that keep the property in a condition that stabilizes the neighborhood. Grantees managing scattered-site properties meeting the CDBG definition of a disposition activity must identify each property as a separate disposition activity in IDIS.

3. When equipment is sold, the proceeds are considered program income. Equipment not needed by the subrecipient for CDBG activities shall be transferred to the recipient for the CDBG program or shall be retained after compensating the recipient (24 CFR section 570.502(a)(6)).

H. Period of Performance

1. CDBG entitlement funds must be expended by the end of the eighth fiscal year after the fiscal year of appropriation. This requirement applies to annual CDBG appropriations. Funds must be expended by the end of the fifth fiscal year following the period of obligation. Annual appropriations legislation historically has provided an obligation period of three years for CDBG funding; the combined effect is to provide an expenditure period of eight fiscal years from the fiscal year of appropriation (31 USC 1552).

2. As set forth in Section III.B.7. of CDBG-CV Notice, grantees must expend all CDBG-CV funds (including CDBG-CV funds from additional allocations that are obligated by HUD through amendments to the grant agreement) within the six- year period of performance established by the CDBG-CV grant agreement. CDBG-CV funds will not be included in determining compliance with the timely expenditure requirements applicable to annual formula CDBG grants found at 24 CFR 570.902.

3. NSP1 grantees are required to expend an amount equal to or greater than the initial allocation of NSP1 funds within four years of receipt of those funds

(Section II.M. of NSP3 Notice, 75 FR 64336-64337).

4. NSP3 grantees are required to expend an amount equal to or greater than 50 percent of their initial allocation of NSP3 funds within two years of receipt of those funds and 100 percent of their initial allocation of NSP3 funds within three years of receipt of those funds (Section II.M. of NSP3 Notice, 75 FR 64336- 64337).

5. The appropriation accounting provisions in 31 USC 1551–1557, added by section 1405 of the National Defense Authorization Act for Fiscal Year 1991 (Pub. L. No. 101–510), limit the availability of certain appropriations for expenditure. Such a limitation may not be waived. The appropriations acts for NSP1 and NSP3 grants direct that these funds be available until expended. Notwithstanding these provisions, *Federal Register* Notice of Changes to NSP Closeout Requirements Related to Program Income Amendment (84 FR 48165) added the following language to Section X. of the Unified NSP1 and NSP3 Notice:

   "Note that NSP I and NSP3 grant funds are subject to 31 U.S.C. 1555, which states, 'An appropriation account available for obligation for an indefinite period shall be closed, and any remaining balance (whether obligated or unobligated) in that account shall be canceled and thereafter shall not be available for obligation or expenditure for any purpose, if (1) the head of the agency concerned or the President determines that the purposes for which the appropriation was made have been carried out; and (2) no disbursement has been made against the appropriation for two consecutive fiscal years.'"

6. CDBG-DR grantees are required to expend their grant typically within 180 days or the time period defined in the applicable Federal Register following the execution of a grant agreement with HUD:

   a. HUD instituted a six-year expenditure deadline on all CDBG-DR grantees. A grantee receiving CDBG-DR grants under the Public Laws listed below is required to expend 100 percent of the grant on eligible activities within six years of HUD's execution of the initial grant agreement:

      (1) A CDBG-MIT grantee must expend 50 percent of the grant on eligible activities within six years of HUD's execution of the grant agreement and 100 percent of its grant within 12 years of HUD's execution of the agreement;

      (2) CDBG-DR funds awarded under these public laws are eligible for an expenditure extension at the end of the original grant term for up to two years to provide grantees with flexibility during the COVID-19 pandemic.

   b. Pub. L. 117–328 provided that CDBG–DR grant obligations made before September 30, 2017, from funds made available under Public Law 113–2are

to remain available until expended. The requirements at 2 CFR 200.211(b) require all Federal awards to include a period of performance and budget period. Therefore, HUD revised the period of performance and budget period for open Federal awards made under Public Law 113-2 with an end date of September 30, 2029. HUD may extend the grant period of performance and budget period administratively.

A grantee receiving CDBG-DR awards prior to Pub. L. 113-2 (or under the Public Laws listed in Section III) must expend 100 percent of the funds within two years of the date its grant agreement with HUD is executed. Generally, a remaining active CDBG-DR grantee has funds available until expended.

The following public laws apply to the corresponding information above and is in the table below.

Section	Public Law(s)	Expenditure Deadline
I.	114-113, 114-223, 114-254, 115-31, 115-56, 115-123, 115-254, 116-20, 117-43, 117-180, 117-328	Expend 100% within six years.
I.a.	115-123 and 116-20	Expend 50% within six years and 100% within 12 years.
I.b.	114-113, 114-223, 114-254, 115-31, 115-56, 115-123	Eligible for an expenditure extension for up to two years to provide grantees with flexibility during the COVID-19 pandemic.
II.	113-2	To remain available until expended.
III.	107-73, 107-38, 107-117, 117-206, 108-324, 109-148, 109-324, 109-148, 109-234, 110-116, 110-252, 110-329, 111-212, 112-55	Expend 100% of the funds within two years of the date its grant agreement with HUD is executed.

For funds appropriated under Pub. L. 114-113, 114-254, 115-31, 115-56, 115-123, 115-254, 116-20, 117-43, 117-180, and 117-328 for CDBG-DR and CDBG-MIT grants, HUD may extend the period of performance administratively, if good cause for such an extension exists, as requested by the grantee, and approved by HUD.

J. Program Income

1. The grantee must accurately account for any program income generated from the use of CDBG funds and must treat such income as additional CDBG funds which are subject to all program rules. Program income does not include income received in a single program year by the grantee and all of its subrecipients if the total amount of

such income does not exceed $25,000 (24 CFR sections 570.500, and 570.504).

2. Making loans and collecting the payments on those loans can be a significant source of program income for grantees. The use of income derived from loan payments is subject to program requirements. This carries with it the responsibility for grantees to have a loan origination and servicing system in effect which ensures that loans are properly authorized, receivables are properly established, earned income is properly recorded and used, and write-offs of uncollectible amounts are properly authorized (24 CFR sections 570.500 and 570.504).

3. When equipment is sold, the proceeds are considered program income. Equipment not needed by the subrecipient for CDBG activities shall be transferred to the recipient for the CDBG program or shall be retained after compensating the recipient (24 CFR section 570.502(a)(6)

4. As set forth in Section III.B.6.(a) of the CDBG-CV Notice, the receipt and expenditure of program income that is generated by the use of CDBG-CV funds shall be treated as annual formula CDBG program income and recorded as part of the financial transactions of the annual formula CDBG grant program. Based on this treatment of program income, the use of CDBG-CV funds for float-funded activities or guarantees as described at 24 CFR 570.301(b) and section 104(h) of the HCD Act is not allowed.

   A grantee may permit subrecipients to retain program income from the use of CDBG-CV funds if the amount held does not exceed the subrecipient's projected cash needs for CDBG activities including activities to prevent, prepare for, and respond to coronavirus.

   As program income to the grantees' annual formula CDBG programs, income generated from CDBG-CV activities will be included in timely expenditure compliance determinations for each entitlement grantee's annual formula CDBG program and be subject to the requirements found at 24 CFR 570.902.

   Removing the cap in Section 105(a)(8) of the HCD Act for activities to prevent, prepare for, and respond to coronavirus also removes the public services cap on the use of the program income, and removes the corresponding regulatory cap in 24 CFR 570.201(e) for CDBG-CV funds and fiscal year 2019 and 2020 funds used to prevent, prepare for, and respond to coronavirus.

   Program income, regardless of the source funding of the activity that generated the income, shall be included in the compliance determination of the public service cap and the administrative and planning cost cap applicable to annual formula CDBG grants and program income, separately from CDBG-CV funds. For purposes of calculating the public services cap, the treatment of program income generated by the CDBG-CV grant and received (i.e., documented in IDIS) by the annual formula CDBG program shall be considered as any other program income received by the

annual formula CDBG program.

5. NSP1 or NSP3 revenue received by a unit of general local government or subrecipient that is directly generated from the use of CDBG funds (which includes NSP1 and NSP3 grant funds) constitutes CDBG program income. The CDBG definition of program income shall be applied to amounts received by units of local government and subrecipients (24 CFR section 570.500; Section II.N. of NSP3 Notice, 75 FR 64337). HERA, however, imposes limitations and requirements that necessitate an alternative requirement to govern the use of program income generated by NSP activities. The limitations and requirements are based on the NSP activity that generated the program income and on the date the income is received (Section 2301(d)(4) of HERA).

   a. Any revenue from the sale, rental, redevelopment, rehabilitation, or any other eligible use of NSP funds is to be provided to and used by the unit of local general government. This provision includes revenue received by a private individual or other entity that is not a subrecipient (Section 2301(d)(4) of HERA; Section II.N. of NSP Notice, 73 FR 58340-58341).

   b. Program income which is generated by NSP activities carried out pursuant to Section 2301(c)(3) of HERA may be retained by the unit of local government if it is treated as additional CDBG funds and used in accordance with the requirements of Section 2301 (Section 2301(c)(3) of HERA; Section II.N. of NSP Notice, 73 FR 58340-58341).

6. With the advent of *Federal Register* Notice of Changes to NSP Closeout Requirements Related to Program Income (81 FR 38730) and the succeeding NSP closeout notice, Notice of Changes to NSP Closeout Requirements Related to Program Income Amendment (84 FR 48165), NSP1 and NSP3 grantees with CDBG annual formula programs may transfer not only NSP program income on hand, but also a future stream of NSP program income for an activity to the annual CDBG program, eliminating the need for multiple written requests to transfer program income that is anticipated, but not yet received.

7. For CDBG-DR and CDBG-MIT, program income is revenue generated from a CDBG or CDBG-DR eligible activity. HUD grantees adhere to the program income requirements in CDBG regulation 24 CFR § 570.504, unless program income is waived by HUD. The *Federal Register* notices include waivers and alternative requirements associated with each grant, thereby waiving program income, or providing an alternative requirement in each applicable notice. The grantee must receipt program income and expenditures in the DRGR system. Program income must be expended in DRGR before drawing additional program funds.

   There are several ways the grantee can generate program income. Program income can be generated in the following ways, but not limited to:

a. Proceeds from the sale or lease of property purchased or improved with CDBG funds;

b. Proceeds from the sale or lease of equipment purchased with CDBG funds;

c. Gross income from the use or rental of real or personal property acquired, constructed or improved by the grantee (or a subrecipient), less costs incidental to the generation of income;

d. Payments of principal and interest on loans made using CDBG funds; and

e. Proceeds from the sale of loans or obligations secured by loans made with CDBG funds.

As outlined above, the program income requirements for CDBG-DR and CDBG-MIT grants are contained in *Federal Register* notices, which can be viewed at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable (cash status only) *(this is the IDIS PR29 Cash on Hand Quarterly Report made available in IDIS on August 12, 2019, which allows grantees to generate this report by custom date ranges and export data to Excel and PDF)*

d. *Integrated Disbursement and Information System (IDIS) (OMB No. 2506-0077)* – Grantees may include reports generated by IDIS as part of their annual performance and evaluation report that must be submitted for the CDBG Entitlement program 90 days after the end of a grantee's program year. Section IV.B.2.(c) of the CDBG-CV Notice reiterated the waiver authorized by a May 7, 2020, HUD memorandum (found in the waiver information link noted in *IV. Other Information*, below) that waives the 90 day requirement for program year 2019 annual performance and evaluation reports, subject to the condition that within 180 days after the close of a jurisdiction's program year that it submit its performance report.

Auditors are only expected to test information extracted from IDIS in the following system-generated reports:

(1) PR26 – CDBG Financial Summary Report (restricted as of September 14, 2020, to run for CDBG annual formula grants only) This report can be used to check program income reported in IDIS (line 05), overall low-mod income benefit compliance (line 22), percent of funds obligated to the public services (line 36), and percent of funds obligated to the planning and administrative activities during the program year (line 46).

(2) PR26 – CDBG-CV Financial Summary Report (made available September 14, 2020, to run for CDBG CARES Act grants only) This report can be used to check the overall low-mod income benefit compliance (line 15) and percent of funds expended for the planning and administrative activities (line 21).

(3) PR26 – CDBG Activity Summary by Selected Grant this report can be used to check percentage of funds expended for the planning and administrative activities for origin year 2015 and later grants (This is located in 'column % of CDBG Drawn From Selected Grant for Total Administrative and Planning').

(4) PR29 – CDBG Cash on Hand Quarterly Report can be used to show that the grantee is not carrying a cash on hand balance for the grant funds from quarter to quarter and that grant funds are not drawn if program income funds are available.

(5) PR29 – CDBG-CV Cash on Hand Quarterly Report (available in IDIS in July 2021) can be used to show that the grantee is not carrying a cash on hand balance for the grant funds from quarter to quarter.

e. *Section 15011 of the CARES Act* requires that recipients of $150,000 or more of CARES Act funding submit, not later than 10 days after the end of each calendar quarter, a report containing: information regarding the amount of funds received; the amount of funds obligated or expended for each project or activity; a detailed list of all such projects or activities, including a description of the project or activity; and detailed information on any subcontracts or subgrants awarded by the recipient. This report is limited to CDBG-CV funding and does not include other CDBG funds that may be used to address coronavirus. The requirements have been outlined in OMB memorandum M-20-21, *Implementation Guidance for Supplement Funding in Response to the Coronavirus Disease (COVID-19)* (available at https://www.whitehouse.gov/wp- content/uploads/2020/04/Implementation-Guidance-for-Supplemental- Funding-Provided-in-Response.pdf). Grantees and subrecipients have reported data meeting the Section 15011 requirements at usaspending.gov. The Pandemic Response Accountability Committee (PRAC), an independent oversight committee within the Council of the Inspectors General on Integrity and Efficiency, has determined that the data

reported in usaspending.gov has fulfilled these reporting requests.

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3 – Compliance Requirements, Section L. Reporting, for audit guidance.

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements The Wage Rate Requirements apply to the rehabilitation of residential property only if such property contains eight or more units. However, the requirements do not apply to volunteer work where the volunteer does not receive compensation, or is paid expenses, reasonable benefits or a nominal fee for such services, and is not otherwise employed at any time in construction work (42 USC 5310; Section 1205 of Pub. L. No. 111-32; 24 CFR section 570.603).

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

As with annual formula CDBG grants, CDBG-CV grants are subject to the Wage Rate Requirements, known more popularly as the Davis-Bacon prevailing wage requirements imposed by section 110(a) of the HCD Act. Under regulations of the Department of Labor (DOL) at 29 CFR 1.6(g), where federal assistance is not approved prior to contract award (or the beginning of construction if there is no contract award), Davis-Bacon wage rates apply retroactively to the beginning of construction and must be incorporated retroactively in the contract specifications. However, if there is no evidence that the owner intended to apply for the CDBG-CV assistance prior to the contract award or the start of the construction, HUD may request that DOL allow prospective, rather than retroactive, application of the Davis-Bacon wage rates. DOL may allow prospective application of Davis-Bacon requirements when it finds that it is necessary and proper in the public interest to prevent injustice or undue hardship and it finds no intent to apply for the federal assistance before contract award or the start of construction. The CDBG-CV Grantee should contact a HUD Labor Relations Specialist if such a situation arises.

2. Citizen Participation

Compliance Requirements At the time of submission to HUD for its annual grant, the grantee

must certify to HUD that it has met the citizen participation requirements in 24 CFR section 91.105.

The CARES Act modifies some CDBG program requirements to provide immediate support for efforts to address coronavirus. The modifications, which are described in more detail in Section III. of the CDBG-CV Notice, permit the following:

a. A public comment period of no less than five days when citizen participation is required (detailed in Section III.B.4.(a)(i) of the CDBG-CV Notice)

b. A grantee to develop expedited citizen participation procedures and to hold virtual public hearings when necessary for public health reasons (Section III.B.4.(a)(i) of the CDBG-CV Notice)

Section III.B.4.(a)(iii) of the CDBG-CV Notice includes a corollary waiver and alternative requirement to permit states to extend these flexibilities to units of general local government and insular areas.

Section III.B.4.(a) of the CDBG-CV Notice applies to all fiscal year 2019 and 2020 annual formula CDBG grants, regardless of the use of funds. This section of the CDBG-CV Notice describes the program flexibilities provided by the CARES Act related to expedited citizen participation and virtual hearings. When this section refers to CDBG-CV funds, it shall apply equally to fiscal years 2019 and 2020 CDBG grants.

HERA provided for supersession of the citizen participation requirement to expedite the distribution of NSP grant funds and to provide for expedited citizen participation. The provisions of 24 CFR section 91.105 with respect to following the citizen participation plan are waived to allow the jurisdiction to provide no fewer than 15 calendar days for citizen comment, rather than 30 days, for its initial NSP submission (Section II.B.4 of NSP3 Notice, 75 FR 64328).

Grantees must identify what constitutes a substantial amendment to their action plan in their citizen participation plans. Grantees must identify a change in the use of CDBG funds from one activity to another as a substantial amendment, which is subject to the citizen participation process (24 CFR Part 91, Subpart C, and sections 91.105(c) and 91.505).

To permit a more streamlined process and ensure CDBG-DR grants are awarded in a timely manner, HUD waives provisions of 42 U.S.C. 5304(a)(2) and (3), 42 U.S.C. 12707, 24 CFR 570.486, 24 CFR 1003.604, 24 CFR 91.105(b) through (d), and 24 CFR 91.115(b) through (d), with respect to citizen participation requirements, and replaces the provisions with alternative requirements.

For CDBG-DR awards before 2017 disasters, the streamlined requirements require CDBG-DR grantees to publish its action plan for no less than 14 calendar days. For CDBG-DR awards for 2017 disasters and beyond, the streamlined requirements require CDBG-DR grantees provide a reasonable opportunity (at least 30 days) for citizen comment. The

grantee must follow a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.115 or 91.105 (except as provided for in notices providing waivers and alternative requirements). Each local government receiving assistance from a state grantee must follow a detailed citizen participation plan that satisfies the requirements of 24 CFR 570.486 (except as provided for in notices providing waivers and alternative requirements). Additionally, CDBG-DR awards subject to HUD's Consolidated Notice (2020, 2021, and 2022) must also include public hearings on the proposed CDBG-DR action plan.

For CDBG-MIT grantees, HUD also waives 42 U.S.C. 5304(a)(2) and (3), 42 U.S.C. 12707, 24 CFR 570.486, 24 § 91.105(b) and (c), and 24 CFR 91.115(b) and (c), with respect to citizen participation requirements. The revised requirements mandate public hearings (the number of which is based upon the amount of a grantee's CDBG–MIT allocation) across the HUD-identified MID areas and require the grantee to provide a reasonable opportunity (at least 45 days) for citizen comment and ongoing citizen access to information about the use of grant funds.

While the above waivers and alternative requirements reflect the most recent CDBG-DR citizen participation requirements for grantees subject to the Consolidated Notice and the long-standing CDBG-MIT requirements at 84 FR 45852 of the Main CDBG-MIT Notice published on August 30, 2019, auditors should review the *Federal Register* notices for additional details concerning each grantee's applicable citizen participation requirements at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations.

Audit Objectives Determine whether the grantee has developed and implemented a citizen participation plan, including identifying what constitutes a substantial amendment.

Suggested Audit Procedures

a. Verify that the grantee has a citizen participation plan.

b. Review the plan to verify that it provides for public hearings, publication, public comment, access to records, and consideration of comments.

c. Verify that the grantee has identified what constitutes a substantial amendment to its citizen participation plan, and a change in the use of CDBG funds from one activity to another is among the criteria for a substantial amendment.

d. Examine the grantee's citizen participation records, including items such as public hearing records and minutes, sign-in sheets, and mailing lists of interested parties for evidence that the elements of the citizen's participation plan were followed as the grantee certified.

3. Required Certifications and HUD Approvals

Compliance Requirements CDBG funds (and local funds to be reimbursed with CDBG funds) cannot be obligated or expended before receipt of HUD's approval of a Request for

Release of Funds (RROF) and environmental certification, except for exempt activities under 24 CFR section 58.34 and categorically excluded activities under section 58.35(b) (24 CFR section 58.22).

Audit Objectives Determine whether the grantee is obligating and expending program funds only after HUD's approval of the RROF.

Suggested Audit Procedures

a. Examine HUD's approval of the RROF and environmental certification and note dates.

b. Review the expenditure and related records to ascertain when CDBG funds and local funds which were reimbursed with CDBG funds, were first obligated or expended and ascertain if any funds were obligated or expended prior to HUD's approval of the RROF.

4. Environmental Reviews

Compliance Requirements Projects must have an environmental review unless they meet criteria specified in the regulations that would exempt or exclude them from RROF and environmental certification requirements (24 CFR sections 58.1, 58.22, 58.34, 58.35, and 570.604).

As is noted in Section III.B.6.(d)(iii) of the CDBG-CV Notice, HUD's environmental review regulations in 24 CFR Part 58 include two provisions that may be relevant to environmental review procedures for activities to prevent, prepare for, and respond to coronavirus. The first is 24 CFR 58.34(a)(10), which provides an exemption for certain activities undertaken in response to a national or locally declared public health emergency. Except for the applicable requirements of 24 CFR 58.6, a responsible entity does not have to comply with the requirements of Part 58 or undertake any environmental review, consultation, or other action under National Environmental Policy Act (NEPA) and the other provisions of law or authorities cited in 24 CFR 58.5 for exempt activities or projects consisting solely of exempt activities. Exempt activities include assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from imminent threats to public safety.

The second is a streamlined public notice and comment period in the regulation at 24 CFR 58.33, which may apply in some cases for emergency activities undertaken to prevent, prepare for, and respond to coronavirus. The application of these two provisions following a presidentially declared or locally declared public health emergency is discussed in the Notice, *Guidance on conducting environmental review pursuant to 24 Part 58 for activities undertaken in response to the public health emergency as a result of COVID-19* (CPD-20-07) posted at https://www.hud.gov/sites/dfiles/OCHCO/documents/2020-07cpdn.pdf.

CDBG-DR grantees are required to ensure every project/activity undergoes the appropriate level of environmental review and receives clearance and Authorization to Use Grant Funds (AUGF) prior to expending any funds. As a result, special circumstances apply to HUD environmental reviews for disaster recovery efforts, and an environmental review is required accordingly: (a) analysis of impacts of a project on the surrounding environment and vice versa, (b) demonstrates compliance with federal environmental laws and authorities, (c) encourages public participation. Additional CDBG-DR environmental review information and federal regulations can be found on HUD.gov at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/environmental-review and on the HUD Exchange at https://www.hudexchange.info/programs/environmental-review/disaster-recovery-and-environment/#unified-federal-review.

Audit Objectives Determine whether environmental reviews are being conducted, when required.

Suggested Audit Procedures

a. Verify through a review of environmental review certifications that the environmental reviews were made.

b. Select a sample of projects where an environmental review was not performed and ascertain if a written determination was made that the review was not required. Test whether documentation exists that any determination not to make an environmental review was made consistent with the criteria contained in 24 CFR sections 58.34 and 58.35(b). Some CDBG-DR grantees may use the environmental review for projects that are also funded with FEMA. See *Federal Register* notices.

5. Rehabilitation

Compliance Requirements When CDBG and CDBG-CV funds are used for rehabilitation, the grantee must ensure that the work is properly completed (24 CFR section 570.506). Any NSP-assisted rehabilitation of a foreclosed-upon home or residential property shall be completed to the extent necessary to comply with applicable laws, codes and other requirements relating to housing safety, quality, or habitability, in order to sell, rent, or redevelop such homes and properties. To comply with this provision, a grantee must describe or reference in its NSP action plan amendment what rehabilitation standards it will apply for NSP-assisted rehabilitation (Section 2301(d)(2) of HERA; Section II.I. of NSP Notice, 73 FR 58338).

Audit Objectives Determine whether the grantee ensures that rehabilitation work is properly completed.

Suggested Audit Procedures

a. Verify that pre-rehabilitation inspections are conducted describing the deficiencies to be corrected.

b. Ascertain that the deficiencies to be corrected are incorporated into the rehabilitation contract.

c. For NSP projects, review rehabilitation standards.

d. Verify through a review of documentation that the grantee inspects the rehabilitation work upon completion to assure that it is carried out in accordance with contract specifications, and that NSP projects were carried out in accordance with rehabilitations standards.

6. Section 3 of the HCDA

Compliance Requirements Grantees must establish and maintain documentation to demonstrate that workers on Section 3 projects meet the definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting period. This includes requiring written reports from developers or contractors summarizing the totals for labor hours, including Section 3 worker and Targeted Section 3 worker labor hours, and documentation from employees or employers certifying that the employee met the requirements to receive Section 3 worker status. Any information that a grantee enters in IDIS or DRGR must have supporting documentation demonstrating the accuracy of the data. (24 CFR part 75)

Audit Objectives Determine whether the Grantee is following its own Section 3 policy and procedures by collecting and maintaining adequate records demonstrating Section 3 compliance.

Suggested Audit Procedures

a. Review the grantee's Section 3 policy and procedures.

b. Review a sample of grant agreements for housing rehabilitation, housing construction, or other public construction projects, **to determine if the grantee notified subrecipients of requirements** to maintain or ensure that a subrecipient, contractor, or subcontractor maintains adequate records demonstrating Section 3 compliance.

IV. OTHER INFORMATION

Further information about CDBG-CV funding and uses of funds may be found at https://www.hud.gov/program_offices/comm_planning/cdbg_programs_covid-19.

Further information about available waivers of program requirements for CDBG-CV and other CPD programs may be found at https://www.hud.gov/program_offices/comm_planning/waivers_covid-19.

Additional grantee CDBG-CV program implementation resources may be found at https://www.hudexchange.info/programs/cdbg-cv/.

Information on CDBG-DR and CDBG-MIT waivers and alternative requirements issued by HUD can be found at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations.

HUD Compliance Reviews. Auditors may consult HUD's Community Planning and Development Monitoring Handbook for the specific compliance review exhibits that HUD uses to determine compliance. The CDBG-DR monitoring exhibits can be found at https://www.hud.gov/program_offices/administration/hudclips/handbooks/cpd/6509.2. CDBG monitoring exhibits can be found in Chapter 3 following the same link.

Further instructions to grantees who report in DRGR on compliance with Section 3 reporting may be found at https://www.hudexchange.info/resource/6413/drgr-fact-sheet-drgr-guidance-on-reporting-section-3-labor-hours/.

Guidance on Section 3 compliance and reporting may also be found in CPD Notice 21-09, *Section 3 of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1992, final rule requirements for CDBG, CDBG-CV, CDBG- DR, CDBG-MIT, NSP, Section 108, and RHP projects*, found at https://www.hud.gov/sites/dfiles/OCHCO/documents/2021-09cpdn.pdf.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANCE LISTING 14.228 COMMUNITY DEVELOPMENT BLOCK GRANTS/STATE'S PROGRAM AND NON-ENTITLEMENT GRANTS IN HAWAII

I. PROGRAM OBJECTIVES

The Community Development Block Grant (CDBG) program overall objective is to develop viable urban communities by providing decent housing, a suitable living environment, and expanding economic opportunities, principally for persons of low and moderate income. CDBG Coronavirus Aid, Relief, and Economic Security (CARES) Act (CDBG-CV) funds made available under an emergency appropriation on March 27, 2020, are to be used similarly, but must also prevent, prepare for, and respond to coronavirus.

Additional funds were made available under the Further Consolidated Appropriations Act, 2020 for activities authorized under Section 8071 of the SUPPORT for Patients and Communities Act (Recovery Housing Program) to provide stable, temporary housing to individuals in recovery from a substance use disorder. This supplement also includes CDBG Disaster Recovery (CDBG-DR) funds, CDBG Mitigation (CDBG-MIT) funds, and Neighborhood Stabilization Program (NSP1, NSP3) funds.

This compliance supplement is for State CDBG grantees and their subrecipients. Program regulations may also use the term subgrantee. There is a separate compliance supplement for Entitlement CDBG.

II. PROGRAM PROCEDURES

A. Overview

The primary objective of CDBG is the development of viable urban communities. These viable communities are achieved by providing the following, principally for persons of low and moderate income: decent housing; a suitable living environment; and expanded economic opportunities. Each activity, except for program administration and planning activities, must meet one of three national objectives. The three national objectives are: benefit to low- and moderate-income (LMI) persons; aid in the prevention or elimination of slums or blight; and meet a need having a particular urgency (referred to as urgent need).

To achieve these goals, the State CDBG program's statutory and regulatory requirements set forth eligible activities and the above national objectives. As recipients of CDBG funds, State CDBG grantees are charged with ensuring that these requirements are met. States are responsible for:

1. Designing the CDBG Program within statutory and regulatory parameters;

2. Setting priorities and deciding what activities to fund;

3. Distributing funding according to the method of distribution;

4. Establishing financial management, recordkeeping, reporting, monitoring, audit and closeout systems for their programs;

5. Ensuring compliance by state grant recipients; and

6. Developing the Consolidated Plan.

Under the annual State CDBG Program, states award grants to non-entitlement units of general local government (UGLGs) that develop and preserve decent affordable housing, to provide services to the most vulnerable in their communities, and to create and retain jobs. Annually, each State develops funding priorities and criteria for selecting projects. A state distributes most of its allocation to non-entitlement UGLG through a method of distribution. Non-entitlement UGLGs are those which do not receive CDBG funds directly from HUD as entitlement grantees. The state is primarily a pass-through entity, as defined by 2 CFR Part 200, except for certain activities a state may carry out directly, such as administration and technical assistance activities.

Forty-nine (49) states and Puerto Rico participate in the State CDBG Program. The State of Hawaii elected not to participate in the State CDBG Program and should be reviewed under Assistance Listing 14.218. Non-entitlement UGLGs are responsible for prioritizing the types of activities they apply for, carrying out eligible activities, complying with federal and state requirements, and handling local citizen participation.

The grantee prepares a Consolidated Plan in accordance with 24 CFR Part 91 and which describes needs, resources, priorities, and proposed activities it will undertake for HUD's Community Planning and Development (CPD) formula programs, including CDBG. A final Consolidated Plan is one which has been accepted by HUD. State CDBG grantees report on accomplishments and progress toward Consolidated Plan goals in the Consolidated Annual Performance and Evaluation Report (CAPER).

The method of distribution (MOD) is part of the Consolidated Plan and describes the kinds of activities the state wants to fund and a process for soliciting funding applications from UGLGs. The MOD must describe how all CDBG resources will be allocated among funding categories.

B. Financial and Performance Requirements

Each State CDBG grantee is required to submit a performance and evaluation report concerning the use of CDBG funds. This required report is the Consolidated Annual Performance and Evaluation Report (CAPER). State CDBG grantees submit the State Performance and Evaluation Report (State PER) as a supplement to the CAPER report

which specifically addresses a number of State CDBG regulatory requirements, such as: the public benefit standards; the overall benefit to low- and moderate-income persons; the maximum allowable costs for administration, technical assistance, and overall planning, management and administration; and the maximum allowable costs for public service activities. These requirements may be modified for subprograms. These differences will be reflected in Section III Compliance Requirements G. Matching, Level of Effort and Earmarking below.

C. Subprograms/Program Elements

1. CDBG-CV

Unlike the annual formula program, a state may use its CDBG-CV funds to act directly to carry out activities through employees, contractors, and subrecipients and may use a portion of its funds in all geographic areas within its jurisdiction, including in entitlement areas and Tribal areas.

2. CDBG-DR and CDBG-MIT

The primary objective for CDBG-DR is to provide disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster, declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974.

Congress may appropriate funding for CDBG-DR grants to address disaster recovery needs that are not met by other sources of Federal disaster assistance. When available, HUD provides CDBG-DR grants to states, territories, and local governments particularly to be used for specific disaster recovery purposes.

Generally, all CDBG-DR activities must:

1. Be CDBG-eligible (or eligible under a waiver or alternative requirement);

2. Meet a national objective; and

3. Meet an unmet recovery need that addresses a direct or indirect impact from an eligible disaster.

For CDBG-MIT, Congress appropriated $16,121,297,000 in CDBG funds specifically for mitigation activities for qualifying disasters in 2015, 2016, 2017, and 2018 under Public Law 115–123 and Public Law 116–20. CDBG-MIT is a unique and significant opportunity for eligible grantees to use this assistance in areas impacted by specific disasters to carry out strategic and high-impact activities to mitigate disaster risks and reduce future losses.

For CDBG-MIT, mitigation activities are defined as activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and

loss of property, and suffering and hardship by lessening the impact of future disasters. The mitigation objectives and efforts align with other federal programs that address hazard mitigation to create a more cohesive effort at the federal, state, and local level.

Similar to CDBG-DR funds, the use of CDBG-MIT funds must also occur within the CDBG framework. All CDBG-MIT activities must: (1) meet the definition of mitigation activities above; (2) address current and future risks; (3) be CDBG-eligible (or eligible under a waiver or alternative requirement); and (4) meet a national objective.

CDBG-DR and CDBG-MIT grants have a statutory focus on benefiting vulnerable lower-income people and communities and targeting the most impacted and distressed areas.

3. Neighborhood Stabilization Program (NSP1 and NSP3)

The objectives of the Neighborhood Stabilization Program (NSP) are to: (1) Stabilize property values. 2. Arrest neighborhood decline. 3. Assist in preventing neighborhood blight. 4. Stabilize communities across America hardest hit by residential foreclosures and abandonment. These objectives have been achieved through the purchase and redevelopment of foreclosed and abandoned homes and residential properties that allows those properties to turn into useful, safe and sanitary housing. The grants are to be considered CDBG funds. NSP2 and NSP-TA, are covered by the Compliance Supplement Assistance Listing 14.256 and audited separately.

4. Recovery Housing Program (RHP)

The objective of the RHP program is to support individuals in recovery from a substance use disorder onto a path to self-sufficiency. By providing stable housing to support recovery, RHP supports efforts for independent living through developing housing or maintain housing for individuals. States may carry out activities directly or through subrecipients or contractors with their RHP funds and in all geographic areas within its jurisdiction, including entitlement areas and tribal populations.

This pilot program authorizes assistance to grantees (states and the District of Columbia) through fiscal year 2024 to provide stable, temporary housing to individuals in recovery from a substance use disorder through fiscal year 2023.

Source of Governing Requirements for Subprograms

The CDBG program is authorized by the Housing and Community Development Act of 1974, Title I, Section 101-122, Pub. L. No. 93-383, Statute 88,633, 42 US Code 5301-5322 (“HCDA”). Program regulations are found in 24 CFR part 570, primarily in Subpart I. Program specific requirements for administrative costs, pre-agreement costs, fiscal controls and accounting procedures, program income and real and personal property (equipment) and cost principles can be found at 24 CFR 570.489.

In addition to federal statutory and regulatory requirements, a state has the authority to issue

rules consistent with federal statutes and regulations. An auditor should review the State CDBG program requirements rules before beginning the audit (24 CFR 570.480 and 570.481).
The CDBG loan guarantee component is authorized by Section 108 of the Housing and Community Development Act of 1974. The specific regulations governing the Section 108 Program may be found at 24 CFR 570, Subpart M, Loan Guarantees.

CDBG-CV is authorized in the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. No. 116-136, March 27, 2020) title 12 of Division B. HUD published a "Notice of Program Rules, Waivers, and Alternative Requirements Under the CARES Act for CDBG-CV Grants, FY 2019 and 2020 CDBG Grants, and for Other Formula Programs" (85 FR 51457, August 20, 2020) ("CDBG-CV Notice") that establishes the program rules, alternative requirements, and the regulatory waivers for the use of CDBG-CV funds. HUD published a "Notice of Change to an Expenditure Deadline Under the CARES Act for Community Development Block Grant Program Coronavirus Response Grants" (88 FR 23683, April 18, 2023) ("CDBG-CV Notice 2") to remove one of the regulatory waivers and alternative requirements applicable to the CDBG-CV funds.

CDBG-DR and CDBG-MIT are not codified programs. Congress appropriates disaster recovery funds on a periodic basis following major disasters. Funding is authorized under Title I of the HCDA. The following public laws were the appropriation acts that provided funding for each disaster: Pub. L. nos. 117-328; 117-180; 117-43; 116-20; 115-254; 115-123; 115-72; 115-56 (Division B); 115-31 (Sec. 421); 114-254; 114-223; 114-113; 113-2; 112-55; 111-212; 110-329; 110-252; 110-116; 109-234; 109-148; 108-324; 107-206; 107-117; 107-73; and 107-38.

HUD is authorized to administer CDBG-MIT under Title I of the HCDA. The public laws that appropriated funds for this purpose include Pub. L. nos. 115-123 (Division B) and 116-20 (Division B).

The rules and regulations governing CDBG funds apply to CDBG-DR and CDBG-MIT funds unless otherwise waived or altered in a *Federal Register* notice. The auditor must consult the relevant public law and *Federal Register* notices for the CDBG-DR or CDBG-MIT award. The auditor can find links to the appropriate public laws and *Federal Register* notices at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations.

NSP1 is authorized by the Housing and Economic Recovery Act of 2008 (HERA) (Pub. L. No. 110-289, July 30, 2008). The Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203, July 21, 2010) authorized additional funding for NSP that is referred to as NSP3.

RHP is authorized in Section 8071 of the SUPPORT for Patients and Communities Act (Pub. L. No. 115-271, October 24, 2018). HUD established the requirements for the RHP program, based on CDBG program requirements, in the "Notice of FY2020 Allocations, Waivers, and Alternative Requirements for the Housing Program" (85 FR 75361, November 25, 2020) ("RHP Program Notice"). Those requirements include waivers and alternative requirements to CDBG regulations and the HCDA for the use of RHP funds appropriated under the FY 20 Appropriations Act (Pub. L. No. 116-94, December 20, 2019). HUD extended those

requirements through the "Notice of Waivers and Alternative Requirements for the Pilot Recovery Housing Program" (86 FR 38496, July 21, 2021) ("RHP Notice 2") to RHP funds appropriated by the FY 21 Appropriations Act (Pub. L. No. 116-260, December 27, 2020) and any future RHP appropriations.

Availability of Other Program Information

HUD publishes "CPD Notices" which provide interpretive guidance on program requirements.

These Notices may be found at HUDClips, https://www.hud.gov/program_offices/administration/hudclips/notices/cpd.

The CPD Notice for financial and performance reporting is CPD Notice 2021-11 Reporting Requirements for the State Performance and Evaluation Report (State PER). This Notice provides instructions on the financial statements used by State CDBG grantees in lieu of SF-425.

State CDBG Website: https://www.hudexchange.info/programs/cdbg-state/

CDBG-CV website: https://www.hud.gov/program_offices/comm_planning/cdbg_programs_covid-19

CDBG-CV Notice 1: https://www.govinfo.gov/content/pkg/FR-2020-08-20/pdf/2020-18242.pdf

CDBG-CV Notice 2 https://www.hud.gov/sites/dfiles/CPD/documents/FR-Document-2023-08158.pdf CDBG-DR Website: https://www.hud.gov/program_offices/comm_planning/cdbg-dr

CDBG-MIT Website: https://www.hud.gov/program_offices/comm_planning/cdbg-dr/cdbg-mit

Information on CDBG-DR and CDBG-MIT waivers and alternative requirements issued by HUD can be found at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations.

NSP website: https://www.hud.gov/program_offices/comm_planning/nsp

NSP Notice (73 FR 58330, October 6, 2008): https://www.govinfo.gov/content/pkg/FR-2008-10-06/pdf/E8-23476.pdf

NSP1 Bridge Notice (74 FR 29223, June 19, 2009): https://www.govinfo.gov/content/pkg/FR-2009-06-19/pdf/E9-14360.pdf

NSP Definition and Modification Notice (75 FR 18228, April 9, 2010): https://www.govinfo.gov/content/pkg/FR-2010-04-09/pdf/2010-8131.pdf

NSP3 Notice (75 FR 64322, October 19, 2010): https://www.govinfo.gov/content/pkg/FR-2010-10-19/pdf/2010-26292.pdf

RHP website: https://www.hud.gov/program_offices/comm_planning/rhp

RHP Program Notice: https://www.govinfo.gov/content/pkg/FR-2020-11-25/pdf/2020-26017.pdf

RHP Notice 2: https://www.govinfo.gov/content/pkg/FR-2021-07-21/pdf/2021-15515.pdf

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	N	N	Y	Y	N	Y

A. Activities Allowed or Unallowed

States may select those activities that best meet the needs of their communities, in accordance with the national objectives and other requirements of the annual formula CDBG program. States must describe activities in the Consolidated Plan.

To meet a national objective, each activity must: benefit low- and moderate-income families; aid in the prevention or elimination of slums or blight; or meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available. The state must retain documentation justifying its certifications. The requirements for national

objective criteria are contained in 24 CFR sections 570.483 and 570.490.

The requirements for eligible activities are contained in Section 105(a) of the HCDA (42 USC 5305(a)).

1. Activities Allowed:

a. Housing Activities

(1) Housing services, such as housing counseling in connection with tenant-based rental assistance and affordable housing projects assisted under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.], energy auditing, preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in housing activities assisted under title II of the Cranston-Gonzalez National Affordable Housing Act)

(2) Rehabilitation or development of housing assisted under Section 17 of the United States Housing Act of 1937

(3) Direct home ownership assistance to facilitate and expand home ownership among persons of low- and moderate-income

(4) Payments to housing owners for losses of rental income incurred in temporarily holding housing for the relocated

(5) Payment for repairs and operating expenses for acquired “in Rem” properties

(6) Lead-based paint hazard evaluation and removal

(7) Construction or improvement of tornado-safe shelters for residents of manufactured housing and provision of assistance to nonprofit and for-profit entities for such construction or improvement

b. Other Real Property Activities

(1) Acquisition of real property

(2) Disposition of real property acquired under this program

(3) Clearance, demolition, reconstruction, rehabilitation, and removal of buildings and improvements

(4) Code enforcement in deteriorated or deteriorating areas

(5) Relocation assistance

(6) Removal of architectural barriers that restrict accessibility of elderly or severely disabled persons

(7) Activities related to development of energy use strategies

c. Public Facilities and Improvements

(1) Acquisition, construction, reconstruction, or installation of public works, facilities and sites, or other improvements, including those that promote energy efficiency

d. Public Services

(1) Provision of public services subject to limitations contained in the CDBG regulations

e. Economic Development

(1) Payment to complete a Title 1 Federal Urban Renewal project

(2) Acquisition, construction, reconstruction, rehabilitation, or installation of commercial or industrial buildings

(3) Assistance to private, for-profit businesses, when appropriate to carry out an economic development project

(4) Assistance to public and private entities (including for-profits) to assist micro-enterprises

f. Community Based Development Organization

(1) Assistance to neighborhood-based nonprofit organizations, local development corporations, nonprofit organizations serving the development needs of communities in non-entitlement areas to carry out a neighborhood revitalization or community economic development or energy conservation project

g. Other types of activities

(1) Payment of the nonfederal share for another grant program that is part of the assisted activities

(2) Assistance to institutions of higher education to carry out eligible activities

h. Planning and Administration

(1) Planning activities

(2) Administrative costs

(3) Technical assistance to public or private entities for capacity building (exempt from the planning/administration cap)

States and non-entitlement UGLGs may have loans guaranteed by HUD through the Section 108 Loan Guarantee program. HUD may guarantee loan funds in an amount no greater than five times the state's most recent annual CDBG grant, less amounts currently guaranteed or due for repayment.

2. *Activities Allowed - Section 108 loan guarantee*

The requirements for Section 108 loan guarantees are contained in Section 108 of the HCDA and 24 CFR section 570.703. Colonias are defined in Section 916 of the Housing Act of 1990 and amended by Section 810 of the Housing and Community Development Act of 1992.

a. Housing Activities

(1) housing rehabilitation

(2) construction of housing by nonprofit organizations for homeownership under Section 17 of the United States Housing Act of 1937 or Title VI of the Housing and Community Development Act of 1987

b. Other Real Property Activities

(1) acquisition of real property

(2) clearance, demolition, and removal

(3) relocation payments

c. Public Facilities and Improvements

(1) acquisition, construction, reconstruction, rehabilitation or installation of public works and site or other improvements that

serve “colonias”

(2) acquisition, construction, reconstruction, rehabilitation, or installation of public facilities (except for buildings for the general conduct of government), public streets, sidewalks, and other site improvements and public utilities

(3) rehabilitation of publicly owned real property

d. Economic Development

(1) eligible CDBG economic development activity

(2) site preparation related to redevelopment or use of real property acquired or rehabilitated pursuant to subpart M or for economic development purposes

e. Other types of activities

(1) payment of interest on Section 108 guaranteed obligations

(2) payment of issuance and other costs associated with private-sector financing under subpart M

(3) debt service reserve

3. Activities Allowed or Unallowed - CDBG

a. CDBG funds may not be used for income payments, which are not included among eligible activities in section 105(a) of the HCD Act. The phrase income payments means a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage) or utilities, but excludes emergency payments made over a period of up to three consecutive months to the provider of such items or services on behalf of an individual or family.

b. The CDBG public benefit standards require certain activities to meet a defined public benefit, and prohibit funding of the following activities:

(1) General promotion of the community as a whole

(2) Assistance to professional sports teams

(3) Assistance to privately owned recreational facilities that serve a predominately higher-income clientele, where the recreational benefit to users or members clearly outweighs employment or

other benefits to low- and moderate-income persons

(4) Acquisition of land for which the specific proposed use has not yet been identified; and

(5) Assistance to a for-profit business while that business or any other business owned by the same person(s)/entity(ies) is the subject of unresolved findings of noncompliance relating to previous CDBG assistance provided by the recipient.

The requirements for public benefits are contained in 24 CFR section 570.482(f).

4. Activities Allowed and Unallowed for CDBG-CV Program

a. All eligible State CDBG activities for the annual formula CDBG are allowed; however, all activities must also prevent, prepare for, and respond to coronavirus. In addition, the following modifications apply:

b. Public Service Activities. The CARES Act and the CDBG-CV Notice eliminated the fifteen percent limitation on the use of CDBG-CV and 2019 and 2020 federal fiscal year CDBG funds to prevent, prepare for, and respond to coronavirus for public service activities (i.e., those activities set forth in Section 105(a)(8) of the HCDA). The cap is still routinely applied to all other 2019 and 2020 federal fiscal year CDBG-funded public service activities that do not address coronavirus.

c. Emergency Payments: HUD waived section 105(a)(8) of the HCD Act and 24 CFR 570.207(b)(4) only to the extent necessary to establish the following alternative requirement: CDBG-CV funds may be used to provide emergency payments for individuals or families impacted by coronavirus for items such as food, clothing, housing (emergency rental assistance or mortgage assistance) or utilities for up to six consecutive months. Emergency payments must be made to the provider of such items or services on behalf of an individual or family, and not directly to an individual or family in the form of income payments, debit cards, or similar direct income payments. CDBG-CV grantees and subrecipients must ensure that proper documentation is maintained to ensure that all costs incurred are eligible. Grantees and subrecipients using this alternative requirement must document, in their policies and procedures, how they will determine the amount of assistance to be provided is necessary and reasonable. This waiver is also applicable to 2019 and 2020 federal fiscal year CDBG funds used to prevent, prepare for, and respond to coronavirus.

d. The requirements for eligible activities are contained in Section III.B.5(f) of the CDBG-CV Notice, Eligible Activities.

e. All CDBG-CV grantees and subrecipients are required to establish and maintain adequate procedures to prevent any duplication of benefits for assisted activities (as discussed in Section III.B.9. of the CDBG-CV Notice).

f. Grantees and subrecipients may use funds to cover or reimburse allowable costs of activities to prevent, prepare for, and respond to coronavirus incurred by a state or locality, including pre-award costs, incurred on January 21, 2020, or later. Any pre-award costs expended before that date must be approved by HUD.

g. A grantee and subrecipients may use CDBG-CV funds to make a direct payment of principal, interest, or any fees due under a Section 108 note only if the use of funds is to prevent, prepare for, and respond to coronavirus.

h. The requirements for eligible activities are contained in Section III.B.5(f) of the CDBG-CV Notice, Eligible Activities.

5. Activities Allowed or Unallowed for CDBG-DR and CDBG-MIT

In addition to the activities allowed for State CDBG, the below flexibilities and unique requirements generally apply to CDBG-DR and CDBG-MIT funds:

a. Program administrative. See Compliance Requirement G. Matching, Earmarking, Level of Effort for information on the maximum and/or minimum percentage of funding that grantees may use for these activities;

b. Program planning. See Compliance Requirement G. Matching, Earmarking, Level of Effort for information on the maximum and/or minimum percentage of funding that grantees may use for these activities;

c. Public services. See Compliance Requirement G. Matching, Earmarking, Level of Effort for information on the maximum percentage of funding that grantees may use for these activities.

d. The HUD Secretary may provide waivers or specify alternative requirements if such waiver is not inconsistent with the overall purpose of Title I of the Housing and Community Development Act of 1974. Common CDBG-DR and CDBG-MIT activities that are eligible and/or modified through a waiver and alternative requirement include:

(1) *New housing construction:* HUD waives 42 USC 5305(a) and 24 CFR 570.207(b)(3) to the extent necessary to permit new housing construction.

(2) *Buyouts*: HUD waives 42 USC 5305(a) and establishes an

alternative requirement only to the extent necessary to create a new eligible activity for buyouts. The term "buyouts" means the acquisition of properties located in a floodway, floodplain, or other Disaster Risk Reduction Area that is intended to reduce risk from future hazards.

(3) *Public benefit for activities that support economic revitalization*: HUD waives the public benefit standards for only those economic development activities designed to create or retain jobs or businesses; please consult applicable *Federal Register* notices for additional details.

e. CDBG-DR and CDBG-MIT grantees are required to establish and maintain adequate procedures to prevent any duplication of benefits (DOB). Grantees must consult their applicable *Federal Register* notices.

f. CDBG-DR awards after 2013

(1) Assistance for rehabilitation and housing incentives to second homes are prohibited.

(2) Business assistance is limited to small businesses.

g. CDBG-DR awards for 2015 disasters and beyond

(1) Use of administrative funds across multiple grants: The applicable Appropriations Acts authorize special treatment of grant administrative funds. Beginning in 2015, grantees that have received CDBG-DR or CDBG-MIT grants in the past or in any future acts, may use eligible administrative funds appropriated by these acts for the cost of administering any CDBG–DR or CDBG–MIT grant without regard to the particular disaster appropriation from which such funds originated.

h. CDBG-DR awards for disasters which occurred in 2017 and beyond

(1) Disaster funds cannot be used for rehabilitation/reconstruction assistance to persons with incomes that exceed one hundred and twenty percent area median income or the national median if they are in a floodplain and did not obtain flood insurance for the damaged property.

i. CDBG-DR awards subject to the Consolidated Notice (2020, 2021, 2022 disasters)

(1) *CDBG-DR mitigation set-aside:* Unlike recovery activities where

grantees must demonstrate that their activities "tie-back" to the specific disaster and address a specific unmet recovery need for which the CDBG-DR funds were appropriated, activities funded by the CDBG-DR mitigation set-aside do not require such a "tie-back" to the specific qualified disaster that has served as the basis for the grantee's allocation.

(2) *Interchangeability of disaster funds:* The applicable Appropriations Acts give the Secretary authority to authorize grantees that receive an award for 2020, 2021, and 2022 disasters and under prior or future appropriations to use those funds interchangeably and without limitation for the same activities related to unmet recovery needs in the "most impacted and distressed" (MID) areas resulting from a major disaster in the Appropriations Acts or in prior or future appropriation acts, when the MID areas overlap and when the use of the funds will address unmet recovery needs of major disasters in the Appropriations Acts or in any prior or future appropriation acts.

(3) *Prioritizing economic revitalization*: Under the Consolidated Notice, grantees are required to prioritize assistance to disaster-impacted businesses that serve underserved communities and spur economic opportunity for underserved communities that were economically distressed before the disaster.

(4) *Assistance to utilities*: Contrary to prior awards, the applicable Appropriations Acts provide that funds "may be used by a grantee to assist utilities as part of a disaster-related eligible activity under section 105(a) of the Housing and Community Development Act of 1974 (42 USC 5305(a))."

j. CDBG-MIT

(1) Program administrative costs. See Compliance Requirement G. Matching, Earmarking, Level of Effort for information on the maximum and/or minimum percentage of funding that States may use for these activities.

(2) At least fifty percent of all CDBG-MIT funds must be used for mitigation activities that address identified risks within the HUD-identified "most impacted and distressed" (MID) areas.

k. All activities undertaken must meet one of the three national objectives of the regular CDBG program.

l. For applicable CDBG-DR and CDBG-MIT waivers or alternative requirements, auditors should consult the CDBG-DR laws, regulations,

and *Federal Register* notices on HUD.gov: https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations. This page includes the relevant Public Laws that appropriated CDBG-DR and CDBG-MIT funds, the applicable *Federal Register* notices governing those funds, and a short description of the subject or purpose of each *Federal Register* notice listed.

6. Activities Allowed or Unallowed for NSP (NSP1 and NSP3)

a. State Grantees may use NSP1 and NSP3 funds to:

(1) Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties;

(2) Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon for later sale, rent, or redevelopment;

(3) Establish and operate land banks for homes that have been foreclosed upon (Section A of NSP1 Bridge Notice clarified that NSP funds can be used to establish and operate land banks);

(4) Demolish blighted structures; and

(5) Redevelop demolished or vacant properties.

b. A grantee must receive written HUD approval to undertake activities other than those listed above. An activity may meet the HERA-established low- and moderate-income national objective if the assisted activity:

(1) provides or improves permanent residential structures that will be occupied by a household whose income is at or below one hundred and twenty percent of area median income;

(2) serves an area in which at least fifty-one percent of the residents have incomes at or below one hundred and twenty percent of area median income; or

(3) serves a limited clientele whose incomes are at or below one hundred and twenty percent of area median income. An NSP activity may not meet the “prevent or eliminate slums and blight” or “address urgent community development needs” national objectives.

c. The requirements for eligible activities are contained in Section 2301(c)(3) of HERA, Section II.H.3.a. of the NSP3 Notice, Section II.A. of the NSP Definition and Modification Notice, and Section 1497(b)(2) of the Dodd-Frank Act. The

requirements for national objective are contained in Section 2301(f)(3)(A) of HERA and Section II.E. of the NSP and NSP3 Notices.

7. Activities Allowed or Unallowed for RHP

RHP activities must provide stable, temporary housing to individuals in recovery from a substance use disorder, for a period of not more than two years or until the individual secures permanent housing, whichever is earlier. The requirements for eligible activities are contained in the RHP Program Notice. The following activities are eligible:

a. Housing

(1) Rehabilitation and reconstructions of single-unit residential buildings and improvements

(2) Rehabilitation and reconstructions of multi-unit residential buildings and improvements

(3) Rehabilitation and reconstruction of public housing and improvements

(4) Expansion of existing eligible activities to include new construction

b. Other Real Property Activities

(1) Acquisition of real property

(2) Disposition of real property

(3) Clearance and demolition

(4) Relocations

c. Public Facilities and Improvements

d. Public Services

(1) lease, rent, and utility payments as eligible public services

e. Grant Administration; And Technical Assistance

f. Grantees may use funds for pre-agreement costs incurred by the State or its recipients or subrecipients if they comply with RHP program requirements such as cost principles and environmental review procedures.

B. Allowable Costs/Cost Principles

The requirements are found at 24 CFR section 570.489(p) Cost Principles and Prior Approval. All items of costs listed in 2 CFR Part 200, Subpart E, which require prior federal approval are allowable without prior approval, except the following:

1. Depreciation. Prior written approval from HUD is required for depreciation methods for fixed assets.

2. Fines, penalties, damages and other settlements. Not allowed.

3. Good or services for personal use. Prior written approval from HUD is required for costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances, and personal living expenses, regardless of whether reported as taxable income to the employees.

4. Organizational costs. Prior written approval from HUD is required.

F. Equipment and Real Property Management

1. 24 CFR 570.489(k) *Accountability for real and personal property*. States are allowed to establish and implement their own requirements governing the use, management, and disposition of real and personal property acquired with CDBG funds. States may adopt 2 CFR Part 200 or set alternative requirements consistent with State law and 24 CFR 570 subpart I.

2. 24 CFR 570.489(j) *Change of use of real property*. Change of use of real property requirements for real property within the unit of general local government's control (including activities undertaken by subrecipients) which was acquired or improved in whole or in part using CDBG funds in excess of the threshold for the simplified acquisition threshold (2 CFR 200.1). These standards shall apply from the date CDBG funds are first spent for the property until five years after closeout of the unit of general local government's grant from the state.

3. 24 CFR 570.489(j) *Change of use of real property held by beneficiaries*. Change of use of real property requirements are not applicable to real property held by beneficiaries. For example, CDBG grantees and subrecipients are not required to place property liens and other resale/repayment provisions upon housing-related assistance provided to low- and moderate-income households, though some grantees and subrecipients may choose to establish and implement such requirements.

4. For State CDBG and CDBG-CV grantees and subrecipients, the requirements for personal property (equipment) and real property management are contained in 24 CFR section 570.489(j) and (k).

5. *NSP (NSP1 and NSP3).* NSP grantees that have established and currently operate land banks for homes and residential properties that have been foreclosed upon should have in place a land bank management plan that will facilitate management and eventual disposition of the land bank inventory.

   Disposition costs include the "reasonable costs of temporarily managing such property." HUD interprets this to include ongoing maintenance such as board-up, lawn-mowing, spot repairs, and other related functions that keep the property in a condition that stabilizes the neighborhood. Grantees managing scattered-site properties meeting the CDBG definition of a disposition activity must identify each property as a separate disposition activity in the Integrated Disbursement and Information System (IDIS).

   The requirements for real property management for land banks are contained in the Federal Register Notice of Neighborhood Stabilization Program; Closeout Requirements and Recapture (77 FR 70799). The requirements for disposition are contained in the definition at 24 CFR 570.201(b).

6. *RHP***.** The statutory and regulatory provisions governing the CDBG program shall apply to grantees and subrecipients. For purposes of the RHP program, all references to "unit of general local government" in 24 CFR 570.489(j) shall be read as "state and unit of general local government."

   RHP funds may be used for disposition through sale, lease, or donation, or otherwise of real property acquired with RHP funds subject to 24 CFR 570.201(b) and section 105(a)(7) of the HCD Act (42 USC 5305(a)(7)), for the purpose of providing stable, temporary housing for individuals in recovery from a substance use disorder. Eligible costs may include costs incidental to disposing of the property, such as preparation of legal documents, fees paid for surveys, transfer taxes, and other costs involved in the transfer of ownership of the RHP- assisted property.

G. Matching, Earmarking, Level of Effort

These requirements are for state grantees only. This does not apply to subrecipients.

Auditors can find data in the PR28 Financial Summary Report. The PR28 Financial Summary Report instructions are found in Notice CPD-21-11, which is available at: https://www.hud.gov/sites/dfiles/OCHCO/documents/2021-11cpdn.pdf. This includes checklists (Appendix 4 and 5 for annual formula CDBG and Appendix 6 for CDBG-CV) for the review of the reports. Auditors should find a PR28 Financial Summary for each open grant as an attachment to the Consolidated Annual Performance Report (CAPER) which are published at https://www.hudexchange.info/programs/consolidated-plan/con-plans-aaps-capers/.

1. Matching

State Administration Limit: A State may use $100,000 plus 3 percent of funds

received. State expenditures over $100,000 must be matched. The requirements for match are contained in 24 CFR part 570.489(a)(1)(i).

2. Level of Effort

Not applicable.

3. Earmarking

As identified below, the State CDBG program includes requirements that specify the minimum and/or maximum percentage of CDBG funding that States may use for specific activities. Subprograms may have different requirements, and they are also identified below.

a. *Overall Low- to Moderate-Income Benefit*: Grantees must expend at least seventy percent of their CDBG grant allocation to benefit low- to moderate-income persons on a one-, two-, or three-year basis, as determined by the grantee. Low-income means family or household with an annual income less than fifty percent of the area median income, as established by HUD; median income means family or household with an annual income less than eighty percent of the area median income, as established by HUD. The requirements for overall low- to moderate-income benefit are contained in 24 CFR 570.484(a).

b. *Overall Planning, Management and Administration Cap*: Planning and administration costs are capped at twenty percent of the sum of grant plus program income that is received during the program year. The requirements for planning, management and administration cap are contained in 24 CFR 570.489(a)(3).

c. *Technical Assistance Limit*: Technical assistance costs are capped at 3 percent of the annual grant allocation plus program income received during the program year. The requirements for technical assistance are contained in 24 CFR 570.489(a)(1)(ii).

d. *State Administration and State Technical Assistance Limits*: The total amount spent between state administration, in excess of $100,000, and technical assistance cannot exceed 3 percent of the current year's allocation plus program income plus reallocated funds. The state can decide how to allocate the 3% among administration and technical assistance. The requirements for administration and state technical assistance are contained in 24 CFR 570.489(a)(1)(iii).

e. *Public Services Cap*: Public services costs are capped at fifteen percent of the annual grant allocation plus program income received during the prior program year. Public Services include a wide range of public service activities that may include but are not limited to those concerned with:

(1) employment;
(2) crime prevention;
(3) child care;
(4) health;
(5) drug abuse;
(6) education;
(7) energy conservation;
(8) welfare or
(9) recreation needs.

Such services must not have been provided by the unit of general local government (through funds raised by such unit, or received by such unit from the State in which it is located) during any part of the twelve-month period immediately preceding. The requirements for public service are contained in 105(a)(8) section of the HCDA.

f. *CDBG*-CV*:* As identified below, the State CDBG-CV program includes requirements that specify the minimum and/or maximum percentage of CDBG funding that States may use for specific activities.

(1) Overall Low- to Moderate-Income Benefit: Grantees must expend at least seventy percent of their CDBG grant allocation to benefit low- to moderate-income persons on a one-, two-, or three-year basis, as determined by the grantee.

(2) Overall Planning, Management and Administration Cap: Planning and administration costs are capped at twenty percent of the sum of grant.

(3) State Administration Limit: A State may use 5 percent of funds received. There is no matching requirement.

(4) Technical Assistance: Technical assistance costs are capped at 2 percent of the grant allocation.

CDBG-DR and CDBG-MIT: As identified below, the CDBG-DR program includes requirements that specify the minimum and/or maximum percentage of CDBG-DR funding that States may use for specific activities.

(1) Overall Low- to Moderate-Income Benefit: Unless HUD provided an appropriation or grantee-specific waiver and alternative requirement reducing the required percentage, grantees must expend seventy percent of its CDBG-CV funds to benefit low- to moderate-income persons.

(2) State Administration Limit: A state may expend up to 5 percent of funds received. There is no matching requirement.

(3) Combined Administration and Planning Limit: Administration and planning cannot exceed 20% of appropriation. If the allocation is split with subrecipients, the total of all administration and planning costs may not exceed the cap.

(4) *CDBG-DR mitigation set-aside:* The applicable Appropriations Acts require HUD to include in any allocation of CDBG-DR funds for unmet needs an additional amount of fifteen percent for mitigation activities, which HUD refers to as the "CDBG-DR mitigation set-aside."

As identified below, the CDBG-MIT program includes requirements that specify the minimum and/or maximum percentage of CDBG-MIT funding that States may use for specific activities.

(1) Overall Low- to Moderate-Income Benefit: Grantees must expend fifty percent of CDBG–MIT funds to benefit low- and moderate-income persons.

(2) State Administrative Limit: Five percent of the grant plus program income may be used for administrative costs by the grantee, units of general local government, or by subrecipients.

(3) Combined Technical Assistance and Administrative Expenditures Cap for States only: The aggregate total for administrative and technical assistance expenditures must not exceed five percent of the grant amount plus five percent of program income generated by the grant.

Neighborhood Stabilization Program (NSP1 and NSP3): For the NSP program, HUD is not requiring auditors to review earmarking requirements.

Recovery Housing Program (RHP): As identified below, the RHP program includes requirements that specify the minimum and/or maximum percentage of RHP funding that States may use for specific activities.

(1) State Administration Limit: A State may expend up to five percent of funds received. There is no matching requirement.

(2) Technical Assistance: Technical assistance costs are capped at three percent of the grant allocation.

J. Program Income

1. *CDBG.* The grantee must accurately account for any program income generated from the use of CDBG funds and must treat such income as additional CDBG funds which are subject to all program rules.

   Program income is the gross income received by the grantee and its subrecipients directly generated from the use of CDBG funds. Per 24 CFR 570.489(e), Program income includes the following:

   a. Proceeds from the sale or lease of property purchased or improved with CDBG funds;

   b. Proceeds from the sale or lease of equipment purchased with CDBG funds;

   c. Gross income from the use or rental of real or personal property acquired, constructed or improved by the grantee (or a subrecipient), less costs incidental to the generation of income;

   d. Payments of principal and interest on loans made using CDBG funds;

   e. Proceeds from the sale of loans or obligations secured by loans made with CDBG funds;

   f. Interest earned on program income pending its disposition (NOTE: interest earned on CDBG funds held in revolving loan funds is not program income and must be remitted to the U.S. Treasury at least annually); and

   g. Funds collected through special assessments on properties not owned and occupied by LMI households to recover the CDBG portion of a public improvement.

   Program income does not include income up to $35,000 (other than receipts from revolving loan funds) received in a single program year by a UGLG and its subrecipients.

   Proceeds from the sale of real property purchased or improved with CDBG funds are not program income if the proceeds are received more than five years after closeout of the grant agreement between the state and the unit of general local government.

   A Revolving Loan Fund or State Revolving Fund is set up to carry out specific activities. These activities generate payments for use in carrying out the same types of activities. Per the 24 CFR 570.489(f) HUD regulations, Revolving Loan Funds and State Revolving Funds are not traditional loans but should be treated as program income. These funds originate from CDBG allocations. These funds are

independent of other program accounts.

Per the 24 CFR 570.489(f) HUD regulations, repayments to the Revolving Loan Fund or State Revolving Fund, including principal and interest, are classified as program income rather than independent revenue. This means they must be reinvested into eligible CDBG activities rather than considered general income. Program Income is subject to CDBG requirements; however, there are exceptions to the definition of program income per 24 CFR 570.489(e) and (f) of HUD regulations, which should be considered.

To account for any program income generated by CDBG, repayments to a Revolving Loan Fund or State Revolving Fund should generally be treated as program income on the Schedule of Expenditures for Federal Awards (SEFA).

The requirements for program income for the State CDBG program are contained in 24 CFR section 570.489(e) and (f).

2. *CDBG-CV*

The receipt and expenditure of program income that is generated using CDBG-CV funds is treated as annual formula CDBG program income and recorded as part of the financial transactions of the annual formula CDBG grant program.

Based on this treatment of program income, the use of CDBG-CV funds for float-funded activities or guarantees as described at section 104(h) of the HCDA is not allowed.

The requirements for program income for the CDBG-CV program are contained in Section III.B.6(a) of the CDBG-CV Notice

3. *CDBG-DR and CDBG-MIT*

Program income is revenue generated from a CDBG or CDBG-DR eligible activity. HUD grantees and subrecipients adhere to the program income requirements in CDBG regulation 24 CFR § 570.504, unless program income is waived by HUD. The *Federal Register* notices include waivers and alternative requirements associated with each grant, thereby waiving program income, or providing an alternative requirement in each applicable notice. The grantee must receipt program income and expenditures in the Disaster Recovery Grant Reporting (DRGR) system. Program income must be expended in DRGR before drawing additional program funds.

There are several ways the grantee can generate program income. Program income can be generated in the following ways, but not limited to:

a. Proceeds from the sale or lease of property purchased or improved with CDBG funds;

b. Proceeds from the sale or lease of equipment purchased with CDBG funds;

c. Gross income from the use or rental of real or personal property acquired, constructed or improved by the grantee (or a subrecipient), less costs incidental to the generation of income;

d. Payments of principal and interest on loans made using CDBG funds; and

e. Proceeds from the sale of loans or obligations secured by loans made with CDBG funds.

As outlined above, the program income requirements for CDBG-DR and CDBG-MIT grants are contained in *Federal Register* notices, which can be viewed at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations.

4. *NSP*

NSP revenue received by a state, unit of general local government, or subrecipient that is directly generated from the use of CDBG funds (which includes NSP grant funds) constitutes CDBG program income. The CDBG definition of program income shall be applied to amounts received by states, units of general local government, and subrecipients.

Any revenue from the sale, rental, redevelopment, rehabilitation, or any other eligible use of NSP funds is to be provided to and used by the state or unit of general local government. Revenue received by a private individual or other entity that is not a subrecipient is not required to be returned to the state or unit of general local government.

The requirements for program income for the NSP program are contained in 24 CFR 570.500 and Section II.N. of the NSP3 Notice, and Section B of NSP1 Bridge Notice and Sections 2301(c)(3) of HERA.

5. *RHP*

Program income includes gross income received by subrecipients that was generated from the use of RHP funds.

Program income excludes any income received and retained by a nonprofit operating within the grantee's jurisdiction whose primary mission includes serving individuals in recovery from substance use disorder. If a grantee chooses to require the nonprofit to return income generated from the use of RHP funds, the income returned by the nonprofit to the grantee would be defined as program income.

Prior to closeout, RHP grantee must transfer RHP program income and assets to another open RHP grant or to its CDBG program. Program income and assets received by a grantee after closeout of all RHP grants must be transferred to the grantee's annual CDBG award. Once transferred to the annual program, the waivers and alternative requirements that apply to the RHP grant no longer apply to the use of transferred program income. Rather, those funds will be subject to the grantee's regular CDBG program rules.

States must require units of general local government to return RHP program income if it will not continue the originally funded RHP activity. States must treat the funds as program income.

Income generated from the use of RHP funds is subject to 42 USC 5304(j) and 24 CFR 570.489(e); however, alternative requirements may be found in the RHP Program Notice.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable to State CDBG and State CDBG-CV (see CPD Notice 21-11).

For State NSP and RHP grantees, the SF-425 is provided annually.

For CDBG-DR and CDBG-MIT, SF-425, Federal Financial Report – Applicable. This information is reflected in the Disaster Reporting Grant Reporting System (DRGR).
SF-424 forms are submitted within the DRGR system and are auto-generated based on information entered into DRGR.
https://files.hudexchange.info/resources/documents/DRGR-Fact-Sheet-R-7-15-SF-425.pdf.

d. For State CDBG and State CDBG-CV the following reports are required:

(1) *CDBG Annual Formula Grants PR28 Performance and Evaluation (PER)* Financial Summary Report (OMB No. 2506-0085) submitted annually, and

(2) *CDBG-CV PR28 Grant Financial Summary*, submitted annually.

The PR28 Financial Summary Report instructions are found in Notice CPD-21-11, which is available at: https://www.hud.gov/sites/dfiles/OCHCO/documents/2021-11cpdn.pdf This includes checklists for the review of the reports (Appendix 4 and 5 for annual formula CDBG and Appendix 6 for CDBG-CV). Auditors should find a PR28 Financial Summary for each open grant as an attachment to the Consolidated Annual Performance Report (CAPER) which are published at https://www.hudexchange.info/programs/consolidated-plan/con-plans-aaps-capers/.

2. Performance Reporting

Not Applicable.

3. Special Reporting

Not Applicable.

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance. The Federal Funding Accountability and Transparency Act of 2006, FFATA is applicable to State CDBG, State CDBG-CV, CDBG-DR, NSP, and RHP.

N. Special Tests and Provisions

1. Wage Rate Requirements

This applies to all programs.

Compliance Requirements: The Wage Rate Requirements apply to the construction and rehabilitation of residential property only if such property contains eight or more units. However, the requirements do not apply to volunteer work where the volunteer does not receive compensation, or is paid expenses, reasonable benefits, or a nominal fee for such services, and is not otherwise employed at any time in construction work (42 USC 5310).

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

2. Environmental Oversight

A state must assume the environmental oversight responsibilities and functions of HUD under Section 104(g) of the HCDA (42 USC 5304(g)). A state must:

a. require each of its units of general local government (subrecipients) to perform as a responsible federal official in carrying out all HUD environmental review requirements under 24 CFR Part 58, National

Environmental Policy Act (NEPA), and other applicable authorities;

b. review and approve each subrecipient's Request for Release of Funds (RROF) in accordance with the procedures provided under 24 CFR Part 58 Subpart H;

c. ensure that each subrecipient observes the statutory requirement that funds cannot be expended or obligated before the state approves its RROF and environmental certification, except as otherwise provided specifically in regulation or authorized by law; and

d. monitor and provide technical assistance to its subrecipients to ensure compliance with the environmental authorities (24 CFR Part 58) and the adequacy of environmental reviews.

A state can also manage a CDBG-DR and CDBG-MIT grant but must submit a Request for Release of Funds to HUD. A CDBG-DR and CDBG-MIT grantee is required to ensure every project/activity undergoes the appropriate level of environmental review and receives clearance and Authorization to Use Grant Funds (AUGF) prior to expending any funds. As a result, special circumstances apply to HUD environmental reviews for disaster recovery efforts, and an Environmental Review is required accordingly: (a) analysis of impacts of a project on the surrounding environment and vice versa; (b) demonstrates compliance with federal environmental laws and authorities; and (c) encourages public participation.

Additional CDBG-DR Environmental Review information and federal regulations can be found on HUD.gov at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/environmental-review and on the HUD Exchange at https://www.hudexchange.info/programs/environmental-review/disaster-recovery-and-environment/#unified-federal-review.

Audit Objectives: Determine whether a state carries out its environmental oversight responsibilities and functions.

Suggested Audit Procedures

a. Examine the state's program for monitoring and enforcing compliance with the environmental authorities.

b. Examine the state's approval of the RROF and environmental certification and note dates.

c. Verify that the state obtained certifications and that the state's records provide evidence that it obligated and expended the funds after the state's approval of the RROF and environmental certification.

3. Environmental Reviews

Compliance Requirements: Activities must have an environmental review unless they meet criteria specified in the regulations that would exclude them from RROF and environmental certification requirements.

a. CDBG-CV. HUD's environmental review regulations in 24 CFR Part 58 include two provisions that may be relevant to environmental review procedures for activities to prevent, prepare for, and respond to coronavirus. The first is 24 CFR 58.34(a)(10), which provides an exemption for certain activities undertaken in response to a national or locally declared public health emergency. Except for the applicable requirements of 24 CFR 58.6, a responsible entity does not have to comply with the requirements of Part 58 or undertake any environmental review, consultation, or other action under NEPA and the other provisions of law or authorities cited in 24 CFR 58.5 for exempt activities or projects consisting solely of exempt activities. Exempt activities include assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from imminent threats to public safety.

   The second is a streamlined public notice and comment period in the regulation at 24 CFR 58.33, which may apply in some cases for emergency activities undertaken to prevent, prepare for, and respond to coronavirus. The application of these two provisions following a presidentially-declared or locally-declared public health emergency is discussed in CPD Notice 20-07, Guidance on conducting environmental review pursuant to 24 Part 58 for activities undertaken in response to the public health emergency as a result of COVID-19 (August 6, 2020) posted at https://www.hud.gov/sites/dfiles/OCHCO/documents/2020-07cpdn.pdf.

b. NSP (NSP1 and NSP3). A state that carries out NSP activities directly are considered recipients and must assume environmental review responsibilities for the state's activities and those of any nongovernmental entity that participates in the project. A state that carries out activities directly must submit the RROF and the certifications to HUD for approval (24 CFR 58.4(b)(1), 58.34, and 58.35).

c. RHP. For RHP activities carried out directly by the state, the state must submit the certification and RROF to HUD for approval.

Audit Objectives: Determine whether the state conducted required environmental reviews and obtained required HUD approvals.

Suggested Audit Procedures

a. Verify that the state obtained environmental review certifications from the

subrecipient and that the state records provide evidence that the environmental reviews were made.

b. For any project where an environmental review was not performed, ascertain that the State has a written determination was made that the review was not required.

c. Ascertain that documentation exists that any determination not to make an environmental review was made consistent with the criteria contained in 24 CFR 58.34 and 58.35.

d. Verify that states obtained HUD approvals of RROFs and environmental certifications for state activities.

e. Verify that for state activities funds were obligated and expended after HUD approval of state RROFs and environmental certifications. Some CDBG-DR grantees may use the environmental review for projects that are also funded with FEMA. See *Federal Register* notices.

4. Citizen Participation

Compliance Requirements: Prior to the submission to HUD for its annual grant, a grantee must certify to HUD that it has met the citizen participation requirements for grantees in 24 CFR 91.115 and 570.486 for local governments/subrecipients, as applicable. The primary goal of citizen participation is to provide residents—especially low- and moderate-income (LMI) residents of the community where CDBG-funded activities will take place—the opportunity to actively participate in the planning, implementation, and assessment of the programs and projects.

a. *CDBG-CV.* HUD issued two waivers to modify citizen participation requirements for consolidated plan substantial amendments for CDBG, ESG, HOME, HTF, and HOPWA. The first provided for a minimum of five days for public comments. The second allowed grantees to determine what constitutes reasonable notice and opportunity to comment, given their circumstances, for the 2020 program year. For as long as national or local health authorities recommend social distancing and limiting public gatherings for public health reasons, states, local governments and eligible subrecipients receiving CDBG, may hold virtual hearings in lieu of in person public hearings to fulfill public hearing requirements. (Section III.B.4.(a)(iii) of the CDBG-CV Notice)

Section III.B.4.(a) of the CDBG-CV Notice applies to all fiscal year 2019 and 2020 annual formula CDBG grants, regardless of the use of funds. This section of the CDBG-CV Notice describes the program flexibilities provided by the CARES Act related to expedited citizen participation and virtual hearings. Where this section refers to CDBG-CV funds, it applies equally to fiscal year 2019 and 2020 CDBG grants.

b. *CDBG-DR and CDBG-MIT*. To permit a more streamlined process and ensure CDBG-DR grants are awarded in a timely manner, HUD waives provisions of 42 USC 5304(a)(2) and (3), 42 USC 12707, 24 CFR 570.486, 24 CFR 1003.604, 24 CFR 91.105(b) through (d), and 24 CFR 91.115(b) through (d), with respect to citizen participation requirements, and replaces the provisions with alternative requirements.

For CDBG-DR awards before 2017 disasters, the streamlined requirements require CDBG-DR grantees to publish its action plan for no less than 14 calendar days. For CDBG-DR awards for 2017 disasters and beyond, the streamlined requirements require CDBG-DR grantees provide a reasonable opportunity (at least 30 days) for citizen comment. The grantee must follow a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.115 or 91.105 (except as provided for in notices providing waivers and alternative requirements). Each local government receiving assistance from a state grantee must follow a detailed citizen participation plan that satisfies the requirements of 24 CFR 570.486 (except as provided for in notices providing waivers and alternative requirements). Additionally, CDBG-DR awards subject to HUD's Consolidated Notice (2020, 2021, and 2022) must also include public hearings on the proposed CDBG-DR action plan.

For CDBG-MIT grantees, HUD also waives 42 USC 5304(a)(2) and (3), 42 USC 12707, 24 CFR 570.486, 24 § 91.105(b) and (c), and 24 CFR 91.115(b) and (c), with respect to citizen participation requirements. The revised requirements mandate public hearings (the number of which is based upon the amount of a grantee's CDBG–MIT allocation) across the HUD-identified MID areas and require the grantee to provide a reasonable opportunity (at least 45 days) for citizen comment and ongoing citizen access to information about the use of grant funds.

While the above waivers and alternative requirements reflect the most recent CDBG-DR citizen participation requirements for grantees subject to the Consolidated Notice and the long-standing CDBG-MIT requirements at 84 FR 45852 of the Main CDBG-MIT Notice published on August 30, 2019, auditors should review the *Federal Register* notices for additional details concerning each grantee's applicable citizen participation requirements at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations.

c. *NSP (NSP1 and NSP3).* HERA provided for supersession of the citizen participation requirement to expedite the distribution of NSP grant funds and to provide for expedited citizen participation. The provisions of 24 CFR 570.485 and 570.486 with respect to following the citizen

participation plan are waived to allow the jurisdiction to provide no fewer than 15 calendar days for citizen comment, rather than 30 days, for its initial NSP submission (Section II.B.4 of the NSP Notice and of the NSP3 Notice).

d. *RHP*. Section II.H. of the RHP Program Notice provides an overview of the grant process and RHP Action Plan requirements. The grantee develops the proposed RHP Action Plan and publishes it in accordance with the grantee's adopted citizen participation plan it has established in accordance with 24 CFR 91.105 (District of Columbia) or 24 CFR 91.115 (states) and the RHP Program Notice.

Audit Objectives: Determine whether the CDBG grantee has developed and implemented a citizen participation plan.

Suggested Audit Procedures

a. Verify that the grantee has a citizen participation plan.

b. Review the plan to verify that it provides for public hearings, publication, public comment, access to records, and consideration of comments.

c. Examine the grantee's records for evidence that the elements of the citizen's participation plan were followed as the grantee certified.

d. HUD Compliance Reviews. Auditors may consult HUD's Community Planning and Development Monitoring Handbook for the specific compliance review exhibits that HUD uses to determine compliance. The CDBG-DR monitoring exhibits can be found at https://www.hud.gov/program_offices/administration/hudclips/handbooks/cpd/6509.2.

5. Rehabilitation Using NSP Funds

Compliance Requirements: Any NSP-assisted rehabilitation of a foreclosed-upon home or residential property shall be completed to the extent necessary to comply with applicable laws, codes and other requirements relating to housing safety, quality, or habitability, in order to sell, rent or redevelopment such homes and properties. To comply with this provision, a grantee must describe or reference in its NSP action plan amendment what rehabilitation standards it will apply for NSP-assisted rehabilitation (Section 2301(d)(2) of HERA; Section II.I. of NSP3 Notice, 75 FR 64333).

Audit Objectives: To determine whether the grantee ensures NSP rehabilitation work is properly completed.

Suggested Audit Procedures

a. Review rehabilitation standards established for NSP work.

b. Verify through a review of documentation that the rehabilitation work is inspected upon completion to ensure that it is carried out in accordance with applicable rehabilitation standards.

6. Section 3

Compliance Requirements: Section 3 is a provision of the Housing and Urban and Development Act of 1968 and is found at 12 USC 1701u. It requires that recipients of certain HUD financial assistance, to the greatest extent possible, provide training, employment, contracting and other economic opportunities to low- and very low-income persons, especially recipients of government assistance for housing, and to businesses that provide economic opportunities to low- and very low-income persons. Grantees must establish and maintain (or ensure that a subrecipient, contractor, or subcontractor maintains) documentation to demonstrate that workers on Section 3 projects meet the definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting period. This includes requiring written reports from developers or contractors summarizing the totals for labor hours, including Section 3 worker and Targeted Section 3 worker labor hours, and documentation from employees or employers certifying that the employee met the requirements to receive Section 3 worker status. Any information that a grantee enters in IDIS or DRGR must have supporting documentation demonstrating the accuracy of the data. (24 CFR part 75)

Audit Objectives: Determine whether the Grantee is following its own Section 3 policy and procedures by collecting and maintaining adequate records demonstrating Section 3 compliance.

Suggested Audit Procedures

a. Review the grantee's Section 3 policy and procedures.

b. Review a sample of grant agreements and contracts for housing rehabilitation, housing construction, or other public construction projects, to determine if the grantee notified subrecipients and contractors of requirements to maintain or ensure that a subrecipient, contractor, or subcontractor maintains adequate records demonstrating Section 3 compliance.

IV. OTHER INFORMATION

1. *Hawaii*
The state of Hawaii chose not to administer the non-entitlement funds. Therefore, the non-entitlement counties in Hawaii, which otherwise would have been eligible for funding under the State CDBG program, are generally subject to the CDBG

Entitlement regulations. For State CDBG, CDBG-DR and CDBG-MIT, Hawaii is reviewed under Assistance Listing 14.218 Community Development Block Grants/Entitlement Grants. The requirements for the non-entitlement CDBG grants in Hawaii are set forth in 24 CFR 570.429. In summary, non-entitlement counties in the State of Hawaii follow the requirements of the CDBG Entitlement program, except: (1) funding comes from Section 106(d) of the HCDA (42 USC 5306(d)); (2) funds are distributed using the formula contained in 24 CFR 570.429(c); reallocations due to grant reductions, or funds not applied for, are distributed to the other non-entitlement counties in Hawaii on a pro rata basis (24 CFR 570.429(d)); (3) non-entitlement counties are not eligible to use the exception criteria in 24 CFR 570.208(a)(1)(ii); and (4) 24 CFR 570.307 (Urban Counties) and 24 CFR 570.308 (Joint Requests) do not apply to non-entitlement counties in Hawaii. Except for these differences, non-entitlement counties in Hawaii follow the requirements of the CDBG Entitlement program (Assistance Listing 14.218).

This compliance supplement is for the State program. For some subprograms, there may be another compliance supplement that should be used.

2. *14.256 Neighborhood Stabilization Program (Recovery Act Funded)*
NSP funding provided under the American Recovery Reinvestment Act (Dodd-Frank Act) authorized additional funding for NSP that is referred to as NSP2 and NSP-TA, which are covered by the Compliance Supplement Assistance Listing 14.256 and audited separately.

3. *14.269 Hurricane Sandy Community Development Block Grant Disaster Recovery Grants (CDBG-DR)*
This supplement only covers awards made under Public Law Number 113-2 and are audited separately. Other CDBG-DR awards funded under other Public Laws will use this supplement. More information can be found at: https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations

4. CDBG-DR and CDBG-MIT grants fall under one of four assistance listings, depending on the appropriation and type of grantee.

	Assistance Listing
Hurricane Sandy grants to states and cities under P.L. 113-2	14.269
National Disaster Resilience grants to states and cities under P.L. 113-2	14.272
Other CDBG-DR and CDBG-MIT grants to states and insular areas including tribes	14.228
Other CDBG-DR and CDBG-MIT grants to entitlement communities (cities, counties and local governments)	14.225

5. *Revolving Loan Fund and State Revolving Fund*
Refer to Section III. Compliance Requirements J. Program Income above for

guidance relevant to SEFA presentation of revolving loan funds and state revolving funds.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANCE LISTING 14.231 EMERGENCY SOLUTIONS GRANTS PROGRAM

I. PROGRAM OBJECTIVES

The Emergency Solutions Grants (ESG) program provides grants to states, metropolitan cities, urban counties, and territories for (1) the rehabilitation or conversion of buildings for use as emergency shelter for the homeless, (2) the payment of certain expenses related to operating emergency shelters, (3) essential services related to emergency shelters and street outreach for the homeless, and (4) homelessness prevention and rapid re-housing assistance.

II. PROGRAM PROCEDURES

ESG program funds are provided under this program according to a formula based on the Community Development Block Grant Program (CDBG) formula. The percentage allocated will be equal to the percentage of the total amount available under CDBG for the prior fiscal year. To receive funds, each eligible entity must submit a Consolidated Plan (including an Annual Action Plan) to the Department of Housing and Development Urban (HUD). Metropolitan cities, urban counties, and territories may subgrant funds to private nonprofit organizations. A list of annual allocations is provided at: https://www.hud.gov/program_offices/comm_planning/budget

The Housing Opportunity Through Modernization Act of 2016, Pub. L. No. 114-201 (HOTMA), July 29, 2016, amended the McKinney-Vento Act to permit metropolitan cities and urban counties receiving ESG funding to subgrant their ESG funds to public housing agencies (PHAs) and local redevelopment authorities (LRAs) for eligible ESG activities. Prior to HOTMA, ESG recipients and subrecipients were not permitted to sub-award ESG program funds to PHAs or LRAs.

An urban county is a county that was classified as an urban county under 42 USC 5302(a) for the fiscal year immediately preceding the fiscal year for which ESG program funds are made available. States must subgrant all of their grant funds (except for funds for administrative costs and, under certain conditions, Homeless Management Information Systems (HMIS) costs) to (1) units of general purpose local government in the state (including metropolitan cities and urban counties that receive direct ESG program grants from HUD); and (2) private nonprofit organizations (provided that, for emergency shelter activities, the state obtains approval from the local government for the geographic area in which those activities are to be carried out). Each recipient must consult with the Continuum(s) of Care operating within the jurisdiction in determining how to allocate ESG program funds.

Source of Governing Requirements

The ESG program is authorized under Title IV, Subtitle B of the McKinney-Vento Homeless Assistance Act, as amended (42 USC 11371-11378). Implementing regulations are at 24 CFR Part 576.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	Y	Y	N	N	Y	Y

A. Activities Allowed or Unallowed

1. ESG funds may be used for five program components: street outreach, emergency shelter, homelessness prevention, rapid re-housing assistance, and HMIS; as well as administrative activities. The five program components and the eligible activities that may be funded under each are set forth in 24 CFR 576.101 through 576.107. Eligible administrative activities are set forth in 576.108.

G. Matching, Level of Effort, Earmarking

1. Matching

For ESG, recipients, other than states and territories, must match the funding provided by HUD under its ESG program with an equal amount from sources other than those provided under the ESG program. Territories are exempt from this requirement. A state is exempt from matching the first $100,000 of its grant but must match the rest with an equal amount from sources other than those provided under the ESG program (24 CFR section 576.201).

2. Level of Effort

2.1 Level of Effort – *Maintenance of Effort*
Not Applicable

2.2 Level of Effort – *Supplement Not Supplant*
For the street outreach and emergency shelter components, if a recipient or subrecipient is a unit of general purpose local government, its ESG program funds cannot be used to replace funds the local government provided for street outreach and emergency shelter services during the immediately preceding 12-month period, unless HUD determines that the unit of general purpose local government is in a severe financial deficit (24 CFR section 576.101(c)).

3. Earmarking

a. For ESG, the total amount of each recipient's fiscal year grant that may be used for street outreach and emergency shelter activities cannot exceed the greater of: (1) 60 percent of the recipient's fiscal year grant; or (2) the amount of FY 2010 ESG program funds committed for homeless assistance activities (24 CFR 576.100(b)).

The recipient may use up to 7.5 percent of its ESG program project costs for the payment of administrative costs related to the planning and execution of ESG activities (24 CFR section 576.108(a)).

I. Period of Performance

Obligation-ESG (Funds allocated to states): Within 60 days from the date that HUD signs the grant agreement with a state (or grant amendment for reallocated funds), the recipient must obligate the entire grant, except the amount for its administrative costs. Within 120 days after the date that the state obligates its funds to a unit of general-purpose local government, the local government must obligate all of those funds.

Obligation-ESG (Funds allocated to metropolitan cities, urban counties, and territories): Within 180 days after the date that HUD signs the grant agreement (or a grant amendment for reallocation of funds) with a metropolitan city, urban county, or territory, the recipient must obligate all of the grant amount, except the amount for its administrative costs.

Expenditures-ESG: All of the recipient's grant must be expended for eligible activity costs within 24 months after the date HUD signs the grant agreement with the recipient. For the purpose of this requirement, expenditure means either an actual cash disbursement for a direct charge for a good or service or an indirect cost or the accrual of a direct charge for a good or service or an indirect cost.

J. Procurement and Suspension and Debarment

The debarment and suspension regulations at 2 CFR Part 180 and 2 CFR Part 2424 apply as written, except that, as provided by the CARES Act (referenced in Homeless Assistance Grants section under Community Planning and Development section in H.R. 748-321), the recipient may deviate from the applicable procurement standards (e.g., 24 CFR 576.407(c) and (f) and 2 CFR 200.317-200.326) when procuring goods and services to prevent, prepare for, and respond to coronavirus. As referenced in CPD-20-08, Section F. Program Requirements, 9. Procurement:

If the recipient deviates from its procurement standards, then the recipient must establish alternative written procurement standards, and maintain documentation on the alternative procurement standards used to safeguard against fraud, waste, and abuse in the procurement of goods and services to prevent, prepare for, and respond to coronavirus. This alternative requirement is necessary to ensure that the funds are used efficiently and effectively to prevent, prepare for, and respond to coronavirus.

This alternative requirement applies to ESG recipients only and does not apply to subrecipients.

M. Subrecipient Monitoring

Payments to Subrecipients

The recipient must pay each subrecipient for allowable costs within 30 days after receiving the subrecipient's complete payment request. This requirement also applies to each subrecipient that is a unit of general-purpose local government (24 CFR section 576.203).

N. Special Tests and Provisions

1. Maintenance as Homeless Shelters

Compliance Requirements

Any building renovated with ESG program funds for use as an emergency shelter for homeless persons must be maintained as a shelter for homeless persons for not less than a three-year period or, if the renovation constitutes major rehabilitation or conversion of the building, for not less than a 10-year period. The minimum use period begins on the date the building is first occupied by a homeless individual or family after the completed renovation. The minimum period of use of ten years must be enforced by a recorded deed or use restriction (24 CFR section 576.102(c)).

Audit Objectives

Determine whether buildings renovated or converted for use as an emergency shelter with ESG program funds are maintained as emergency shelters for the required time periods and provide the required recorded deed or use restriction.

Suggested Audit Procedures

a. Verify the existence of the buildings improved with ESG program funds and their current use as a homeless shelter.

b. Inquire of management whether any buildings improved with ESG program funds in prior years are no longer being used as shelters, and if so, whether the prescribed three- or ten-year period had expired.

c. Verify that a building where the renovation constituted a major rehabilitation or conversion of the building has a recorded deed or use restriction.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANCE LISTING 14.239 HOME INVESTMENT PARTNERSHIPS PROGRAM

I. PROGRAM OBJECTIVES

The objectives of the HOME Investment Partnerships (HOME) program include (1) expanding the supply of decent and affordable housing, particularly housing for low- and very low-income Americans; (2) strengthening the abilities of state and local governments to design and implement strategies for achieving adequate supplies of decent, affordable housing; (3) providing financial and technical assistance to participating jurisdictions, including the development of model programs for affordable low-income housing; and (4) extending and strengthening partnerships among all levels of government and the private sector, including for-profit and nonprofit organizations, in the production and operation of affordable housing (24 CFR section 92.1).

HOME-American Rescue Plan (HOME-ARP)

The American Rescue Plan Act of 2021 provided an additional $5 billion of which $4.925 billion was allocated using the HOME formula to meet the needs of those homeless or at risk of homelessness, the development of affordable housing, tenant based rental assistance, supportive services, and acquisition and development of non-congregate shelter units. Unlike HOME, these funds are not available for homebuyer or existing homeowner assistance activities. Also, up to 15 percent of each grant may be used for administrative purposes as opposed to HOME, which is up to 10 percent of each grant.

The HOME-ARP funds are available for certain qualifying populations (QPs) (as defined in Notice CPD-21-10: Requirements for the Use of Funds in the HOME-ARP Program):

1. Homeless (as defined in the McKinney Act definition at 24 CFR 91.5).

2. At-risk of homelessness (McKinney Act definition at 24 CFR 9.1.5).

3. Fleeing/Attempting to Flee Domestic Violence, Dating Violence, Sexual Assault, Stalking or Human Trafficking (definitions from Violence Against Women Act (VAWA) regulations at 24 CFR 5.2003, except Human Trafficking definition from Trafficking Victims Protection Act of 2000).

4. Other Populations where assistance would: Prevent the family's homelessness or serve those with the greatest risk of housing instability.

II. PROGRAM PROCEDURES

The HOME and HOME-ARP programs are conducted by jurisdictions (states, cities, urban counties, and consortia) that receive an allocation of funds. Participating jurisdictions (PJs) must submit a description of how they propose to use the funds for housing activities, together with

certifications (24 CFR Part 91). The funding amount is based on a formula of six factors established to reflect a jurisdiction's need for an increased supply of affordable housing for low- and very low-income families (24 CFR section 92.50).

A state may carry out its own HOME/HOME-ARP program without active participation of units of general local government or may distribute HOME/HOME-ARP funds to units of general local government to carry out HOME/HOME-ARP programs in which both the state and all or some of the units of general local government perform specified functions. A unit of general local government designated by a state to receive HOME/HOME-ARP funds from a state is a "state recipient." A "subrecipient" is a public agency or nonprofit organization selected by the participating jurisdiction to administer all or some of the participating jurisdiction's HOME/HOME-ARP programs. Before disbursing funds to an entity, each participating jurisdiction is required to enter into a written agreement with the entity. The contents of the agreement may vary depending on the role the entity assumes, or the type of project undertaken (e.g., state recipient, subrecipient, for-profit or nonprofit housing owner, developer, or sponsor, a contractor, or a home buyer, homeowner, or tenant receiving tenant-based rental or security deposit assistance) (24 CFR section 92.504).

Source of Governing Requirements

The HOME program was established by the Title II of the Cranston-Gonzalez National Affordable Housing Act (NAHA) (42 USC 12701–12840 and 3535(d)). Implementing regulations are codified at 24 CFR Part 92.

HOME-ARP was established in section 3205 of the American Rescue Plan Act of 2021 (Pub .L. No. 117-2). Notice CPD-21-10: Requirements for the Use of Funds in the (HOME-ARP Implementing Notice) https://www.hud.gov/sites/dfiles/OCHCO/documents/2021-10cpdn.pdfhttps://www.hud.gov/sites/dfiles/OCHCO/documents/2021-10cpdn.pdfwas published September 13, 2021. The Notice established requirements for HOME-ARP funds.

The American Rescue Plan (ARP) provides funds for homelessness and supportive services assistance under the HOME statute of Title II of NAHA (42 USC 12721 et seq.) and authorizes the Secretary of HUD to waive or specify alternative requirements for any provision of NAHA or regulation for the administration of the HOME-ARP program, except requirements related to fair housing, civil rights, nondiscrimination, labor standards, and the environment, upon a finding that the waiver or alternative requirement is necessary to expedite or facilitate the use of HOME-ARP funds. Pursuant to the HOME-ARP Implementing Notice the per-unit cost limits (42 USC 12742(e), commitment requirements (42 USC 12748(g)), matching requirements (42 USC 12750), and set-aside for housing developed, sponsored, or owned by community housing development organizations (CHDOs) (42 USC 12771) in NAHA do not apply to HOME-ARP funds.

Availability of Other Program Information

On April 10, 2020, the Office of Community Planning and Development (CPD) issued two memoranda containing statutory suspensions and regulatory waivers for the HOME Program to provide flexibility for jurisdictions to address the COVID-19 pandemic. The participating

jurisdictions must request these suspension/and or waivers to implement them. All participating jurisdictions are subject to the compliance requirements listed in Section III. The participating jurisdictions implementing the COVID-19 suspensions and waivers must adhere to the revised application of the requirements set forth in the waivers: www.hudexchange.info/programs/home/covid-19/#regulatory-resources.

An extension to the original COVID-19 suspensions and waivers, along with additional information is provided in the following document: https://www.hud.gov/sites/dfiles/CPD/documents/HOME-General-Susp-and-Waivers-Revisions-

Pertinent information that will assist the auditor in understanding the HOME program is available on the agency website at https://www.hudexchange.info/home/.

Information regarding the American Rescue Plan requirements for HOME-ARP Program: https://www.hudexchange.info/resource/6479/notice-cpd-2110-requirements-for-the-use-of- funds-in-the-home-arp-program/ and https://www.hudexchange.info/resource/6480/home-arp-implementation-notice-fact-sheets/.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	N	N	N	Y	N	Y	Y

A. Activities Allowed or Unallowed

1. *Activities Allowed*

HOME

a. HOME funds (including program income generated by activities carried out with HOME funds) may be used by participating jurisdictions to provide for: (a) incentives to develop and support affordable rental housing and homeownership affordability through the acquisition, new construction, reconstruction, or rehabilitation of non-luxury housing with suitable amenities, including real property acquisition, site improvements, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations; (b) tenant-based rental assistance, including security deposits; (c) the payment of reasonable administrative and planning costs; and (d) the payment of operating expenses of Community Housing Development Organizations (CHDOs). The housing must be permanent or transitional. The acquisition of vacant land or demolition can only be undertaken with respect to a particular housing project intended to provide affordable housing, and when construction is expected to begin within 12 months. Conversion of an existing structure to affordable housing is rehabilitation unless certain circumstances exist. Manufactured housing may be purchased or rehabilitated and the land upon which it is built may be purchased with HOME funds. HOME funds may be used to pay for development construction hard costs, refinancing costs, acquisition costs, related soft costs, CHDO costs, relocation costs, and costs related to the repayment of loans (24 CFR sections 92.205(a) and 92.206).

b. A participating jurisdiction may use or "invest" HOME funds as equity investments, interest-bearing loans or advances, non-interest-bearing loans or advances, interest subsidies, deferred payment loans, grants, or other forms of assistance approved by HUD. A participating jurisdiction may invest HOME funds to guarantee loans made by lenders and, if required, the participating jurisdiction may establish a loan guarantee account with HOME funds. The amount of the loan guarantee account must be based on a reasonable estimate of the default rate on the guaranteed loans but under no circumstances, may the amount on deposit exceed 20 percent of the total outstanding principal amount guaranteed, except that the account may include a reasonable minimum balance. While loan funds guaranteed with HOME funds are subject to all HOME requirements, funds which are used to repay the guaranteed loans are not (24 CFR section 92.205(b)).

HOME-ARP

a. Affordable Rental Housing: HOME-ARP rental funds may be used to acquire, construct or rehabilitate housing for those that meet the definition

of one or more of the qualifying populations described in the HOME-ARP Implementing Notice. Acquisition of vacant land or demolition must be undertaken only with respect to a particular housing project intended to provide HOME-ARP rental housing within the timeframes provided in Section VI.B. of the HOME-ARP Implementing Notice.

HOME-ARP funds may be used to assist one or more units in a project. Only the eligible development costs of the HOME-ARP units may be charged to the HOME-ARP program. Cost allocation in accordance with 24 CFR 92.205(d)(1) is required if the assisted and non-assisted units are not comparable. HOME-ARP units are identified as such within the IDIS system, After project completion, the number of HOME-ARP units in a project cannot be reduced. During the HOME-ARP minimum compliance period and prior to the end of the HOME-ARP budget period, a PJ may invest additional HOME-ARP funds to provide operating cost assistance but is prohibited from investing additional HOME-ARP funds for capital costs except within the 12 months after project completion. A qualifying household admitted to a HOME-ARP rental unit may still receive HOME-ARP supportive services or Tenant-based Rental Assistance (TBRA) in accordance with the requirement of the HOME- ARP Implementing Notice.

Unlike the HOME program, which targets HOME-assisted rental units based on tenant income, 70 percent of all HOME-ARP-assisted units will admit households based only upon their status as qualifying households. The remaining 30 percent of assisted units may be occupied by low-income households.

HUD used its HOME-ARP statutory authority to permit the use of HOME-ARP funds to provide ongoing operating cost assistance or capitalize a project operating cost assistance reserve to address operating deficits of the HOME-ARP units restrict for qualifying households during the compliance period. HUD also suspended the maximum per-unit subsidy limit for HOME-ARP units, enabling HOME-ARP funds to pay the entire cost to acquire, rehabilitate and/or construct the HOME-ARP rental units.

b. HOME-ARP Tenant-Based Rental Assistance (HOME-ARP TBRA) may be used to provide rental assistance, security deposit payments, and utility deposit assistance to qualifying households. HOME-ARP funds may be used to pay for up to 100 percent of these eligible costs. A PJ may use HOME-ARP TBRA funds to provide loans or grants to qualifying households for security deposits for rental units regardless of whether the PJ provides any other HOME-ARP TBRA assistance. The amount of funds that may be provided for a security deposit may not exceed the equivalent of two months' rent for the unit. Utility deposit assistance is an eligible cost only if rental assistance or a security deposit payment is

provided. Costs of inspecting the housing are also eligible costs of HOME-ARP TBRA. Administration of HOME-ARP TBRA is an eligible cost **only** if executed in accordance with general management oversight and coordination at 24 CFR 92.207(a), except that the costs of inspecting the housing and determining the income eligibility of the family are eligible project costs under HOME-ARP TBRA.

Funding may also go towards a HOME-ARP sponsor, which is a nonprofit organization that provides housing or supportive services to qualifying households, to facilitate the leasing of a HOME-ARP rental unit or the use and maintenance of HOME-ARP TBRA. A sponsor may make rental subsidy payments and a security deposit payment on behalf of a qualifying household.

c. Supportive Services- may only be provided to individuals and families who meet the definition of a qualifying population under Section IV.A of the HOME-ARP Implementing Notice and who are not already receiving these services through another program.

There are three categories of supportive services:

(1) McKinney-Vento Supportive Services, listed in section 401(29) of the McKinney-Vento Homeless Assistance Act (42 USC 11360(29)).

(2) Homelessness Prevention Services adapted from eligible homelessness prevention services under the Emergency Service Grant regulations at 24 CFR Part 576. See section VI.D of the HOME-ARP Implementing Notice for list of eligible services and costs.

(3) Housing Counseling Services defined at 24 CFR 5.100 and 5.111, except for homeowner assistance and related services are not eligible.

d. Acquisition and Development of Non-Congregate Shelter (NCS): A non-congregate shelter is one or more buildings that provide private units or rooms as temporary shelter to individuals and families and does not require occupants to sign a lease or occupancy agreement. HOME-ARP funds may be used to acquire and develop non-congregate shelter (HOME-ARP NCS) for those that meet one of the qualifying populations defined in the HOME-ARP Implementing Notice. This activity may include new construction or the acquisition and/or rehabilitation of existing structures (such as motels, nursing homes or other facilities). Also, the demolition to existing structures for the purpose of developing HOME-ARP NCS is allowed. HOME-ARP funds may also be used for

improvements to the project site, including the installation of utilities or utility connections, laundry facilities, community facilities, on-site management, or supportive service offices.

Soft Costs allowable are necessary costs incurred by the PJ, subrecipient, or project owner associated with financing, acquisition, and development of HOME-ARP NCS projects.

Also, replacement reserves to cover reasonable and necessary costs of replacing major systems and their components is allowable.

e. Nonprofit Operating and Capacity Building Assistance: A PJ may use up to five percent of its HOME-ARP allocation to pay operating expenses of CHDOs and other nonprofit organizations that will carry out activities with HOME-ARP funds. A PJ may also use up to an additional five percent of its allocation to pay eligible costs related to developing the capacity of eligible nonprofit organizations to successfully carry out HOME-ARP eligible activities.

PJs may award operating expense assistance or capacity building assistance to a nonprofit organization if it reasonably expects to provide HOME-ARP funds to the organization for any of the eligible HOME-ARP activities within 24 months of the award.

Operating expenses are defined as reasonable and necessary costs of operating the nonprofit organization. HOME-ARP funds used for operating expenses must be used for the "general operating costs" of the nonprofit organization. These costs include employee salaries, wages and other employee compensation and benefits; employee education, training, and travel; rent; utilities, communication costs; taxes, insurance; equipment, materials, and supplies.

Capacity Building Assistance expenses are defined as reasonable and necessary general operating costs that will result in expansion or improvement of an organization's ability to successfully carry out eligible HOME-ARP activities. Eligible costs include salaries for new hires including wages and other employee compensation and benefits; costs related to employee training or other staff development that enhances an employee's skill set and expertise; equipment (e.g., computer software or programs that improve organizational processes), upgrades to material and equipment, and supplies; and contracts for technical assistance or for consultants with expertise related to the HOME-ARP qualifying populations.

NAHA and the HOME regulations limit the amount of operating expense assistance that an organization can receive annually. ARP extends this

limitation to the capacity building assistance paid with HOME-ARP funds.

- In any fiscal year, operating assistance provided to a nonprofit organization may not exceed the greater of 50 percent of the general operating expenses of the organization for that fiscal year or $50,000.

- In any fiscal year, capacity building assistance provided to a nonprofit organization may not exceed the greater of 50 percent of the general operating expenses of the organization for that fiscal year or $50,000.

- If an organization received both operating assistance and capacity building assistance in any fiscal year, the aggregate total amount of assistance it may receive is the greater of 50 percent of the organization's total operating expenses for that fiscal year or $75,000.

f. A PJ may use or "invest" HOME-ARP funds as equity investments, interest-bearing loans or advances, non-interest- bearing loans or advances, interest subsidies, deferred payment loans, grants, or other forms of assistance approved by HUD. A PJ may invest HOME-ARP funds to guarantee loans made by lenders and, if required, the PJ may establish a loan guarantee account with HOME-ARP funds. The amount of the loan guarantee account must be based on a reasonable estimate of the default rate on the guaranteed loans but under no circumstances, may the amount on deposit exceed 20 percent of the total outstanding principal amount guaranteed, except that the account may include a reasonable minimum balance. While loan funds guaranteed with HOME-ARP funds are subject to all HOME-ARP and HOME (as amended in the HOME-ARP Implementing Notice) requirements, funds which are used to repay the guaranteed loans are not (24 CFR section 92.205(b)).

2. *Activities Unallowed*

HOME

HOME funds may not be used for (a) project reserve accounts or operating subsidies; (b) tenant-based rental assistance for the special purpose of the Section 8 program; (c) nonfederal matching contributions under any other federal program; (d) annual contributions for the operation of public housing; (e) public housing modernization; (f) assistance to prepay low-income housing mortgages; (g) assistance to a project previously assisted with HOME funds during the period of affordability (i.e., the period for which the nonfederal entity must maintain subsidized housing); (h) the acquisition of property owned by the PJ (except for property acquired with HOME funds or in anticipation of a HOME project); and

(i) payment of delinquent taxes, fees, or charges.

PJs may not charge servicing, origination, or other fees for the purpose of covering costs of administering the HOME program. PJs may charge: (1) owners of rental projects reasonable annual fees for compliance monitoring during the period of affordability; (2) application fees to project owners to discourage frivolous applications; and (3) homebuyers a fee for housing counseling (24 CFR section 92.214).

HOME-ARP

a. *Affordable Rental Housing*: Emergency shelter, hotels, and motels (including those currently operating as non-congregate shelter), facilities such as nursing homes, residential treatment facilities, correctional facilities, halfway houses. However, housing for students or dormitories do not constitute housing in the HOME-ARP program.

   HOME-ARP may not be used for any of the prohibited activities, costs, or fees in 24 CFR 92.214, as revised by the Appendix of the HOME-ARP Implementing Notice.

b. *HOME-ARP TBRA*: funds may not be used to pay for the homebuyer program as defined at 24 CFR 92.209(c)(2)(iv).

c. *Supportive Services*: HOME-ARP funds may not be used to provide supportive services to individuals or families that do not meet the definition of a qualifying population defined in Section IV.A. of the HOME-ARP Implementing Notice.

   Costs for the provision of services to existing homeowners related to homeownership and mortgages to existing homeowners are not eligible. (If a program participant is a candidate for homeownership, costs associated with pre-purchase homebuying counseling, education and outreach are eligible.)

   No duplication of services; PJs are responsible for establishing requirements that allow a program participant to receive only the HOME-ARP services needed.

d. *Non-Congregate Shelter*: HOME-ARP funds may not be used to pay ongoing costs of operating HOME-ARP NCS (such as allocable overhead and staffing costs, insurance, utilities) or to convert NCS to housing.

   HOME-ARP funds may not be used to pay the operating costs of HOME-ARP NCS. The PJ is prohibited from investing additional HOME-ARP funds to pay for the cost of converting the NCS project from HOME-ARP

NCS to permanent affordable housing or to pay for operating the project as permanent affordable housing.

E. Eligibility

1. Eligibility for Individuals

HOME

a. The HOME program has income targeting requirements. Only low-income or very low-income persons, as defined in 24 CFR section 92.2, can receive housing assistance (24 CFR section 92.1). Therefore, the PJ must determine if each family is income eligible by determining the family's annual income, including all persons in the household, as provided for in 24 CFR section 92.203. PJs must maintain records for each family assisted (24 CFR section 92.508).

b. HOME-assisted units in a rental housing project must be occupied only by households that are eligible as low-income families and must meet certain limits on the rents that can be charged. The requirements also apply to the HOME-assisted non-owner-occupied units in single-family (one–four unit) housing purchased with HOME funds. The maximum HOME rents, which include utilities or the utility allowance, are the lesser of the fair market rent for comparable units in the area, as established by HUD under 24 CFR section 888.111, or a rent that does not exceed 30 percent of the adjusted income of a family whose annual income equals 65 percent of the median income for the area as determined by HUD, with adjustments for the number of bedrooms. Rental projects with five or more units have additional rent limitations. Twenty percent of the HOME-assisted units must be occupied by very low-income families and meet one of the following rent requirements: (1) the rent does not exceed 30 percent of the annual income of a family whose income equals 50 percent of the median income for the area, as determined by HUD, with adjustments for larger or smaller families; or (2) the rent does not exceed 30 percent of the families adjusted income (24 CFR sections 92.216 and 92.252).

c. A PJ may use HOME funds for tenant-based rental assistance, as provided for in 24 CFR section 92.209(b). The PJ must select families in accordance with policies and criteria consistent with those provided in 24 CFR section 92.209(c).

HOME-ARP

a. HOME-ARP requires that funds be used to primarily benefit individuals and families that meet the following specified "qualifying populations." Any individual or family who meets the criteria for these populations is

eligible to receive assistance or services funded through HOME-ARP without meeting additional criteria (e.g., additional income criteria). All income calculations to meet income criteria of a qualifying population or required for income determination in HOME-ARP eligible activities must use the annual income definition in 24 CFR 5.609 in accordance with the requirements of 24 CFR 92.203(a)(1).

The following are the specified "qualifying populations" (see the HOME-ARP Implementing Notice section IV for detailed definitions):

(1) Homeless, as defined in 24 CFR 91.5 *Homeless* (1), (2), or (3) (see section IV.A.1.);

(2) At risk of homelessness, as defined in 24 CFR 91.5 *At risk of homelessness*; (see section IV A.2)

(3) Fleeing, or Attempting to Flee, Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking, as defined by HUD.(see section IV A.3) Other Populations where providing supportive services or assistance under section 212(a) of NAHA (42 USC 12742(a)) would prevent the family's homelessness or would serve those with the greatest risk of housing instability. (see section IV.A.4 (1) (2).)

b. HOME-ARP-assisted units in a rental housing project must be occupied only by households of individuals and families that meet the definition of one or more of the qualifying populations described in Section IV.A of the HOME-ARP Implementing.

Occupancy Requirements –

(1) *Qualifying Households.* Units restricted for occupancy qualifying households must be occupied by households that meet the definition of qualifying population at the time of admission to the HOME-ARP unit. A qualifying household after admission retains its eligibility to occupy a HOME-ARP rental unit restricted for qualifying populations, irrespective of the qualifying household's changes in income or whether the household continues to meet the definition of a qualifying population.

(2) *Low-Income Households.* At initial occupancy, units restricted for low-income households must be occupied by households that meet the definition of low-income in 24 CFR 92.2. If a tenant's income increases above the applicable low-income limit during the compliance period, the unit will be considered temporarily out of compliance. Noncompliance requires the PJ to take action in accordance with the rent and unit mix requirements in

Section VI.B.15 and VI.B.17 of the HOME-ARP Implementing Notice, respectively.

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

3. Eligibility for Subrecipients
Not Applicable

J. Program Income

HOME

When program income is generated by housing that is only partially assisted with HOME funds or matching funds, the income must be prorated to reflect the percentage of HOME funds used. Program income includes, but is not limited to, the following:

a. Proceeds from the disposition by sale or long-term lease of real property acquired, rehabilitated, or constructed with HOME funds or matching contributions;

b. Gross income from the use or rental of real property owned by the PJ, state recipient, or a subrecipient, that was acquired, rehabilitated, or constructed with HOME funds or matching contributions, less costs incidental to generation of the income (program income does not include gross income from the use, rental or sale of real property received by the project owner, developer, or sponsor, unless the funds are paid by the project owner, developer, or sponsor to the PJ, subrecipient or state recipient);

c. Payments of principal and interest on loans made using HOME funds or matching contributions;

d. Proceeds from the sale of loans made with HOME funds or matching contributions;

e. Proceeds from the sale of obligations secured by loans made with HOME funds or matching contributions;

f. Interest earned on program income pending its disposition; and

g. Any other interest or return on the investment permitted under 24 CFR section 92.205(b) of HOME funds or matching contributions (24 CFR sections 92.2 and 92.505).

HOME-ARP

Program income earned as a result of the use of HOME-ARP funds is HOME program income and must be used in accordance with the requirements of 24 CFR Part 92.

Program income includes, but is not limited to, principal and interest payments from a loan made with HOME-ARP funds, or other income or fees received from project owners in connection with HOME-ARP funds, and interest earned by the PJ on program income before disposition.

The PJ must retain the funds in their HOME-ARP Investment Trust Fund local account (local account) and enter the program income into IDIS as HOME program income, and also must subgrant the program income to the state recipient or subrecipient that retained the program income.

M. Subrecipient Monitoring

Each participating state is responsible for distributing HOME/HOME-ARP funds throughout the state according to the state's assessment of the geographical distribution of housing need within the state. A state may carry out its HOME/HOME-ARP program without active participation of units of general local government or may distribute HOME funds to units of general local government to carry out HOME programs in which both the state and all or some of the units of general local government perform specified program functions. A state that uses state recipients to perform program functions shall ensure that the state recipients use HOME/HOME-ARP funds in accordance with applicable laws and requirements. A state shall include in its written agreements with its state recipients such additional provisions as may be appropriate to ensure compliance and to enable the state to carry out its responsibilities under the HOME/HOME-ARP program. The state is to conduct such reviews and audits of its state recipients as may be necessary or appropriate to determine whether the state recipient has committed and expended the HOME/HOME-ARP funds, as required by 24 CFR section 92.500, and has met HOME/HOME-ARP program requirements particularly as they relate to eligible activities, income targeting, affordability, and matching contribution requirement (24 CFR section 92.201(b)).

Before disbursing funds to a subrecipient, each PJ is required to enter into written agreements with the entity, which includes provisions dealing with the use of HOME/HOME-ARP funds, program income, uniform administrative requirements, other program requirements, affirmative marketing, requests for disbursement of funds, reversion of assets, records and reports, and enforcement of the agreement. Further, if the subrecipient provides HOME/HOME-ARP funds to for-profit owners or developers, nonprofit organizations, subrecipients, homeowners, homebuyers, tenants receiving tenant-based rental assistance, or contractors—as applicable—the subrecipient must have a written agreement that contains the applicable provisions in 24 CFR section 92.504(c).

Regarding HOME-ARP funds: The same requirements for subrecipient monitoring applies except that activities for homeowners and homebuyers are excluded from HOME-ARP funding.

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements Contracts for the construction of affordable housing with 12 or more HOME-assisted units are required to comply with the Wage Rate Requirements (42 USC 12836).

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

Regarding HOME-ARP funds: The same wage rate requirements apply.

2. Maximum Per-Unit Subsidy

Compliance Requirements The per-unit investment of HOME funds may not exceed the Federal Housing Administration (FHA) mortgage limits in Subsection 221(d)(3) of the National Housing Act, including any area-wide high cost exceptions approved by HUD. This information should be available from the grantee or the local HUD field office. In mixed-income or mixed-use projects, the average per-unit investment in HOME-assisted units may not exceed the applicable Subsection 221(d)(3) (i.e., 234) limit.

Note: The maximum per-unit subsidy limits established in NAHA do not apply to HOME-ARP units. PJs may pay up to 100 percent of the eligible and reasonable HOME-ARP costs allocated to a HOME-ARP unit, including operating cost assistance associated with units restricted for occupancy by qualifying households. All costs paid by HOME-ARP funds must comply with the HOME-ARP Implementing Notice requirements and the Cost principles at 2 CFR Part 200 Subpart E of the Uniform Administrative Requirements, as amended.

Audit Objectives Determine whether the grantee performs the required analysis to ensure that the per-unit investment of HOME funds being provided does not exceed the FHA mortgage limits in Subsection 221(d)(3).

Suggested Audit Procedures

a. Review a sample of projects to verify that the HOME per-unit investment amounts are supported by the participating jurisdiction's records.

3. Underwriting Requirements

HOME

Compliance Requirements PJs are required to evaluate each housing project in accordance with guidelines that it adopts to ensure that the combination of federal assistance to the project is not any more than is necessary to provide affordable housing that is financially viable. Prior to the commitment of HOME funds to a project, PJs must evaluate the project in accordance with guidelines that it has adopted, which must include (a) an examination of the sources and uses of funds for the project and a determination that the costs are reasonable; (b) an assessment of the current market demand in the neighborhood in which the project will be located; (c) an assessment of the experience

and financial capacity of the developer; and (d) an assessment of the firm written financial commitments for the project (24 CFR section 92.250).

Audit Objectives Determine whether the grantee performs the required analysis to ensure that HOME subsidies being provided are not more than necessary to provide affordable housing and that such analysis appears reasonable and is properly supported.

Suggested Audit Procedures

a. Review a sample of projects to verify that the HOME subsidy amounts are supported by the PJ's records.

b. Review PJ records to verify that each housing project was evaluated in accordance with its guidelines and to ensure that the combination of federal assistance to the project is not any more than is the FHA mortgage limits in Subsection 221(d)(3) (i.e., 234) of the National Housing Act necessary to provide affordable housing.

HOME-ARP

Compliance Requirements HOME-ARP must have standardized guidelines that include the following:

a. Examination of the source and uses of funds for the project and a determination that costs are necessary and reasonable. The PJ must determine the amount of HOME-ARP development subsidy required to fill the gap between other committed funding sources and the cost to develop the project.

b. A demonstration of unmet need among qualifying populations for the type of housing proposed.

c. Market assessment is necessary if project contains units restrict for low-income or market-rate households per 24 CFR 92.250(b)(2).

d. Documented review of the developer's experience and financial capacity are satisfactory based on the size and complexity of the project.

e. Firm written financial commitments for the project.

f. Review of the operating budget especially as it pertains to the operating cost assistance during the compliance period of the project.

g. Overall assessment of the project viability thought the compliance period.

Audit Objectives Determine whether the grantee performs the required analysis to ensure that HOME-ARP underwriting guidelines are followed, and that such analysis appears reasonable and is properly supported.

Suggested Audit Procedures

a. Review a sample of projects to verify that the HOME-ARP document list and analysis above is included in the participating jurisdiction's records.

4. Drawdowns of HOME/HOME-ARP Funds

Compliance Requirements The Integrated Disbursement and Information System (IDIS) is used both to collect information on compliance with program requirements and to disburse HOME funds to local jurisdictions (24 CFR section 92.502).

Audit Objectives Determine whether the drawdowns of HOME funds using IDIS (HOME payment certification amounts) are supported by local jurisdiction records.

Suggested Audit Procedures

a. Verify that HOME/HOME-ARP payment certification amounts match the amount of the local jurisdiction's expenditures to support the drawdown request.

5. Housing Quality Standards

Compliance Requirements During the period of affordability (i.e., the period for which the nonfederal entity must maintain subsidized housing) for HOME assisted rental housing, the PJ must perform on-site inspections to determine compliance with property standards and verify the information submitted by the owners no less than (a) every three years for projects containing one to four units, (b) every two years for projects containing five to 25 units, and (c) every year for projects containing 26 or more units. The PJ must perform on-site inspections of rental housing occupied by tenants receiving HOME/HOME-ARP-assisted tenant-based rental assistance to determine compliance with housing quality standards (24 CFR sections 92.209(i), 92.251(f), and 92.504(d)).

Regarding HOME-ARP funds: the rental units must comply with the same requirements as HOME per 24 CFR 92.251 for (a) new construction, (b)rehabilitation projects, (c)(1) and (2) acquisition of standard housing, (e) manufactured housing, and (f) on-going property condition standards.

Note: Requirements for the ongoing inspections of HOME-assisted rental housing were established by the HOME rule, published July 24, 2013.These requirements will become effective upon publication of a notice by HUD, which further sets forth these requirements. Once effective, the requirements for completion and ongoing inspections of HOME rental housing must comply with the requirements set forth at 24 CFR 92.504(d)(1).

Audit Objectives Determine whether the grantee performs the required inspections to ensure that property standards are met.

Suggested Audit Procedures

a. Verify through a review of documentation that the nonfederal entity identifies those units on which housing quality inspections are due.

b. Verify through a review of documentation that the nonfederal entity performs inspections of units and that any needed repairs are completed timely.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSITANCE LISTING 14.241 HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

I. PROGRAM OBJECTIVES

The Housing Opportunities for Persons With AIDS (HOPWA) program is designed to provide states and localities with resources and incentives to devise long-term strategies for meeting the housing needs of persons living with the human immunodeficiency virus (HIV), including those with acquired immunodeficiency syndrome (AIDS) or related diseases and their families (24 CFR section 574.3).

II. PROGRAM PROCEDURES

The Department of Housing and Urban Development (HUD) awards funds appropriated for the program in any fiscal year through both a formula allocation and competitive grant process.

Ninety percent of the funds are awarded through formula grants and ten percent through competitive grants. HUD allocates formula funds based on the number of persons living with HIV as reported to and confirmed by the Centers for Disease Control and Prevention (CDC), population data furnished by the US Bureau of the Census, two-bedroom Fair Market Rent data published by HUD, and poverty rate data derived by the American Community Survey (42 USC 12903(c)).

The competitive grants are awarded based on applications, as described in Subpart C of the HOPWA regulations (24 CFR Part 574 Subpart C). Priority is currently given by Congressional authority for the renewal or replacement of expiring permanent supportive housing project grants, per annual appropriation language. If funds remain after renewals or replacements are awarded, they are distributed under a Notice of Funding Opportunity (NOFO) competition. In FY24, the HOPWA program funded permanent supportive housing projects through Notice CPD-24-03. In FY24, the HOPWA program publish a NOFO (FR-6700-N-11) to fund Housing Interventions (HINT) to End the HIV Epidemic special projects of national significance (SPNS) grants. All states and units of general local government and nonprofit organizations are eligible to apply for competitive grants to fund special projects of national significance (SPNS). . Only those states and units of general local government that do not qualify for formula allocations are eligible to apply for competitive grants to fund other projects, as described in 574.200(a)(2). Except for grants involving projects of national significance, nonprofit organizations are not eligible to apply directly to HUD for a grant but may receive funding as a project sponsor (subrecipient) under a contract with a grantee (24 CFR section 574.210).

The Coronavirus Aid, Relief, and Economic Security (CARES) Act included $65 million in supplemental grant funding for the HOPWA program that the Department distributed in the following manner:

1. $53.7 million was allocated to formula grantees using the same data elements from the statutory allocation formula (42 USC 12903) used to determine fiscal year (FY)

2020 HOPWA formula allocations;

2. $10 million in additional one-time, nonrenewable funding was allocated to HOPWA permanent supportive housing competitive renewal grantees that were initially funded with appropriated funds from FY 2010 or earlier and are currently administering grant awards. The supplemental grant funding was allocated to the competitive renewal grantees in a manner proportionate to their existing grants;

3. $1.3 million in funding was awarded, without competition, to increase prior awards made to existing HOPWA technical assistance (TA) providers. The purpose of TA funding is to provide an immediate increase in capacity building and TA availability to grantees.

The CARES Act funding guidance is included in the FY2025 Compliance Supplemental Package due to it not being closed-out in HUD financial systems. It will be removed in the FY2026 Supplement.

Source of Governing Requirements
The HOPWA program is authorized by the AIDS Housing Opportunity Act, as amended (42 USC 12901 *et seq.*). Implementing regulations are in 24 CFR parts 91and 574.

HOPWA CARES Act grants are authorized by the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136.

Availability of Other Program Information
For additional information that may be helpful to auditors in understanding the HOPWA program, refer to the respective HOPWA program websites at the following links:

HOPWA Program Notices Website:
https://www.hud.gov/program_offices/comm_planning/hopwa/notices

For additional information that may be helpful to auditors in understanding the HOPWA CARES Act grants, available guidance and resources can be accessed here:
https://www.hud.gov/program_offices/comm_planning/hopwa_covid-19.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to

the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	N	N	N	N	Y	N	Y

A. Activities Allowed or Unallowed

1. HOPWA funds may be used to assist forms of housing designed to prevent homelessness, including emergency housing, shared housing arrangements, apartments, single room occupancy (SRO) dwellings, and community residences. Appropriate supportive services must be made available as part of any HOPWA-assisted housing, but HOPWA funds may also be used to provide services independently of any housing activity. The following activities may be carried out with HOPWA funds: housing information services; resource identification to establish, coordinate, and develop housing assistance resources for eligible persons; acquisition, rehabilitation, conversion, lease, and repair of facilities to provide housing and services; new construction for SRO and community residences only; project- or tenant-based rental assistance, including assistance for shared housing arrangements; short-term rent, mortgage, and utility payments to prevent the homelessness of the tenant or the mortgagor of a dwelling; permanent housing placement including security deposits of up to two months' rent; supportive services; operating costs for housing; technical assistance in establishing and operating a community residence; administrative expenses; and, for competitive grants only, any other activity proposed by the applicant and approved by HUD (24 CFR section 574.300).

2. The supplemental grant funds authorized under the CARES Act may be used to provide the eligible HOPWA activities identified at 24 CFR Part 574, so long as these funds are used for activities that are consistent with grantees' community needs for COVID-19 preparedness and response.

   Grantees may consider using the supplemental grant funds authorized under the CARES Act for the following activities:

   a. Stays at hotels, motels, or other locations to self-isolate, quarantine, or provide other infection control for HOPWA-eligible individuals or their

family members;

b. Providing transportation services for eligible households to access medical care, supplies, and food or to commute to places of employment;

c. Assisting HOPWA-eligible households in accessing essential services and supplies such as food, medications, medical care, personal protective equipment (PPE) and information;

d. Providing nutrition services for eligible households in the form of food banks, groceries, and meal deliveries;

e. Educating assisted households on ways to reduce the risk of contracting or spreading COVID-19 to others; and

f. Costs related to infection control measures such as cleaning and disinfectant supplies, gloves, PPE, and other safety-related supplies for staff and assisted households.

B. Allowable Costs/Cost Principles

1. Grantees must ensure that grant funds will not be used to make payments for health services for any item or service to the extent that payment was made, or can reasonably be expected to be made, with respect to any item or service:

   a. under any state compensation program, under an insurance policy, or under any federal or state health benefits program; or

   b. by an entity that provides health services on a prepaid basis, as provided for in 24 CFR section 574.310(a)(2). Supportive services include such items as alcohol abuse treatment and counseling, day care, and nutritional services (24 CFR section 574.300(b)(7)).

2. HOPWA administrative costs do not include costs directly related to carrying out eligible activities, since those costs are eligible as part of the activity delivery costs of such activities (24 CFR section 574.3).

3. CARES Act funds may be used to cover or reimburse allowable costs as of the date a grantee or project sponsor began preparing for coronavirus, which HUD shall presume to be no earlier than January 21, 2020—the date the first confirmed case was reported in the United States according to the CDC. Grantees and project sponsors must maintain documentation demonstrating when they began preparing for COVID-19, such as notes on formal planning meetings or calls, and must maintain documentation to support any costs incurred by the recipient that the recipient plans to cover or reimburse with CARES Act grant funding.

4. Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 USC 5155) prohibits the duplication of benefits for programs that provide financial assistance to people or entities suffering losses as a result of a federally declared disaster or emergency. The duplication of benefits occurs when federal financial assistance is provided to a person or entity through a program to address losses resulting from a federally declared emergency or disaster, and the person or entity has received (or would receive, by acting reasonably to obtain available assistance) financial assistance for the same costs from any other source (including insurance), and the total amount received exceeds the total need for those costs. HOPWA grantees must establish and maintain adequate procedures to prevent any duplication of benefits with CARES Act funds.

E. Eligibility

1. Eligibility for Individuals

a. A person eligible for assistance under this program means a person with HIV or AIDS who is a low-income individual and the person's family, including persons important to their care or well-being, as defined in 24 CFR section 574.3. The eligibility of those tenants who were admitted to the program should be determined by (1) obtaining applications that contain all the information needed to determine eligibility, including diagnosis, documentation of housing need, income, rent, and order of selection; and (2) obtaining third party verifications or documentation of expected income, assets, unusual medical expenses, and any other pertinent information. Personally Identifiable Information (PII) should be redacted.

In response to the COVID-19 pandemic, HUD issued regulatory waivers permitting HOPWA grantees and project sponsors to rely upon a family member's self-certification of income and credible information on their HIV status (such as knowledge of their HIV-related medical care) in lieu of source documentation to determine eligibility for HOPWA assistance of families and grantees affected by COVID-19.

All CPD waiver memoranda are available online at https://www.hud.gov/program_offices/comm_planning/waivers_covid-19.

HOPWA specific waivers are included in the following memoranda:

(1) https://www.hud.gov/sites/dfiles/CPD/documents/Availability-of-Waivers-of-CPD-Grant-Program-and-Consolidated-Plan-Requirements-to-Prevent-the-Spread-of-COVID-19-and-Mitigate-Economic-Impacts-Caused-by-COVID-19.pdf

(2) https://www.hud.gov/sites/dfiles/CPD/documents/Additional_Waivers_for_CPD_Grant_Programs_to_Prevent_COVID-19_Spread_and_Mitigate_COVID-19_Economic_Impacts.pdf

(3) https://www.hud.gov/sites/dfiles/CPD/documents/DI-7782-MegaWaiver-5-for-CPD_v2-3-26-2021_JAJ_signed.pdf

(4) https://www.hud.gov/sites/dfiles/CPD/documents/signed- 2021-MegaWaiver-6_Final.pdf

(5) https://www.hud.gov/sites/dfiles/CPD/documents/Additional_Waivers_CPD_COVID19_December_2021.pdf

b. Except for persons in short-term supportive housing, each person receiving rental assistance under the HOPWA program must pay as rent the higher of: (1) 30 percent of the family's monthly adjusted gross income; (2) 10 percent of the family's monthly gross income; or (3) the portion of the payments that is designated if the family is receiving payments for welfare assistance from a public agency and a part of the payments, adjusted in accordance with the family's actual housing costs, is specifically designated by the agency to meet the family's housing costs (24 CFR section 574.310).

c. If grant funds are used to provide rental assistance, the amount of grant funds used to pay monthly assistance for an eligible person may not exceed the difference between the lower of the rent standard or reasonable rent. Per 24 CFR 574.320(a)(2) the rent standard shall be established by the grantee and shall be no more than the published section 8 fair market rent (FMR) or the HUD-approved community-wide exception rent for the unit size. Per 24 CFR section 574.320(a)(3), the rent charged for a unit must be reasonable in relation to rents currently being charged for comparable units in the private unassisted market and must not be in excess of rents currently being charged by the owner for comparable unassisted units. Rent reasonableness can be determined by telephone surveys, site visits after telephoning, or more extensive market surveys of available rental units to assess the reasonableness of rents being charged based on timeframe when the rent was determined.

In response to the COVID-19 pandemic, HUD issued regulatory waivers permitting HOPWA grantees to establish rent standards, by unit size, which exceed FMR as long as they meet rent reasonableness requirements at 24 CFR section 574.320(a)(3). The waiver memoranda are available online at https://www.hud.gov/program_offices/comm_planning/waivers_covid-19.

d. A short-term supported housing facility may not provide residence to any individual for more than 60 days during any six-month period. Further a short-term supported housing facility may not provide shelter or housing at any single time for more than 50 families or individuals (24 CFR section 574.330). Short-term rent, mortgage, and utility payments to prevent the homelessness of the tenant or the mortgagor of a dwelling may not be provided to such an individual for costs accruing over a period of

more than 21 weeks in any 52-week period.

In response to the COVID-19 pandemic, HUD issued regulatory waivers that provided that, on an individual household basis, grantees or project sponsors may assist eligible households for a period that exceeds the time limit specified in the regulations. The waiver memoranda are available online at https://www.hud.gov/program_offices/comm_planning/waivers_covid-19.

e. The CARES Act provided that the supplemental grant funding received under the Act may be used to provide Short-Term Rent, Mortgage and Utility (STRMU)assistance payments for a period of up to 24 months. The 24-month limit on STRMU assistance specified by the CARES Act is only applicable to the supplemental grant funds received under the CARES Act and any portion of a grantee's FY 2020 formula funds that have been approved under its Annual Action Plan (AAP) for allowable activities to prevent, prepare for, and respond to the COVID-19 pandemic.

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – For HOPWA, this form is only partially filled out for submittal at closeout. All of the information captured in this form except for the program income and indirect expenses sections is already provided through HUD's financial and reporting systems. Grantees are required to only complete the sections on Program Income (Part 10. L-O), and Indirect Expenses (Part 11) but may complete additional fields.

This form is available online at: https://apply07.grants.gov/apply/forms/sample/SF425_3_0-V3.0.pdf

d. *Integrated Disbursement Information System (IDIS)* (OMB No. 2506- 0077) – HOPWA formula grantees and competitive grantees utilize IDIS Online to

conduct financial transactions. Grantees must set up activities for the grantee and project sponsor in IDIS. An activity corresponds to the eligible HOPWA grant activities and is tied to the operating year. After an activity has been set up, funds are drawn down by creating a voucher that sends the payment request to the line of credit control system (LOCCS). Auditors may request grantees/auditees to supply a copy of the following reports from the MicroStrategy reporting system to compare actual draw information with local financial management system data and receipts on file with the grantee: PR01 (total grant amounts with total draws and balances); PR02 (activity-level funding and drawn amount under a grant); PR05 (draws sorted by project and activity); PR07 (sequential grantee draws, with ability to filter by date, activity and 'completed' voucher status). Discuss with the grantee any impact of potential trailing costs which may include reviewing the grantee-identified Approximate Cost Incurred Date field on the HOPWA PR-07. The Contact Support link within IDIS can be used to get clarification on report variables.

IDIS Online link: https://www.hudexchange.info/programs/idis/

2. Performance Reporting

a. **Report Title**: HUD-4155, *HOPWA Consolidated APR/CAPER*

OMB PRA Number: OMB number 2506-0133

Report Authority: 24 CFR 574.520, 24 CFR 574.605

Reporting Period/ Submission date/s: Both HOPWA formula and competitive grantees submitting reports after January 1, 2023, must complete and submit the HUD-4155 "Consolidated APR/CAPER" (OMB number 2506-0133). HOPWA Formula Grantees that accept the supplemental funding authorized under the CARES Act should report on the use of supplemental grant funds in the same performance report as their use of entitlement funds. Both formula and competitive grantees are required to submit their completed HUD-4155 no later than 90 days after the close of their program or operating year. Competitive grantees have 120 days after the end of their grant's last period of performance to submit the final HUD-4155.

Link to report and report instruction:
HUD-4155, HOPWA Consolidated APR/CAPER

Information pertaining to the amount of HOPWA funds expended in the program year for each HOPWA eligible activity can be found in Form HUD-4155's workbook which includes a tab for each of the following programs: Tenant Based Rental Assistance (TBRA), Permanent Facility Based Housing (P-FBH), Short-term and Transitional Facility-Based Housing (ST-TFBH), Short-Term Rent, Mortgage and Utility (STRMU), Permanent Housing

Placement (PHP), Housing Information Services, and Supportive Services. Please note that the amounts will be found as answers to the questions included under each Program section within HUD-4155, which have been listed under Key Line Items.

Grantees should be able to demonstrate that funds reported in the annual performance report are traceable in local accounts.

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

Auditors should note that the Key Line Items below are phrased as questions since that is how they are included in the HUD-4115 workbook.

1. Tenant Based Rental Assistance (TBRA)
   a. TBRA Households Served and Expenditure

      (1) What were the total HOPWA funds expended for TBRA rental assistance?

2. Permanent Facility Based Housing

   a. Leasing -- Households and Expenditures Served by this Activity

      (1) What were the HOPWA funds expended for Permanent Facility-Based Housing Leasing Costs for each facility?

   b. Operating -- Households and Expenditures Served by this Activity

      (1) What were the HOPWA funds expended for Permanent Facility-Based Housing Leasing Costs for each facility?

   c. Other Housing Support -- Households and Expenditures Served by this Activity

      (1) What were the HOPWA funds expended for Other types of Permanent Facility-Based Housing for each facility?

3. Short-Term and Transitional Facility-Based Housing

   a. Leasing -- Households and Expenditures Served by this Activity

(1) What were the HOPWA funds expended for Transitional/Short-Term Facility-Based Housing Leasing Costs for each facility?

b. Operating -- Households and Expenditures Served by this Activity

(1) What were the HOPWA funds expended for Permanent Facility-Based Housing Leasing Costs for each facility?

c. Hotel-Motel -- Households and Expenditures Served by this Activity

(1) What were the HOPWA funds expended for Permanent Facility-Based Housing Operating Costs for each facility?

d. Other Housing Support -- Households and Expenditures Served by this Activity

(1) What were the HOPWA funds expended for Other types of Permanent Facility-Based Housing for each facility?

4. Short-Term Rent, Mortgage and Utility

a. STRMU Expenditures

(1) Total STRMU Expenditures

5. Permanent Housing Placement

a. PHP Expenditures for Households Served by this Activity

(1) What were the HOPWA funds expended for PHP?

6. Housing Information Services

a. Housing Information Services Expenditures

(1) What were the HOPWA funds expended for Housing Information Services?

7. Supportive Services

a. Households and Expenditures for Supportive Service Types –

Expenditures Column

(1) What were the expenditures for each of the following types of supportive services in the program year? *(Adult Day Care and Personal, Alcohol-Drug Abuse, Child Care, Case Management, Education, Employment Assistance and Training, Health / Medical Services, Legal Services, Life Skills Management, Meals/ Nutritional Services, Mental health Services, Outreach, and Transportation.)*

(2) *Any other type of HOPWA funded, HUD approved supportive services?*

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Maintenance of Structures

Compliance Requirements Project-based rental assistance provides a subsidy to a unit specifically reserved for HOPWA-eligible households by paying for the operating costs of the unit. Households do not retain the rental assistance if they move. Unless waived by HUD, any building or structure acquired, constructed, rehabilitated, or repaired with HOPWA funds must be maintained as a facility to provide housing or assistance for individuals with HIV or AIDS: (a) for a period of not less than ten years, in the case of assistance provided under an activity eligible under 24 CFR sections 574.300(b)(3)-(4) involving new construction, substantial rehabilitation, or acquisition of a building or structure; or (b) for a period of not less than three years in cases involving non-substantial rehabilitation or repair of a building or structure (24 CFR sections 574.310(c)(1)-(2)). The disposition requirements at 2 CFR part 200.311 apply if the grantee or project sponsor chooses to change the purpose or sell/transfer the property, even if the minimum use period has been met.

Audit Objectives Determine whether the project sponsor is receiving the proper amount of assistance and is maintaining the assisted buildings and structures for eligible households for the stipulated periods.

Suggested Audit Procedures

a. Obtain a listing of the buildings or structures acquired, rehabilitated, constructed, or

repaired with HOPWA funds and verify their use.

b. Examine related agreements to verify that the structures are to provide housing or assistance for the stipulated number of years when new construction, substantial rehabilitation, acquisition, or non-substantial rehabilitation was involved.

c. Verify from documentation or by observation that the required rehabilitation was performed if the project was accepted for occupancy during the audit period.

2. Housing Quality Standards

Compliance Requirements The PHA or owner must provide housing that is decent, safe, and sanitary. All housing that involves acquisition, rehabilitation, conversion, lease, repair of facilities, new construction, project-or tenant-base rental assistance (including assistance for shared housing arrangements), and operation costs must meet housing quality standards required at 24 CFR sections 574.310(b)(1)-(2). HOPWA grantees must perform housing quality inspections to ensure that the units meet required HOPWA Housing Quality Standards. Grantees must continue to be in compliance with the pre-October 1, 2023 regulations for HOPWA housing quality standards until they begin to implement the National Standards for the Physical Inspection of Real Estate (NSPIRE) rule on or before October 1, 2025, which can be accessed at: https://www.federalregister.gov/documents/2024/07/05/2024-14718/economic-growth-regulatory-relief-and-consumer-protection-act-implementation-of-national-standards.

In response to the COVID-19 pandemic, HUD issued regulatory waivers allowing grantees or project sponsors to visually inspect units using technology, such as video streaming, to ensure units meet HQS before any assistance is provided. The waiver memoranda are available online at https://www.hud.gov/program_offices/comm_planning/waivers_covid-19.

Audit Objectives Determine whether the grantee performs the required inspections before assistance is provided to a unit to ensure the unit meets housing quality standards.

Suggested Audit Procedures

a. Select a sample of grantee files to verify by a review of documentation that the grantee's system identifies those units on which housing quality inspections are due.

b. Select a sample of grantee files to verify by a review of documentation that the grantee performs inspections of these units and that any needed repairs were completed.

c. If documentation If virtual inspections are completed, verify by review of documentation that the grantee notified HUD of its intent to use the waiver and that there are written policies to physically reinspect the unit after health officials determine COVID-19 special measures are no longer necessary.

3. Community Residences

Compliance Requirements A community residence is a multi-unit residence designed for eligible persons to provide a lower cost residential alternative to institutional care, to prevent or delay the need for such care, to provide a permanent or transitional residential setting with appropriate services to enhance the quality of life for those who are unable to live independently, and to enable those persons to participate as fully as possible in community life. If grant funds are used to provide a community residence (except for planning and other preliminary expense), the grantee must, prior to the expenditure of such funds, obtain and keep on file certifications relating to the services to be provided, the adequacy of funding and the capabilities of the grantee, project sponsor, or service provider (24 CFR section 574.340).

Audit Objectives Determine whether the required certifications are being maintained and supported.

Suggested Audit Procedures

a. From the sample selected in a, verify that there is evidence on file to support the certifications that were made.

b. From the sample selected in a, verify that there is evidence on file to support the certifications that were made.

4. Section 3 of the Housing and Urban Development Act of 1968

Compliance Requirements Grantees must establish and maintain (or ensure that a subrecipient, contractor, or subcontractor maintains) documentation to demonstrate that workers on Section 3 projects meet the definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting period. This includes requiring written reports from developers or contractors summarizing the totals for labor hours, including Section 3 worker and Targeted Section 3 worker labor hours, and documentation from employees or employers certifying that the employee met the requirements to receive Section 3 worker status. Any information that a grantee enters in IDIS or DRGR must have supporting documentation demonstrating the accuracy of the data. (24 CFR part 75).

Audit Objectives Determine whether the Grantee is following its own Section 3 policy and procedures by collecting and maintaining adequate records demonstrating Section 3 compliance.

Suggested Audit Procedures

a. Review the grantee’s Section 3 policy and procedures.

b. Select a sample of grant agreements for housing rehabilitation and/or housing construction projects to determine if the grantee notified subrecipients of requirements to maintain or ensure that a subrecipient, contractor, or subcontractor maintains adequate records demonstrating Section 3 compliance.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANCE LISTING 14.256 NEIGHBORHOOD STABILIZATION PROGRAM (RECOVERY ACT FUNDED)

I. PROGRAM OBJECTIVES

The objectives of the Neighborhood Stabilization Program (NSP) are to (1) stabilize property values, (2) arrest neighborhood decline, (3) assist in preventing neighborhood blight, and (4) stabilize communities across America hardest hit by residential foreclosures and abandonment. These objectives have been achieved through the purchase and redevelopment of foreclosed and abandoned homes and residential properties that allows those properties to turn into useful, safe, and sanitary housing.

II. PROGRAM PROCEDURES

A. Overview

NSP is separated into four categories, two of which are covered by this program section and two that are covered under Assistance Listings 14.218 and 14.228:

NSP1 is authorized under Division B, Title III of the Housing and Economic Recovery Act (HERA) of 2008 (Pub. L. No. 110-289, July 30, 2008). NSP1 is not part of Assistance Listing 14.256, and this program supplement does not cover NSP1. NSP1 awards are made under Assistance Listings 14.218 and 14.228 and are covered in the CDBG– Entitlement Grants Cluster section of Part 4.

NSP2 is authorized under the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. No. 111-5). NSP2 provides grants based on competitive factors of need, organizational capacity, soundness of approach, leveraging of other funds, energy efficiency and sustainable development, neighborhood transformation, and economic opportunity to states, local governments, nonprofits, and consortia of nonprofit entities. NSP2 is covered under this program section.

NSP-TA (technical assistance) also is authorized by ARRA. NSP-TA provides grants for technical assistance based on competitive factors of recent experience, organizational capacity, soundness of approach, leveraging resources, and achieving results and program evaluation, to national and local technical assistance providers to support NSP1 and NSP2 grantees to increase their capacity to carry out neighborhood stabilization programs. NSP-TA is covered under this program section.

NSP3 is authorized by Section 1497 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203, July 21, 2010)(hereinafter, Dodd-Frank Act). NSP3 is not part of Assistance Listing 14.256 and this program supplement does not cover NSP3. NSP3 awards are made under Assistance Listings 14.218 and 14.228 and are covered in the

CDBG– Entitlement Grants Cluster section of Part 4.

On May 7, 2009, HUD issued Notices of Funding Availability (NOFAs) for NSP2 (FR-5321-N-02) and NSP-TA (FR-5313-N-01) in the *Federal Register* (74 FR 21377). These NOFAs provided information on funds availability, alternative requirements, and waivers issued by HUD.

B. Subprograms/Program Elements

1. *NSP2*

Unlike the NSP1 and NSP3 formula grants provided to existing Community Development Block Grant (CDBG) annual formula program grantees, NSP2 is a competitive grant program that made $1.93 billion available to eligible grantees including states, local governments, nonprofits, and consortia of nonprofit entities. NSP funding provided under HERA and the Dodd-Frank Act, referred to, respectively, as NSP1 and NSP3, are covered by the Community Development Block Grants/Entitlement Grants/Insular Areas (Assistance Listings 14.218 and 14.225) and audited separately**.** NSP2 line of credit funds have been expended, but grantees are still managing program income, the expenditure of which must meet NSP2 purposes. Grant applicants were encouraged to use funds for concentrated investment in carefully chosen target areas. To facilitate the identification of target areas, HUD developed an online mapping application. The mapping tool provided foreclosure and abandonment risk scores for all census tracts, which were updated from the NSP1 risk scores. The methodology used to calculate scores for the NSP2 grants can be found at https://www.huduser.gov/portal/NSP2datadesc.html. The mapping tool has not been updated in several years and was replaced by a Foreclosure Need website that HUD required grantees to use, effective May 21, 2013. The September 12, 2019, *Federal Register* NSP Closeout Notice (84 FR 48165) notified grantees that HUD is no longer updating the Foreclosure Need websites and mapping tools. The 2019 Notice amended the NSP2 NOFA to eliminate the requirement that grantees use the HUD Foreclosure Need website. Instead, HUD is requiring that grantees meet the statutory requirement to give priority emphasis and consideration to areas with the greatest need when distributing NSP funds. NSP2 grantees amending their NSP2 applications to serve areas other than those that were previously identified as areas of greatest need must describe the nature and extent of the need for neighborhood stabilization in the amendment. NSP2 grantees must submit any amendments to the field office to forward to HUD Headquarters for review and approval.

The Federal Register notices that govern the use of NSP2 funds are available at https://www.hudexchange.info/programs/nsp/nsp-laws-regulations-and-federal-register-notices/. This page contains notices for all three rounds of NSP. Auditors are cautioned to refer only to the notices on this page that address NSP2 requirements.

2. *NSP-TA*

At this stage in the life of this program, barring any future allocations from Congress, NSP-TA is geared toward identifying grantee issues with the Disaster Recovery Grant Reporting System (DRGR), assessing grantee closeout readiness, and resolving any programmatic

issues that are delaying grantees from closing out NSP grants. Depending upon its issue, a grantee requests assistance directly from HUD or through the HUD TA portal found on the HUD Exchange. Grantee steps for requesting assistance may be found at https://www.hudexchange.info/program-support/technical-assistance/.

Source of Governing Requirements

NSP2 and NSP-TA are authorized by HERA, as amended by ARRA Unless different requirements are provided in the NSP2 NOFA or the NSP-TA NOFA, the statutory and regulatory provisions governing the CDBG program, including those at 24 CFR Part 570 subparts A, C, D, J, K, and O, as appropriate, apply to the use of NSP2 and NSP-TA funding. In addition, NSP1 activities authorized under HERA apply to NSP2 as well.

Availability of Other Program Information

Additional information about the NSP, including the NSP2 and NSP-TA NOFAs, is available on the HUD Exchange at https://www.hudexchange.info/programs/nsp/. HUD has published detailed additional guidance on program income at https://files.hudexchange.info/resources/documents/NSP%20Policy%20Alert_ProgramIncome.pdf.

Additional information about the NSP laws, regulations, and notices are available at https://www.hudexchange.info/programs/nsp/nsp-laws-regulations-and-federal-register-notices/.

Specific NSP2 notices are available at:

NSP1 Bridge Notice (Docket No. FR-5255-N-02) at https://www.govinfo.gov/content/pkg/FR-2009-06-19/pdf/E9-14360.pdf

NSP "Definition and Modification" Notice (Docket No. 5321-N-03) at https://www.govinfo.gov/content/pkg/FR-2010-04-09/pdf/2010-8131.pdf

NSP2 NOFA General Section Notice (Docket No. FR–5300–N–01) at https://www.govinfo.gov/content/pkg/FR-2008-12-29/pdf/E8-30600.pdf

NSP2 NOFA at https://www.hudexchange.info/resource/654/nsp2-nofa-may-4-2009/

NSP2 NOFA Correction at https://www.hudexchange.info/resource/656/nsp2-nofa-correction-june-11-2009/

NSP3 Notice (Unified NSP1 and NSP3 Notice) (Docket No. FR-5447-N-01) at https://www.govinfo.gov/content/pkg/FR-2010-10-19/pdf/2010-26292.pdf

NSP Closeout Notice (November 27, 2012) at https://www.govinfo.gov/content/pkg/FR-2012-11-27/pdf/2012-28642.pdf

Notice of Fund Availability (NOFA) for the Neighborhood Stabilization Program 2 (NSP2) Under

the American Recovery and Reinvestment Act, 2009: Announcement of Availability of Updated Foreclosure Information (May 21, 2013) at https://www.govinfo.gov/content/pkg/FR-2013-05-21/pdf/2013-11995.pdf

Notice of Changes to NSP Closeout Requirements Related to Program Income (June 14, 2016) at https://www.govinfo.gov/content/pkg/FR-2016-06-14/pdf/2016-14062.pdf

Notice of Changes to NSP Closeout Requirements Related to Program Income Amendment (September 12, 2019) at https://www.govinfo.gov/content/pkg/FR-2019-09-12/pdf/2019-19708.pdf

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	N	Y	N	Y	Y	N	Y

A. Activities Allowed or Unallowed

1. For NSP2 funds, HERA requirements supersede some CDBG requirements to allow for the eligible uses in Section 2301(c)(3) of HERA. The NSP2-eligible uses and CDBG entitlement grant regulations are listed in Appendix I.H of the NSP2 NOFA. The NSP2 eligible uses are to:
   a. Establish financing mechanisms for purchase and redevelopment of

foreclosed upon homes and residential properties.

b. Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon for later sale, rent, or redevelopment.

c. Establish land banks for homes that have been foreclosed upon.

d. Demolish blighted structures.

e. Redevelop demolished or vacant properties (Appendix I.H, Eligibility and Allowable Costs, of NSP2 NOFA).

2. Grantees must receive written HUD approval to undertake activities other than those listed in III.A.1 (Appendix I.H, Eligibility and Allowable Costs, of NSP2 NOFA).

3. For NSP funds, NSP requirements supersede existing CDBG requirements (see III.A.1) to permit the use of only the low- and moderate-income national objective for NSP-assisted activities. A NSP activity may not qualify using the "prevent or eliminate slums and blight" or "address urgent community development needs" national objectives. The HERA redefines and supersedes the definition of "low- and moderate-income," effectively allowing households whose incomes exceed 80 percent of area median income but do not exceed 120 percent of median income to qualify as if their incomes did not exceed the published low- and moderate-income levels of the regular CDBG program (Section III.E. of NSP3 Notice, 75 FR 64329-64331). HUD will refer to this new income group as "middle income" and maintain the regular CDBG definitions of "low-income" and "moderate-income" currently in use (Section 2301(f)(3)(A) of HERA).

4. For purposes of NSP only, an activity may meet the HERA established low- and moderate-income national objective if the assisted activity (a) provides or improves permanent residential structures that will be occupied by a household whose income is at or below 120 percent of area median income; (b) serves an area in which at least 51 percent of the residents have incomes at or below 120 percent of area median income; or (c) serves a limited clientele whose incomes are at or below 120 percent of area median income (Section 2301(f)(3)(A) of HERA; Section II.E. of NSP3 Notice, 75 FR 64329-64331).

5. NSP-TA funds can be used for:

a. National TA activities are limited to activities that address, at a national level, one or more of NSP-TA program activities or priorities. National TA activities may include the (1) development of written products, (2) development of web-based materials, (3) development of training courses, (4) delivery of training courses previously approved by HUD, (5) organization and delivery of workshops and conferences, and (6) delivery of direct TA

b. Local TA activities are limited to the (1) development of needs assessments,

(2) direct TA to HUD community development program recipients, (3) organization and delivery of workshops and conferences, and (4) customization and delivery of previously HUD-approved training courses or materials (Section III.C.2, Eligible National TA and Local TA Activities, of NSP-TA NOFA).

B. Allowable Costs/Cost Principles

1. All items of cost listed in 2 CFR Part 200, Subpart E, which require prior federal agency approval are allowable without prior approval, except for the following:

    a. Depreciation methods for fixed assets shall not be changed without the approval of the federal cognizant agency.

    b. Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances, and personal living expenses (goods or services for personal use), regardless of whether reported as taxable income to the employees, require prior HUD approval.

    c. Organization costs require prior HUD approval.

2. Fines, penalties, damages, and other settlements are unallowable (24 CFR section 570.200(a)(5)).

H. Period of Performance

NSP2 grantees are required to expend 50 percent of NSP2 funds in two years after HUD signs the grant agreement and expend 100 percent of NSP2 funds within three years after HUD signs the grant agreement (ARRA, 123 Stat. 217).

J. Program Income

NSP2 revenue received by states, local governments, nonprofits, and consortia of nonprofit entities that is directly generated from the use of NSP2 funds constitutes NSP2 program income. The expenditure of NSP2 program income must meet NSP2 purposes.

1. The CDBG definition of program income shall be applied to amounts received by units of local government and subrecipients (24 CFR section 570.500; Section II.N. of NSP3 Notice, 75 FR 64337). HERA, however, imposes limitations and requirements that necessitate an alternative requirement to govern the use of program income generated by NSP activities. The limitations and requirements are based on the NSP activity that generated the program income and on the date the income is received (Section 2301(d)(4) of HERA).

    a. Any revenue from the sale, rental, redevelopment, rehabilitation, or any other eligible use of NSP funds is to be provided to and used by the unit of local general government. This provision includes revenue received by a private

individual or other entity that is not a subrecipient (Section 2301(d)(4) of HERA; Section II.N. of NSP Notice, 73 FR 58340-58341).

b. Program income which is generated by NSP activities carried out pursuant to Section 2301(c)(3) of HERA may be retained by the unit of local government if it is treated as additional CDBG funds and used in accordance with the requirements of Section 2301 (Section 2301(c)(3) of HERA; Section II.N. of NSP Notice, 73 FR 58340-58341).

2. With the advent of Federal Register Notice of Changes to NSP Closeout Requirements Related to Program Income (81 FR 38730) and the succeeding NSP closeout notice, Notice of Changes to NSP Closeout Requirements Related to Program Income Amendment (84 FR 48165), NSP2 grantees with CDBG annual formula programs may transfer not only NSP program income on hand, but also a future stream of NSP program income for an activity to the annual CDBG program, eliminating the need for multiple written requests to transfer program income that is anticipated, but not yet received. Transfers are made by written notification from the grantee in a form and manner prescribed by HUD and upon HUD written approval. The latter of the two notices mentioned at the beginning of this paragraph provides more specifics on the request and approval process for program income transfers. This provision is limited to CDBG entitlements, state governments, and non-entitlement units of general local government that are state CDBG grant recipients and are current or former (closed out) NSP2 grantees and does not apply to nonprofits, consortia of nonprofit grantees and non-entitlement units of general local government that are not state CDBG grant recipients.

3. NSP2 grantees that are not CDBG entitlement communities or states must use post-closeout revenues generated from NSP-assisted activities that were funded before closeout for NSP purposes. If the grantee does not have another ongoing CDBG grant received directly from HUD at the time of closeout, then in accordance with 24 CFR 570.504(b)(5), income received after closeout from the disposition of real property or from loans outstanding at the time of closeout shall not be governed by NSP or CDBG rules, except that such income shall be used for activities that meet one of the national objectives in 24 CFR 570.208 and the eligibility requirements described in section 105 of the HCD Act. The provisions of 24 CFR 570.504(b)(5) are waived to limit its application to income received within five years of grant closeout. Any income received five years after grant closeout, as well as program income from funds outlaid after the date of the closeout agreement may be used without restriction. Such grantees are encouraged to use such funds in accordance with the principles above.

4. After grant closeout, former NSP grantees that are CDBG entitlements or state governments will report at least annually as provided for by HUD, in DRGR on the receipt and use of NSP program income, and the disposition of land-banked properties. These grantees must also include NSP program income in the annual CDBG Action Plan or substantial amendment in accordance with CDBG requirements.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

d. *Disaster Recovery Grant Reporting System (DRGR), (OMB No. 2506- 0165)*

Key Line Items – The following are key line items and contain critical information. Note that DRGR reports are not organized by line item numbers but the three metrics noted represent key line items in the reports below:

Metrics

1. *Obligation Amount*
2. *Received Amount*
3. *Disbursed Amount*

Reports

1. *F12 GEN Program Income Account Summary*
2. *F61 CUM - Program Income - Grant Level*
3. *F65 CUM - Grant Financial Summary - by Project and Activity*

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements Wage Rate Requirements apply to the rehabilitation of residential property only if such property contains eight or more units. However, the requirements do not apply to volunteer work where the volunteer does not receive compensation, or is paid expenses, reasonable benefits, or a nominal fee for such services, and is not otherwise employed at any time in construction work (42 USC 5310; Section 1606 of ARRA; Section 1205 of Pub. L. No. 111-32; 24 CFR 570.603).

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

2. Citizen Participation

Compliance Requirements To expedite the distribution of NSP2 funds and ensure citizen participation on the specific use of funds, HUD has established a minimum time for citizen comments of ten days on the proposed use of funds and the targeted geographic area. The grantee must publicize its NSP2 application material on its website and in the general media (Appendix I.B, Pre-Grant Process of NSP2 NOFA).

Audit Objectives Determine whether the grantee adhered to the citizen participation requirements.

Suggested Audit Procedures

a. Verify that the proposed use of funds and targeted geographic area were posted on the grantee's official website and published in a local newspaper.

b. Verify that the citizen comment period was no less than ten days.

3. Required Certifications and HUD Approvals

Compliance Requirements NSP2 funds (and local funds to be repaid with NSP2 funds) cannot be obligated or expended before receipt of HUD's approval of a Request for Release of Funds (RROF) and environmental certification, except for exempt activities under 24 CFR 58.34 and categorically excluded activities under 24 CFR 58.35(b) (24 CFR 58.22).

Audit Objectives Determine whether the grantee is obligating and expending program funds only after HUD's approval of the RROF.

Suggested Audit Procedures

a. Examine HUD's approval of the RROF and environmental certification and note dates.

b. Review the expenditure and related records to ascertain when NSP2 funds, and local funds which were repaid with NSP2 funds, were first obligated or expended and ascertain if any funds were obligated or expended prior to HUD's approval of the RROF.

4. Environmental Reviews

Compliance Requirements NSP2 assistance is subject to the National Environmental Policy Act of 1969 and related HUD environmental regulations at 24 CFR Part 58.

Nonprofit recipients and other recipients that are not designated responsible entities under

24 CFR Part 58 may not assume environmental review responsibilities and must receive HUD-approved environmental review under 24 CFR Part 50 unless they apply in consortia with states, local governments, or Indian tribes with jurisdiction over proposed projects. In the case of NSP2, consortium applicants, states, local governments, or Indian tribes may perform the environmental reviews on behalf of consortium for projects within their jurisdiction as described under 24 CFR Part 58. NSP2 grantees cannot obligate or expend federal, or nonfederal, funds if the project or activity would limit reasonable choices or could produce an adverse environmental impact until all required environmental reviews and notifications have been completed by HUD or by a state, local government, or Indian tribe; and either (1) HUD notifies the grantee that the review under 24 CFR Part 50 is completed; or (2) HUD or the state approves a grantee's request for release of funds under the provisions contained in 24 CFR Part 58.

Projects must have an environmental review unless they meet criteria specified in the regulations that would exempt or exclude them from RROF and environmental certification requirements (24 CFR 58.1, 58.22, 58.34, 58.35, and 570.604).

Recipients undergoing an environmental review under 24 CFR Part 50 are required to (1) supply HUD with all available, relevant information necessary for HUD to perform, for each property, any environmental review required by 24 CFR Part 50 and (2) carry out mitigating measures required by HUD or select alternate eligible property. Recipient may not (1) acquire, rehabilitate, demolish, convert, lease, repair, or construct property, or (2) commit or expend HUD or other nonfederal funds for the program activities with respect to any eligible property until HUD completes the review and notifies the grantee of approval to proceed.

States, local governments, and Indian tribes that directly implement NSP2 activities are considered recipients and must assume environmental review responsibilities for the environmental activities and those of any nongovernmental entity that participates in the project. These entities that directly implement activities must submit the RROF and the certifications to HUD for approval (24 CFR 58.4(b)(1), 58.34, and 58.35).

Audit Objectives Determine whether the environmental oversight responsibilities and functions had been carried out and required approvals were obtained prior to any obligations of funds.

Suggested Audit Procedures

a. Verify through a review of environmental review certifications for activities undertaken during the subject audit period that the required environmental reviews were made.

b. Select a sample of projects where an environmental review was not performed and ascertain if a written determination was made that the review was not required.

c. Verify that documentation exists that any determination not to make an environmental review was made consistent with the criteria contained in 24 CFR 58.34 and 58.35(b).

d. Verify that the state, local government, or Indian tribe obtained environmental review certifications from the subrecipient and that the records provide evidence that the environmental reviews were made.

e. Verify that, for nonprofits and consortia grantees without state, local government, or Indian tribe members with jurisdiction over assisted projects, the environmental review under 24 CFR Part 50 was completed.

5. Rehabilitation

Compliance Requirements When NSP2 funds are used for rehabilitation, the grantee must ensure that the work is properly completed (24 CFR 570.506).

Any NSP2-assisted rehabilitation of a foreclosed-upon home or residential property shall be completed to the extent necessary to comply with applicable laws, codes, and other requirements relating to housing safety, quality, or habitability, to sell, rent, or redevelop such homes and properties. To comply with this provision, a grantee must describe or reference in its NSP2 application what rehabilitation standards it will apply for NSP2-assisted rehabilitation (Section 2301(d)(2) of HERA; Appendix I.I, Rehabilitation Standards of NSP2 NOFA).

Audit Objectives Determine whether the grantee ensures that NSP2 rehabilitation work is properly completed.

Suggested Audit Procedures

a. Review rehabilitation standards established for NSP2 work.

b. Verify through a review of documentation that the grantee inspects the rehabilitation work upon completion to ensure that it is carried out in accordance with contract specifications, and that projects were carried out in accordance with rehabilitations standards.

IV. OTHER INFORMATION

ARRA gave HUD the authority to waive or specify alternative requirements for some of the CDBG statutory and regulatory provisions to facilitate the use of NSP2 funds. Most of the waivers are contained in the NSP2 NOFA.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANCE LISTING 14.267 CONTINUUM OF CARE PROGRAM

I. PROGRAM OBJECTIVES

The Continuum of Care (CoC) program is designed to (1) promote community-wide commitment to the goal of ending homelessness; (2) provide funding for efforts by nonprofit providers, state, and local governments to quickly re-house homeless individuals and families while minimizing the trauma and dislocation caused to homeless individuals, families, and communities by homelessness; (3) promote access to and effective utilization of mainstream programs by homeless individuals and families; and (4) optimize self-sufficiency among individuals and families experiencing homelessness.

II. PROGRAM PROCEDURES

Grants are provided to state, local governments, other governmental entities, private nonprofit organizations, and community mental health agencies that are public nonprofit organizations. CoC program funds may be used to pay for the eligible costs used to establish and operate projects under five program components: (1) permanent housing, which includes permanent supportive housing for persons with disabilities, and rapid rehousing; (2) transitional housing; (3) supportive services only; (4) Homeless Management Information Systems (HMIS); and (5) in some cases, homelessness prevention.

A Unified Funding Agency (UFA) may be established for a CoC to (1) apply to the Department of Housing and Urban Development (HUD) for funding for all of the projects within the geographic area and enter into a grant agreement with HUD for the entire geographic area; (2) enter into legally binding agreements with subrecipients, and receive and distribute funds to subrecipients for all projects within the geographic area; (3) require subrecipients to establish fiscal control and accounting procedures as necessary to ensure the proper disbursal of and accounting for federal funds; and (4) obtain approval of any proposed grant agreement amendments by the CoC before submitting a request for an amendment to HUD.

Source of Governing Requirements

The CoC program is authorized by Subtitle C of Title IV of the Mc Kinney-Vento Homeless Assistance Act (42 USC 11381-11389). Implementing regulations are in 24 CFR Part 578.

Availability of Other Program Information

Pertinent information regarding the CoC program is available on HUD's website at https://www.hud.gov/program_offices/comm_planning/coc

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	Y	Y	N	N	N	Y

A. Activities Allowed or Unallowed

1. Eligible CoC Planning Activities include developing a communitywide or regional wide process for coordination of providers, determining the geographical area and participating in the consolidation plans of the jurisdiction, developing a CoC system submitting an application to HUD for the CoC membership, etc. See (24 CFR 578.39).

2. Unified Funding Agency Costs (24 CFR 578.41)
   a. Grant funds may be used to pay the costs of arranging for an annual survey, audit, or evaluation of the financial records of each project carried out by a subrecipient funded by a grant received through the CoC program.

3. Acquisition (24 CFR 578.43)
   a. Grant funds may be used to pay up to 100 percent of the cost of acquisition of real property selected by the recipient or subrecipient for use in the provision of housing or supportive services for homeless persons.

4. Rehabilitation (24 CFR 578.45)
   a. Grant funds may be used to pay up to 100 percent of the cost of rehabilitation of structures to provide housing or supportive services to homeless persons.

5. New Construction (24 CFR 578.47)
   a. Pay up to 100 percent of the cost of new construction, including the building of a new structure or building an addition to an existing structure that increases the floor area by 100 percent or more, and the cost of land associated with that construction, for use as housing.

6. Leasing (24 CFR 578.49)
   a. Where the recipient or subrecipient is leasing the structure, or portions thereof, grant funds may be used to pay for 100 percent of the costs of leasing a structure or structures, or portions thereof, to provide housing or supportive services to homeless persons for up to 3 years. Leasing funds may not be used to lease units or structures owned by the recipient, subrecipient, their parent organization(s), any other related organization(s), or organizations that are members of a partnership, where the partnership owns the structure, unless HUD authorized an exception for good cause.

7. Rental Assistance (24 CFR 578.51)
   a. Grant funds may be used for rental assistance for homeless individuals and families. Rental assistance cannot be provided to a program participant who is already receiving rental assistance, or living in a housing unit receiving rental assistance or operating assistance through other federal, State, or local sources.

8. Supportive Services (24 CFR 578.53)
   a. Grant funds may be used to pay the eligible costs of supportive services that address the special needs of the program participants. If the supportive services are provided in a supportive service facility not contained in a housing structure, the costs of day-to-day operation of the supportive service facility, including maintenance, repair, building security, furniture, utilities, and equipment are eligible as a supportive service.

9. Operating Costs (24 CFR 578.55)
   a. Grant funds may be used to pay the costs of the day-to-day operation of transitional and permanent housing in a single structure or individual housing units.

10. Homeless Management Information System (24 CFR 578.57)
    a. The recipient or subrecipient may use Continuum of Care program funds to pay the costs of contributing data to the HMIS designated by the Continuum of Care.

11. Project Administration Costs (24 CFR 578.59)
    a. The recipient or subrecipient may use up to 10 percent of any grant awarded under this part, excluding the amount for Continuum of Care Planning Activities and UFA costs, for the payment of project administrative costs related to the planning and execution of Continuum of Care activities. This does not include staff and overhead costs directly related to carrying out activities eligible under § 578.43 through § 578.57, because those costs are eligible as part of those activities.

12. Relocation (24 CFR 578.61)
    a. Relocation costs under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 are eligible.

13. Indirect Costs (24 CFR 578.63)
    a. Continuum of Care funds may be used to pay indirect costs in accordance with 2 CFR part 200, subpart E. https://www.hudexchange.info/resource/6289/indirect-cost-toolkit-for-coc-and-esg-programs/

14. Violence Against Women's Act Costs (Notice of Funding Opportunity (NOFO) for Fiscal Year (FY) 2023 Continuum of Care Competition and Renewal or Replacement of Youth Homeless Demonstration Program Grants FR-6700-N-25: III.B.4.a.(3))
    a. Violence Against Women Act (VAWA) | HUD.gov / U.S. Department of Housing and Urban Development (HUD)

15. Rural Homelessness Costs ((Notice of Funding Opportunity (NOFO) for Fiscal Year (FY) 2023 Continuum of Care Competition and Renewal or Replacement of Youth Homeless Demonstration Program Grants FR-6700-N-25: III.B.4.a.(4))
    a. Notice of Funding Opportunity (NOFO) for Fiscal Year (FY) 2023 Continuum of Care Competition and Renewal or Replacement of Youth Homeless Demonstration Program Grants | HUD.gov / U.S. Department of Housing and Urban Development (HUD)

G. Matching, Level of Effort, Earmarking

1. Matching

The recipient or subrecipient must match all grant funds, except for leasing funds, with no less than 25 percent of cash or in-kind contributions from other sources. For CoC geographic areas in which there is more than one grant agreement, the 25 percent match must be provided on a grant-by-grant basis. Recipients that are a UFA or are the sole recipient for their Continuum may provide match on a Continuum-wide basis (24 CFR section 578.73).

2. Level of Effort

2.1 **Level of Effort –** *Maintenance of Effort*- Not Applicable

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

No assistance provided under the CoC program (or any state or local government funds used to supplement this assistance) may be used to replace state or local funds previously used, or designated for use, to assist homeless persons or persons at-risk of homelessness (24 CFR section 578.87(a)).

3. Earmarking

No more than 10 percent of any grant awarded may be used for paying the costs of administering the assistance. Administrative costs include the costs associated with general management, oversight, and coordination, training on the CoC program requirements, and the related indirect costs applied to the direct costs when determining the total amount of administrative costs (24 CFR 578.63(c))and environmental review. Administrative costs do not include costs for CoC planning activities and UFA costs (24 CFR section 578.59).

Collaborative applicants may use up to 3 percent of their FPRN, or a maximum amount to be established by the NOFA for Continuum of Care planning activities

UFAs may use up to 3 percent of their FPRN, or a maximum amount to be established by the NOFA, whichever is less, for fiscal control and accounting costs necessary to assure the proper disbursal of, and accounting for, federal funds awarded to subrecipients under the Continuum of Care program.

N. Special Tests and Provisions

1. Reasonable Rental Rates

Compliance Requirements Where grants are used to pay for rent for all or a part of a structure, the rent paid must be reasonable in relation to rents being charged in the area for comparable space. In addition, the rent may not exceed rents currently being charged by the same owner for comparable unassisted space (24 CFR 578.49(b)(1) and 24 CFR 578.51(g))

Where grants are used to pay rent for individual housing units, the rent paid must be reasonable in relation to rents being charged for comparable units taking into account relevant features. In addition, the rents may not exceed rents currently being charged by the same owner for comparable unassisted units, and the portion of rents paid with grant funds may not exceed HUD-determined fair market rents. Grant funds in an amount up to one month's rent may be used to pay the non-recipient landlord for any damages to leased units by homeless participants (24 CFR sections 578.49(b)(2) and 578.51(g) and (j)).

Audit Objectives: (1.) Determine that rents are supported by documentation that the recipient or subrecipient established rent reasonableness. (2.) Determine that the recipient or subrecipient maintained rent documentation supporting that contracts are being paid consistent with established rent

reasonableness.

Suggested Audit Procedures

a. Determine the acceptability of the manner in which the recipient or subrecipient establishes rent reasonableness and the rents charged by the owner for comparable unassisted units. Ascertain through an examination of documentation that telephone surveys, site visits after telephoning, more extensive market surveys of available rental units, or similar tools were used to assess the reasonableness of rents being charged.

b. Verify by a review of the rental records that the contract rents being paid are comparable with those paid for unassisted units, no more than one month's rent is paid for tenant damages, and that the portion of rents paid with grant funds do not exceed fair market rents.

2. Use of Property

Compliance Requirements Recipients or subrecipients receiving assistance for acquisition, rehabilitation, or new construction must agree to operate the supportive housing or provide supportive services for a term of at least 15 years from the date of initial occupancy or the date of initial service provision.

Audit Objectives: Determine whether there are valid agreements for the provision of supportive housing or supportive services when assistance is provided for acquisition, rehabilitation, or new construction.

Suggested Audit Procedures

a. Verify that an agreement exists between the recipient or subrecipient and owner of the structure, if other than the recipient or subrecipient, covering the provision of supportive housing or supportive services for 15 years if the grant assistance, involves acquisition, rehabilitation, or new construction.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANCE LISTING 14.269 HURRICANE SANDY COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY GRANTS (CDBG-DR)

ASSISTANCE LISTING 14.272 NATIONAL DISASTER RESILIENCE COMPETITION (CDBG-NDR)

I. PROGRAM OBJECTIVES

The primary objectives of Hurricane Sandy Community Development Block Grant Disaster Recovery Grants (CDBG-DR) and National Disaster Resilience Competition (CDBG-NDR) funds are to provide disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster, declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 USC 5121 *et seq.*) (Stafford Act), due to Superstorm Sandy and other eligible events in calendar years 2011, 2012, and 2013.

II. PROGRAM PROCEDURES

HUD provides CDBG-DR funds to states or units of general local government to be used for specific disaster-related purposes. Formula funds are allocated to recipients through the issuance of CDBG-DR notices in the *Federal Register*. The National Disaster Resilience Competition (NDRC) Notice of Funding Availability (NOFA) (FR-5800-N-29A2) provided the funding process for CDBG-NDR grants. These funds provided discretionary grants that address unmet needs from past disasters while addressing the vulnerabilities to future disasters. Prior to the obligation of funds, a grantee must submit an action plan detailing the proposed use of funds, including criteria for eligibility and how use of these funds will address disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas.

Notices provide the requirements regarding the use of funds, and waivers and alternative requirements to CDBG Block/Entitlement Grants (CDBG) requirements. The CDBG-DR funds responding to damage from Superstorm Sandy provide assistance to three categories of grantees: (1) state and local governments engaged in recovery from Superstorm Sandy; (2) state and local governments engaged in recovery from disasters that occurred in 2011 and 2012 other than Superstorm Sandy; and (3) state and local governments engaged in recovery from 2013 disasters. The CDBG-NDR program aids state and local governments engaged in recovery from disasters that occurred in 2011, 2012, or 2013. Auditors will need to look at the notices that apply to the grantee to understand the full scope of the funding and requirements associated with the grant that is under review. Requirements, waivers, and alternative requirements for CDBG-NDR grants can be found in the NOFA (FR-5800-N-29A2) and at Appendix A of the NOFA.

The Department of Housing and Urban Development (HUD) also may publish other applicable

Federal Register notices after the publication of this program supplement. Auditors will need to consult the CDBG-DR website to access any subsequent applicable CDBG-DR/CDBG- NDR notices.

The applicable *Federal Register* notices, and the NOFA, governing CDBG-DR and CDBG-NDR funds, respectively, require that in an Action Plan for Disaster Recovery, grantees describe uses and activities that (1) are authorized under Title I of the Housing and Community Development Act of 1974 (42 USC 5301 *et seq.*) (HCD Act) or allowed by a waiver or alternative requirement; and (2) respond to a disaster-related impact. To help meet these requirements, grantees must conduct an assessment of community impacts and unmet needs to guide the development and prioritization of planned recovery activities. All CDBG–DR/CDBG-NDR activities must clearly address the impact of the disaster for which funding was appropriated. Each activity must be CDBG-eligible (or receive a waiver), meet a national objective, and address a direct or indirect impact from the disaster in a county covered by a presidential disaster declaration.

The requirements for CDBG action plans, located at 42 USC 12705(a)(2), 42 USC 5304(a)(1), 42 USC 5304(m), 42 USC 5306(d)(2)(C)(iii), and 24 CFR sections 91.220 and 91.320, have been waived for funds provided for CDBG-DR/CDBG-NDR activities. Instead, per the applicable *Federal Register* notices or NOFA, each grantee must submit to HUD an Action Plan for Disaster Recovery for approval. For CDBG-NDR grantees, the Phase I and Phase II competition applications will serve as the action plan, as stated in the NOFA at Section I.B. The action plan must identify the proposed use(s) of the grantee's allocation, including criteria for eligibility, and how the uses address long-term recovery needs. For CDBG-DR grants, a grantee may submit a partial action plan, but the partial action plan must be amended one or more times until it describes uses for 100 percent of the grantee's CDBG–DR award. CDBG-NDR grantees request funding amounts in their applications but may amend applications and funding amounts in subsequent action plan amendments.

In the action plan, grantees must document how each activity is connected to the disaster for which it is receiving CDBG-DR/CDBG-NDR assistance. Following approval of an action plan providing for the initial or subsequent allocation of CDBG-DR/CDBG-NDR funds, a grantee must amend its action plan to project expenditures and outcomes within 90 days of the action plan approval. The projections must be based on each quarter's expected performance, beginning with the quarter funds are available to the grantee and continuing each quarter until all funds are expended. The action plan must be amended to reflect any subsequent changes, updates, or revisions of the projections. All amendments to action plans must be published by the grantee.

The secretary of HUD must certify, in advance of signing a grant agreement, that the grantee has in place proficient financial controls and procurement processes and has established adequate procedures to (1) prevent any duplication of benefits as defined by Section 312 of the Stafford Act; (2) ensure timely expenditure of funds; (3) maintain comprehensive websites regarding all disaster recovery activities assisted with these funds; and (4) detect and prevent waste, fraud, and abuse of funds.

Source of Governing Requirements
These grants are authorized by the Disaster Relief Appropriations Act, 2013 (Appropriations Act), Pub. L. No. 113-2, January 29, 2013. Implementing regulations are located at 24 CFR Part 570. Waivers and requirements are provided in individual CDBG-DR and CDBG-NDR notices. Many of the general program waivers and requirements for the CDBG-DR funds are in the

Superstorm Sandy CDBG-DR notice (78 FR 14329, March 5, 2013). Subsequent notices were issued to provide additional waivers and alternative requirements for individual grantees.

For CDBG-NDR, many of the general program requirements are in Appendix A of the NOFA (FR-5800-N-29A2) with subsequent notices that reference award amounts and waivers and alternative requirements. The NDR notices are available on HUD.gov here: National Disaster Resilience | HUD.gov / U.S. Department of Housing and Urban Development (HUD).

Availability of Other Program Information
As noted above, the March 5, 2013, *Federal Register* notice is the foundational notice used to evaluate all P.L. 113-2 CDBG-DR grants. Additional waivers and alternative requirements were issued to specific grantees or to address or introduce requirements.

To review additional applicable waivers and alternative requirements, review the Superstorm Sandy and other disasters *Federal Register* notices at:
https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations.

Additional information about CDBG-DR and CDBG-NDR grants and the applicable *Federal Register* notices are available at:
https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations.

NOFA is available at:
https://www.hud.gov/program_offices/administration/grants/fundsavail/nofa14/ndrc.

The Federal Register notices listed below are categorized by the following names: Allocation Announcement Notices (AANs), Waivers and alternative requirements, National Disaster Resilience and Rebuild by Design. The other Federal Register notice provides guidance and instructions to extend expenditure deadlines.

Upon Single Audit engagement, auditors should review the disaster details in the grant agreement to determine the disaster year and allocation amount. That information also assists auditors in determining which of the Federal Register notices listed below may be applicable to a grantee. As described in the subject column in the table, the first, third, and sixth AAN's are directly tied to Sandy allocations. The other notices provide a brief description in this document and on HUD.gov here: CDBG-DR Laws, Regulations, and Federal Register Notices | HUD.gov / U.S. Department of Housing and Urban Development (HUD). Furthermore, the grantee usually provides the applicable Federal Register notices on its website and its Action Plan. The applicable *Federal Register* notices for grantees receiving assistance under Pub. L. No. 113-2 are as follows:

Federal Register Notices	Publication Date	Subject
88 FR 44816	July 13, 2023	OMNI Notice: Waivers and alternative requirements
87 FR 36869	June 21, 2022	OMNI Notice: Waivers and alternative requirements
85 FR 60821	September 28, 2020	OMNI Notice: Waivers and alternative requirements
84 FR 4836	February 19, 2019	OMNI Notice: Waivers and alternative requirements
82 FR 61320	December 27, 2017	OMNI Notice: Waivers and alternative requirements
82 FR 36812	August 7, 2017	OMNI Notice: Waivers and alternative requirements
82 FR 9753	February 8, 2017	OMNI Notice: Waivers and alternative requirements
81 FR 54114	August 15, 2016	OMNI Notice: Waivers and alternative requirements
81 FR 36557	June 7, 2016	National Disaster Resilience Competition
81 FR 7567	February 12, 2016	OMNI Notice: Waivers and alternative requirements
80 FR 72102	November 18, 2015	OMNI Notice: Waivers and alternative requirements
80 FR 51589	August 25, 2015	OMNI Notice: Waivers and alternative requirements
80 FR 26942	May 11, 2015	Guidance and Instructions for Extension Requests of 24-Month Expenditure Deadline for Community Development Block Grant Disaster Recovery (CDBG–

		DR) Grantees
80 FR 17772	April 2, 2015	OMNI Notice: Waivers and alternative requirements
80 FR 1039	January 8, 2015	AAN: Seventh Allocation Public Law 113-2 (Third Allocation for Disasters Occurring in 2013)
79 FR 62182	October 16, 2014	AAN: Sixth Allocation Public Law 113-2 (Third Allocation Sandy)
79 FR 60490	October 7, 2014	OMNI Notice: Waivers and alternative requirements
79 FR 40133	July 11, 2014	OMNI Notice: Waivers and alternative requirements
79 FR 31964	June 3, 2014	AAN: Fifth Allocation Public Law 113-2 (Second Allocation for Disasters Occurring in 2013)
79 FR 17173	March 27, 2014	OMNI Notice: Waivers and alternative requirements
78 FR 76154	December 16, 2013	AAN: Fourth Allocation Public Law 113-2 (Disasters Occurring in 2013)
78 FR 69104	November 18, 2013	AAN: Third Allocation Public Law 113-2 (Second Allocation Sandy)
78 FR 52560	August 23, 2013	Rebuild by Design Selection
78 FR 46999	August 2, 2013	OMNI Notice: Waivers and alternative requirements
78 FR 45551	July 29, 2013	Rebuild by Design Competition
78 FR 32262	May 29, 2013	AAN: Second Allocation Public Law 113-2 (Disasters Occurring in 2011 or 2012)
78 FR 23578	April 19, 2013	OMNI Notice: Waivers and alternative

		requirements
78 FR 14329	March 5, 2013	AAN: Initial Allocation Public Law 113-2 (Sandy)

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	N	N	Y	Y	N	Y

A. Activities Allowed or Unallowed

1. All activities undertaken must meet one of three national objectives of the regular CDBG program (see Assistance Listing 14.218, III.A.1, "Activities Allowed or Unallowed") (i.e., benefit low- and moderate-income persons, prevent or eliminate slums or blight, or meet community development needs having a particular urgency (24 CFR sections 570.200 and 570.208)).

   In the applicable *Federal Register* notices for each category of grantee, HUD has provided an alternative requirement for the CDBG program (Assistance Listing 14.218) urgent need national objective criteria for these grants. In the regular CDBG

program, in order to meet the urgent need national objective in 24 CFR section 570.208(c), the recipient must certify that:

a. the activity is designed to alleviate existing conditions which:

(1) pose a serious and immediate threat to the health and welfare of the community, and

(2) are of recent origin or recently became urgent; and

(3) the recipient is unable to finance the activity on its own; and

(4) other sources of funds are not available.

For CDBG-DR and CDBG-NDR, HUD eliminated the recordkeeping requirement that grantees document the nature, degree, and timing of the seriousness of the condition to be addressed by the activity if the urgent need is based on current economic conditions.

HUD has also waived 24 CFR sections 570.506(b)(12)(i) and (iii) and 570.208(c) to the extent necessary, to allow these grantees to certify that an activity is designed to address current economic conditions that pose a threat to the economic welfare of communities (see the section on Applicable Rules, Statutes, Waivers, and Alternative Requirements of the applicable CDBG-DR notice in 78 FR 14329 for Superstorm Sandy grantees; 78 FR 32265 for 2011 and 2012 disaster grantees; 78 FR 76157 for 2013 disaster grantees; and Section V.A.1.f of Appendix A of the NOFA (FR-5800-N-29A2) for CDBG-NDR grantees).

2. Grants funds are to be used for the following activities:

a. the acquisition of real property;

b. the acquisition, construction, reconstruction, rehabilitation, or installation of public works, facilities and sites, or other improvements, including removal of architectural barriers that restrict accessibility of elderly or severely disabled persons;

c. clearance, demolition, and removal of buildings and improvements;

d. payments to housing owners for losses of rental income incurred in temporarily holding housing for the relocated;

e. disposition of real property acquired under this program;

f. provision of public services (subject to limitations contained in the CDBG regulations);

g. payment of the nonfederal share for another grant program for activities that are otherwise eligible (this includes programs or activities administered by the Federal Emergency Management Agency (FEMA) or the US Army Corps of Engineers);

h. interim assistance where immediate action is needed prior to permanent improvements or to alleviate emergency conditions threatening public health and safety;

i. payment to complete a title I federal urban renewal project;

j. relocation assistance;

k. planning activities;

l. administrative costs;

m. acquisition, construction, reconstruction, rehabilitation, or installation of commercial or industrial buildings;

n. assistance to community-based development organizations;

o. activities related to privately owned utilities;

p. assistance to private, for-profit businesses, when appropriate to carry out an economic development project;

q. construction of housing assisted under Section 17 of the United States Housing Act of 1937;

r. reconstruction of properties;

s. direct homeownership assistance to low- and moderate-income households to facilitate and expand homeownership;

t. technical assistance to public or private entities for capacity building (exempt from the planning/administration cap (see III.G.3));

u. housing services related to HOME-funded activities (see Assistance Listing 14.239);

v. assistance to institutions of higher education to carry out eligible activities;

w. assistance to public and private entities (including for-profits) to assist micro-enterprises;

x. payment for repairs and operating expenses for acquired “in Rem” properties;

y. residential rehabilitation, including code enforcement in deteriorated or deteriorating areas, lead-based paint hazard evaluation and removal; and

z. construction or improvement of tornado-safe shelters for residents of manufactured housing and provision of assistance to nonprofit and for-profit entities for such construction or improvement (42 USC 5305(a); 24 CFR sections 570.200 through 570.207, and 570.482).

3. All the activities that a grantee undertakes using CDBG-DR/CDBG-NDR funds must be identified in an action plan or an amended action plan (78 FR 14332 for Superstorm Sandy grantees; 78 FR 32265 for 2011/2012 disaster grantees; 78 FR 76157 for 2013 disaster grantees; and Section I.B of the NOFA (FR-5800-N- 29A2) for CDBG-NDR grantees).

4. For Superstorm Sandy grantees, 2013 disaster grantees, and CDBG-NDR grantees, as documented in grantee files, infrastructure projects, and programs must be (a) based on a comprehensive risk analysis as provided for in the grantee’s action plan; and (b) constructed or rehabilitated consistent with identified resilience performance standards (78 FR 69107 for Superstorm Sandy grantees; 78 FR 31964 for 2013 disaster grantees; and Section V.A of the NOFA (FR-5800-N-29A2) for CDBG-NDR grantees).

5. Housing projects and programs for CDBG-DR grantees, as documented in grantee files, must do the following:

   a. Incorporate green building standards selected by the grantee;

   b. Not provide rehabilitation assistance, residential incentives, or buy-out assistance to secondary residences as defined by IRS publication 936; and

   c. Provide for the elevation of newly constructed or substantially improved structures located in a floodplain to a level of at least one foot higher than the latest FEMA-issued base flood elevation (78 FR 14333, 14345 and 78 FR 23579 for Superstorm Sandy grantees; 78 FR 32265 for 2011/2012 disaster grantees; and 78 FR 76157 for 2013 disaster grantees).

6. Assistance to for-profit businesses can only be provided to those businesses that meet the definition of a small business as established by the Small Business Administration at 13 CFR Part 121 (provided that the size requirement shall apply only to each business EIN) (78 FR 14347, for Superstorm Sandy grantees; 78 FR 32265 for 2011/2012 disaster grantees; 78 FR 76157 for 2013 disaster grantees; and 78 FR 31970; and Section V.B.39. of Appendix A of the NOFA (FR-5800-N-29A2)).

7. For local government grantees, when CDBG-DR funds are used to finance rehabilitation, the rehabilitation is to be limited to (1) privately owned buildings and improvements for residential purposes; (2) low-income public housing and other publicly owned residential buildings and improvements; (3) publicly or privately owned commercial or industrial buildings, structures, or other real property, equipment, and improvements under certain circumstances; and (4) manufactured housing when it constitutes part of the community's permanent housing stock (24 CFR sections 570.202 and 570.203). State grantees may also use CDBG-DR funds to finance the reconstruction or rehabilitation of privately owned buildings and improvements not related to a residential purpose. HUD has also waived provisions of 42 USC 5305(a) to allow the rehabilitation or reconstruction of public buildings by both local government and state grantees (78 FR 14346 for Superstorm Sandy grantees; 78 FR 32265 for 2011/2012 disaster grantees; and 78 FR 76157 for 2013 disaster grantees).

8. Each state and local government receiving a direct CDBG-DR award must expend its entire award within its jurisdiction (e.g., New York City must expend all funds within New York City), as described in each applicable *Federal Register* notice (see the section on Allocations and Related Information of the applicable CDBG- DR notice in 78 FR 14330, 78 FR 69105, and 79 FR 62183 for Superstorm Sandy grantees; 78 FR 32263 for 2011/2012 disaster grantees; and 78 FR 76155 and 79 FR 31965 for 2013 disaster grantees). For CDBG-NDR grantees, funds must be used to benefit the approved target area for which the grantee has demonstrated remaining unmet recovery needs, as described within its application, or amended action plan and per the NOFA criteria for demonstrating unmet recovery needs (Section III.A, "Eligible Project Areas," of the NOFA (FR-5800- N-29A2)).

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort

Not Applicable

3. Earmarking

a. For all grantees, HUD has waived the requirements at 24 CFR sections 570.200(a)(3) and 570.484 that require that 70 percent of CDBG funds be used for activities that benefit low- and moderate-income persons. Instead, 50 percent of CDGB-DR/CDBG-NDR funds must benefit low- and moderate-income persons. HUD may also establish an overall benefit requirement of less than 50 percent for individual grantees (78 FR 14339- 14340 for Superstorm Sandy grantees; 78 FR 32265 for 2011/2012 disaster grantees; 78 FR 76157 for 2013 disaster grantees; and Section V.A.7. of Appendix A of the NOFA (FR-5800-N-29A2) for CDBG-NDR grantees).

b. Not more than 20 percent of the total CDBG-DR/CDBG-NDR grant, plus 20 percent of program income received during a program year, may be obligated for activities that qualify as planning and general administration costs as defined in 24 CFR sections 570.205 and 570.206 (24 CFR section 570.200(g), 78 FR 14340 for Superstorm Sandy grantees; 78 FR 32265 for 2011/2012 disaster grantees; 78 FR 76157 for 2013 grantees; and Section V.A.10.b. of Appendix A of the NOFA (FR-5800-N-29A2) for CDBG- NDR grantees).

c. Not more than 5 percent of the total CDBG-DR/CDBG-NDR grant may be used for Program Administrative Costs (PACs). PACs are reasonable general costs (including carrying charges) of grant management that do not include staff and overhead costs directly related to carrying out other CDBG-DR eligible activities, since those costs are eligible as part of such activities (78 FR 14340 for Superstorm Sandy grantees; 78 FR 32265 for 2011/2012 disaster grantees; 78 FR 76157 for 2013 disaster grantees; and Section V.A.10.b. of Appendix A of the NOFA (FR-5800-N-29A2) for CDBG-NDR grantees). For further guidance on how the costs set forth by the CDBG regulations work, review CPD Notice -2023-06 found on HUD.gov here: Final CPD Notice on Allocating Costs between PACs ADCs and Planning Costs for CDBG-DR Grantees (004).

J. Program Income

Program income is revenue generated from a CDBG or CDBG-DR/CDBG-NDR eligible activity. HUD grantees adhere to the program income requirements in CDBG regulation 24 CFR 570.504 unless program income is waived by HUD. The *Federal Register* notice published on March 5, 2013 at 78 FR 14329 establishes the initial requirements for program income. However, supplemental *Federal Register* notices may include additional waivers and alternative requirements. The grantee must receipt program income and expenditures in the Disaster Recovery Grant Reporting (DRGR) system. Program income must be expended in DRGR before drawing additional program funds.

There are several ways the grantee can generate program income. Program income can be generated in the following ways, but not limited to:

a. Proceeds from the sale or lease of property purchased or improved with CDBG funds;

b. Proceeds from the sale or lease of equipment purchased with CDBG funds;

c. Gross income from the use or rental of real or personal property acquired, constructed, or improved by the grantee (or a subrecipient), less costs incidental to the generation of income;

d. Payments of principal and interest on loans made using CDBG funds; and

e. Proceeds from the sale of loans or obligations secured by loans made with CDBG funds.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable (cash status only)

2. Performance Reporting

Not Applicable.

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements Wage Rate Requirements apply to the rehabilitation of residential property only if such property contains eight or more units. However, the requirements do not apply to volunteer work where the volunteer does not receive compensation, or is paid expenses, reasonable benefits, or a nominal fee for such services, and is not otherwise employed at any time in construction work (42 USC 5310; Section 1205 of Pub. L. No. 111-32; 24 CFR section 570.603).

See Part 4, 20.001, Wage Rate Requirements Cross-Cutting Section.

2. Citizen Participation

Compliance Requirements Prior to the submission to HUD for its Disaster Recovery grant, the grantee must certify to HUD that it has met the citizen participation requirements through the adoption of a citizen participation plan. The applicable *Federal Register* notice allocating funds to a grantee or NOFA specifies the period for public comment on the action

plan or action plan amendment. Grantees are required to post all substantial action plan amendments for 30 days for public comment. Note, the *Federal Register* notice published on March 5, 2013, at 78 FR 14329 establishes the initial requirements for substantial amendments. However, supplemental *Federal Register* notices may include additional waivers and alternative requirements. See the Availability of Other Program Information section above for a list of issued Federal Register notices and how auditors can determine which notices may be applicable to a particular grantee.

Grantees are responsible for ensuring that all citizens have equal access to information about the programs, including persons with disabilities and limited English proficiency. Each grantee must ensure that program information is available in the appropriate languages for the geographic area served by the jurisdiction. After publication of the proposed action plan or a substantial amendment to the action plan (as defined in applicable Federal Register notices - See the Availability of Other Program Information section above), the grantee must provide a reasonable time frame and method(s) (including electronic submission) for receiving comments on the plan or substantial amendment (78 FR 14338 for Superstorm Sandy grantees; 79 FR 31969 for 2011/2012 disaster grantees; 78 FR 76156-76157 for 2013 disaster grantees; and Section III.C.1. of the NOFA (FR-5800-N-29A2) for CDBG-NDR grantees).

Audit Objectives Determine whether the grantee has developed and implemented a citizen participation plan.

Suggested Audit Procedures

a. Verify that the grantee has a citizen participation plan.

b. Examine HUD's approved action plans and note dates that the program information is available in the appropriate languages to meet Limited English Proficient (LEP) requirements for the geographic area served by the jurisdiction.

c. Verify through a review of the grantee's official website or other means that interested parties have been provided with an opportunity to examine the proposed plan or amendment's contents in accordance with the citizen participation plan.

3. Required Certifications and HUD Approvals

Compliance Requirements CDBG-DR/CDBG-NDR funds (and local funds to be repaid with CDBG-DR/CDBG-NDR funds) cannot be obligated or expended before receipt of HUD's approval of a Request for Release of Funds (RROF) and environmental certification, except for exempt activities under 24 CFR section 58.34 and categorically excluded activities under 24 CFR section 58.35(b) (24 CFR section 58.22).

Grantees or subrecipients typically conduct the environmental review. HUD may approve the grantees request release of funds (usually for states). The environmental certification is the grantees certification on the environmental review process. The RROF is the HUD

process to allow the grantee to release the funds.

Audit Objectives Determine whether the recipient is obligating and expending program funds only after HUD's approval of the RROF have been conducted, when required.

Suggested Audit Procedures

a. Examine HUD's approval of the RROF and environmental certification and note dates.

b. Review the expenditure and related records to ascertain when CDBG-DR/CDBG-NDR funds, and local funds which were repaid with CDBG-DR/CDBG-NDR funds, were first obligated or expended and ascertain if any funds were obligated or expended prior to HUD's approval of the RROF.

4. Environmental Reviews

Compliance Requirements Projects must have an environmental review unless they meet criteria specified in the regulations that would exempt or exclude them from RROF and environmental certification requirements (24 CFR sections 58.1, 58.22, 58.34, 58.35, and 570.604).
CDBG-DR grantees are required to ensure every project/activity undergoes the appropriate level of environmental review and receives clearance and Authorization to Use Grant Funds (AUGF) prior to expending any funds. As a result, special circumstances apply to HUD environmental reviews for disaster recovery efforts, and an environmental review is required accordingly: (a) analysis of impacts of a project on the surrounding environment and vice versa, (b) demonstrates compliance with federal environmental laws and authorities, (c) encourages public participation. Additional CDBG-DR environmental review information and federal regulations can be found on HUD.gov at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/environmental-review and on the HUD Exchange at https://www.hudexchange.info/programs/environmental-review/disaster-recovery-and-environment/#unified-federal-review.

Audit Objectives Determine whether environmental reviews are being conducted, when required.

Suggested Audit Procedures

a. Verify through a review of environmental review certifications that the environmental reviews were made.

b. Select a sample of projects where an environmental review was not performed and ascertain if a written determination was made that the review was not required.

c. Test whether documentation exists that any determination not to make an environmental review was made consistent with the criteria contained in 24 CFR sections 58.34 and 58.35(b).

5. Rehabilitation

Compliance Requirements When CDBG-DR/CDBG-NDR funds are used for rehabilitation, the recipient must ensure that the work is properly completed (24 CFR section 570.506).

Audit Objectives Determine whether the recipient ensures rehabilitation work is properly completed.

Suggested Audit Procedures

a. Verify that pre-rehabilitation inspections are conducted and describes the deficiencies to be corrected.

b. Ascertain that the deficiencies to be corrected are incorporated into the rehabilitation contract.

c. Verify through a review of documentation that the recipient inspects the rehabilitation work upon completion to ensure that it is carried out in accordance with contract specifications.

6. Section 3 of the HCDA

Compliance Requirements Grantees must establish and maintain documentation to demonstrate that workers on Section 3 projects meet the definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting period. This includes requiring written reports from developers or contractors summarizing the totals for labor hours, including Section 3 worker and Targeted Section 3 worker labor hours, and documentation from employees or employers certifying that the employee met the requirements to receive Section 3 worker status. Any information that a grantee enters in DRGR must have supporting documentation demonstrating the accuracy of the data. (24 CFR part 75)

Audit Objectives Determine whether the Grantee is following its own Section 3 policy and procedures by collecting and maintaining adequate records demonstrating Section 3 compliance.

Suggested Audit Procedures

a. Review the grantee’s Section 3 policy and procedures.

b. Review a sample of grant agreements and Section 3 projects for housing rehabilitation, housing construction, or other public construction projects, to determine if the grantee is following its own Section 3 policies and procedures to collect and maintain adequate records demonstrating Section 3 compliance in DRGR

and other supporting documentation. For further details on Section 3 compliance, review the Section 3 Resource Hub and Section 3 FAQ's.

IV. OTHER INFORMATION

Following two short-term statutory extensions (Pub. L. 116–260 and Pub. L. 117–103), section 420(a) of the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2023 (Pub. L. 117–328) provided that CDBG–DR grant obligations made before September 30, 2017, from funds made available under Public Law 113–2 are to remain available until expended. The requirements at 2 CFR 200.211(b) require all Federal awards to include a period of performance and budget period. Therefore, HUD revised the period of performance and budget period for open Federal awards made under Public Law 113–2 with an end date of September 30, 2029, when permissible under other applicable requirements that govern the use of funds under Public Law 113–2.

The projections reported by Public Law 113–2 grantees indicate that this period is sufficient to allow for the full expenditure of any remaining grant funds. HUD may extend the time period and associated grant period of performance and budget period administratively, when permissible under other applicable requirements that govern the use of funds under Public Law 113–2, if good cause for such an extension exists at that time, as requested by the grantee, and approved by HUD. When the period of performance has ended, HUD will close out the grant and any remaining funds not expended by the grantee for appropriate programmatic purposes will be recaptured by HUD. (Section 420(a) of the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2023 (Pub. L. 117–328); 88 FR 44817 for all CDBG-DR and CDBG-NDR grantees under Public Law 113-2).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANCE LISTING 14.275 HOUSING TRUST FUND

I. PROGRAM OBJECTIVES

The Housing Trust Fund (HTF) is an affordable housing production program that complements existing federal, state, and local efforts to increase and preserve the supply of decent, safe, and sanitary affordable housing for extremely low-income (ELI) and very low-income households (VLI), including homeless families (24 CFR Part 93), by providing annual formula allocations to states. Grantees must use at least 80 percent of each annual grant for rental housing and may use up to 10 percent for homeownership and up to 10 percent for the grantee's reasonable administrative and planning costs. In any fiscal year in which total funding is below $1 billion, all funds must be used to benefit ELI families or families with incomes at or below the federal poverty line. HTF funds may be used for the production or preservation of affordable housing through the acquisition, new construction, reconstruction, and/or rehabilitation of non-luxury housing with suitable amenities. All HTF-assisted units have a minimum affordability period of 30 years.

II. PROGRAM PROCEDURES

Fannie Mae and Freddie Mac set aside funds for HTF, which are made available to United States Department of Housing and Urban Development (HUD) each year. The department must publish HTF formula allocations for grantees in the *Federal Register* each year. The statute requires that each state and the District of Columbia receive an annual minimum allocation amount of $3 million. Funds available after each state and the District of Columbia receive their minimum allocations will be allocated to Puerto Rico and the four insular areas. The consolidated plan regulation at 24 CFR section 91.320(k)(5), requires the state to create and submit an HTF allocation plan as part of its annual action plan submission. The allocation plan must describe how the state will distribute its HTF funds, including how it will use the funds to address its priority housing needs, what types of projects may be undertaken with those funds, and how recipients and projects will be selected to receive those funds.

Grantees may select units of general local government or state agencies as subgrantees. The grantee must enter into a written agreement with a subgrantee that details the requirements for the subgrantee. Subgrantees must also submit an allocation plan that includes all elements required by section 91.220(l)(5). The grantee is responsible for ensuring that its subgrantees adhere to all HTF regulations as well as any additional requirements set forth by the grantee. In addition, grantees are required to set-up and report program accomplishments for its HTF projects in HUD's Integrated Data Information System (IDIS) according to timeframes specified by the department. The grantee also draws down HTF funds from its HTF Treasury account using IDIS.

Source of Governing Requirements

HTF was established under Title I of the Housing and Economic Recovery Act of 2008 (HERA),

which was a major housing legislation enacted to reform and improve the regulation of the government-sponsored enterprises (GSEs)—Fannie Mae and Freddie Mac, strengthen neighborhoods hardest hit by the foreclosure crisis, enhance mortgage protection, and maintain the availability of affordable home loans. The reform of the GSEs is provided in the Federal Housing Finance Regulatory Reform Act of 2008, which is Division A, Title I of HERA. Section 1131 of Division A, amended the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 USC 4501 et seq.) (the Act) to add a new section 1337 entitled "Affordable Housing Allocations" and a new section 1338 entitled "Housing Trust Fund."

Availability of Other Program Information

Pertinent information that will assist the auditor in understanding the Housing Trust Fund program is available on the agency website at https://www.hudexchange.info/programs/htf/.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	Y	N	N	Y	Y	N	Y

A. Activities Allowed or Unallowed

HTF funds may be used for the production, preservation, and rehabilitation of affordable rental housing and affordable housing for first-time homebuyers through the acquisition

(including assistance to homebuyers), new construction, reconstruction, or rehabilitation of nonluxury housing with suitable amenities, including real property acquisition, site improvements, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations; for operating costs of HTF-assisted rental housing; and for reasonable administrative and planning costs. Operating cost assistance and operating cost assistance reserves may be provided only to rental housing acquired, rehabilitated, reconstructed, or newly constructed with HTF funds. HTF-assisted housing must be permanent housing; specific restrictions apply to manufactured housing. There are restrictions regarding multi-unit projects also.

The grantee may not provide assistance (other than assistance to a homebuyer to acquire housing previously assisted with HTF funds or renewal of operating cost assistance or renewal of operating cost assistance reserve) to a project previously assisted with HTF funds during the period of affordability established by the grantee in the written agreement under 24 CFR section 93.404 (c)(2)(iv). However, additional HTF funds may be committed to a project up to one year after project completion, but the amount of HTF funds in the project may not exceed the maximum per-unit development subsidy amount established pursuant to 24 CFR section 93.300. Also, per 24 CFR section 93.204, several activities and fees that are not allowed, such as paying delinquent taxes, servicing or origination fees associated with the cost of administrating the program.

B. Allowable Costs/Cost Principles

Eligible Project Costs. HTF funds may be used to pay very specific project costs noted in 24 CFR section 93.201, such as the actual cost of constructing or rehabilitating housing, to make improvements to the project site that are in keeping with improvements of the surrounding, standard projects. Site improvements may include onsite roads and sewer and water lines necessary to the development of the project. The cost to refinance existing debt secured by rental housing units that are being rehabilitated with HTF funds but only if the refinancing is necessary to reduce the overall housing costs and to make the housing more affordable and proportional to the number of HTF-assisted units in the rental project. The proportional rehabilitation cost must be greater than the proportional amount of debt that is refinanced.

HTF funds may be used for the production, preservation, and rehabilitation of affordable rental housing and affordable housing for first-time homebuyers through the acquisition (including assistance to homebuyers), new construction, reconstruction, or rehabilitation of nonluxury housing with suitable amenities, including real property acquisition, site improvements, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations; for operating costs of HTF-assisted rental housing; and for reasonable administrative and planning costs. The specific eligible costs for these activities are found in 24 CFR section 93.201 and section 93.202.

HTF grantees may be reimbursed for pre-award costs permitted under 2CFR 200.458 for planning and preparation of the HTF allocation plan. Eligible pre-award costs may include the cost of public hearings, consultations, and publication of public notices, as well as

developing program guidelines. Such costs must be necessary for efficient and timely performance of the HTF program. The costs and corresponding activities must comply with all HTF requirements, including the environmental review requirements at 24 CFR 93.301(f).

E. Eligibility

1. Eligibility for Individuals

The HTF program has income-targeting requirements. Only extremely low- income families may occupy an HTF-assisted unit. Income must be determined by their "annual income" as defined in 24 CFR 5.609 or by "adjusted gross income, as defined by the IRS form 1040 series for individual federal annual income tax purposes. The grantee may use only one definition for each HTF-assisted program (e.g., down payment assistance program that it administers and for each rental housing project). However, for the initial determination of annual income, the grantee must examine at least two months of source documents evidencing annual income (e.g., wage statement, interest statement, unemployment compensation statement) for the family. Also, the grantee must obtain a written statement from the family attesting to their annual income and family size. This certification must state that the family will provide source documents upon request. The administrator of the program must yearly attest to the family size and annual income or alternatively, indicate the current dollar limit for very low or low- income families for the family size of the tenant and state that the tenant's annual income does not exceed this limit.

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable.

2. Level of Effort

Not Applicable.

3. Earmarking

a. Not more than 10 percent of the annual grant may be used for housing for homeownership.

b. Not more than 10 percent of the sum of each fiscal year HTF grant and of program income deposited into its local account or received and reported by its subgrantees during the program year, may be expended for payment of

reasonable administrative and planning costs of the HTF.

c. Not more than one-third of each annual grant may be used for operating cost assistance and operating cost assistance reserves.

d. The grantee must use 100 percent of its HTF grant for the benefit of extremely low- income families or families with incomes at or below the poverty line (whichever is greater).

e. Pre-award costs may not exceed five percent of the minimum statutory allocation amount of $3 million.

J. Program Income

Program income must be deposited in the grantee's HTF local account unless the grantee permits a subgrantee to retain the program income for additional HTF projects pursuant to the written agreement required by 24 CFR 93.404(b). The grantee must report the program income received as well as the use of the program income for HTF in HUD's disbursement and information system.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

d. *Financial Reports (OMB No. 2535-0107)* – Not Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act (FFATA)

See Part 3.L for audit guidance

N. Special Tests and Provisions

1. Maximum Per-Unit Subsidy and Underwriting and Subsidy Layering Requirements

Compliance Requirements Maximum per-unit development subsidy amount. The grantee must establish maximum limitations on the total amount of HTF funds that the grantee may invest per-unit for development of non-luxury housing, with adjustments for the number of bedrooms and the geographic location of the project. These limits must be reasonable and based on actual costs of developing non-luxury housing in the area. The grantee must include these limits in its consolidated plan and update these limits annually.

Underwriting and Subsidy Layering. Before committing funds to a project, the grantee must evaluate the project in accordance with guidelines that it has adopted for determining a reasonable level of profit or return on recipient's investment in a project and must not invest any more HTF funds, alone or in combination with other governmental assistance, than is necessary to provide quality affordable housing that is financially viable for a reasonable period (at minimum, the period of affordability in Section 93.302 or Section 93.304) and that will not provide a profit or return on the recipient's investment that exceeds the grantee's established standards for the size, type, and complexity of the project. The guidelines adopted by the grantees must require the grantee to undertake:

1. An examination of the sources and uses of funds for the project (including any operating cost assistance, operating cost assistance reserve, or project-based rental assistance that will be provided to the project) and a determination that the costs are reasonable; and

2. An assessment, at minimum, of the current market demand in the neighborhood in which the project will be located, the experience of the recipient, the financial capacity of the recipient, and firm written financial commitments for the project.

Audit Objectives Determine whether the HTF subsidies being provided are not more than necessary to provide affordable housing and are properly supported.

Suggested Audit Procedures

a. Review a sample of projects to verify that the HTF subsidy amounts are supported by the grantee’s records.

b. Review grantee records to verify that each housing project was evaluated in accordance with its guidelines and to ensure that the HTF assistance to the project is not any more than the maximum limits established by the grantee.

2. Drawdowns of HTF Funds

Compliance Requirements The IDIS is used both to collect information on compliance with program requirements and to disburse HTF funds to HTF grantees (24 CFR section 93.402).

Audit Objectives Determine whether the drawdowns of HTF funds using IDIS (HTF payment certificate amounts) are supported by grantee records.

Suggested Audit Procedures

a. Verify that HTF payments match the grantee's documents to support the drawdown request.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANCE LISTING 14.850 PUBLIC HOUSING OPERATING FUND

I. PROGRAM OBJECTIVES

The overall objective of the Office of Public and Indian Housing (PIH) program is to provide and operate cost-effective, decent, safe, and affordable dwellings for lower-income families through an authorized local Public Housing Agency (PHA).

II. PROGRAM PROCEDURES

A. Overview

Operating Fund grants are available to achieve and maintain adequate operating and maintenance service and reserve funds. Capital Fund grants are provided for modernization and development activities.

PHAs established in accordance with state law are eligible to administer the public housing program. The local governing body must approve the proposed program. Three core occupancy procedures are described in program regulations and other guidance: (1) determination of eligibility, (2) determination of income and rent, and (3) leasing and continuing occupancy.

B. Subprograms/Program Elements

1. *Operating Fund*

PHAs with more than 250 rental dwelling units must manage properties according to an asset management model consistent with the management norms in the broader multi-family management industry. PHAs must comply with asset management requirements.

Asset management has five interrelated core elements: project-based funding, budgeting, accounting, management, and oversight/performance assessment. PHAs must implement these project-based practices, which include project-specific financial reporting through the Financial Data Schedule (FDS). PHAs that own and operate 250 or more dwelling rental units and do not intend to fund central office operating costs with Capital Fund grants must establish a Central Office Cost Center (COCC) to account for non-project specific costs because, if using Capital Fund grants, these costs get charged to the project as opposed to a COCC.

The COCC must charge each project for indirect costs (expenses of the "management company," namely the COCC) using a fee-for-service approach.

Each project shall be charged for the services received and only to the extent that such amounts are reasonable. The asset management fee and funds transfers between projects (project fungibility) will be limited to the restrictions made on excess cash. Excess cash will also be monitored as a compliance requirement after the first year of asset management.

The grant assistance is made available from the Operating Fund through the Annual Contributions Contract (ACC). The ACC is a grant agreement between the Department of Housing and Urban Development (HUD) and the PHA, whereby HUD agrees to provide grant assistance, and the PHA agrees to comply with HUD requirements for the development and operation of its public housing projects (24 CFR section 990.115). Funding is determined by a formula used to calculate the amount of eligible operating subsidy for each PHA. The operating subsidy is equal to the project's Project Expense Level (PEL) plus the Utilities Expense Level (UEL), multiplied by Eligible Unit Months (EUM) plus other formula expenses (add-ons) minus formula income. The methodology and procedures for this calculation are found in 24 CFR Part 990.

The Operating Fund calculation is prepared in conjunction with the project's annual operating subsidy worksheet in HUD Form 52723, *Operating Fund Calculation of Operating Subsidy (OMB No. 2577-0029)* and HUD Form 52722, *Operating Fund Calculation of Utilities Expense Level (OMB No. 2577-0029)*. Both forms are prepared by PHAs and submitted to HUD before the beginning of the calendar year (CY) in accordance with the schedule established by HUD.

Essentially, the PEL, which is the non-utility costs for each project, is based on what it would cost a well-managed project of comparable location and characteristics to operate based on such variables: (1) size of project (number of units); (2) age of property (date of full availability); (3) bedroom mix; (4) building type; (5) occupancy type; (6) location (an indicator of the type of community in which a property is located (location types include rural, city central metropolitan, and non-city central metropolitan (suburban) areas); (7) neighborhood poverty rate; (8) percentage of households assisted; (9) ownership type (profit, nonprofit, or limited dividend); and (10) geographic location.

The resulting PELs are arrived at by application of the formula utilizing these variables. These costs are updated annually based on inflation and changes in the PHA characteristics included in the equation. The UEL is a figure that reflects payment to the PHA for PHA-paid utility costs for each project. The UEL is formula-determined, reflective of actual consumption during the previous four years, recent utility rates, and a factor for inflation.

As owners, PHAs have asset management responsibilities that go above and beyond property management activities. These responsibilities include decision-making on topics such as long-term capital planning and allocation, the setting of ceiling or flat rents, review of financial information and physical stock, property

management performance, long-term viability of properties, property repositioning and replacement strategies, risk management responsibilities pertaining to regulatory compliance, and those decisions otherwise consistent with the PHA's ACC responsibilities, as appropriate.

2. *Rental Assistance Demonstration Program*

In 2012, Congress authorized the *Rental Assistance Demonstration (RAD)* to test a new way to meet the large and growing capital improvement needs of the nation's aging public housing stock and preserve projects funded under HUD's "legacy" programs. Under RAD, properties "convert" their assistance to long-term, project-based Section 8 contracts. RAD allows PHAs to convert some or all its public housing units to a project-based voucher program (PBV) or a project-based rental assistance contract with HUD multifamily (PBRA). Currently, Congressional appropriation language allows for 455,000 units to be converted under the RAD program. Units approved under RAD are removed from the public housing system when the new PBV or PBRA Section 8 contract is effective. Conversions may occur at any time during the year. While the project is effectively under a new federal program at closing, funding for these converted units under the PBV or PBRA program will not begin until the beginning of the next calendar year (i.e., January 1st of the year following closing). Therefore, the funding mechanism from the conversion point through the end of the current calendar year remains Public Housing Operating Fund and/or the Capital Fund Program (CFP) grants. As such, any amounts (Operating Fund or CFP funds) received by the PHA under prior ACCs and transferred to the new RAD property as outlined by the documents of the RAD conversion are eligible and allowable costs of the respective program.

3. *Shortfall Program*

Shortfall Funds have been provided to PHAs on a competitive basis beginning in 2020. Shortfall Funds are provided to PHAs through the Shortfall Program. The Shortfall Program provides funding to PHAs who experience or are at risk of financial shortfalls. Shortfall Funds may be used for any eligible Operating Fund expense. The funds are allocated based on a needs-based approach, with the specific methodology used to determine eligibility and eligible amounts identified in a PIH Notice published annually for each year's appropriation. Funding from the Shortfall program is disbursed at the PHA level rather than the project level. Shortfall Funds must be expended immediately upon drawdown. These funds will then be allocated to the projects as revenue and for expenditures. Award letters identify steps the PHA can take to improve financial performance and criteria that must be met to release funds. Eligible uses are those allowed under Section 9 (e) of the Housing and Community Development Act, except that non-troubled PHAs may also include eligible Capital Fund uses under Section 9 (g).

C. Other

1. *Financial Reporting*

   In accordance with HUD's Uniform Financial Reporting Standards rule, annually, a PHA is required to submit its financial statement, prepared in accordance with generally accepted accounting principles (GAAP), in the electronic format specified by HUD. The unaudited financial statement is due two months after the PHA's fiscal year-end, and the audited financial statement is due nine months after its fiscal year-end (24 CFR section 5.801). The financial statement must include the financial activities of this program.

Source of Governing Requirements

This program is authorized by the US Housing Act of 1937, as amended (42 USC 1437d(j), 42 USC 1437g, and 42 USC 3535(d)). Implementing regulations are 24 CFR parts 5, 902, 960, 966, and 990. Operating Fund requirements are contained in 24 CFR Part 990. Guidance on financial management and reporting requirements for public housing authorities under 24 CFR Part 990 was published in Notice PIH 2007-9 (April 10, 2007), which included guidance in a Supplement to the Financial Management Handbook, Department of Housing and Urban Development (HUD) Handbook 7475.1, Changes in Financial Management and Reporting for Public Housing Agencies Under the New Operating Fund Rule.

Availability of Other Program Information

1. HUD maintains web pages Public Housing | HUD.gov / U.S. Department of Housing and Urban Development (HUD) and Library - Public and Indian Housing | HUD.gov / U.S. Department of Housing and Urban Development (HUD)that provide general information about this program.

2. HUD's Real Estate Assessment Center website is available at Real Estate Assessment Center (REAC) | HUD.gov / U.S. Department of Housing and Urban Development (HUD). Links to information concerning PHAS and other important program information are located on this web page. The Supplement to Handbook 7475.1, which was published in Notice PIH 2007-9 (April 10, 2007), provides detailed information on the financial reporting requirements for PHAs.

3. Copies of HUD forms and notices are available at HUDCLIPS at HUDCLIPS | HUD.gov / U.S. Department of Housing and Urban Development (HUD).

4. HUD's Rental Assistance Demonstration Program main website is available at Rental Assistance Demonstration | HUD.gov / U.S. Department of Housing and Urban Development (HUD).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	N	N	Y	N	N	N	Y

A. Activities Allowed or Unallowed

1. *Project-Specific Operating Expenses*

   a. Project-specific operating expenses include, but are not limited to, direct administrative costs, utilities costs, maintenance costs (maintenance must be either decentralized or, if centralized, recovered via fee-for-service), tenant services, protective services, general expenses, non-routine or capital expenses, and other PHA- or HUD-identified costs which are project-specific for management purposes.

   b. Project-specific operating expenses include a property management fee for each project to fund central office operations. If the PHA contracts with a private management company to manage a project, the PHA may use the difference between the property management fee paid to the private management company and the fee that is reasonable to fund operations of the central office and other eligible purposes.

c. Proceeds under Sections 18 and 22 of the 1937 Act

(1) PHAs may obtain proceeds from public housing real property dispositions under sections 18 and 22 of the 1937 Act. If approved by HUD, PHAs may deduct relocation costs and reasonable disposition costs (transaction costs from the gross proceeds (the result being the net proceeds). The reasonableness of disposition costs for this purpose is evidenced by the HUD approval of the deduction. PHAs may use net proceeds for the provision of low-income housing, to benefit the public housing residents of the PHA, or to leverage amounts for securing commercial enterprises on-site in public housing projects as appropriate to serve the needs of the public housing residents. A PHA's use of proceeds is subject to HUD approval. PHAs shall not use proceeds without obtaining written approval from HUD's Special Applications Center (SAC). Until expended, PHAs must deposit the proceeds into an account subject to the HUD General Depository Agreement HUD- 51999 (GDA)(4/18).

2. *Use of Excess Cash*

With the Operating Funds calculated at a project level, the Operating Funds can be transferred as the PHA determines during the PHA’s fiscal year to another ACC project(s) if a project’s financial information meets the requirements described in 24 CFR section 990.280. The transfers cannot be more than the excess cash the project generates (24 CFR section 990.205(a)). Excess cash is calculated at the end of the project’s prior fiscal year for use in the current fiscal year, if applicable. Excess cash represents the sum of certain current asset accounts, minus current liabilities, and minus one month’s worth of operating expenses for the project. HUD has provided guidance on using excess cash in sections 6.1 through 6.6 in the Supplement to HUD Handbook 7475.1. This guidance has been developed using the norms in the broader multi-family management industry (24 CFR section 990.225).

a. Excess cash may be used for the following purposes:

(1) Retention for future use;

(2) Transfer to other projects;

(3) Payment of an asset management fee to the COCC; and

(4) Other HUD-approved eligible purposes, including, but not limited to—

(a) Financing costs for the development of new units (to the

extent allowed under program requirements),

(b) If approved by HUD HQ Counsel and concurred upon by the assistant secretary or general deputy assistant secretary, costs of pursuing PHA-wide lawsuits and addressing legal issues incurred prior to asset management that cannot be charged to specific projects or other programs with any degree of accuracy or fairness, and

(c) Provided 2 CFR Part 200 is followed, benefits including pensions, retirement benefits liabilities, and other "legacy costs" incurred prior to adoption of asset management (24 CFR section 990.280(b)(5)). (Also see Section 6.2 in the Supplement to HUD Handbook 7475.1.)

b. Proceeds from asset disposals of a project (e.g., the sale of a project's maintenance vehicle) are assets of the projects and not of the COCC. With HUD approval, certain proceeds may be transferred to the COCC but may still be governed by other restrictions (2 CFR Part 200; section 990.280(b)(5)). (Also see Section 6.3 in the Supplement to HUD Handbook 7475.1.)

c. Excess cash cannot be used for loans or transfers to the COCC except through payment of asset management fees.

3. *Use of Operating Funds*

a. The Operating Fund was established for the purpose of making assistance available to PHAs for the operation and management of public housing. Per the ACC, funds are not fungible between programs except as approved by HUD (PHAs may use Operating Funds as outlined by sections 9(e), 9(g) and 9(l) of the 1937 Act, as amended (42 USC 1437d(j), 42 USC 1437g, and 42 USC 3535(d)), HUD regulations and Moving to Work (MTW) agreements. PHAs may use Capital Funds as outlined by Section 9(d), 9(g), and 9(l) of the 1937 Act and HUD regulations) and consistent with HUD Requirements.

Transfers out of the Operating Fund can only occur in very limited circumstances, such as outlined by the documents of a RAD conversion and for when PHAs participate in the Moving to Work Demonstration Program (Assistance Listing 14.881) authorized by 204(c)(1) of Title II of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321-282.

This precludes PHAs from using Operating Funds to provide temporary loans to other programs within the PHA through inter-fund inter-program

transactions (Due To/Due From) or to external affiliates such as to Discretely Presented Component Units (DCUs) through affiliate receivable/payable transactions. It also precludes PHAs from using Operating Funds to temporarily cover or support non-Public Housing program activities through central payor type arrangements such as Paymaster and Revolving Fund Accounts. While allowed to be pooled in an account such as the General Fund, Public Housing Operating funds cannot be advanced from the pooled account in excess of the Public Housing Operating fund program's expenditure rate as per the ACC.

Inter-fund and affiliate receivable/payable transactions recorded in a PHA's books of account may indicate the existence of temporary loans which introduce the risk for the potential misuse of Operating funds for nonprogram purposes. This financial activity should be reviewed to determine whether the balances and transactions represent the allowable use of unrestricted resources or if the activity represents the ineligible use of Operating funds representing program noncompliance. Additionally, related financial transactions or adjustments that result in the elimination of Operating Fund receivables (such as write-downs, write-offs, equity and prior period adjustments, and operating transfers out) should be reviewed to determine if eliminations and transfers are appropriate and proper authorization from HUD is documented (42 USC 1437g(e)).

b. Operating subsidy received by the PHA under prior ACCs and transferred to the new RAD property as outlined by the documents of the RAD conversion are eligible and allowable costs of the respective program.

4. *Use of Operating Funds for Capital Improvements*

a. PHAs with less than 250 public housing units (and that are not designated as troubled and are, in the determination of HUD, operating and maintaining public housing in a safe, clean, and healthy condition) may use their Operating Funds for capital improvements (Section 9(g)(2) of the 1937 Act (42 USC 1357g(g)(2)).

b. PHAs with 250 or more public housing units are permitted to use 20 percent of their Operating Funds for allowable and eligible CFP activities under Section 9(d) of the Act except to (1) transfer Operating Subsidy from one project to another or (2) support a Capital Fund management fee on the Operating Subsidy used for CFP activities.

B. Allowable Costs/Cost Principles

The amount of salary, including bonuses, of PHA chief executive officers, other officers, and employees paid with Section 8 Housing Choice Vouchers administrative fees and Section 9 Capital and Operating Funds may not exceed the annual rate of basic pay

payable for a federal position at Level IV of the Executive Schedule (currently $183,250) (Section 227 of Pub. L. No. 113-235, 128 Stat. 2756, December 16, 2014, and if carried forward in each subsequent appropriations act). Implementing guidance has been issued in PIH Notice 2016-14, "Guidance on the Public Housing Agency (PHA) salary restriction in HUD's annual appropriations" (https://www.hud.gov/sites/documents/16-14PIHN.PDF). OPM Salary tables are located here: https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/.

1. Chargeable Fees under the Fee-for-Service Approach

   a. The PHA may charge each project an asset management fee that may be used to fund operations of the central office (24 CFR section 990.280(b)(5)(ii)).

   b. In addition to project-specific records, PHAs may establish COCCs to account for non-project specific costs (e.g., human resources, executive director's office). Those costs shall be funded from the property management fees received from each property and the asset management fees to the extent these are available (24 CFR section 990.280(c)). PHAs opting to fund centralized costs with capital funds must allocate overhead to projects through FDS line item 91810, "Allocated Overhead."

   c. If a PHA chooses to centralize functions under asset management, it must charge each project using a fee-for-service approach unless proration is permitted. HUD has specified that the costs for rent collections, resident services, security/protective services, waiting lists, and work order processing may be prorated. (See III.N.6, "Fees Charged for Centralized Services," and III.N.7, "Prorating Front-Line Centralized Services.") With the exception of a central waiting list, resident services, and security/protective services, a project may not pay for the cost of a supervisor overseeing a front-line task that is performed centrally (see Section 7.10 Assignment of Costs per Supplement, Prorating Front-Line Administrative Costs, in the Supplement to HUD Handbook 7475.1 for exceptions). Each project shall be charged for the actual services received and only to the extent that such amounts are reasonable (24 CFR section 990.280 (d)).

   d. PHAs that own and operate 250 or more dwelling rental units under Title I of the US Housing Act of 1937, including units managed by a third-party entity (for example, a resident management corporation) but excluding Section 8 units, are required to operate using an asset management model consistent with Subpart H of 24 CFR Part 990 (24 CFR section 990.260(a)). PHAs that own and operate 400 or fewer public housing units may elect to be exempt from any asset management requirement imposed by HUD in connection with the operating fund rule, provided that an agency seeking a discontinuance of a reduction of subsidy (stop-loss)

under the operating fund formula shall not be exempt from asset management requirements (Section 225 of Title II of the HUD portion of the Consolidated Appropriations Act, 2008 (Pub. L. No. 110-161) and if carried forward in all subsequent Appropriations Acts).

e. For PHAs implementing asset management under fee-for-service, costs are classified as either a front-line expense (an expense of the project) or a fee expense (an expense of the management company (i.e., the COCC)) (see Table 7.2 and sections 5.2, 5.3, and 7.10 in the Supplement to Handbook 7475.1 for classifying costs) (24 CFR section 990.280(d)). Certain front-line project administrative expenses may be performed centrally and "charged back" (expense proration or fee-for-service) to the affected project(s). Centralized maintenance services can only be charged as a fee-for-service. Centralized indirect costs, on the other hand, are recoverable only from designated fees charged by the COCC (management, bookkeeping, asset management) (24 CFR sections 990.275 and 990.280). Project support costs should be properly classified as fee expense recoverable from management, bookkeeping, and asset management fees, or front-line project expense, recoverable through expense proration, as a shared resource cost or fee-for-service (required for centralized maintenance services). For PHAs that have established a COCC, HUD has established the following as the fees the COCC can charge projects or programs (see Section 7.1 to the Supplement to HUD Handbook 7475.1):

(1) Property (project) management fee;

(2) Bookkeeping fees;

(3) Fees for centrally provided direct services (front-line expenses);

(4) Asset management fees;

(5) Capital Fund Program management fees; and

(6) Management fees for other programs.

Property management fee rates established by HUD are available at Project-Based Accounting - Asset Management - HUD | HUD.gov / U.S. Department of Housing and Urban Development (HUD).

E. Eligibility

1. Eligibility for Individuals

a. Most PHAs devise their own application forms filled out by the PHA staff during an interview with the tenant. The head of household signs (a) a certification that the information provided to the PHA is correct; (b) one or more release forms to allow the PHA to get information from third parties; (c) a federally prescribed general release form for employment information; and (d) a privacy notice. Under some circumstances, other members of the family may be required to sign these forms (24 CFR sections 5.212, 5.230, and 5.601 through 5.615). Elaboration on consent form requirements, including additional consent form requirements, can be found here: https://www.ecfr.gov/current/title-24/subtitle-A/part-5/subpart-B/subject-group-ECFR571d9c483519586/section-5.230#p-5.230(a)

b. Eligibility Determination:

(1) The admission or continued occupancy requires the tenant and other family members to provide the necessary information, documentation, and releases for the PHA to verify income eligibility (24 CFR sections 5.230, 5.609, and 960.259).

(2) For both family income examinations and reexaminations, obtain and document in the family file third-party verification of (a) reported family annual income, (b) the value of assets, (c) expenses related to deductions from annual income, and (d) other factors that affect the determination of adjusted income or income-based rent (24 CFR section 960.259).

(3) Determine income eligibility and calculate the tenant's rent payment using the documentation from third-party verification in accordance with 24 CFR Part 5, Subpart F (24 CFR sections 5.601 et seq., and 24 CFR Subpart C sections 960.253, 960.255, and 960.259).

(4) Tenants must be from the public housing waiting list (see III.N.2, "Special Tests and Provisions – Public Housing Waiting List") (24 CFR sections 960.206 and 960.208).

(5) Reexamine family income and composition at least once every 12 months and adjust the tenant rent and housing assistance payment as necessary using the documentation from third-party verification (24 CFR sections 960.253, 960.257, and 960.259).

(a) The Rental Demonstration program prohibits PHAs from rescreening or requiring tenant recertification due solely to a RAD conversion. However, this requirement does not eliminate the scheduled recertification (normally annually).

Recertifications must be performed as part of the normal tenant recertification process that occurs after the RAD conversion but before the end of the calendar year will be conducted under the selected conversion program (PBV or PBRA) and not Public Housing. These recertifications are to be conducted to ensure that tenant payments are appropriate under the new program. Any testing that results in an audit finding should be a finding of the PBV or PBRA program, not the public housing program.

(b) Eligible beneficiaries are lower- income families, which include citizens or eligible immigrants. “Families” include, but are not limited to, (1) a family with or without children; (2) an elderly family (head, spouse, or sole member 62 years or older); (3) near-elderly family (head, spouse, or sole member 50 years old but less than 62 years old); (4) a disabled family; (5) a displaced family; (6) the remaining member of a tenant family; or (7) a single person who is not elderly, near-elderly, displaced, or a person with disabilities.

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements The Wage Rate Requirements apply to construction activities for public housing. However, the requirements do not apply to volunteer work where the volunteer does not receive compensation, or is paid expenses, reasonable benefits, or a nominal fee for such services, and is not otherwise employed at any time in construction work (42 USC 1437j(a) and (b)). HUD’s Factors of Applicability for these requirements can be found at https://www.hud.gov/program_offices/davis_bacon_and_labor_standards/olr_foa.

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

2. Public Housing Waiting List

Compliance Requirements The PHA must establish and adopt written policies for the admission of tenants. The PHA tenant selection policies must include requirements for

applications and waiting lists, a description of the policies for selecting applicants from the waiting lists, and policies for verification and documentation of information relevant to the acceptance or rejection of an applicant (24 CFR sections 960.202 through 960.206).

Audit Objectives Determine whether the PHA is following its tenant selection policies in placing applicants on the waiting list and selecting applicants from the waiting list to become tenants.

Suggested Audit Procedures

a. Review the PHA's tenant selection policies.

b. Test a sample of applicants added to the waiting list and ascertain if the PHA's tenant selection policies were followed when placing applicants on the waiting list.

c. Test a sample of new tenants to ascertain if they were selected from the waiting list in accordance with the PHA's tenant selection policies.

3. Tenant Participation Funds

Compliance Requirements When tenant participation funds are provided to a PHA, the PHA must provide those funds to duly elected resident councils. Funding provided by a PHA to a duly elected resident council may be made only under a written agreement between the PHA and the resident council that includes a resident council budget. PHAs are permitted to fund $25 per unit per year for units represented by duly elected resident councils for resident services. Of this, $25, $15 per unit per year is provided to fund tenant participation activities. The agreement must require the local resident council to account to the PHA for the use of the funds and permit the PHA to inspect and audit the resident council's financial records related to the agreement (24 CFR section 964.150).

Audit Objectives Determine whether the PHA has properly allocated tenant participation funds to resident councils and has determined that resident councils' expenditures are adequately documented.

Suggested Audit Procedures

a. Review PHA project agreements and records to determine if funding provided for tenant participation has been allocated to resident councils in accordance with a written agreement.

b. Test a sample of the expenditures and supporting documentation reported to the PHA to determine if resident council expenditures are consistent with the resident council budget.

4. Project-Based Budgeting and Accounting

Compliance Requirements PHAs implementing asset management shall develop and maintain a system of budgeting and accounting for each project in a manner that allows for analysis of actual revenues and expenses associated with each property (24 CFR section 990.280(a)). Prior to the beginning of its fiscal year, a PHA is required to prepare an operating budget. The PHA's Board of Commissioners is required to review and approve the budget by resolution. The PHA is not required to submit the budget to HUD unless specifically requested under special circumstances. The approved board budget resolution must be submitted to HUD (24 CFR section 990.315(a)).

Financial information to be budgeted and accounted for at a project level shall include all data needed to complete a project-based FDS following GAAP, including revenues, expenses, assets, liabilities, and equity data (24 CFR section 990.280(b)(1)).

Tracking financial performance at the project level under project-based accounting provides information necessary to make effective decisions at the project level. PHAs may only charge projects for services received. For example, in accounting for project costs, PHAs will not be permitted to spread the cost of central maintenance across all projects (24 CFR section 990.280 and 2 CFR 200.405).

Audit Objectives Determine whether each asset management PHA has implemented project-based budgeting and accounting.

Suggested Audit Procedures

a. Obtain the PHA's budget and determine if it is project based.

b. Confirm that the PHA maintains a board-approved budget, which was approved by a board resolution before the beginning of the PHA's fiscal year.

c. Review the FDS and determine whether each project has its own column on the FDS.

d. Review budget to actual reports. Verify that actual revenue and expenses associated with each project are analyzed periodically by the PHA. Confirm that the PHA addresses significant variances between the budget and actual data.

5. Balance Sheet Allocations

Compliance Requirements PHAs implementing asset management using the COCC model must apportion their assets, liabilities, and equities to their projects and COCC at the time of conversion to project-based accounting. Most PHAs have already completed this process; however, some PHAs may still be establishing their COCC for the first time. Assets, liabilities, and associated net assets should be assigned to the applicable project or COCC if a direct relationship exists, including personal and real property. HUD has

provided guidance on this subject in Section 4.3 in the Supplement to Handbook 7475.1 and PIH Notice 2008-17, Guidance on Disposition of Excess Equipment and Non-Dwelling Real Property under Asset Management (24 CFR section 990.280(b)(1)).

Audit Objectives Determine if PHAs have apportioned their assets, liabilities, and equity between the projects and COCC.

Suggested Audit Procedures

a. Select a sample of assets, liabilities, and equities.

b. Determine that they were appropriately allocated to projects and COCC.

6. Fees Charged for Centralized Services

Compliance Requirements In the case where a COCC chooses to centralize functions that directly support a project (e.g., central maintenance), it must charge each project using a fee-for-service approach, with the exception of charges for rent collections, resident services, security/protective services, waiting lists, and work-order processing (see Section 7.10 of the Supplement to Handbook 7475.1). Each project must be charged for the services received and only to the extent that such amounts are reasonable. Guidance on fee reasonableness for centralized service fees is provided in Section 7.10 in the Supplement to HUD Handbook 7475.1. HUD considers any fees that are within HUD guidance to be reasonable. PHAs are requested to consult with HUD regarding any fees that depart from HUD guidance, and HUD will provide its view on the reasonableness of the fees. Any fees above the HUD guidelines that have not been approved by HUD must be reviewed in detail to determine if the additional costs are justified by local conditions or other factors (24 CFR section 990.280(d)).

Audit Objectives Determine whether the fees charged by the COCC to the project for centralized maintenance and inspections are reasonable.

Suggested Audit Procedures

a. Select a sample of fees charged by the COCC to a project for centralized maintenance and inspection services.

b. Determine if the fees comply with fee reasonable guidelines set by HUD.

c. For any fees that do not meet the reasonableness guidelines, review the documentation maintained by the PHA to determine if the fees were approved by HUD or are reasonable.

7. Prorating Front-line Centralized Services

Compliance Requirements When a COCC chooses to centralize certain front-line

project costs (e.g., rent collection, resident services, security, waiting lists, work order processing), it may (rather than using fee-for-service) prorate these costs based on a reasonable, documented methodology. The prorating of these costs (e.g., cost allocation plan) shall reflect the PHA's broader accounting policy.

Projects with on-site staff that can provide these services at a project may not also be charged these services using proration. A PHA could prorate these costs based on a percentage of units, bedroom distribution, turnover, or other reasonable methods. With the exception of a central waiting list, resident services, and security/protective services, a project may not pay for the cost of a supervisor overseeing a front-line task that is performed centrally (see Section 7.10 of the Supplement to HUD Handbook 7475.1) (24 CFR section 990.280).

Audit Objectives Determine whether the centralized direct project costs charged to the project(s) by the COCC are reasonable, supervisory costs are properly charged, and costs are not charged to the project using proration if on-site staff can provide the services.

Suggested Audit Procedures

a. Ascertain if the project is pro-rating front-line centralized services and, if so—

b. Select a sample of costs prorated by the COCC to a project for centralized front-line project costs.

c. Review the method used to prorate amounts, including the method used to determine the degree of cost allocation to the respective project(s) to ensure that the documented method mirrors the method associated with costs charged to a project.

d. Verify that charges are based on the methodology established by the PHA.

e. Confirm, by obtaining written representations from management, that the project(s) charged lack the on-site human resources to perform the function and whether such services were provided in the past. Verification can also be ascertained by reviewing the staff's roles and responsibilities and determining if the services provided fall under these roles and responsibilities.

f. Verify that no ineligible supervisory costs are charged to the project(s).

8. Asset Management Fee

Compliance Requirements The COCC may charge a reasonable asset management fee to projects to fund the operations of the central office. HUD will generally consider an asset management fee of $10 per unit month (PUM) charged to each project as reasonable. Sections 7.4 and 7.6 in the Supplement to Handbook 7475.1 provide guidance on reasonable standards for asset management fees. HUD considers any fees that are within HUD guidance to be reasonable. PHAs are requested to consult with HUD regarding any fees that depart from HUD guidance and

HUD will provide its view on the reasonableness of the fees. Any fees above the HUD guidelines that have not been approved by HUD need to be reviewed in detail to determine if the additional costs are justified by local conditions or other factors (24 CFR section 990.280(b)(5)(ii)).

Audit Objectives Determine whether the asset management fees charged by the COCC to the projects are reasonable.

Suggested Audit Procedures

a. Select a sample of projects that were charged an asset management fee.

b. Determine if the fees comply with fee reasonable guidelines set by HUD.

c. For any fees that do not meet the reasonableness guidelines, review the documentation maintained by the PHA to determine if the fees were approved by HUD or are reasonable.

9. Management Fees

Compliance Requirements The COCC may charge reasonable management fees. Management fees may include property management fees and bookkeeping fees**.** Fee reasonableness standards for the property management fee and bookkeeping fee are provided in sections 7.4 and 7.5 in the in the Supplement to Handbook 7475.1 . HUD considers any fees that are within HUD guidance to be reasonable. PHAs are requested to consult with HUD regarding any fees that depart from HUD guidance and HUD will provide its view on the reasonableness of the fees. Any fees above the HUD guidelines that have not been approved by HUD need to be reviewed in detail to determine if the additional costs are justified by local conditions or other factors (24 CFR section 990.280(b)(4)), including cost reasonableness guidance under 2 CFR Part 200.

Audit Objectives Determine whether the fees charged by the COCC for management services are reasonable.

Suggested Audit Procedures

a. Select a sample of property management fees and bookkeeping fees charged by the COCC and determine if the fees comply with fee reasonable guidelines set by HUD.

b. For any fees that do not meet the reasonableness guidelines, review the documentation maintained by the PHA to determine if the fees were approved by HUD or are reasonable.

10. Allocated Overhead

Compliance Requirements Under current appropriation language, all PHAs with over

400 public housing units must convert to asset management (Section 225 of Title II of the HUD portion of the Consolidated Appropriations Act, 2008 (Pub. L. No. 110-161) and if carried forward in all subsequent Acts).

PHAs with over 400 public housing units are allowed two reporting models as part of the conversion to asset management—the establishment of a COCC or the allocated overhead method (FDS line 91810). For those PHAs that established a COCC, the reasonableness of the fees charged is tested in the previous Special Tests (six through nine). For those PHAs that converted to asset management, but are reporting using the allocated overheard method, reasonableness is tested in this section by reviewing the allocated overhead expense account and comparing fees in that account to the fee standards set by HUD in sections 7.4, 7.5, and 7.6 in the Supplement to HUD Handbook 7475.1 (24 CFR section 990.280(b)(4)).

Audit Objectives Determine whether the amount of allocated overhead charged to projects is reasonable.

Suggested Audit Procedures

a. For PHAs using the allocated overhead method, select a sample of projects and review the amount of overhead costs charged through the allocated overhead expense line.

b. Determine if the allocated overhead expense line is reasonable compared to the fee standards allowed by HUD.

11. Funding Central Office with Capital Fund Program Funds

Compliance Requirements The Capital Fund was established for the purpose of making assistance available to PHAs to carry out capital and management activities (42 USC 1437g(d)). Project-based budgeting and accounting will be applied to all programs and revenue sources that support projects under an ACC (e.g., the Operating Fund, the Capital Fund) (24 CFR section 990.280(a)).

In addition to project-specific records, PHAs may establish COCCs to account for non-project-specific costs (e.g., human resources, executive director’s office). These costs shall be funded from the management fees received from each property and asset management fees to the extent these are available (24 CFR section 990.280(c)).

If a PHA uses CFP funds to directly support its central office other than through management fees, the PHA may not record fee revenue, such as management fees, asset management fees, bookkeeping fees, and front-line service fees, under its COCC. The PHA should report indirect costs as Allocated Overhead (FDS line 91810) under its projects and programs.

However, a PHA could report fee revenue under its COCC under the following

circumstances. (HUD considers these activities as management or capital activities and, therefore, can be directly supported by the use of the Capital Fund in accordance with (42 USC 1437g (d)).)

a. PHAs with assets financed under the Capital Fund Finance Program (CFFP) and allocated to the COCC will record the associated debt at the COCC. (Unlike the CFP, the CFFP is not a federal financial assistance program. The CFFP was created to leverage external financing of capital investments using CFP money for debt service. For instance, a PHA must repair its building at an estimated cost of $500,000. CFP can provide annual funding of $100,000 to the PHA. Without outside financing, the PHA would not have enough cash to do the work until five years later. The PHA can borrow money from a local bank to make the investment now and promise to repay the bank with future CFP funds. By doing so, the PHA is taking part in the CFFP.) CFP grants are allowed to service the debt service payments for this COCC debt based on a percentage of the annual CFP appropriation.

b. The costs of developing or modernizing an existing ACC non-dwelling structure under a Capital Fund Declaration of Trust (DOT) (both COCC and Project Structure) are an eligible Capital Fund expenditure (guidance on this is provided in Section 5.7 in the Supplement to HUD Handbook 7475.1). If development of a structure, then a 40-year DOT applies; if modernization of a structure, then a 20-year DOT applies. DOT may vary based on the nature of the work; consult HUD Handbook 7475.1.

Audit Objectives When a PHA uses the Capital Fund to directly support its central office other than through management fees, determine whether the PHA (a) uses the Capital Fund to pay back CFFP debt or to develop or modernize an existing ACC structure or (b) reports its indirect cost as Allocated Overhead (FDS line 91810).

Suggested Audit Procedures

a. Ascertain if the Capital Fund is used to directly fund the central office other than through management fees. If not, no further action is needed.

b. If so, and if all the funds were used to pay CFFP debt or to develop or modernize an existing ACC structure, no further action is needed.

c. If so, and the money is not used to pay back CFFP debt or develop or modernize an existing ACC structure, verify that no fee revenue was reported under the COCC, and all indirect costs were reported as Allocated Overhead in FDS line 91810.

12. PHA Utilities Operating Funding Requests

Compliance Requirements
Special Utilities Incentives. If a PHA undertakes energy conservation measures financed

by an entity other than HUD, the PHA may qualify for the incentives available under 24 CFR sections 990.185(a) and 990.190(b). In some cases, the rolling base consumption level (HUD Form 52722 Section 3, Line 8) for the utilities involved may be frozen during the contract period. For a PHA to qualify for these incentives, the PHA must obtain HUD approval. Approval is based on a determination that payments under the contract can be funded from the reasonably anticipated energy cost savings. The contract period may not exceed 20 years (24 CFR section 990.185(a)) and is specified in the HUD approval letter.

Rate Reduction. If a PHA takes action beyond normal public participation in rate-making proceedings, such as well-head purchase of natural gas, administrative appeals, or legal action to reduce the rate it pays for utilities, then the PHA will be permitted to retain one-half the annual savings realized from these actions (24 CFR section 990.185(b)).

Audit Objectives Determine whether the cost saving from energy conservation incentives contracts generally comply with the terms of the energy contract and have been approved by HUD, if required.

Suggested Audit Procedures

a. When entries are in HUD-52723 Section 3, Part A, Add-Ons, Line 8, Add-On-Subsidy (AOS) incentive Energy Performance Contract (EPC), verify that the project has a HUD approved energy loan amortization add-on pursuant to CFR sections 990.185(a)(3) and 990.190(b). The contract and add-on must be approved by the HUD field office. Verify that the requested amount and term agree with the energy loan amortization schedule in the approved contract.

b. For projects with "frozen rolling base" checked in the form header box of HUD-52722, verify that the project has the HUD field office approval that applies to the period in question.

c. For projects with a "rate reduction incentive" checked in the form header box of HUD-52722, verify that the project meets the criteria in 24 CFR section 990.185(b).

13. Recording of Declarations of Trust/Declaration of Restrictive Covenants Against Public Housing Property

Compliance Requirements A current DOT/Declaration of Restrictive Covenants (DORC), in a form acceptable to HUD, must be recorded against all public housing property owned by PHAs (or private entities for public housing developed under 24 CFR Part 905, Subpart F) that has been acquired, developed, maintained, or assisted with funds from the US Housing Act of 1937. A DOT/DORC is a legal instrument that grants HUD an interest in public housing property. It provides public notice that the property must be operated in accordance with all federal public housing requirements, including the requirement not to convey or otherwise encumber the property unless expressly

authorized by federal law and/or HUD. In PIH Notice 2019-14 (HA), PHAs were asked to ensure that current (unexpired) DOT/DORCs are recorded against all their public housing property.

Every property must have a DOT/DORC in place. Up to 2018, the form of DOT/DORC that a PHA recorded depended on the funding from HUD. In most instances, the PHA recorded the HUD-52190-A for Development Grant Projects or the HUD-52190-B for Public Housing Modernization Grant Projects (*OMB No. 2577-0075*). For mixed-finance development pursuant to 24 CFR Part 905, Subpart F, the form of DOT, known as the Declaration of Restrictive Covenants, was in the form of a model document drafted for this purpose. In 2018, HUD published a new DOT/DORC form, HUD-52190 (4/2018), which applies to public housing, including both conventional and mixed-finance public housing. A PHA does not need to record a new DOT/DORC unless no validly recorded DOT/DORC encumbers the project. See PIH Notice 2019-14 (HA).

A current DOT/DORC would include all improvement and modernization efforts on the project. A DOT/DORC naming HUD as an interested party must remain in place for (1) 40 years for acquired and developed property, beginning on the date on which the project becomes available for occupancy as determined by HUD; (2) 20 years for property modernized or receiving assistance of capital funds beginning on the latest date on which modernization is complete or assistance is provided with capital funds; and (3) 10 years for property receiving Operating Funds, beginning upon the conclusion of the fiscal year of the PHA for which such amounts were provided. After the expiration of the original DOT/DORC for a public housing development, if subsequent assistance was received under the US Housing Act of 1937, PHAs are required to record another current DOT for the duration of the applicable period (24 CFR sections 905.100, 905.304, 905.318, 905.505, 905.600, and 905.604).

PHAs should have a list of all property (including land and nonresidential inventory, dwelling units, and modernization efforts) that a PHA owns and insures that is maintained or operated from the public housing Operating Fund or other US Housing Act of 1937 funds. Public housing project development numbers were reorganized in 2008, and new numbers were introduced; however, the current DOT/DORCs may continue to reference development numbers in existence prior to 2008, some of which have been put into “terminated” status. Selecting a sample of properties by development number will enable subsequent audits to cover samples of other projects so that over time all property that should be under ACC contracts is covered. (No development needs to be sampled more frequently than every five years.) It is not necessary that all development numbers be referenced in DOT/DORCs. Rather, the audit should determine whether all property that should have been placed under a DOT/DORC has been treated correctly.

Audit Objectives Determine whether DOT/DORCs are being recorded properly for public housing.

Suggested Audit Procedures

From a list of all property (including land and nonresidential inventory, dwelling units, and modernization efforts) that a PHA owns and insures, select a sample of public housing projects. Selecting a sample of properties by development number will ensure that subsequent audits can select samples of other projects. (No development needs to be sampled more frequently than every five years.)

a. Verify that current DOT/DORCs have been recorded for the public housing property in the projects.

14. Depository Agreements

Compliance Requirements The ACC requires that PHAs deposit and invest all program funds received and investment securities received by or held for the account of the PHA in connection with the development, operation and improvement of the projects under an ACC with HUD in accordance with the terms of the General Depository Agreement (GDA) and all investment requirements provided in HUD and Treasury Notices and Regulations. PHAs are required to enter into GDAs with their financial institution(s) using the HUD-51999 (*OMB No. 2577-0075*) form or a form as required by HUD in the ACC. The agreements safeguard program funds and limit risk by providing third-party rights to HUD, by requiring PHAs to deposit and invest in HUD-approved interest bearing investment accounts, and by executing controls over program reserves requiring that any portion of PHA funds not insured by a Federal insurance organization be fully and continually collateralized.

Audit Objectives Determine whether (1) the PHA has entered into the required depository agreements, (2) the agreements have been fully and properly executed over all bank accounts that include program funds under the ACC, and (3) the PHA is compliant with the terms of the ACC and that GDA requirements have been fully operationalized.

Suggested Audit Procedures

a. Verify the existence of depository agreements. FVerify the unaltered depository agreements (or HUD approved alternations) have been properly executed over all bank accounts that include program funds under the ACC. This includes for pooled accounts such as the General Fund and central payor and mixed finance accounts. Confirm the executed agreements are dated and signed by both the PHA and depository institutions and the agreements list all bank account numbers.

b. Verify that the PHA has met the terms of the agreements including the PHA has deposited and invested in HUD-approved investment accounts and the GDA specified collateralization requirements have been met.

15. Insurance Proceeds

Compliance Requirements PHAs are required to use insurance proceeds to promptly

restore, reconstruct, and/or repair any damaged or destroyed property of a project, except when a PHA has written approval from HUD to do otherwise. Unspent insurance proceeds are normally recorded as restricted cash or restricted investments on the FDS up to the amount of the repair.

In cases of unforeseeable and unpreventable emergencies that include damage to the physical structure of the housing stock, PHAs are allowed to use their Operating Funds to cover the expenses associated with the damages. A PHA's insurance may cover the damages fully or partially. However, it usually takes time for the PHA to receive the insurance proceeds. Once received, the PHA must reimburse its operating account for any expenses initially covered with Operating Funds up to the amount received.

If the insurance proceeds are less than the cost to repair and the PHA elects to use Operating Funds to cover the difference, the PHA is not allowed to draw down capital funds to reimburse the Low Rent program (Section 13 of the ACC). The ACC is available at Annual Contributions Contract (ACC) | HUD.gov / U.S. Department of Housing and Urban Development (HUD).

Audit Objectives Determine whether the PHA used insurance proceeds to promptly repair damaged or destroyed property, that unspent insurance proceeds are properly reported in the financial statements, and that Operating Funds were used to cover the allowable expenses.

Suggested Audit Procedures

a. Ascertain if the PHA received any insurance proceeds for damaged or destroyed property.

b. Verify that insurance proceeds received in advance of contractor or repair bills are placed in a restricted cash account of the operating fund.

c. Review contractor invoices and repair expenses to verify insurance proceeds were used to cover allowable expenses.

d. Verify that the Operating Fund was reimbursed by any insurance proceeds received for repairs funded by the Operating Fund.

16. Environmental Contaminants Testing and Remediation

Compliance Requirements Public Housing must be decent, safe, sanitary, and in good repair. To be considered decent, safe, sanitary, and in good repair, PHAs must maintain housing following the physical condition standards set forth in 24 CFR section 5.703. Those standards address the major areas of public housing: the site, the building exterior, the building systems, the dwelling units, the common areas, and health and safety considerations.

Health and safety considerations require that all areas and components of housing be free of health and safety hazards. These areas include, but are not limited to, air quality, electrical hazards, elevators, emergency/fire exits, flammable materials, garbage and debris, handrail hazards, infestation, and lead-based paint. The housing must have no evidence of infestation by rats, mice, or other vermin, garbage, and debris. The housing must have no evidence of electrical, natural, or fire hazards. The dwelling units and common areas must have proper ventilation and be free of mold, odor (e.g., propane, natural gas, methane gas), or other indoor air hazards such as radon testing. The housing must comply with all requirements related to the evaluation and reduction of lead-based paint hazards and have available proper certifications (see 24 CFR Part 35).

The physical condition standards in 24 CFR section 5.703 do not supersede or preempt state and local building and maintenance codes, which Public Housing must comply with and continue to adhere to.

Audit Objectives For the period under audit, determine whether the PHA tested for and remediated environmental contaminates, including but not limited to lead-based paint, radon gas, and mold to ensure that Public Housing met the physical condition standards for health and safety considerations set forth in 24 CFR section 5.703.

Suggested Audit Procedures

a. Determine if any physical inspections, required environmental tests, and/or environmental remediation activities were performed for the period under audit.

b. Obtain and read all reports identified from procedure a. and determine if any health and safety considerations were observed.

c. If so, determine if the PHA documented that they remediated the safety concern(s).

d. If no physical inspection or environmental testing was performed, record the status for each and determine whether the PHA identified in some other manner that a violation of the physical condition standards for health and safety considerations, set forth in 24 CFR section 5.703, occurred. And, if so, that the PHA documented that they remediated the safety concern.

17. UEL Formula (Form 52722 OMB Approval No. 2577-0029)

Compliance Requirements The Utility Expense Level (UEL) calculates the utility portion of the Operating Fund subsidy. The UEL is a primary component of the annual operating subsidy grant revenue provided to the PHAs. This compliance supplement requires testing of rolling base data. PHAs must retain such data pursuant to 990.325. PHAs receive invoices for utilities. The consumption and cost data from those invoices are aggregated in an Excel workbook or other platform, commonly referred to as a utility ledger. The aggregated data is transferred to Form 52722. The auditors should perform a random sample of each of the main utility types (gas, water/sewer, electric, etc.) to review the accuracy of the unit of measure, consumption, and cost data reported

on document Form 52722.,

Audit Objectives Determine if the HUD document Form 52722 accurately reflects all current and historic utility costs and consumption. Verify that all needed adjustments due to changing units of measurement and eligible unit months have been accurately completed. Complete a trend analysis that identifies any abnormal variances of the historic utility data, including the cost and consumption.

Suggested Audit Procedures

a. Verify the consumption unit of measure is consistent on Form 52722 (i.e., the utility ledger and the utility invoice (bill)) (Section 2-line 01a on Form 52722).

b. Test a sample of invoices to ensure the actual consumption ties to the utility ledger.

c. Test the aggregated consumption on the utility ledger to ensure it ties to Section 2-line 01 of Form 52722.

d. Verify that each rolling base consumption amount and units of measure tie to the prior year Form 52722. The auditor must test rolling base invoices and utility ledgers to determine if the unit of consumption has changed. To the extent the unit of measure in the current year has changed, test to ensure that the rolling base was appropriately adjusted.

e. To the extent that any units have been removed from inventory for a project (Form 52723 Section 2, line A15 Total Unit Months has decreased) during the reporting period or rolling base, the auditor shall test to ensure that the adjustment was done consistently with the instruction found on the word version of the HUD Form 52722, which can be found on HUDCLIPS.

f. Test a sample of invoices to ensure the actual cost ties to the utility ledger.

g. Test the aggregated cost on the utility ledger to ensure it ties to line 16 – Actual Utility Costs – Whole Dollars of Form 52722.

h. Complete a trend analysis of the reporting year and the last three years of each major utility to identify any abnormal variances. Auditors should increase their sample size when there are abnormal variances.

18. Formula Income

Compliance Requirements The Formula Income calculates the Operating Fund Revenue for each PHA. This calculation is generally based on prepopulated data calculated by HUD. However, in some cases, the Formula Income is not prepopulated. For further guidance, review the Formula Income Guidance, the Operating Fund Web Page, the 2025

Operating Subsidy Grant Processing Notice, the Annual Operating Subsidy Processing Notice, and 24 CFR 990.195(d).

Audit Objectives For most projects, Formula Income is prepopulated. Prepopulated data is derived from the FDS. Where the Formula Income was prepopulated and not modified, testing is not required. Where prepopulated data was modified, or Formula Income was not prepopulated, testing should occur. Auditors should determine that Formula Income was not prepopulated by reviewing the prepopulated data available in the Public Housing Portal (formerly the Operating Fund Web Portal). The PHA can provide the Auditor with this data if the Auditor does not have access to the Public Housing Portal.

The auditor should review the following documents to ensure Formula Income was calculated correctly. These documents are on the HUD Financial Management Division (FMD) annual Operating Subsidy Web Page.

a. Formula Income Guidance

b. Guidance on Non-Asset Management PHAs Reporting a Single FDS with Multiple PIC Projects and HUD-52723s: Calculation of Formula Income and other Miscellaneous Add-ons including Audit and PILOT Funding.

c. Guidance on the How to Reverse the Impact of Rent Reductions from the Jobs Plus Earned Income Disregard (JPEID) on Formula Income

d. Financial Reporting for the Family Self-Sufficiency (FSS) Program Accounting Brief #23

e. Annual Operating Subsidy Processing Notice

Where Formula Income was not prepopulated or the prepopulated amount was adjusted, ensure that the formula income input into Form 52723, or the adjustment to the prepopulated Formula Income, was done accurately.

Suggested Audit Procedures

a. Where prepopulated Formula Income was adjusted, test the supporting documentation to ensure that the adjustment was made for appropriate reasons. Test the supporting documentation and calculation to validate that Formula Income was correctly calculated. Adjustments should only be made due to JPEID, FSS, or Non-Asset Management with multiple projects that report only one project in FDS (see guidance provided on HUD FMD annual operating subsidy webpage).

b. Where Formula Income was not prepopulated, test the supporting documentation and calculation to validate that Formula Income was correctly calculated. Formula income may not have been prepopulated for the following reasons: Non-Asset Management with multiple projects that report only one project in FDS, mixed-

finance projects, or approved FDS data not available at the time FMD pulled data used to prepopulate the 52723.

19. Shortfall Funding

Compliance Requirements Beginning in 2020 HUD provided Shortfall funding to PHAs on a competitive basis. All Shortfall funds are required to be expended within three days of being drawn down from LOCCS on eligible Operating Fund expenses.

Audit Objectives Determine whether the Shortfall funding was appropriately recorded and spent at projects in accordance with the award letter's financial improvement objectives.

Suggested Audit Procedures

a. Select a sample of projects that receive Shortfall funding and assess whether sampled expenditures were consistent with Operating Fund/Shortfall requirements.

IV. OTHER INFORMATION

The Moving to Work (MTW) demonstration program (Assistance Listing 14.881) allows selected PHAs the flexibility to design and test various approaches to providing and administering housing assistance consistent with the MTW Agreement executed by the PHA and HUD and under the MTW Operations Notice. An MTW agency may apply funding fungibility funds from the following three programs:

a. Section 8 Housing Choice Vouchers (Assistance Listing 14.871)

b. Public Housing Capital Fund (Assistance Listing 14.872)

c. Public and Indian Housing (Assistance Listing 14.850)

Depending on if a PHA is operating under an MTW Agreement or the MTW Operations Notice, the auditor should look to the MTW Agreement or the MTW Operations Notice, as applicable, to determine which funds are included. If Public Housing funds are transferred out of Public Housing, pursuant to either an MTW Agreement or the MTW Operations Notice, they are subject to the requirements of the MTW Agreement or the MTW Operations Notice and should not be included in the audit universe and total expenditures for Public Housing when determining Type-A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred out should not be shown as Public Housing expenditures but should be shown as expenditures for the MTW Demonstration program. Also, if other program funds are transferred into the Public Housing account pursuant to an MTW Agreement or the MTW Operations Notice, all the Public Housing funds would then be considered MTW funds.

If the MTW agency does not transfer all the funds from Public Housing into the MTW account or another program, those funds would be considered and audited, under Public Housing.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANCE LISTING 14.862 INDIAN COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

I. PROGRAM OBJECTIVES

The primary objective of the Indian Community Development Block Grant (ICDBG) program is the development of viable American Indian and Alaskan Native communities, including decent housing, a suitable living environment, and expanded economic opportunities, principally for persons of low- and moderate-income. ICDBG assistance may not be used to reduce substantially the amount of local financial support for community development activities below the level of support prior to the availability of the assistance (24 CFR section 1003.2).

II. PROGRAM PROCEDURES

Two types of grants are eligible under the ICDBG program. Single-purpose grants provide funds for one or more single purpose projects, which consist of an activity or set of activities designed to meet a specific community development need. This type of grant is awarded through competition with other single-purpose projects. Imminent threat grants alleviate an imminent threat to public health or safety that requires immediate resolution. This type of grant is awarded only after a HUD area office determines that such conditions exist and that funds are available for such grants (24 CFR section 1003.100).

In addition, as a result of the Coronavirus disease 2019 (COVID-19) pandemic, Congress directed HUD to utilize the imminent threat grant process to award some funding under the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. No. 116-136) and the American Rescue Plan Act of 2021 (ARP) (Pub. L. No. 117-2). Imminent threat grants awarded pursuant to the CARES Act or the ARP Act are discussed in greater detail later in Part IV this document.

Source of Governing Requirements

Implementing regulations are published at 24 CFR Part 1003.

Availability of Other Program Information

Additional information about the ICDBG program is available at: https://www.hud.gov/program_offices/public_indian_housing/ih/grants/icdbg.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a

direct and material effect on the Federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	Y	N	N	Y	N	Y	N	Y

A. Activities Allowed or Unallowed

1. *ICDBG* – Funds (including program income generated by activities carried out with grant funds) may only be used for the following activities:

   a. the acquisition of real property;

   b. the acquisition, construction, reconstruction, or installation of public works, facilities, and sites, or other improvements;

   c. code enforcement in deteriorated or deteriorating areas;

   d. clearance, demolition, removal, and rehabilitation of buildings and improvements;

   e. special projects for removal of material and architectural barriers that restrict accessibility by elderly and handicapped individuals;

   f. payments to housing owners for losses of rental income incurred in temporarily holding housing for the relocated;

   g. disposition of real property acquired under this program;

   h. provision of public services (subject to limitations contained in regulations and to certain HUD determinations);

i. payment of the non-Federal share for a grant program that is part of the assisted activities;

j. payment to complete a Title 1 Federal Urban Renewal project;(relocation assistance;

k. planning activities;

l. administrative costs;

m. acquisition, construction, reconstruction, rehabilitation, or installation of commercial or industrial buildings;

n. assistance to community-based development organizations;

o. activities related to energy use;

p. assistance to private, for-profit business, when appropriate to carry out an economic development project;

q. substantial reconstruction of housing owned and occupied by low- and moderate-income persons (subject to certain HUD determinations);

r. direct assistance to facilitate and expand homeownership;

s. technical assistance to public or private entities for capacity building (exempt from planning/administration cap);

t. housing counseling and housing activity delivery costs under ICDBG;

u. assistance to colleges and universities to carry out eligible activities; and

v. assistance to public and private entities (including for-profits) to assist micro-enterprises (24 CFR sections 1003.201 through 1003.206).

See also, as appropriate, Part IV below regarding CARES and ARP Act requirements.

B. Allowable Costs/Cost Principles

1. All items of cost listed in 2 CFR Part 200, Subpart E, that require prior Federal agency approval are allowable without prior approval, except for the following:

   a. Depreciation methods for fixed assets shall not be changed without the approval of the Federal cognizant agency;

b. Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances, and personal living expenses (goods or services for personal use), regardless of whether reported as taxable income to the employees, require prior HUD approval;

c. Organization costs require prior HUD approval.

2. Fines, penalties, damages, and other settlements are unallowable.

3. No person providing consultant services in an employer-employee type of relationship may receive more than a reasonable rate of compensation. Such compensation must not exceed the equivalent of the daily rate paid for Level IV of the Executive Schedule (currently $191,900). The most current Executive Pay Schedule may be obtained at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/ (24 CFR section 1003.501(b)(2)).

C. Cash Management

The auditor should refer to Part 3 for the basic compliance requirement information and 2 CFR section 200.305 (24 CFR section 1003.501).

F. Equipment and Real Property Management

1. For equipment purchased with ICDBG funds, the requirements of 24 CFR section 85.32 or 2 CFR section 200.313 apply with the exception that when the equipment is sold, the proceeds are considered program income (24 CFR section 1003.501(a)(6)).

2. Except for awards to faith-based organization, the real property requirements in 2 CFR Part 200 do not apply. Generally, when real property that was acquired or improved using ICDBG program funds in excess of $25,000 is disposed of, the ICDBG program must be reimbursed for its fair share of the current market value of the property. If disposition occurs after program closeout, the proceeds shall be used for allowable activities and meeting the primary objective of the program (24 CFR section 1003.504). See also, as appropriate, Part IV below regarding CARES and ARP Act requirements.

I. Procurement and Suspension and Debarment

1. For the ICDBG program, HUD has determined that funds used are subject to section 7(b) of the Indian Self-Determination and Education Assistance Act (24 CFR section 1003.510), which means, to the greatest extent feasible, a recipient is to give preference in the award of contracts to Indian organizations and Indian-owned economic enterprises. Auditors should be familiar with these preference in contracting procedures set forth in 24 CFR section 1003.510(d) that, among other things, require recipients to:

a. Advertise for bids or proposals limited to qualified Indian organizations and Indian-owned enterprises; or

b. Use a two-stage preference procedure, as follows:

(1) **Stage 1.** Invite or otherwise solicit Indian-owned economic enterprises to submit a statement of intent to respond to a bid announcement or request for proposals limited to Indian-owned firms.

(2) **Stage 2.** If responses are received from more than one Indian enterprise found to be qualified, advertise for bids or proposals limited to Indian organizations and Indian-owned economic enterprises; or

c. Develop, subject to HUD's local Area Office of Native American Programs (ONAP) one-time approval, the grantee's own method of providing preference.

2. Procurements that are within the dollar limitations established for small purchases under 2 CFR section 200.320 need not follow the formal bid or proposal procedures of 24 CFR section 1003.510(d), since these procurements are governed by the small purchase procedures of 2 CFR section 200.320. However, a recipient's small purchase procurement shall, to the greatest extent feasible, provide Indian preference in the award of contracts (24 CFR section 1003.510(d)(3)).

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable. Be advised that, pursuant to 2 CFR section 200.328, Notice PIH 2022-15 was issued on June 8, 2022, advising grantees that ONAP reduced the frequency for ONAP grant recipients submitting SF-425 forms from quarterly to annually. Pursuant to PIH Notice 2023-26, effective September. 28, 2023, *grantees* are required to utilize the Grants Evaluation and Management System (GEMS) for the submission of SF-425s for all ONAP grant programs.

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3. L for audit guidance.

N. Special Tests and Provisions

1. Environmental Review

Compliance Requirements Program regulations provide that the responsible entity tribe will assume responsibilities for environmental review and decision-making under the requirements of 24 CFR Part 58. An environmental review must be prepared for each project or activity. Funds may not be committed to a grant activity or project before the completion of the environmental review and approval of the Request for Release of Funds (RROF) and environmental certification. If the responsible entity tribe determines that it met a criterion specified in the regulations that would qualify the project as exempt or qualify the project for certain categorical exclusions, the RROF and environmental certification requirements do not apply (24 CFR sections 58.34 and 58.35, 24 CFR section 1003.605).

Audit Objectives Determine whether (1) the required environmental reviews have been performed and (2) program funds were not obligated or expended prior to completion of the environmental review process.

Suggested Audit Procedures

Select a sample of projects for which expenditures were made and verify that:

Environmental Reviews

a. Environmental determinations were made for each project or activity.

b. Environmental determinations were supported by an environmental review, including supporting documentation for each applicable law and authority.

c. For any project where an RROF and environmental certification was not submitted, the environmental review includes a written determination that the project or activity is covered by PIH Notice 2024-24 Programmatic Part 50, or exempt under a criterion of 24 CFR section 58.34 or is categorically excluded under a criterion of 24 CFR section 58.35(b), and meets the conditions specified for such exemption or categorical exclusion, with supporting documentation.

Requests for Release of Funds

a. Examine HUD's approval of the RROF and environmental certification and note receipt dates.

b. Review the expenditure and related records and determine the dates the funds were obligated or expended.

c. Determine that funds were obligated or expended subsequent to RROF and environmental certification approval by HUD.

Additional information on environmental review requirements can be found at https://www.hudexchange.info/programs/environmental-review/.

IV. OTHER INFORMATION

1. ICDBG-CARES Imminent Threat Grants

a. General

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (Pub. L. No. 116-136) (CARES Act), was signed into law. The CARES Act provided for up to $100,000,000 in ICDBG Imminent Threat (IT) funding to prevent, prepare for, and respond to coronavirus, for emergencies that constitute imminent threats to health and safety. This funding was provided in the form of grants to eligible Indian tribes and must be used to prevent, prepare for, and respond to the Coronavirus disease 2019 (COVID-19). This funding must be used in accordance with the applicable requirements of the CARES Act, Title I of the Housing and Community Development Act of 1974, as amended (42 USC 5103 et seq.), the ICDBG implementing regulations at 24 CFR Part 1003, and the issued May 15, 2020.

In addition, under the CARES Act, Congress authorized HUD to waive or specify alternative requirements for any statute or regulation (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment) that HUD administers to expedite or facilitate the use of ICDBG-CARES grant funds to prevent, prepare for, and respond to COVID-19.

On April 10, 2020, HUD issued its first PIH Notice with waivers and alternative requirements authorized by the CARES Act. That Notice was superseded by Notice PIH 2021-14 issued May 4, 2021, which is still applicable. Notice PIH 2021-14 describes in detail the various updated waivers and alternative requirements that have been issued thus far with respect to ICDBG-CARES grants and FY 2019/2020 ICDBG grants repurposed to address COVID-19.

Before auditing an ICDBG-CARES grant recipient, auditors are strongly advised to review the ICDBG-CARES Implementation Notice, PIH Notice 2020-11, and Notice PIH 2021-14, particularly Section 14, starting at page 65, of Notice PIH 2021-14 addressing the waivers and alternative requirements affecting ICDBG IT program with respect to ICDBG-CARES grants and FY 2020 ICDBG grants.

The following section identifies allowability considerations for the ICDBG program, followed by a summary of waivers and alternative requirements affecting the ICDBG program considered important by HUD. Because expenditures of the COVID-19 funding was still ongoing at the time the Compliance Supplement Addendum was finalized, the auditor should make best efforts to identify and consider updates and revisions of PIH Notice 2020-11 or Notice PIH 2021-14 for ICDBG-CARES funding that were in place at the time of the audit. This can be done by visiting at https://www.hud.gov/program_offices/public_indian_housing/ih/ONAP-CARES_Act.

b. **Activities Allowed or Unallowed**

The CARES Act requires ICDBG-CARES grants to be used to prevent, prepare for, and respond to COVID-19.

To comply with this requirement, ICDBG-CARES grantees must ensure that all activities, projects, and programs being proposed can be tied to at least one of the following three eligible purposes:

(1) Activities, Projects, or Programs to Prevent COVID-19;

(2) Activities, Projects, or Programs to Prepare for COVID-19; or

(3) Activities, Projects, or Programs to Respond to COVID-19.

ICDBG-CARES grant funds may also be used to cover or reimburse allowable costs paid with non-Federal funds by the ICDBG-CARES grantee, provided the funds were used to prevent, prepare for, or respond to COVID-19. This includes covering or reimbursing allowable costs incurred back to the date the Indian tribe began preparing for COVID-19, which may be prior to the date of enactment of the CARES Act, but in no event earlier than January 21, 2020.

The auditor should consider the following:

(1) Prepare for: ICDBG-CARES grant funds may be used prior to a local, service area, or regional coronavirus outbreak. This includes, but is not limited to, activities designed to develop processes and procedures to help keep people healthy, and other activities designed to reduce the risk of exposure to COVID-19 and avoid or slow the spread of the disease.

(2) Prevent: ICDBG-CARES grant funds may be used during a COVID-19 local, service area, or regional coronavirus outbreak. This includes, but is not limited to, activities designed to prevent the initial or further spread of the virus to the tribal community.

(3) Respond to: Once COVID-19 has spread in the community, examples of how ICDBG-CARES grantees may choose to respond to COVID-19 may include using ICDBG-CARES grant funds to care for those who have become infected and to limit the exposure and spread of the virus, providing emergency rent payments and other public services to families that cannot pay rent, carrying out activities to reduce severe overcrowding, preventing homelessness to ensure families are stably housed, and much more. Funds may continue to be used after the local, service area, or regional coronavirus outbreak on any continuing expenses incurred due to the spread of COVID-19.

These descriptions are designed to provide general guidance and are not intended to limit the range of eligible ICDBG-CARES grant activities that can be carried out. Provided a grantee can reasonably tie their ICDBG-CARES activities back to one or more eligible purposes, HUD will accept the classification.

Ineligible Activities include:

(1) Activities, projects, or programs that are not reasonably tied to preparing for, preventing, and responding to COVID-19 are ineligible under the ICDBG-CARES program.

(2) Unless waived or modified by HUD, as provided in Notice PIH 2021-14 and any similar waiver notice issued in the future, ineligible activities described in 24 CFR Section 1003.207 continue to be ineligible (e.g., buildings or portions thereof used for the general conduct of government, political activities, general government expenses).

c. Waivers and Alternative Requirements Applicable Only to ICDBG-CARES Funding under the CARES Act

The following waivers and alternative requirements apply only to ICDBG-CARES grants (the new ICDBG funding provided under the CARES Act), FY 2020 ICDBG funds (both Single Purpose Grants and IT Grants) appropriated under the Further Consolidated Appropriations Act of 2020 (Pub. L. No. 116-94), and FY 2019 ICDBG funds appropriated under the FY 2019 Consolidated Appropriations Act (Pub. L. No. 116-6). With respect to the FY 2019 and FY 2020 ICDBG funds, application of these waivers is permitted only on funding reprogramed to address COVID-19.

These waivers and alternative requirements do not apply to ICDBG funds appropriated in any other prior or subsequent year.

(1) **Removal of Public Services 15 Percent Cap under FY 2019 and FY 2020 ICDBG Grants**

Statutory Authority: Section 105 of HCD Act.

Regulatory Authority: 24 CFR section 1003.201(e); FY 2019/2020 ICDBG NOFA.

Description: Section 105 of the HCD Act and the ICDBG implementing regulation at 24 CFR section 1003.201(e) authorize the use of ICDBG funds to carry out public services activities but provide that the amount of ICDBG funds used for public services shall not exceed 15 percent of the respective ICDBG grant. Congress lifted the 15 percent cap on public services funded under the ICDBG IT funding appropriated under the CARES Act and for FY 2019 and FY 2020 ICDBG funding in recognition of the great and immediate need for public services to help address and prepare for the impact of COVID-19 in tribal communities.

Accordingly, HUD has waived Section 105 of the HCD Act, 24 CFR section 1003.201(e), and language in the definition of the term "public services" in the FY 2019/2020 ICDBG NOFA to the extent necessary to remove the 15 percent cap on FY 2019/2020 ICDBG funding (both Single Purpose and IT grants), to align with ICDBG IT funding provided under the CARES Act.

ICDBG grantees that have been awarded FY 2019/2020 ICDBG funds must still comply with the provisions of 24 CFR section 1003.305 if they are seeking to amend their grants to carry out additional public services or other activities to prevent, prepare for, or respond to COVID-19.

(2) **Rental Assistance, Utility Assistance, Food, Clothing, and Other Emergency Assistance**

Statutory Authority: Section 105 of the HCD Act.

Regulatory Authority: 24 CFR section 1003.207(b)(4).

Description: Section 105(a)(8) authorizes the use of ICDBG funds for a variety of public services. Under the implementing regulation at 24 CFR section 1003.207(b)(4), the general rule is that ICDBG funds may not be used for income payments. For purposes of the ICDBG program, income payments mean a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or

mortgage), or utilities, but excludes emergency payments made over a period of up to three months to the provider of such items or services on behalf of an individual or family.

COVID-19 is having a substantial negative impact on Native American families' ability to work, earn an income, pay their rent or mortgage, access or pay for food and clothing, and access many other essential services.

Many tribes and Tribally Designated Housing Entities (TDHEs) have reported to HUD that they shut down and community members are sheltering in place. To help tribal communities address these challenges, HUD has waived Section 105(a)(8) and 24 CFR section 1003.207(b)(4) to the extent necessary to establish the following alternative requirement:

(a) ICDBG grant funds may be used to provide emergency payments for low- and moderate-income individuals or families impacted by COVID-19 for items such as food, medicine, clothing, and other necessities, as well as rental assistance and utility payment assistance, without regard for the three-month limitation in 24 CFR section 1003.207(b)(4), but for a period not to exceed six months unless further expanded by HUD at a later date.

At the time of the issuance of Notice PIH 2021-14, emergency mortgage assistance was limited to no more than three months under 24 CFR Section 1003.207(b)(4). HUD may have provided additional waiver relief for ICDBG-funded mortgage assistance at a later date as the COVID-19 pandemic progressed.

As noted above the auditor is advised to check for any additional waiver relief at https://www.hud.gov/program_offices/public_indian_housing/ih/ONAP-CARES_ prior to addressing any issues related to the duration of assistance under this waiver.

(b) These emergency payments must be used to either cover costs incurred directly by the ICDBG grantee in cases where the ICDBG grantee is providing this assistance or made directly to a third-party provider of such items or services on behalf of an individual or family and may not be paid directly to an individual or family in the form of income payments, debit cards, or similar direct income payments. ICDBG grantees may establish lines of credit with third-party providers (e.g., grocery stores) on behalf of specific beneficiary families, provided all expenses can be properly documented and all ICDBG-CARES funds used for this purpose are expended on eligible activities. In all cases, ICDBG grantees must ensure that proper documentation is maintained to ensure that

all costs incurred are eligible.

ICDBG grantees using this alternative requirement must document, in its policies and procedures, how they will determine the amount of assistance to be provided is necessary and reasonable.

(3) **Purchase of Equipment**

Regulatory Authority: 24 CFR sections 1003.207(b)(1); 1003.201(c)(1)(ii).

Description: The purchase of equipment with ICDBG funds is generally ineligible under 24 CFR section 1003.207(b)(1), with some exceptions.

Given the immediate need for medical and personal protective equipment, and other related equipment needed to help prevent, prepare for, and respond to the COVID-19 pandemic in tribal communities, HUD has waived 24 CFR section 1003.207(b)(1) and authorized the use of ICDBG funds for the purchase of equipment necessary to prevent, prepare for, and respond to the COVID-19. Equipment must be used for authorized program purposes, and any proceeds from the disposition of equipment will be considered ICDBG-CARES program income.

The auditor should check whether HUD issued further guidance on the disposition of program income after grant closeout. ICDBG grantees must ensure that ICDBG funds are used to supplement other Federal sources of funding for this purpose, including funding provided by the Indian Health Service, and should not be used to supplant such funding.

(4) **Operating Expenses for Public Facilities**

Regulatory Authority: 24 CFR section 1003.207(b)(2).

Description: 24 CFR section 1003.207(b)(2) provides that expenses associated with repairing, operating, or maintaining public facilities, improvements and services are generally ineligible, with some exceptions.

Indian tribes may find the need to use ICDBG funds to fund a variety of public facilities, including constructing facilities for testing, diagnosis, or treatment, rehabilitating existing facilities to establish infectious disease treatment clinics, acquiring, and converting hotels, motels, or similar facilities to expand capacity of hospitals to accommodate isolation of patients during recovery, and more. These facilities will likely need to be operated and maintained for the duration of the COVID-19 pandemic. Accordingly, HUD has waived 24 CFR section 1003.207(b)(2) to the extent necessary to allow the use of ICDBG funds to pay for such

operating and maintenance expenses of any public facility, to the extent it is used for COVID-19-related purposes. In incurring such costs, ICDBG grantees may not use this waiver to pay for associated staffing costs of such public facilities. ICDBG grantees must also ensure that ICDBG funds are used to supplement other Federal sources of funding for this purpose, including funding provided by the Indian Health Service, and should not be used to supplant such funding.

(5) **New Housing Construction by Tribes**

Statutory Authority: Section 105 of the HCD Act.

Regulatory Authority: 24 CFR section 1003.207(b)(3).

Description: 24 CFR section 1003.207(b)(3) generally prohibits the use of ICDBG funds for new housing construction, with some exceptions. ICDBG may be used for new housing construction if provided as last resort housing under 24 CFR Part 42, or when carried out by a Community-Based Development Organization (CBDO).

As HUD found in its 2017 Native American Housing Needs Study, severe overcrowding and substandard housing is a major challenge in Indian Country. These conditions increase risks of infection amongst low- and moderate-income Native American families. Indian tribes may find the need to construct temporary or permanent new housing to help prevent, prepare for, and respond to COVID-19, and may find it necessary to do so without having to carry out such activities through a CBDO. Accordingly, HUD has waived and modified Section 105 of the HCD Act and 24 CFR 1003.207(b)(3) to the extent necessary to provide for the following alternative requirement: Indian tribes and tribal organizations may use ICDBG funds to carry out new housing construction when such construction is carried out to reduce overcrowding, or to otherwise prevent, prepare for, or respond to COVID-19.

Such new housing construction must meet applicable Federal accessibility requirements, including requirements under Section 504 of the Rehabilitation Act and 24 CFR Part 8.

2. ICDBG-American Rescue Plan (ARP) Imminent Threat Grants

a. General

On March 11, 2021, the American Rescue Plan (ARP) Act of 2021 (Pub. L. No. 117-2) was signed into law. The Act provided $280 million in ICDBG Imminent Threat (IT) funding to be used for emergencies that constitute imminent threats to health and safety and that are designed to prevent, prepare for, or respond to

coronavirus. This funding was provided in the form of grants to eligible Indian tribes and must be used to prevent, prepare for, and respond to the Coronavirus disease 2019 (COVID-19). This funding must be used in accordance with the applicable requirements of the CARES Act, Title I of the Housing and Community Development Act of 1974 (HCDA), as amended (42 USC 5103 et seq.), the ICDBG implementing regulations at 24 CFR Part 1003, and the ICDBG-ARP Implementation Notice, Notice PIH-2021-22, issued July 20, 2021.

In addition, Congress authorized HUD to waive or specify alternative requirements for any provision of title I of the HCDA or regulation applicable to the ICDBG program, other than requirements related to fair housing, nondiscrimination, labor standards, and the environment. That authorization is contingent upon a finding that the waiver or alternative requirement is necessary to expedite or facilitate the use of amounts made available for the ICDBG-ARP program.

On July 20, 2021, HUD issued Notice PIH-2021-22 with waivers and alternative requirements authorized by the ARP Act. That Notice describes in detail the various waivers and alternative requirements that have been issued thus far with respect to ICDBG-ARP grants.

Before auditing an ICDBG-ARP grant recipient, auditors are strongly advised to review the ICDBG-ARP Implementation Notice, Notice PIH-2021-22, addressing the waivers and alternative requirements affecting ICDBG IT program with respect to ICDBG-ARP grants.

The following section identifies allowability considerations for the ICDBG program, followed by a summary of waivers and alternative requirements affecting the ICDBG program considered important by HUD. Because the COVID-19 pandemic was ongoing at the time the Compliance Supplement was finalized, the auditor should make best efforts to identify and consider updates and revisions of Notice PIH-2021-22 for ICDBG-ARP funding that were in place at the time of the audit. This can be done by visiting https://www.hud.gov/program_offices/public_indian_housing/ih/ONAP-ARP_Act_2021.

b. Activities Allowed or Unallowed

Like the CARES Act, the ARP Act requires ICDBG-ARP grants to be used to prevent, prepare for, and respond to COVID-19.

To comply with this requirement, ICDBG-ARP grantees must ensure that all activities, projects, and programs being proposed can be tied to at least one of the following three eligible purposes:

(1) Activities, Projects, or Programs to Prevent COVID-19

(2) Activities, Projects, or Programs to Prepare for COVID-19

(3) Activities, Projects, or Programs to Respond to COVID-19

And like ICDBG-CARES funds, ICDBG-ARP grant funds may also be used to cover or reimburse allowable costs paid with non-Federal funds by the ICDBG- ARP grantee, provided the funds were used to prevent, prepare for, or respond to COVID-19. This includes covering or reimbursing allowable costs incurred back to the date the Indian tribe began preparing for COVID-19, which may be prior to the date of enactment of the ARP, but in no event earlier than January 22, 2020. Please note that this differs from the ICDBG-CARES which permitted reimbursing allowable costs incurred back to the date the Indian tribe began preparing for COVID-19, which may be prior to the date of enactment of the CARES Act, but in no event earlier than January 21, 2020.

The auditor should consider the following:

(1) Prevent: ICDBG-ARP grant funds may be used during a COVID-19 local, service area, or regional coronavirus outbreak. This includes, but is not limited to, activities designed to prevent the initial or further spread of the virus to the tribal community, such as using ICDBG-ARP funds to assist with the effort to vaccinate individuals, and much more.

(2) Prepare for: ICDBG-ARP grant funds may be used prior to a local, service area, or regional coronavirus outbreak. This includes, but is not limited to, activities designed to develop processes and procedures to help keep people healthy, and other activities designed to reduce the risk of exposure to COVID-19 and avoid or slow the spread of the disease.

(3) Respond to: Once COVID-19 has spread in the community, examples of how ICDBG-ARP grantees may choose to respond to COVID-19 may include using ICDBG-ARP grant funds to care for those who have become infected and to limit the exposure and spread of the virus, providing emergency rent payments and other public services to families that cannot pay rent, carrying out activities to reduce severe overcrowding, preventing homelessness to ensure families are stably housed, and much more. Funds may continue to be used after the local, service area, or regional coronavirus outbreak on any continuing expenses incurred due to the spread of COVID-19.

These descriptions are designed to provide general guidance to grantees and are not intended to limit the range of eligible ICDBG-ARP grant activities that can be carried out. Provided a grantee can, in HUD’s

judgment, reasonably tie their ICDBG-ARP activities back to one or more eligible purposes, HUD will accept the grantee's classification.

Pursuant to 24 CFR section 1003.200, ICDBG-ARP grants do not have to comply with the primary objective of the HCDA, that no less than 70 percent of expenditures of each grant be for activities which meet the criteria set forth in 24 CFR section 1003.208(a)-(d).

c. Waivers and Alternative Requirements Applicable Only to Indian CDBG-ARP Funding

The following waivers and alternative requirements apply only to ICDBG- ARP grants (the new ICDBG funding provided under the ARP Act). These waivers and alternative requirements do not apply to ICDBG funds appropriated in any other prior or subsequent year.

(1) Rental Assistance, Utility Assistance, Food, Clothing, and Other Emergency Assistance

Statutory Authority: Section 105 of the HCDA

Regulatory Authority: 24 CFR section 1003.207(b)(4)

Description: Section 105(a)(8) authorizes the use of ICDBG funds for a variety of public services. Under the implementing regulation at 24 CFR section 1003.207(b)(4), the general rule is that ICDBG funds may not be used for income payments. For purposes of the ICDBG program, income payments mean a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage) or utilities, but excludes emergency payments made over a period of up to three months to the provider of such items or services on behalf of an individual or family.

COVID-19 is having a substantial negative impact on Native American families' ability to work, earn an income, pay their rent or mortgage, access or pay for food and clothing, and access many other essential services. Many Indian tribes and TDHEs have reported to HUD that they shut down and community members are sheltering in place. Additionally, HUD expects that Tribes will need to respond to long-term impacts of COVID-19. To help tribal communities address these challenges, HUD is waiving Section 105(a)(8) and 24 CFR section 1003.207(b)(4) to the extent necessary to establish the following alternative requirement:

ICDBG-ARP grant funds may be used to provide emergency payments for low- and moderate-income individuals or families impacted by COVID-19 for items such as food, medicine, clothing, and other necessities, as well as

rental assistance and utility payment assistance, without regard for the three-month limitation in 24 CFR section 1003.207(b)(4), but for a period not to exceed six months unless further expanded by HUD at a later date. At this time, emergency mortgage assistance will remain limited to no more than three months under 24 CFR section 1003.207(b)(4). Indian tribes are reminded that additional rental assistance and assistance for homeowners are available under the U.S. Department of the Treasury's Emergency Rental Assistance program and the Homeowner Assistance Fund.

These emergency payments must be used to either cover costs incurred directly by the ICDBG-ARP grantee in cases where the ICDBG-ARP grantee is providing this assistance or made directly to a third-party provider of such items or services on behalf of an individual or family and may not be paid directly to an individual or family in the form of income payments, debit cards, or similar direct income payments. ICDBG-ARP grantees may establish lines of credit with third-party providers (e.g., grocery stores) on behalf of specific beneficiary families, provided all expenses can be properly documented and all ICDBG-ARP funds used for this purpose are expended on eligible activities. In all cases, ICDBG-ARP grantees must ensure that proper documentation is maintained to ensure that all costs incurred are eligible. ICDBG-ARP grantees using this alternative requirement must document, in their policies and procedures, how they will determine the amount of assistance to be provided is necessary and reasonable.

(2) **Purchase of Equipment**

Regulatory Authority: 24 CFR sections 1003.207(b)(1), 1003.201(c)(1)(ii)

Description: The purchase of equipment with ICDBG funds is generally ineligible under 24 CFR section1003.207(b)(1), with some exceptions.

Given the immediate need for medical and personal protective equipment, and other related equipment needed to help prevent, prepare for, or respond to the COVID-19 pandemic in tribal communities, HUD is waiving 24 CFR section 1003.207(b)(1) and authorizing the use of ICDBG-ARP funds for the purchase of equipment necessary to prevent, prepare for, or respond to COVID-19. Equipment must be used for authorized program purposes, and any proceeds from the disposition of equipment will be considered ICDBG-ARP program income. HUD may issue further guidance in the future on the disposition of program income after grant closeout.

ICDBG-ARP grantees must ensure that ICDBG-ARP funds are used to

supplement other Federal sources of funding for this purpose, including funding provided by the Indian Health Service, and should not be used to supplant such funding.

(3) **Operating Expenses for Public Facilities**

Regulatory Authority: 24 CFR Section 1003.207(b)(2)

Description: The 24 CFR Section 1003.207(b)(2) provides that expenses associated with repairing, operating, or maintaining public facilities, improvements and services are generally ineligible, with some exceptions. Indian tribes may find the need to use ICDBG-ARP funds to fund a variety of public facilities, including constructing facilities for testing, diagnosis, or treatment, rehabilitating existing facilities to establish infectious disease treatment clinics, acquiring and converting hotels, motels, or similar facilities to expand capacity of hospitals to accommodate isolation of patients during recovery, and more. These facilities will likely need to be operated and maintained for the duration of the COVID-19 pandemic.

Accordingly, HUD is waiving 24 CFR section 1003.207(b)(2) to the extent necessary to allow the use of ICDBG-ARP funds to pay for such operating and maintenance expenses of any public facility, to the extent it is used for COVID-19-related purposes.

ICDBG-ARP grantees must also ensure that ICDBG-ARP funds are used to supplement other Federal sources of funding for this purpose, including funding provided by the Indian Health Service, and should not be used to supplant such funding.

(4) **New Housing Construction by Tribes**

Statutory Authority: Section 105 of the HCDA

Regulatory Authority: 24 CFR section 1003.207(b)(3)

Description: 24 CFR section 1003.207(b)(3) generally prohibits the use of ICDBG funds for new housing construction, with some exceptions.

ICDBG may be used for new housing construction if provided as last resort housing under 24 CFR Part 42, or when carried out by a Community-Based Development Organization (CBDO).

As HUD found in its 2017 Native American Housing Needs Study, severe overcrowding and substandard housing is a major challenge in Indian Country. These conditions increase risks of infection amongst low- and moderate-income Native American families. Indian tribes may find the

need to construct temporary or permanent new housing to help prevent, prepare for, or respond to COVID-19, and may find it necessary to do so without having to carry out such activities through a CBDO.

Accordingly, HUD is waiving and modifying Section 105 of the HCD Act and 24 CFR Section 1003.207(b)(3) to the extent necessary to provide for the following alternative requirement: Indian tribes and tribal organizations may use ICDBG-ARP funds to carry out new housing construction when such construction is carried out to reduce overcrowding, or to otherwise prevent, prepare for, or respond to COVID-19.

When assessing applications for ICDBG-ARP grants that propose to carry out new housing construction, HUD will only fund applications that propose to carry out new housing construction that is clearly designed to prevent, prepare for, or respond to COVID-19, and that the applicant plans to carry out expeditiously. As a reminder, such new housing construction must meet applicable Federal accessibility requirements, including requirements under Section 504 of the Rehabilitation Act of 1973 and 24 CFR Part 8. HUD will issue additional ICDBG-ARP implementation guidance in the near future.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANCE LISTING 14.866 DEMOLITION AND REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING (HOPE VI)

ASSISTANCE LISTING 14.889 CHOICE NEIGHBORHOODS IMPLEMENTATION GRANTS

I. PROGRAM OBJECTIVES

The objective of HOPE VI Revitalization Grants is to provide assistance to public housing agencies (PHAs) for the purpose of enabling PHAs to improve the living environment for public housing residents of severely distressed public housing projects through (1) demolition, (2) substantial rehabilitation, (3) reconfiguration, and/or (4) replacement of severely distressed public housing units. An additional objective is to provide supportive services for residents of the public housing and contribute to the improvement of the surrounding neighborhood.

The objective of HOPE VI demolition grants is to enable PHAs to fund the demolition of severely distressed public housing units and relocation of affected residents, and to provide supportive services to relocated residents.

The objective of Choice Neighborhoods program is to transform neighborhoods of concentrated poverty into viable and sustainable mixed-income neighborhoods by revitalizing severely distressed public and/or HUD-assisted projects and catalyzing critical community improvements in the surrounding neighborhood. The Choice Neighborhoods program builds upon the successes of public housing transformation under HOPE VI by taking a comprehensive approach to revitalization, which includes redeveloping distressed public and HUD-assisted housing, providing supportive services for housing residents, as well as funding and leveraging private investment to fund critical neighborhood improvements.

II. PROGRAM PROCEDURES

Notice of Funding Availability (NOFA) / Notice of Funding Opportunity (NOFO)

For HOPE VI, HUD awarded Demolition and Revitalization grants to eligible PHAs through a competitive process. The procedure was set out in a Notice of Funding Availability (NOFA) for the applicable fiscal year (FY). The NOFA established the eligibility requirements for PHAs to apply for a HOPE VI grant; the availability of funds; the requirements and procedures to be followed in filing an application for HOPE VI funding in the applicable FY; and other programmatic requirements. The last HOPE VI grants were awarded in 2010.

For Choice Neighborhoods grants, HUD awards Planning and Implementation Grants to eligible organizations through a competitive process. The procedures and requirements are set out in a NOFA or NOFO for the applicable FY. The NOFA/NOFO establishes the eligibility requirements for applicants for Choice Neighborhoods grants; the availability of funds; the requirements and procedures to be followed in filing an application for funding; and other

programmatic requirements. The Choice Neighborhoods program replaced the HOPE VI program.

Grant Agreement

For both the HOPE VI and Choice Neighborhoods programs, the grant agreement (Agreement) establishes grant requirements and responsibilities, including: the content for the HOPE VI Revitalization Plan or Choice Neighborhoods Transformation Plan; the time periods for implementation of the grant; allowable activities, the requirements and procedures for grant-supported activities; budgets and funding requests, etc. The Agreement is executed between HUD and the grantee.

Housing Development and Mixed-Finance Development

For both the HOPE VI and Choice Neighborhoods programs, the selection of a development partner and the general administrative requirements are governed by 2 CFR Part 200, as applicable. The development of public housing units is governed by 24 CFR 905 Subpart F. This includes development of projects which include only public housing units and projects which include development of public housing units as part of a Mixed- Finance development, as covered in 24 CFR 905.604. The regulations include programmatic requirements and detailed steps to be followed in the phase-by-phase development of public housing and public housing mixed-finance development.

The housing components of a mixed-finance development may include public housing units, units developed with low-income housing tax credits, units assisted with project- based Housing Choice Vouchers (Section 8 units), units funded with other private or public funds, and privately financed units with no income restrictions, i.e., "market rate" units. HOPE VI funds may only be used to fund development of public housing units and ancillary facilities, as well as supportive services for resident services. All other components of a mixed-finance development must be funded from other financial sources.

Choice Neighborhoods Implementation Grants may be used to finance the development of public housing units, HUD-assisted units and other affordable units. Choice Neighborhoods grants may also pay for resident services and critical community improvements, as outlined in the NOFA/NOFO. Both HOPE VI and Choice Neighborhoods grants may also be used to fund affordable homeownership units.

In general, the procedures to be followed for each phase of housing development for both the HOPE VI and Choice Neighborhoods programs are as follows. A Development Proposal is prepared which describes the development and development partners; number and types of units; sources and uses of funds; schedules; any waivers required; loans and operating subsidy payments to the development entity; estimated construction cost; and any other matters pertinent to the development. In addition, specific HUD evidentiary documents for the transaction must be prepared.

The Development Proposal and draft HUD evidentiary documents are submitted to HUD for

review and approval. An approval letter is issued by HUD, approving the Development Proposal and the draft evidentiary documents, and authorizing execution and recordation of the documents. Once executed and recorded, the HUD evidentiary documents are resubmitted to HUD for final approval. Once approved, the HOPE VI or Choice Neighborhoods funds for the project are authorized in the HUD Line of Credit Control System (LOCCS) and made available for expenditure. Upon completion of construction and after the project reaches its Date of Full Availability, the agreed-upon Operating Subsidy is provided for the public housing units. Upon completion of all phases of housing development funded with HOPE VI or Choice Neighborhoods funds, the grant is closed out in accordance with the close-out procedures for each program.

Moving to Work Demonstration Program

HOPE VI or Choice Neighborhoods funds cannot be used for other Moving to Work (MTW) Demonstration Program eligible purposes; however, the MTW funds can be utilized as part of HOPE VI or Choice Neighborhoods development activity. If a PHA is operating under an MTW Agreement or MTW Amendment to the ACC, the auditor should look to the governing document or plan to determine any differences from the requirements identified in this program supplement.

Source of Governing Requirements

The program authority for the HOPE VI and Choice Neighborhoods programs is 42 USC 1437v, as amended by Section 402 of the HOPE VI Program Reauthorization and Small Community Mainstreet Rejuvenation and Housing Act of 2003 (Pub. L. No. 108-186, December 16, 2003) and the Department of Housing and Urban Development Appropriations Act, Fiscal Year 2010 (Pub. L. No. 111-117, 123 Stat. 3080, December 16, 2009). The regulations governing mixed-finance projects are contained in 24 CFR 905, Subpart F.

Availability of Other Program Information

No program-specific regulations have been published. Each grant is subject to the terms of its NOFA/NOFO and Agreement, which is signed by the grantee and HUD. HUD posts guidance on the HOPE VI program on its Home Page, which is available at https://www.hud.gov/program_offices/public_indian_housing/programs/ph/hope6, and the Choice Neighborhoods program on its Home Page, which is available at https://www.hud.gov/program_offices/public_indian_housing/programs/ph/cn, to provide information on timelines, budgets, financial instructions, and other program guidance. Information regarding the financial reporting requirements of the PHAs is provided by HUD on the Real Estate Assessment Center (REAC) home page, which are available at http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/reac.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have

been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	N	Y	Y	Y	N	Y

A. Activities Allowed or Unallowed

1. HOPE VI Revitalization Grant funds and Choice Neighborhoods Implementation Grant funds may be used to fund the revitalization of severely distressed public housing developments (42 USC 1437v(d)) and Choice Neighborhoods funds may also be used to fund other HUD-assisted housing or other privately or publicly owned units, as outlined in the NOFA/NOFO. Such activities include, but are not limited to:

    a. The demolition of severely distressed public housing developments or portions thereof (42 USC 1437v(d)(1)(C)) or other properties as allowed under the Choice Neighborhoods program,

    b. Relocation costs for affected residents (42 USC 1437v(d)(1)(F) and (J)),

    c. Disposition activities (42 USC 1437v(d)(1)(C)),

    d. Rehabilitation of existing public housing units and/or community facilities (42 USC 1437v(d)(1)(B)) or other housing/facilities allowed by the Choice Neighborhoods program,

    e. Development of new public housing units and community facilities and other housing/facilities allowed by the Choice Neighborhoods program, (42 USC 1437v(d)(1)(I)),

f. Homeownership activities (42 USC 1437v(d)(1)(G)),

g. Acquisition and disposition activities (42 USC 1437v(d)(1)(B), (C), and (J)),

h. Economic and community development activities and facilities (42 USC 1437v(d)(1)(G)),

i. Leveraging of resources (42 USC 1437v(d)(1)(I)),

j. Necessary management improvements (42 USC 1437v(d)(1)(H)),

k. Administrative and consulting costs (42 USC 1437v(d)(1)(D) and (E), and

l. Community and supportive services (42 USC 1437v(d)(1)(G)).

2. HOPE VI Demolition Grant funds may be used to fund the demolition of public housing dwelling units and ancillary non-dwelling structures, relocation of affected residents, site restoration, as appropriate, and reasonable administrative costs (42 USC 1437v(d)).

3. Other than the development of public housing, the components of mixed-finance development, may not be financed with public housing funds (42 USC 1437v(d)), except for Choice Neighborhoods funds. These funds may be used to finance the development of public housing units, HUD-assisted housing, and other privately or publicly owned affordable housing units, as outlined in the NOFA/NOFO.

G. Matching, Level of Effort, Earmarking

1. **Matching**
Grantees must provide matching funds in the amount of at least five percent of the grant amount in cash or in-kind donations or as outlined in the NOFA/NOFO (42 USC 1437v(c)(a)(A)).

2. **Level of Effort**
Not Applicable

3. **Earmarking**
Not Applicable

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

d. Actual HOPE VI Cost Certificate (OMB Approval No. 2577-0208) or Actual Choice Neighborhoods Cost Certificate (OMB Approval No. 2577- 0269)- Must be submitted by grantee at the time of final close-out of the Grant. The form must be signed by the appropriate party and amount of funds indicated in Part 1, A-E, must be accurate.

2. Performance Reporting

Not Applicable.

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements: Davis-Bacon wage requirements apply to the development of any public housing units or other "Replacement Units" or homeownership units developed with HOPE VI and Choice Neighborhoods Implementation Grant funds as identified in the NOFA/NOFO and/or as provided for in 24 CFR 905.308(b)(3), for projects that contain only public housing replacement units, and/or 24 CFR 905 Subpart F, where the development entity has been procured by the PHA in accordance with 2 CFR Part 200 and are subject to the Wage Rate Requirements (42 USC 1437j(a) and (b), 24 CFR sections 941.208 and 941.610(a)(8)(vi)).

See Part 4, 20.001, Wage Rate Requirements Cross-Cutting Section.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANCE LISTING 14.867 INDIAN HOUSING BLOCK GRANTS

I. PROGRAM OBJECTIVES

The primary objectives of the Indian Housing Block Grants (IHBG) program are (1) to assist and promote affordable housing activities to develop, maintain, and operate affordable housing in safe and healthy environments on Indian reservations and in other Indian areas for occupancy by low-income Indian families; (2) to coordinate activities to provide housing for Indian tribes and their members and to promote self-sufficiency of Indian tribes and their members; and (3) to plan for and integrate infrastructure resources for Indian tribes with housing development for Indian tribes (24 CFR section 1000.4).

II. PROGRAM PROCEDURES

The IHBG program is formula driven, based on factors that reflect the need of the Indian tribes and the Indian areas of the tribes for assistance for affordable housing activities. To access funds, Indian tribal governments (or tribally designated housing entities (TDHEs)) must submit an Indian Housing Plan (IHP) to the U.S. Department of Housing and Urban Development (HUD), and HUD must find that the IHP meets the requirements of Section 102 of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). IHBG funds awarded to a recipient may only be used for affordable housing activities that are consistent with its IHP (24 CFR section 1000.6).

In addition to the annual IHBG funding pursuant to NAHASDA, Congress directed HUD to utilize the IHBG program to allocate and award funds under the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Public Law 116-136)and the American Rescue Plan Act of 2021 (ARP) (Public Law No. 117-2). Congress appropriated $200 million in CARES Act funding, see page 324 of the linked CARES document above, and $450 million in ARP funding, see page 240 of the linked ARP document above. IHBG funding awarded pursuant to the CARES Act and ARP are discussed in greater detail later in Section IV.

Source of Governing Requirements

This program is authorized by NAHASDA, codified at 25 USC 4101 through 4212. Implementing regulations are in 24 CFR Part 1000.

Availability of Other Program Information

Additional information about the IHBG program is available at http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/ih/grants/ihbg.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the Federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	N	N	Y	N	Y	N	Y

A. Activities Allowed or Unallowed

1. The following activities to develop, operate, maintain, or support affordable housing for rental or homeownership, or to provide housing services with respect to affordable housing are allowable:

   a. *Indian Housing Assistance* – The provision of modernization or operating assistance for housing previously developed or operated pursuant to a contract between the Secretary of HUD and an Indian housing authority, including such amounts as may be necessary to provide for the continued maintenance and efficient operation of such housing (25 USC 4132(1) and 4133(b)).

   b. *Development* – The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include real property acquisition, site improvement, development and rehabilitation of utilities, necessary infrastructure, and utility services, conversion, demolition, financing, administration and planning,

improvement to achieve greater energy efficiency, mold remediation, and other related activities (25 USC 4132(2)).

c. *Housing Services* – The provision of housing-related services for affordable housing, such as housing counseling in connection with rental or home-ownership assistance, establishment and support of resident organizations and resident management corporations, energy auditing, activities related to the provision of self-sufficiency and other services, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in other housing activities assisted pursuant to this section (25 USC 4132(3)).

d. *Housing Management Services* – The provision of management services for affordable housing, including preparation of work specifications; loan processing, inspections; tenant selection; management of tenant-based rental assistance; the costs of operation and maintenance of units developed with funds provided under NAHASDA; and management of affordable housing projects (25 USC 4132(4)).

e. *Crime Prevention and Safety Activities* – The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime (25 USC 4132(5)).

f. *Model Activities* – Housing activities under model programs that are designed to carry out the purposes of NAHASDA and are specifically approved by the Secretary of HUD as appropriate for such purpose (25 USC 4132(6)).

g. *Reserve Accounts* – The deposit of amounts, including grant amounts, in a reserve account only for the purpose of accumulating amounts for administration and planning relating to affordable housing activities. These amounts may be invested. Interest earned on reserves is not program income and may not be included in calculating the maximum number of reserves. The maximum number of reserves, whether in one or more accounts, that a recipient may have available at any one time is calculated by determining the five-year average of administration and planning amounts, not including reserve amounts, expended in a tribal program year and establishing one-fourth of that amount for the total eligible reserve (25 USC 4132(9); 24 CFR section 1000.239).

h. See also, as appropriate, Part IV below regarding CARES Act and ARP requirements regarding activities allowed and disallowed under those related programs.

2. Unless the conditions specified in 25 USC 4111(d) (regarding tax exemption for

real and personal property taxes and user fees) are met, grant funds may not be used for affordable housing activities for rental or lease-purchase dwelling units developed

a. under the United States Housing Act of 1937 (42 USC 1437 et seq.), or

b. with amounts provided under 25 USC Chapter 43 that are owned by the recipient for the tribe.

B. Allowable Cost/Cost Principles

1. All items of cost listed in 2 CFR Part 200, Subpart E, that require prior Federal agency approval are allowable without prior approval, except for the following:

   a. Depreciation methods for fixed assets shall not be changed without the approval of the Federal cognizant agency.

   b. Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances, and personal living expenses (e.g., goods or services for personal use), regardless of whether reported as taxable income to the employees, require prior HUD approval.

2. Fines, penalties, damages, and other settlements are unallowable.

3. No person providing consultant services in an employer-employee type of relationship may receive more than a reasonable rate of compensation. Such compensation must not exceed the equivalent of the daily rate paid for Level IV of the Executive Schedule (currently $191,900). The most current Executive Pay Schedule may be obtained at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/ (24 CFR section 1000.26(b)).

E. Eligibility

1. Eligibility for Individuals

Each recipient shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant funds (25 USC 4133(d)). The following families are eligible for affordable housing activities (25 USC 4131(b)):

a. Low-income Indian families on a reservation or Indian area (Section 201(b)(l) of NAHASDA (25 USC 4131(b)(1))).

b. A non-low-income family may receive housing assistance if HUD approves that housing assistance due to a need that cannot reasonably be met without the assistance (Section 201(b)(2) of NAHASDA (25 USC

4131(b)(2))). A family that was low income at the times described in 24 CFR section 1000.147 but subsequently becomes a non-low-income family due to an increase in income may continue to participate in the program in accordance with the recipient's admission and occupancy policies. This includes a family member or household member who takes ownership of a homeownership unit. Non-low-income families cannot receive the same benefits that are provided to low-income families, as benefits are limited by 24 CFR section 1000.110(d) and must be based on the recipient's admission and occupancy policies (24 CFR section 1000.110).

c. A family may receive housing assistance on a reservation or Indian area if the family's housing needs cannot be reasonably met without such assistance, and the recipient determines that the presence of that family on the reservation or Indian area is essential to the well-being of Indian families. Assistance for essential families does not require HUD approval, but only requires that the recipient determine that the presence of that family on the reservation or Indian area is essential to the well-being of Indian families and the family's housing needs cannot be reasonably met without such assistance (Section 201(b)(3) of NAHASDA (25 USC 4131(b)(3))).

d. A law enforcement officer on an Indian reservation or other Indian area may receive housing assistance, if:

(1) The officer is employed on a full-time basis by the Federal Government or a State, county, or other unit of local government, or lawfully recognized tribal government;

(2) In implementing such full-time employment, the officer is sworn to uphold, and make arrests for violations of Federal, State, county, or tribal law; and

(3) The recipient determines that the presence of the law enforcement officer on the Indian reservation or other Indian area may deter crime (Section 201(b)(4) of NAHASDA (25 USC 2531(b)(4))).

e. See also, as appropriate, Part IV. Other Information below regarding CARES Act and ARP requirements.

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

I. Procurement and Suspension and Debarment

1. For the IHBG program, funds used are subject to section 7(b) of the Indian Self-Determination and Education Assistance Act (25 USC 450e(b)) or, if applicable, tribal preference in contracting under 25 USC 4111(k), which means that a recipient is to apply employment and contract preference laws (including regulations and tribal ordinances) that it has adopted; or, in absence of such laws, to the greatest extent feasible, a recipient is to give preference in the award of contracts to Indian organizations and Indian-owned economic enterprises (24 CFR section 1000.52).

2. A recipient is not required to comply with the procurement requirements under 2 CFR sections 200.318 through 200.326 or the Indian preference requirements with respect to any procurement of goods and services using IHBG funds with a value of less than $5,000 (25 USC 4133(g)). Furthermore, the new Uniform Guidance, effective October 1, 2024, provides additional flexibilities for Tribes. Specifically, Tribes are no longer required to follow 2 CFR sections 200.318 through 200.326 and are only required to follow 2 CFR 200.317. HUD has not issued a final rule regarding the applicability of 2 CFR sections 200.318 through 200.326 for Tribally Designated Housing Entities (TDHEs). HUD issued a proposed rule regarding TDHE applicability on December 31, 2024 (FR: 2024-30260).

3. A recipient may use Federal supply sources made available by the General Services Administration under 40 USC 501 (Section 101(j) of NAHASDA; 24 CFR section 1000.26(a)(11)(ii)).

4. See also, as appropriate, Part IV below regarding CARES and ARP Act requirements.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable. Be advised that, pursuant to 2 CFR section 200.328, Notice PIH 2022-15 was issued on June 8, 2022, advising grantees that Office of Native American Programs (ONAP) reduced the frequency for ONAP grant recipients submitting SF-425 forms from quarterly to annually unless the grantee has been approved to invest

IHBG funding pursuant to 25 USC 4134 and 24 CFR section 1000.58. If approved for investing IHBG funding, the grantee must submit an SF-425 form each quarter. Pursuant to PIH Notice 2023-26, effective September, 28, 2023, grantees are required to utilize the Grants Evaluation and Management System (GEMS) for the submission of SF-425s for all ONAP grant programs.

2. Performance Reporting

a. HUD-52737, Indian Housing Plan/Annual Performance Report (OMB No. 2577-0218) – Recipients may complete the Annual Performance Report component of the form using HUD's online Grants Evaluation and Management System (GEMS) or the Excel version that is submitted by paper or electronically as an email attachment to the Area Office of Native American Programs (ONAP) within 90 days of the end of the recipient's program year. For further information on IHBG investing requirements see N.3 below.

A copy of the most recent HUD-52737, Indian Housing Plan/Annual Performance Report submitted to the relevant Area ONAP includes line items containing critical information listed below and is supported by the recipient's file documentation. If the recipient cannot provide a copy of the most recent HUD-52737, Indian Housing Plan/Annual Performance Report, the Area ONAP can provide the relevant report.

Key Line Items – The following line items contain critical information reported to HUD in the Indian Housing Plan/Annual Performance Report. The accuracy of the data reported by the recipient in response to each line item is documented in the recipient's file:

(1) Section 3, Line 1.9 – *Planned and Actual Outputs for 12-Month Program Year*.

(2) Section 5, Line 1 – *Sources of Funds* – columns G and K.

(3) Section 5, Line 2 – *Uses of Funds* – columns O through Q.

(4) Section 11, Line 1 – *Inspections of Units* – columns C through F.

(5) Section 14, Lines 1 and 2 – *Jobs Supported by NAHASDA*.

b. See also, as appropriate, Part IV below regarding CARES Act and ARP requirements.

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements NAHASDA imposes the Wage Rate Requirements on contracts and agreements for assistance, sale, or lease for payments to laborers and mechanics employed in the development of affordable housing. NAHASDA provides that the Wage Rate Requirements and HUD-determined rates shall not apply to a contract or agreement if the contract or agreement is otherwise covered by a law or regulation adopted by an Indian tribe that provides for the payment of not less than prevailing wages as determined by the tribe. This requires the Indian tribe to pass a tribal law or regulation and ensure that the law requires the payment of not less than those wage rates the tribe determines to be prevailing (Section 104(b) of NAHASDA (25 USC 4114(b)); 24 CFR section 1000.16)).

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

2. Environmental Review

Compliance Requirements Program regulations provide that a tribe may assume responsibilities for environmental review and decision making under the requirements of 24 CFR Part 58 or it may allow HUD to retain these responsibilities. The tribe is the responsible entity, whether or not a TDHE is authorized to receive IHBG grant amounts on behalf of the tribe (24 CFR section 58.2(a)(7)(ii)). If HUD retains the responsibilities, HUD will do reviews under the provisions of 24 CFR Part 50 (24 CFR section 1000.20). A HUD environmental review must be completed for any activities not excluded before a recipient may acquire, rehabilitate, convert, lease, repair or construct property, or commit HUD or local funds (24 CFR section 1000.20(a)).

If the tribe assumes these responsibilities, the following applies: An environmental review must be prepared for each project or activity. Funds may not be committed to a grant activity or project before the completion of the environmental review and approval of the Request for Release of Funds (RROF) and environmental certification. If the responsible entity tribe determines that the activities are covered by PIH Notice 2024-24 Programmatic Part 50, or that it met a criterion specified in the regulations that would qualify the project as exempt or qualify the project for certain categorical exclusions, the RROF and environmental certification requirements do not apply (24 CFR sections 58.34 and 58.35(b), 24 CFR section 1000.20(b)(3)).

Audit Objectives Determine whether (1) the required environmental reviews have been performed and (2) program funds were not obligated or expended prior to completion of

the environmental review process.

Suggested Audit Procedures

Select a sample of projects for which expenditures were made and verify that:

Environmental Reviews

a. Environmental determinations were made for each project or activity.

b. Environmental determinations were supported by an environmental review, including supporting documentation for each applicable law and authority.

c. For any project where an RROF and environmental certification was not submitted, the environmental review includes a written determination that the project or activity is exempt under a criterion of 24 CFR section 58.34 or is categorically excluded under a criterion of 24 CFR section 58.35(b), and meets the conditions specified for such exemption or categorical exclusion, with supporting documentation.

Requests for Release of Funds

a. Examine HUD's approval of the RROF and environmental certification and note receipt dates.

b. Review the expenditure and related records and determine the dates the funds were obligated or expended.

c. Determine those funds were obligated or expended subsequent to RROF and environmental certification approval by HUD.

Availability of Other Information

Additional information on environmental review requirements can be found at https://www.hudexchange.info/programs/environmental-review/.

3. Investment of IHBG Funds

Compliance Requirements A recipient may invest IHBG funds for purposes of carrying out IHBG activities in investment securities if approved by HUD (25 USC 4134). Under IHBG, investments may be for a period not to exceed five years and only in those accounts or instruments identified in 24 CFR section 1000.58(c). A recipient may invest its IHBG annual grant in an amount equal to the annual formula grant amount less any formula grant amounts allocated for the operating subsidy element of the Formula Current Assisted Stock (FCAS) component of the formula. Please note, however, grantees may not invest IHBG funding received pursuant to the CARES Act or the ARP.

Audit Objectives Determine whether the investment of IHBG funds by the recipient meets the requirements of 24 CFR section 1000.58 and Notice PIH 2022-23, issued August 15, 2022.

Suggested Audit Procedures

If IHBG funds have been invested during the audit period:

a. Ascertain that prior written HUD approval had been obtained, and any conditions or restrictions on the approval.

b. Verify that the funds were invested only in those allowable accounts or instruments and within any conditions or restriction on the approval.

c. Verify that each of these accounts are separate from other funds of the recipient and subject to an agreement in a form prescribed by HUD (i.e., HUD-52736-A for bank accounts or HUD-52736-B for brokers and dealers).

d. Ensure these agreements are fully executed and maintained by the recipient in an accessible place.

e. See also, as appropriate, Part IV below regarding CARES (IV.1.c.(7)) and ARP (IV.2.c.(6)) Act requirements. IHBG funding under these related programs cannot be invested.

IV. OTHER INFORMATION

1. Indian Housing Block Grant-CARES Act Grants

a. General

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (Public Law 116-136), was enacted. The Act provided for an additional $200 million in IHBG formula funding to eligible Indian tribes and TDHEs specifically to prevent, prepare for, and respond to COVID-19, including to maintain normal operations and to fund eligible affordable housing activities under the Native American Housing Assistance and Self-Determination Act (NAHASDA) during the period that an IHBG recipient's program is impacted by COVID-19. IHBG-CARES Act funds are available for expenditure until September 30. 2029.

In addition, the CARES Act authorized HUD to waive, or specify alternative requirements for any statute or regulation (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment) that HUD administers to expedite or facilitate the use of IHBG-CARES Act grant funds to prevent, prepare for, and respond to COVID-19. This waiver authority also applies to IHBG funds appropriated under the Further Consolidated Appropriations Act, 2020 (Public Law 116-94).

On April 10, 2020, HUD issued PIH Notice 2020-05 with waivers and alternative requirements authorized by the CARES Act. That Notice was superseded by PIH Notice 2021-14 issued on May 4, 2021. PIH Notice 2021-14 describes in detail the various updated waivers and alternative requirements that have been issued thus far with respect to IHBG-CARES grants and FY 2020 IHBG grants repurposed to address COVID-19.

Auditor be advised: Before auditing an IHBG-CARES Act grant recipient, auditors are strongly advised to review the IHBG-CARES Act Implementation Notice, PIH Notice 2020-06, and PIH Notice 2021-14, particularly Section 13, starting at page 52, of PIH Notice 2021-14 addressing the waivers and alternative requirements affecting IHBG program with respect to IHBG-CARES Act grants and FY 2020 IHBG grants.

The following section identifies allowability considerations for IHBG-CARES Act funding, followed by a summary of waivers and alternative requirements affecting IHBG-CARES Act funding considered important by HUD. Because IHBG-CARES Act grantees are continuing to expend COVID-19 funding at the time this program section was finalized, the Auditor should make best efforts to identify and consider updates and revisions of PIH Notice 2021-14 for IHBG-CARES Act funding that are in place at the time of the audit. This can be done by visiting https://www.hud.gov/program_offices/public_indian_housing/ih/ONAP-CARES_Act.

b. Activities Allowed or Unallowed

The CARES Act requires IHBG-CARES Act grants to be used to prevent, prepare for, and respond to COVID-19.

To comply with this requirement, IHBG-CARES Act grantees must ensure that all activities, projects, and programs being proposed can be tied to at least one of the following three eligible purposes:

(1) Activities, Projects, or Programs to Prevent COVID-19

(2) Activities, Projects, or Programs to Prepare for COVID-19

(3) Activities, Projects, or Programs to Respond to COVID-19

Pursuant to the CARES Act, these funds may also be used to maintain normal operations and fund eligible IHBG activities during the period that a recipient's IHBG program is impacted by COVID-19. HUD expects and encourages recipients to expend funds expeditiously given COVID-19. However, COVID-19 may have impacts on a recipient's IHBG program that range from immediate or short-term to medium- and long-term in nature. Accordingly, for purposes of this requirement, recipients may use IHBG-CARES Act grant funds to maintain normal operations both now and after COVID-19, provided that the IHBG-CARES Act recipient can demonstrate that COVID-19 continues to impact its program.

IHBG-CARES Act grant funds may also be used to cover or reimburse allowable costs incurred by the IHBG-CARES Act recipient, provided the funds were used to prevent, prepare for, or respond to COVID-19. This includes covering or reimbursing allowable costs incurred back to the date the Indian tribe or TDHE began preparing for COVID-19, which may be prior to the date of enactment of the CARES Act, but in no event earlier than January 21, 2020.

The Auditor should consider the following:

(1) Prepare for: IHBG-CARES Act grant funds may be used prior to a local, service area, or regional COVID-19 outbreak. This includes, but is not limited to, activities designed to develop processes and procedures to help keep people healthy, and other activities designed to reduce the risk of exposure to COVID-19 and avoid or slow the spread of the disease. Examples may include housing activities designed to reduce severe overcrowding, providing food delivery services to eligible families (including the elderly, disabled, and other high-risk populations) to allow them to shelter in place, and public health campaigns designed to educate families on how to prepare for a possible outbreak in the community and ways to minimize community spread.

(2) Prevent: IHBG-CARES Act grant funds may be used during a COVID-19 local, service area, or regional COVID-19 outbreak. This includes, but is not limited to, activities designed to prevent the initial or further spread of the virus to staff, tribal housing residents, and the tribal community. Examples may include distributing Personal Protective Equipment to housing maintenance staff, residents, and members of the community, using IHBG-CARES Act funds to clean common areas to prevent infections, and much more.

(3) Respond to: Once COVID-19 has spread to staff, tribal housing residents, and/or the tribal community, examples of how Indian tribes and TDHEs may choose to respond to COVID-19 may include using IHBG-CARES Act grant funds to care for those who have become infected and to limit the exposure and spread of the virus, provide rent assistance to eligible families that cannot pay rent, carrying out activities to reduce severe overcrowding, prevent homelessness to ensure families are stably housed, and much more. Funds may continue to be used after the local, service area, or regional coronavirus outbreak on any continuing expenses incurred due to the spread of COVID-19.

In most cases, maintaining normal operations and carrying out eligible activities, projects, or programs during the period that a recipient's program is impacted by COVID-19 will likely tie back to the "Respond to" COVID-19 purpose. However, HUD recognizes that there may be circumstances were maintaining normal operations and carrying out eligible activities may tie back to the "Prepare for" or the "Prevent" eligible purpose. One example of maintaining normal operations is using IHBG-CARES Act funds to carry out eligible IHBG activities that the recipient initially planned to carry out with its regular IHBG funds but did not because it had to use its regular IHBG funds to carry out an unplanned

activity to prevent, prepare for, or respond to COVID-19. In this scenario, the IHBG-CARES grant funds can be used to carry out the original IHBG activity.

These descriptions are designed to provide general guidance and are not intended to limit the range of eligible IHBG-CARES Act grant activities that can be carried out. Provided a grantee can reasonably tie their IHBG-CARES Act activities back to one or more eligible purposes, HUD will accept the classification.

c. Waivers and Alternative Requirements Applicable Only to IHBG-CARES Act Funding

The following waivers and alternative requirements apply only to IHBG-CARES Act grants (the new IHBG funding provided under the CARES Act), and FY 2020 IHBG funds appropriated under the Further Consolidated Appropriations Act of 2020 (Public Law 116–94) and reprogramed to address COVID-19.

These waivers and alternative requirements do not apply to IHBG funds appropriated in any other prior year.

(1) Reprogramming of FY 2020 IHBG Funding

To encourage IHBG recipients to consider reprogramming existing FY 2020 IHBG funding to help address COVID-19, HUD has waived Section 103 of NAHASDA and 24 CFR section 1000.230 to the extent necessary to allow IHBG recipients to expend IHBG FY 2020 funds on IHBG activities that meet the eligible purposes of the CARES Act (to prevent, prepare for, and respond to COVID-19), including activities made eligible under the waivers and alternative requirements provided in this Notice, without first having to amend their FY 2020 Indian Housing Plan (IHP).

IHBG recipients that choose to do this must still amend their FY 2020 IHP, at a later date, but prior to submission of their APR, to reflect these new uses or activities, but may request an extension if doing so is not feasible and safe for tribal or TDHE staff at that time.

Additionally, HUD has waived the requirement in 24 CFR section 1000.232 that provides that certain IHP amendments that add new activities or involve a decrease in the amount of funds provided to protect and maintain the viability of FCAS units require HUD to review such modifications and determine that they comply with NAHASDA. IHBG recipients may reprogram FY 2020 funding to add new activities and decrease funding for FCAS units without HUD prior review and approval, provided that the IHBG recipient is carrying out eligible COVID-19-related IHBG activities.

Similarly, the FY 2020 IHP must be amended to reflect these changes prior to submission of their APR, to reflect these added activities or a decrease in the amount of FCAS funds but may request an extension if doing so is not feasible

and safe for tribal or TDHE staff at that time.

(2) **Eligibility**

Regulatory Authority: 24 CFR section 1000.128

Description: 24 CFR section1000.128 requires IHBG recipients to verify that a family is income-eligible. Families are required to provide documentation to verify this determination, and a recipient is required to maintain that documentation. Families may be required by the IHBG recipient to periodically verify income after initial occupancy, and the recipient is required to maintain documentation.

Given the COVID-19 related challenges facing families seeking IHBG assistance, families currently receiving IHBG assistance that are due for income recertification, and tribal and TDHE staff charged with verifying income and maintaining documentation, HUD established the following alternative requirement under 24 CFR section 1000.128:

(a) IHBG recipients may deviate from their current written admissions and occupancy policies, and may allow less frequent income recertifications; and

(b) IHBG recipients may carry out intake and other tasks necessary to verify income remotely if the IHBG recipient or eligible families chooses to do so, including allowing income self-certification over the phone (with a written record by the IHBG recipient's staff), or through an email with a self-certification form signed by a family.

(3) **Public Health Services**

Statutory Authority: Section 202(3) of NAHASDA

Description: Section 202(3) of NAHASDA authorizes the use of IHBG funds for the provision of housing-related services for affordable housing. Under this eligible activity, IHBG funds can be used to provide services such as housing counseling, activities related to the provision of self-sufficiency and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in the IHBG program.

HUD has waived Section 202(3) and established an alternative requirement to the extent necessary to allow IHBG funds to be used to carry out a wide range of public health services under this category of eligible activities. Accordingly, in addition to the housing services normally eligible under Section 202(3), IHBG recipients may be used on a wide range of public health activities designed to allow IHBG-eligible residents and staff of the IHBG recipient to prepare for, prevent, and respond to COVID-19.

Eligible uses of IHBG funds under this waiver and alternative requirement include, but are not limited to: providing testing, diagnosis or other related services to residents; establishing a fixed or mobile location to conduct testing and treatment; paying for necessary equipment, supplies, and materials, including personal protective equipment; carrying out public health services designed to help staff, eligible residents, and other third-party providers serving eligible residents, prepare for, prevent, and respond to COVID-19; delivering meals on wheels or other food delivery services to eligible residents that are sheltered-in-place and complying with a stay at home order, or otherwise maintaining recommended social distancing.

IHBG grantees are to coordinate with recipients of other Federal sources of funding for this purpose, including funding provided by the Indian Health Service, to ensure IHBG funds are used to supplement rather than supplant such funding.

(4) **COVID-19-Related Assistance to Non-Low Income and Non-Native Families**

Statutory Authority: Section 201(b) of NAHASDA

Regulatory Authority: 24 CFR section 1000.104, 1000.106, 1000.108, 1000.110; 1000.312, 1000.314, 1000.318

Description: Section 201(b) of NAHASDA and its implementation regulations, except for specified exceptions, limit assistance under eligible housing activities to low-income Indian families.

The COVID-19 pandemic poses a unique threat to the health and safety of tribal communities. Persons infected with COVID-19, regardless of income or tribal membership, pose a health risk to the entire community, and low-income families are especially vulnerable given the severe overcrowding in Indian Country, infrastructure challenges, and the lack of access to running water and readily available health care services in many remote communities. To effectively prevent, prepare for, and respond to COVID-19, IHBG recipients may find the need to use IHBG resources or NAHASDA-assisted housing units to provide shelter-in-place housing and public health services to otherwise ineligible persons and families, with the goal of protecting the health and safety of the most vulnerable low-income Native American families who may be infected.

Given this, HUD has waived section 201(b) and its implementing regulations, and established alternative requirements to the extent necessary to allow IHBG funds to be used by recipients to prevent, prepare for, and respond to COVID-19 through the following limited activities that provide assistance to all affected and threatened people without regard to income limits or Indian status: temporary shelter-in-place, isolation centers, purchasing and making medical testing kits

available, purchasing and distributing masks and other personal protection equipment, emergency food preparation and distribution, cleaning and decontamination, and other directly related activities. Permanent rental assistance, mortgage assistance, housing rehabilitation, and new housing construction may not be provided for the benefit of such otherwise ineligible families under this waiver and alternative requirement.

This assistance may only be provided to such otherwise ineligible families if: it is provided during the COVID-19 pandemic; it is designed to protect the health and safety of low-income Native American families; it is provided on an urgent basis (as documented by the IHBG recipient); and it is temporary in nature.

When providing this assistance, IHBG recipients must maintain records documenting that these criteria were met at the time that such assistance was provided.

Under this waiver and alternative requirement, IHBG recipients may house low-income non-Indian families or over-income Indian and non-Indian families in NAHASDA-assisted units, including FCAS units to shelter-in-place those families per U.S. Centers for Disease Control and Prevention (CDC) guidelines to protect low-income Indian families and the Tribal community from the further spread of COVID-19, regardless of income or Indian status.

IHBG funds may also be used to provide temporary rental assistance to otherwise ineligible persons or families in privately owned units, hotels/motels, and similar facilities designed to shelter-in-place or isolate infected persons from others, if the criteria under this waiver and alternative requirements are met.

The use of NAHASDA-assisted units, including FCAS, or funds for the temporary shelter-in-place or isolation of any individuals shall be temporary and no individual shall be isolated longer than medically necessary.

The 24 CFR sections 1000.312 and 1000.314 identify FCAS units as low rent, Mutual Help, and Turnkey III housing units owned and operated by an IHBG recipient. 24 CFR section 1000.318 establishes when these units can be considered FCAS for purposes of the IHBG formula. These regulations have also been waived and modified to the extent necessary to not impact the FCAS eligibility of FCAS units used for this purpose of addressing COVID-19 regardless of income or Indian status, provided such units are operated as low-income housing dwelling units once no longer needed to shelter-in-place persons, and upon a determination that such units are safe to be occupied again by low-income families not infected with COVID-19.

Assistance provided in accordance with this waiver shall not count towards the maximum amount of assistance that IHBG recipients may otherwise provide to non-low-income families specified in 24 CFR section 1000.110.

(5) **Useful Life**

Statutory Authority: Section 205 of NAHASDA

Regulatory Authority: 24 CFR sections 1000.141, 1000.142, 1000.143, 1000.144, 1000.146, 1000.147

Description: Section 205(a)(2) of NAHASDA requires each dwelling unit in a recipient's housing developed or assisted under the Act will remain affordable, according to binding commitments satisfactory to HUD, for the remaining useful life of the property. The HBG regulations require each recipient to describe, in its IHP, its determination of the useful life of the assisted housing units in its developments in accordance with the local conditions of the Indian area of the recipient. By approving the IHP, HUD determines the useful life in accordance with Section 205(a)(2).

HUD has waived these requirements to determine and maintain affordability during the useful life of housing units assisted with IHBG-CARES Act grant funding and FY 2020 IHBG funding used to address COVID-19 if that assistance is related to cleanup of COVID-19 contamination and temporary use dwelling units for purposes of housing and quarantining families to inhibit the spread of COVID-19 to low-income Indian families and the tribal community.

(6) **Total Development Cost Limits**

Regulatory Authority: 24 CFR sections 1000.156, 1000.158, 1000.160, 1000.162

Description: The IHBG regulations require that affordable housing under NAHASDA be of moderate design with a size and with amenities consistent with unassisted housing offered for sale in the Indian tribe's general geographic area to buyers who are at or below the area median income. To achieve this requirement the recipient must either, adopt written standards for its affordable housing programs that reflect the requirement specified, or use Total Development Costs (TDC) limits published periodically by HUD that establish the maximum amount of funds (from all sources) that the recipient may use to develop or acquire/rehabilitate affordable housing. The limits provided by the TDC may not, without prior HUD approval, exceed by more than 10 percent the TDC maximum cost for the project. Non-dwelling structures used to support an affordable housing activity must be of a design, size and with features or amenities that are reasonable and necessary to accomplish the purpose intended by the structures.

HUD expects that COVID-19 will likely have both a short- and long-term impact on IHBG recipients' programs. Because of the long-term need to prevent, prepare for, and respond to COVID-19, IHBG recipients may find it appropriate to use IHBG-CARES Act grant funds to acquire or construct new housing units with the

goal of reducing severe overcrowding in Indian Country that leave Native American populations, particularly the elderly and persons with disabilities, especially vulnerable to COVID-19.

Accordingly, HUD has established an alternative requirement relating to limitations on cost or design standards and TDC with respect to dwelling and non-dwelling units developed, acquired or assisted with funding provided to be used by recipients to prevent, prepare for, and respond to COVID-19. An IHBG recipient may exceed the current TDC maximum by 20 percent without HUD review or approval if the purpose of the development, acquisition or assistance is to prevent, prepare for, and respond to COVID-19. The recipient, however, must maintain documentation that indicates the dwelling and non-dwelling units developed, acquired or assisted with this funding will, after this crisis, be for IHBG eligible families and the design, size, and amenities are moderate and comparable to housing in the area. The TDC limits can be exceeded by more than 20 percent if the recipient receives written approval from HUD Headquarters. This waiver applies to both single-family and multi-family housing, as well as non-dwelling structures supporting an activity to prevent, prepare for, and respond to COVID-19.

Originally, this waiver and alternative requirement was to be available only so long as the TDC specified in PIH Notice 2019-19 remain in effect. PIH Notice 2019-19 has been superseded by PIH Notice 2024-28, which provided an updated schedule for the maximum amount of funds that may be used for affordable housing under NAHASDA. However, PIH Notice 2024-28 reserves previously provided regulatory relief with respect to TDC limits for the IHBG-CARES Act and IHBG-ARP programs. Therefore, Indian tribes and TDHEs carrying out their IHBG-CARES Act grants; FY 2020 IHBG formula grants to prevent, prepare for, and respond to COVID-19; and IHBG-ARP grants are authorized to use the higher of the new FY 2024 TDC limit issued pursuant to this PIH Notice 2024-28, or up to 20 percent of the TDC limit that was previously, or up to 20 percent of the TDC limit that was previously issued in PIH 2019-19, without prior HUD approval. This waiver will remain in effect until all such funds are expended. in PIH 2019-19, without prior HUD approval. This waiver will remain in effect until all such funds are expended.

(7) **Prohibition Against Investment of CARES Act Grant Funds Statutory**

Authority: Section 204(b) of NAHASDA

Regulatory Authority: 24 CFR section 1000.58

Description: Section 204(b) of NAHASDA permits IHBG recipients to invest grant amounts for the purposes of carrying out affordable housing activities in investment securities and other obligations as approved by HUD. Under 24 CFR section 1000.58 of the IHBG regulations, HUD has approved certain IHBG

recipients based, among other things, on a history of compliance and capacity, to invest IHBG funding certain securities and interest-bearing accounts for the purpose of carrying out affordable housing activities.

HUD has waived Section 204(b) of NAHASDA and 24 CFR section 1000.58 and is prohibiting the investment of any IHBG funding provided under the CARES Act. Such funding is to be used by recipients to prevent, prepare for, and respond to COVID-19, including to maintain normal operations and fund eligible affordable housing activities under NAHASDA during the period that each recipient's program is impacted by COVID-19. Given the limited scope of this funding to address the immediate health, safety and economic needs of citizens in Indian Country, drawing down funds for investment in securities and long-term interest-bearing accounts is prohibited.

(8) **IHBG-CARES Funds Not Counted in Undisbursed Funds Factor (UDFF)**

Regulatory Authority: 24 CFR section 1000.342

Description: 24 CFR section 1000.342 codifies the UDFF in the IHBG formula. It provides that if an Indian tribe's initial IHBG allocation calculation is $5 million or more and the Indian tribe has undisbursed IHBG funds on October 1 of the fiscal year for which the allocation is made in an amount that is greater than the sum of the prior three years' initial allocation calculations, its grant allocation will be the greater of the initial allocation calculation minus the amount of undisbursed IHBG funds that exceed the sum of the prior three years' initial allocation calculations, or its 1996 Minimum.

HUD has waived 24 CFR section 1000.342 and establishing an alternative requirement to the extent necessary to exclude IHBG-CARES funds from counting towards an Indian tribe's undisbursed IHBG funds from prior years under the UDFF. IHBG-CARES Act funds are available for a specific purpose under the CARES Act and were allocated by HUD to allow Indian tribes and TDHEs to prevent, prepare for, and respond to COVID-19. If this funding were counted against an Indian tribe and resulted in it receiving less IHBG formula funding under the next IHBG formula allocation, such a reduction in future funding would undermine the purposes of the IHBG-CARES Act funds and have an adverse impact on Indian tribes working to respond to the current National Emergency.

2. Indian Housing Block Grant -ARP Grants

a. General

On March 11, 2021, the American Rescue Plan Act of 2021 (ARP) (Public Law 117-2) was enacted. The Act provides $450 million for the IHBG Program to be distributed according to the same funding formula used in FY 2021 to be used by eligible tribes and TDHEs to prevent, prepare for, and respond to COVID-19, including to maintain normal operations and fund eligible affordable housing activities under NAHASDA, as amended,

during the period that the program is impacted by COVID-19. ARP also permits the funding made available for the IHBG program to be used, as necessary, to cover or reimburse allowable costs to prevent, prepare for, and respond to COVID-19 that are incurred by a recipient, including for costs incurred **after** January 21, 2020, that is January 22, 2020 to present (**Please Note**: The CARES Act permitted funding to be used, as necessary, to cover or reimburse allowable costs prior to the date of enactment of the CARES Act, but in no event earlier than January 21, 2020). IHBG-ARP funds are available for expenditure until September 30, 2030.

In addition, Congress authorized HUD to waive or specify alternative requirements for NAHASDA or regulations (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment) applicable to the IHBG program upon a finding by HUD that such waivers or alternative requirements are necessary to expedite or facilitate the use of IHBG-ARP funds.

On April 13, 2021, HUD issued the IHBG-ARP Implementation Notice PIH-2021-11 with instructions on how to apply for the IHBG-ARP funding and describing waivers and alternative requirements authorized by the ARP Act. That Notice describes in detail the various waivers and alternative requirements that have been issued thus far with respect to IHBG-ARP grants. Because IHBG-ARP grantees are continuing to expend the COVID-19 funding at the time this program section was finalized, the Auditor should make best efforts to identify and consider updates and revisions of PIH Notice 2021-11 for IHBG-ARP funding that are in place at the time of the audit. This can be done by visiting COVID-19 Recovery Programs site of ONAP's website, CodeTalk, at https://www.hud.gov/program_offices/public_indian_housing/ih/ONAP-ARP_Act_2021.

b. Activities Allowed or Unallowed:

ARP requires that recipients' use of IHBG-ARP grants be tied to preventing, preparing for, and responding to COVID-19, including maintaining normal operations and funding eligible affordable housing activities under NAHASDA during the period the program is impacted by COVID-19.

To comply with this requirement, IHBG-ARP recipients must ensure that all activities being proposed can be tied to at least one of the following three eligible purposes:

(1) Activities, Projects, or Programs to Prevent COVID-19

(2) Activities, Projects, or Programs to Prepare for COVID-19

(3) Activities, Projects, or Programs to Respond to COVID-19

And like IHBG-CARES Act funds, IHBG-ARP funds may also be used to maintain normal operations and fund eligible IHBG activities during the period that a recipient's IHBG program is impacted by COVID-19. This includes covering or reimbursing allowable costs incurred back to the date the Indian tribe began preparing for COVID-19, which may be prior to the date of enactment of the ARP, but in no event earlier than

January 22, 2020.

The auditor should consider the following:

1. Prepare for: IHBG-ARP grant funds may be used prior to a local, service area, or regional COVID-19 outbreak. This includes, but is not limited to, activities designed to develop processes and procedures to help keep people healthy, and other activities designed to reduce the risk of exposure to COVID-19 and avoid or slow the spread of the disease. Examples may include housing activities designed to reduce severe overcrowding, providing food delivery services to eligible families (including the elderly, disabled, and other high-risk populations) to allow them to shelter in place, and public health campaigns designed to educate families on how to prepare for a possible outbreak in the community and ways to minimize community spread.

2. Prevent: IHBG-ARP grant funds may be used during a COVID-19 local, service area, or regional coronavirus outbreak. This includes, but is not limited to, activities designed to prevent the initial or further spread of the virus to staff, tribal housing residents, and the tribal community. Examples may include distributing Personal Protective Equipment to housing maintenance staff, residents, and members of the community, using IHBG-ARP funds to clean common areas to prevent infections, using IHBG-ARP funds to facilitate the vaccination of IHBG-assisted residents and IHBG recipient staff, and much more.

3. Respond to: Once COVID-19 has spread to staff, tribal housing residents, and/or the tribal community, examples of how Indian tribes and TDHEs may choose to respond to COVID-19 may include using IHBG-ARP grant funds to care for those who have become infected and to limit the exposure and spread of the virus, provide rent assistance to eligible families that cannot pay rent, carrying out activities to reduce severe overcrowding, prevent homelessness to ensure families are stably housed, and much more. Funds may continue to be used after the local, service area, or regional coronavirus outbreak on any continuing expenses incurred due to the spread of COVID-19.

   These descriptions are designed to provide general guidance to recipients and are not intended to limit the range of eligible IHBG-ARP grant activities that can be carried out. Provided a recipient can, in HUD's judgment, reasonably tie their IHBG-ARP activities back to one or more eligible purposes, HUD will accept the recipient's classification.

c. Waivers and Alternative Requirements Applicable Only to IHBG-ARP Funding

The following waivers and alternative requirements apply only to IHBG funding provided under the ARP. Indian tribes and TDHEs are reminded that these waivers and alternative requirements do not apply to IHBG funds appropriated in any other Act. In applying these waivers and alternative requirements, Indian tribes and TDHEs must

ensure that they are doing so only with respect to IHBG-ARP grant.

(1) Income Verification

Regulatory Authority: 24 CFR section 1000.128

Description: 24 CFR section 1000.128 requires IHBG recipients to verify that a family is income eligible. Families are required to provide documentation to verify this determination, and a recipient is required to maintain that documentation. Families may be required by the IHBG recipient to periodically verify income after initial occupancy, and the recipient is required to maintain documentation.

Given the COVID-19 related challenges facing families seeking IHBG assistance, families currently receiving IHBG assistance that are due for income recertification, and Tribal and TDHE staff charged with verifying income and maintaining documentation, HUD is establishing the following alternative requirement under 24 CFR section 1000.128:

(a) IHBG-ARP recipients may deviate from their current written admissions and occupancy policies, and may allow less frequent income recertifications; and

(b) IHBG-ARP recipients may carry out intake and other tasks necessary to verify income of applicants and residents remotely if the IHBG recipient or eligible families chooses to do so, including allowing income self-certification over the phone (with a written record by the IHBG recipient's staff), or through an email with a self-certification form signed by a family.

(2) Public Health Services

Statutory Authority: Section 202(3) of NAHASDA

Description: Section 202(3) of NAHASDA authorizes the use of IHBG funds for the provision of housing-related services for affordable housing. Under this eligible activity, IHBG funds can be used to provide services such as housing counseling, activities related to the provision of self-sufficiency and other services related to assisting owners, tenants, contractors, and other entities, participating, or seeking to participate in the IHBG program.

HUD is waiving Section 202(3) and establishing an alternative requirement to the extent necessary to allow IHBG funds to be used to carry out a wide range of public health services under this category of eligible activities. Accordingly, in addition to the housing services normally eligible under Section 202(3), IHBG funds may be used on a wide range of public health activities designed to allow IHBG-eligible residents and staff of the IHBG recipient to prepare for, prevent,

and respond to COVID-19.

Eligible uses of IHBG funds under this waiver and alternative requirement include, but are not limited to: providing testing, diagnosis, vaccination or other related services to residents; establishing a fixed or mobile location to conduct testing, vaccination and treatment; paying for necessary equipment, supplies, and materials, including personal protective equipment; carrying out public health services designed to help staff, eligible residents, and other third-party providers serving eligible residents, prepare for, prevent, and respond to COVID-19; delivering meals on wheels or other food delivery services to eligible residents that are sheltered-in-place and complying with a stay at home order, or otherwise maintaining recommended social distancing.

With respect to vaccinations, eligible uses of IHBG funds under this waiver and alternative requirement include, but are not limited to, the following:

(a) paying the transportation costs to get IHBG-assisted families and staff of the recipient to and from a vaccination site;

(b) coordinating with health clinics to provide on-site vaccinations either at a Tribal or TDHE owned or operated location or at a mutually agreed upon location;

(c) paying the costs of providing public health information to staff and residents so they can learn about the benefits of getting vaccinated and how to get vaccinated; and

(d) supporting IHBG-assisted families and staff with online registration for vaccination appointments and keeping them informed as vaccination efforts continue.

HUD strongly encourages IHBG grantees to coordinate with recipients of other Federal sources of funding for this purpose, including funding provided by the Indian Health Service, to ensure IHBG funds are used to supplement rather than supplant such funding.

(3) COVID-19-Related Assistance to Non-Low Income and Non-Native Families

Statutory Authority: Section 201(b) of NAHASDA

Regulatory Authority: 24 CFR sections 1000.104, 1000.106, 1000.108, 1000.110,1000.312, 1000.314, 1000.318

Description: Section 201(b) of NAHASDA and its implementation regulations, except for specified exceptions, limit assistance under eligible housing activities to low-income Indian families.

The COVID-19 pandemic poses a unique threat to the health and safety of tribal communities. Persons infected with the virus, regardless of income or tribal membership, pose a health risk to the entire community, and low-income families are especially vulnerable given the severe overcrowding in Indian Country, infrastructure challenges, and the lack of access to running water and readily available health care services in many remote communities. To effectively prevent, prepare for, and respond to COVID-19, IHBG recipients may find the need to use IHBG resources or NAHASDA-assisted housing units to provide shelter-in-place housing and public health services to otherwise ineligible persons and families, with the goal of protecting the health and safety of the most vulnerable low-income Native American families who may be infected.

Given this, HUD is waiving Section 201(b) and its implementing regulations, and establishing alternative requirements to the extent necessary to allow IHBG funds to be used by recipients to prevent, prepare for, and respond to COVID-19 through the following limited activities that provide assistance to all affected and threatened people without regard to income limits or Indian status: temporary shelter-in-place, isolation centers, purchasing and making medical testing kits available, purchasing and distributing masks and other personal protection equipment, emergency food preparation and distribution, cleaning and decontamination, and other directly related activities. Permanent rental assistance, mortgage assistance, housing rehabilitation, and new housing construction may not be provided for the benefit of such otherwise ineligible families under this waiver and alternative requirement.

This assistance may only be provided to such otherwise ineligible families if: it is provided during the COVID-19 pandemic; if it is designed to protect the health and safety of low-income Native American families; if it is provided on an urgent basis (as documented by the IHBG recipient); and if it is temporary in nature. When providing this assistance, IHBG recipients must maintain records documenting that these criteria were met at the time that such assistance was provided.

Under this waiver and alternative requirement, IHBG recipients may house low-income non-Indian families or over-income Indian and non-Indian families in NAHASDA-assisted units, including FCAS units, to shelter-in-place those families per CDC guidelines to protect low-income Indian families and the Tribal community from the further spread of COVID-19, regardless of income or Indian status. IHBG funds may also be used to provide temporary rental assistance to otherwise ineligible persons or families in privately owned units, hotels/motels, and similar facilities designed to shelter-in-place or isolate infected persons from others, if the criteria under this waiver and alternative requirements are met. The use of NAHASDA-assisted units, including FCAS, or funds for the temporary shelter-in-place or isolation of any individuals shall be temporary and no individual shall be isolated longer than medically necessary.

The 24 CFR sections 1000.312 and 1000.314 identify FCAS units as low rent, Mutual Help, and Turnkey III housing units owned and operated by an IHBG recipient. 24 CFR section 1000.318 establishes when these units can be considered FCAS for purposes of the IHBG formula. These regulations are also waived and modified to the extent necessary to not impact the FCAS eligibility of FCAS units used for this purpose of addressing COVID-19 regardless of income or Indian status, provided such units are operated as low-income housing dwelling units once no longer needed to shelter-in-place persons, and upon a determination that such units are safe to be occupied again by low-income families not infected with COVID-19.

Assistance provided in accordance with this waiver shall not count towards the maximum amount of assistance that IHBG recipients may otherwise provide to non-low-income families specified in 24 CFR section 1000.110.

(4) Useful Life

Statutory Authority: Section 205 of NAHASDA

Regulatory Authority: 24 CFR sections 1000.141, 1000.142, 1000.143, 1000.144, 1000.146, 1000.147

Description: Section 205(a)(2) of NAHASDA requires each dwelling unit in a recipient's housing developed or assisted under the Act will remain affordable, according to binding commitments satisfactory to HUD, for the remaining useful life of the property. The IHBG regulations require each recipient to describe, in its IHP, its determination of the useful life of the assisted housing units in its developments in accordance with the local conditions of the Indian area of the recipient. By approving the IHP, HUD determines the useful life in accordance with Section 205(a)(2).

HUD is waiving these requirements to determine and maintain affordability during the useful life of housing units assisted with IHBG-ARP grant funding used to address COVID-19 if that assistance is related to cleanup of COVID-19 contamination and temporary use dwelling units for purposes of housing and quarantining families to inhibit the spread of COVID-19 to low-income Indian families and the Tribal community.

Under this waiver, IHBG recipients are not required to establish an affordability determination or useful life period for assistance related to cleanup of COVID-19 contamination or temporary use of dwellings units used to quarantine families to inhibit the spread of COVID-19.

This waiver only applies during the period that a unit is being temporarily used to prevent, prepare for, or respond to COVID-19. Useful life restrictions are

required for other housing activities conducted with IHBG-ARP funding. For example, if a unit is acquired for the purpose of quarantining families, no useful life restriction will apply to the unit during this temporary period when the unit is being used for COVID-19-related purposes. However, after the unit is no longer needed to temporarily quarantine families and is no longer needed for other COVID-19 purposes, the recipient must either place useful life restrictions on the property and continue to make it available for NAHASDA-eligible families for an affordability period set by the recipient consistent with its IHBG program or dispose of the unit.

(5) Total Development Cost Limits

Regulatory Authority: 24 CFR sections 1000.156, 1000.158, 1000.160, 1000.162

Description: The IHBG regulations require that affordable housing under NAHASDA be of moderate design with a size and with amenities consistent with unassisted housing offered for sale in the Indian tribe's general geographic area to buyers who are at or below the area median income. To achieve this requirement the recipient must either, adopt written standards for its affordable housing programs that reflect the requirement specified, or use TDC limits published periodically by HUD that establish the maximum amount of funds (from all sources) that the recipient may use to develop or acquire/rehabilitate affordable housing. The limits provided by the TDC may not, without prior HUD approval, exceed by more than 10 percent the TDC maximum cost for the project. Non-dwelling structures used to support an affordable housing activity must be of a design, size and with features or amenities that are reasonable and necessary to accomplish the purpose intended by the structures.

HUD expects that COVID-19 will likely have both a short- and long-term impact on IHBG recipients' programs. Because of the long-term need to prevent, prepare for, and respond to COVID-19, IHBG recipients may find it appropriate to use IHBG-ARP grant funds to acquire or construct new housing units with the goal of reducing severe overcrowding in Indian Country that leave Native American populations, particularly the elderly and persons with disabilities, especially vulnerable to COVID-19. Accordingly, HUD is establishing an alternative requirement relating to limitations on cost or design standards and TDC with respect to dwelling and non-dwelling units developed, acquired, or assisted with funding provided to be used by recipients to prevent, prepare for, and respond to COVID-19. An IHBG recipient may exceed the current TDC maximum by 20 percent without HUD review or approval if the purpose of the development, acquisition or assistance is to prevent, prepare for, and respond to COVID-19.

The recipient, however, must maintain documentation that indicates the dwelling and non-dwelling units developed, acquired, or assisted with this funding will, after this crisis, be for IHBG eligible families and the design, size, and amenities

are moderate and comparable to housing in the area. The TDC limits can be exceeded by more than 20 percent if the recipient receives written approval from HUD Headquarters. This waiver applies to both single-family and multi-family housing, as well as non-dwelling structures supporting an activity to prevent, prepare for, and respond to COVID-19.

Originally, this waiver and alternative requirement was to be available only so long as the TDC specified in PIH Notice 2019-19 remain in effect. PIH Notice 2019-19 has been superseded by PIH Notice 2024-28, which provided an updated schedule for the maximum amount of funds that may be used for affordable housing under NAHASDA. However, PIH Notice 2024-28 preserves previously provided regulatory relief with respect to TDC limits for the IHBG-CARES Act and IHBG-ARP programs. Therefore, Indian Tribes and TDHEs provided regulatory relief with respect to TDC limits for the IHBG-CARES Act and IHBG-ARP programs. Therefore, Indian tribes and TDHEs carrying out their IHBG-CARES grants; FY 2020 IHBG formula grants to prevent, prepare for, and respond to COVID-19; and IHBG-ARP grants are authorized to use the higher of the new FY 2022 TDC limit issued pursuant to this PIH Notice 2024-28, or up to 20 percent of the TDC limit that was previously issued in PIH 2019-19, without prior HUD approval. This waiver will remain in effect until all such funds are expended.

(6) Prohibition Against Investment of ARP Grant Funds

Statutory Authority: Section 204(b) of NAHASDA

Regulatory Authority: 24 CFR section 1000.58

Description: Section 204(b) of NAHASDA permits IHBG recipients to invest grant amounts for the purposes of carrying out affordable housing activities in investment securities and other obligations as approved by HUD. Under 24 CFR section 1000.58 of the IHBG regulations, HUD has approved certain IHBG recipients based, among other things, on a history of compliance and capacity, to invest IHBG funding certain securities and interest-bearing accounts for the purpose of carrying out affordable housing activities.

HUD is waiving Section 204(b) of NAHASDA and 24 CFR section 1000.58 and prohibiting the investment of any IHBG funding provided under the ARP. Such funding is to be used by recipients to prevent, prepare for, and respond to COVID-19, including to maintain normal operations and fund eligible affordable housing activities under NAHASDA during the period that each recipient's program is impacted by COVID-19. Given the limited scope of this funding to address the immediate health, safety, and economic needs of citizens in Indian Country, drawing down funds for investment in securities and long-term interest-bearing accounts is prohibited.

(7) IHBG-ARP Funds Not Counted in Undisbursed Funds Factor

Regulatory Authority: 24 CFR section 1000.342

Description: The 24 CFR section 1000.342 codifies the Undisbursed Funds Factor (UDFF) in the IHBG formula. It provides that if an Indian tribe's initial IHBG allocation calculation is $5 million or more and the Indian tribe has undisbursed IHBG funds on October 1 of the fiscal year for which the allocation is made in an amount that is greater than the sum of the prior three years' initial allocation calculations, its grant allocation will be the greater of the initial allocation calculation minus the amount of undisbursed IHBG funds that exceed the sum of the prior three years' initial allocation calculations, or its 1996 Minimum.

HUD is waiving 24 CFR section 1000.342 and establishing an alternative requirement to the extent necessary to exclude IHBG-ARP funds from counting towards an Indian tribe's undisbursed IHBG funds from prior years under the UDFF. IHBG-ARP funds are available for a specific purpose under the ARP and were allocated by HUD to allow Indian tribes and TDHEs to prevent, prepare for, and respond to COVID-19. If this funding were counted against an Indian tribe and resulted in it receiving less IHBG formula funding under the next IHBG formula allocation, such a reduction in future funding would undermine the purposes of the IHBG-ARP funds and have an adverse impact on Indian tribes working to respond to the current National Emergency.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANCE LISTING 14.871 SECTION 8 HOUSING CHOICE VOUCHERS

ASSISTANCE LISTING 14.879 MAINSTREAM VOUCHERS

I. PROGRAM OBJECTIVES

The Housing Choice Voucher Program (HCVP) provides rental assistance to help very low- income families afford decent, safe, and sanitary rental housing. The Mainstream Voucher program (MV) enables families for whom the head, spouse, or co-head is a person with disabilities to lease affordable private housing of their choice.

II. PROGRAM PROCEDURES

A. Overview

The HCVP is administered by local public housing agencies (PHAs) authorized under state law to operate housing programs within an area or jurisdiction. The PHA accepts a family's application for rental assistance, selects the applicant family for admission, and issues the selected family a voucher confirming the family's eligibility for assistance. The family must then find and lease a dwelling unit suitable to the family's needs and desires in the private rental market. The PHA pays the owner a portion of the rent (a housing assistance payment [HAP] on behalf of the family).

The subsidy provided by the HCVP is considered a tenant-based subsidy because when an assisted family moves out of a unit leased under the program, the assistance contract with the owner terminates and the family may move to another unit with continued rental assistance.

The Department of Housing and Urban Development (HUD) enters into Annual Contributions Contracts (ACCs) with PHAs under which HUD provides funds to the PHAs to administer the programs locally. The PHAs enter into HAP contracts with private owners who lease their units to assisted families (24 CFR section 982.151).

In the HCVP, the PHA verifies a family's eligibility (including income eligibility) and then issues the family a voucher. The family has a minimum of 60 days to locate a rental unit where the landlord agrees to participate in the program (the PHA establishes the maximum number of days). The PHA determines whether the unit meets housing quality standards (HQS). If the PHA approves a family's unit and determines that the rent is reasonable, the PHA contracts with the owner to make HAPs on behalf of the family (24 CFR section 982.1(a)(2)).

The voucher subsidy is set based on the difference between the lower of the PHA's

applicable payment standard for the family, the payment standard for the unit size rented, or the gross rent and the total tenant payment (generally 30 percent of the family's monthly adjusted income). This is the maximum subsidy a family may receive regardless of the rent the owner charges for the unit (24 CFR Part 982, Subpart K). Under the HCVP, apart from the requirement that the rent must be reasonable in relation to rents charged for comparable units in the private unassisted market, there generally is no limit on the amount of rent that an owner may charge for a unit. However, at initial occupancy of any unit where the gross rent exceeds the payment standard, a family may not pay more than 40 percent of adjusted monthly income toward rent and utilities (24 CFR section 982.508).

If the cost of utilities is not included in the rent to the owner, the PHA uses a schedule of utility allowances to determine the amount an assisted family needs to cover the cost of utilities. The PHA's utility allowance schedule is developed based on utility consumption and rate data for various unit sizes, structure types, and fuel types. The PHA is required to review its utility allowance schedules annually and to adjust them if necessary (24 CFR section 982.517).

The PHA must inspect units leased under the HCVP at the time of initial leasing and at least biennially thereafter to ensure the units meet HQS. The PHA must also conduct supervisory quality control HQS inspections (24 CFR sections 982.305 and 982.405).

Under the homeownership option of the HCVP, a PHA may choose to provide assistance to a qualified first-time homebuyer to subsidize the family's monthly homeownership expenses. The homeownership option is operated by a PHA as a separate sub-program of the HCVP, which is subject to somewhat different rules (24 CFR sections 982.625 through 982.643).

PHAs must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements. PHAs are required to maintain a HAP contract register or similar record in which to record the PHA's obligation for monthly HAPs. This record must provide information as to (1) the name and address of the family, (2) the name and address of the owner, (3) dwelling unit size, (4) the beginning date of the lease term, (5) the monthly rent payable to the owner, (6) monthly rent payable by the family to the owner, and (7) the monthly HAP (24 CFR section 982.158).

B. Subprograms/Program Elements

1. *HUD-Veterans Affairs Supportive Housing*

   The 2008 Consolidated Appropriations Act (Pub. L. No. 110-161, 121 Stat. 2414-2415), enacted December 26, 2007, initiated funding for the HUD-Veterans Affairs Supportive Housing (HUD-VASH) voucher program, as authorized under Section 8(o)(19) of the US Housing Act of 1937 (42 USC 1437f(o)(19)). The VASH program is included in Assistance Listing 14.871. The HUD-VASH program combines HUD HCVP rental assistance for homeless veterans with case management and clinical services provided by the Department of Veterans Affairs at its medical centers and in the community. The HUD-VASH program is administered in accordance with regular HCVP requirements (24 CFR Part 982). However, Pub.

L. No. 110-161 allows HUD to waive or specify alternative requirements for any provision of any statute or regulation that HUD administers in connection with this program to effectively deliver and administer HUD-VASH voucher assistance.

The HUD-VASH revised operating requirements (including the waivers and alternative requirements from HCVP rules) were last published in the August 13, 2024, *Federal Register*, (89 FR 6476-N-01), *Section 8 Housing Choice Vouchers: Revised Implementation of Veterans Affairs Supportive Housing Program*. Public and Indian Housing Notice PIH 2011-53 (HA) provides further guidance on the reporting and portability requirements of VASH, , and Notice PIH 2022-25 (HA) provides guidance on the voluntary reallocation or recapture of HUD-VASH vouchers. All original HUD-VASH increments and renewals are funded under the "Voucher (VO)" program type (i.e., the Housing Choice Voucher (HCV) program housing assistance payment (HAP) funding code) and are included in the PHA's monthly VO disbursements. Administrative fee-related revenues and expenses should be recorded under the HCVP as Assistance Listing 14.871 on the FDS. PHAs are required to submit family data using HUD-50058 in PIH Information Center (PIC), and HAP and leasing information using HUD-52681-B via the Voucher Management System (VMS).

2. *Family Unification Program*

Family Unification Program (FUP) vouchers are made available to families for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child, or children, in out-of-home care; or the delay in the discharge of the child, or children, to the family from out-of-home care; and youth at least 18 years and not more than 24 years of age (have not reached their 25th birthday) who left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in Section 475(5)(H) of the Social Security Act, and are homeless or are at risk of becoming homeless at age 16 or older. In Fiscal Years 2020 and later, Congress provided FUP assistance to be targeted to FUP-eligible youth. HUD refers to this targeted FUP assistance as the Foster Youth to Independence (FYI) initiative. As required by statute, a FYI voucher or a FUP voucher issued to such a youth may only be used to provide housing assistance for the youth for a maximum of 36 months unless the youth meet the requirements to receive an extension of assistance under the Fostering Stable Housing Opportunities (FSHO) amendments (Section 103 of Division Q of the Consolidated Appropriations Act, 2021 (Pub. L. 116-260)). FSHO provides FUP youth an extension of the 36-month time limit for up to an additional 24 months if they meet certain requirements.

FUP/FYI vouchers enable these families and youths to lease decent, safe, and sanitary housing that is affordable in the private-housing market. Funding for the initial FUP vouchers were reported under Assistance Listing 14.880, but currently these vouchers are renewed to FUP-eligible families and FUP-eligible youth through voucher renewals under the HCVP, Assistance Listing 14.871. PHAs are also

required to submit family data (HUD-50058) in PIC, and HAP and leasing information using HUD-52681-B via the VMS.

3. *Non-Elderly Disabled*

Various appropriations acts have provided separate funding for non-elderly disabled (NED) vouchers (i.e., the participant family's head-of-household is a person with a disability(ies) who is 18 years of age or older and less than 62 years of age), which are administered in accordance with regular HCVP requirements (24 CFR Part 982) and are included in under Assistance Listing Number 14.871. Related revenues and expenses should be recorded under the HCVP, 14.871 on the FDS. PHAs are also required to submit family data (HUD-50058) in PIC, and HAP and leasing information using HUD-52681-B via the VMS.

4. *Disaster Housing Assistance Program*

The Disaster Housing Assistance Program (DHAP) is a program designed by the Federal Emergency Management Agency (FEMA) and HUD to serve families displaced by a Presidentially declared disaster. Through an Interagency Agreement (IAA) executed by both federal agencies, on FEMA's behalf, HUD has the authority to design, implement, and administer DHAP to provide temporary rental assistance to individuals displaced by disaster. The DHAP (Assistance Listing 97.109) was established to provide rental assistance, security and utility deposits, and case management services for families who were displaced by hurricanes Katrina, Rita, Gustav, and Ike. The DHAP was extended to assist eligible families displaced by Hurricane Sandy (DHAP-Sandy, HUD Assistance Listing 97.109) (with funds from DHS Assistance Listings 97.048; 97.049; and 97.050). The IAA between FEMA and HUD, applicable to DHAP Sandy, expired on December 31, 2014. The DHAP-Sandy funding is separate and distinct from the PHA's regular voucher program, in terms of the source and use of the funding. The PHA is required to maintain records that allow for the easy identification of families assisted under DHAP-Sandy and must report monthly leasing and expenditure for such families separately from housing choice voucher families under the VMS. The PHA must maintain a separate HAP register for DHAP-Sandy to record and control assistance payments for rent subsidies. The PHAs reported DHAP-Sandy family information to HUD through the Disaster Information System (DIS). There is no current reporting on DHAP and DIS is dormant in case a future Disaster Program must be stood up. PHAs administering DHAP through DIS (DHAP-Sandy or others) do not complete a HUD-50058 or enter any information on a DHAP families into the PIC system.

The underlying authority for DHAP-Sandy is the Department of Homeland Security's general grant authority under Section 102(b)(2) of the Homeland Security Act of 2002, 6 USC 112(b)(2), and sections 306(a), 408(b)(1), and 426 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 USC 5149(a), 5174(b)(1), and 5189d, respectively.

5. *Mainstream Vouchers (Former Mainstream 5-Year Program)*

The Omnibus Appropriations Act of 2009, Pub. L. No. 111-8, authorized funding for Mainstream Vouchers under Section 811(d)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 USC 8013(d)(2)). PHAs authorized under state law to develop or operate housing assistance programs may apply for the program. In some instances, nonprofit agencies may also administer Mainstream Vouchers. Mainstream Vouchers provide housing assistance payments to participating owners on behalf of eligible tenants (i.e., the household includes a person with a disability who is 18 years of age or older and less than 62 years of age). Mainstream Vouchers are administered in accordance with regular HCV program requirements (24 CFR Part 982). However, for FASS-PH reporting, PHAs are to record rental assistance activities under Assistance Listing 14.879. Administrative fee-related revenues and expenses should also be recorded, under Assistance Listing 14.879 in the FDS. PHAs are also required to submit family data (HUD-50058) in PIC, and HAP and leasing (only) information using HUD-52681, and HUD-52681-B via the VMS. Mainstream voucher leasing and HAP costs are not included in the VMS HCV program voucher leasing and HAP totals; they are only considered for renewal calculation purposes. Mainstream administrative fee expenses are reported in the Mainstream Administrative Expenses field in VMS (HUD-52681-B).

6. *Emergency Housing Voucher Program*

The American Rescue Plan Act of 2021 (the ARP) (Pub. L. No. 117-2) (Assistance Listing 14.871), enacted on March 11, 2021, provided relief to address the continued impact of the COVID-19 pandemic on the economy, public health, state and local governments, individuals, and businesses.

Section 3202 of the ARP provided appropriations for new incremental Emergency Housing Voucher (EHVs), the renewal of those EHVs, and fees for the cost of administering the EHVs and other eligible expenses defined by notice to prevent, prepare for, and respond to coronavirus to facilitate the leasing of the emergency vouchers, such as security deposit assistance and other costs related to retention and support of participating owners.

Eligibility for these EHVs is limited to individuals and families who are (1) homeless; (2) at risk of homelessness; (3) fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking; or (4) recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability. After September 30, 2023, a PHA may not reissue any previously leased EHV, regardless of when the assistance for the formerly assisted family ends or ended.

EHVs are tenant-based rental assistance under section 8(o) of the United States Housing Act of 1937 (42 USC 1437f(o)). The ARP further provides that HUD may waive any provision of the United States Housing Act of 1937 or regulation

applicable to such statute used to administer the amounts made available under section 3202 (except for requirements related to fair housing, nondiscrimination, labor standards and the environment), upon a finding that any such waivers or alternative requirements are necessary to expedite or facilitate the use of amounts made available for the EHVs. EHV waivers and alternate requirements are included in HUD issued PIH Notice 2021-15: Emergency Housing Vouchers – Operating Requirements. https://www.hud.gov/sites/dfiles/PIH/documents/2023-14_HA_Notice.pdf

HUD issued Notice PIH 2021-15 on May 5, 2021, in order to provide operating requirements to PHAs administering the EHV program. On May 10, 2021, HUD notified PHAs of their EHV funding eligibility based on the allocation formula outlined in Notice PIH 2021-15. PHAs had until May 24, 2021, to accept or decline their EHV allocation and any remaining vouchers were reallocated by HUD per the process described in Notice PIH 2021-15. Final allocations were made on June 2, 2021.

On June 30, 2021, HUD issued Notice PIH 2021-20, which revised the reporting guidance in Notice PIH 2021-15, the Emergency Housing Vouchers – Operating Requirements Notice, and set forth new requirements for Public Housing Agencies (PHAs) to report EHV household data into HUD's existing Information Management System/Public Housing Information Center (IMS/PIC) system.

On July 20, 2021, HUD issued Notice PIH 2021-23, implementing $200,000,000 in HAP budget authority the ARP made available for funding adjustments from the total $5B appropriation. PHAs administering the HCV Program and Mainstream Vouchers applied for these funds under the Extraordinary Circumstance category. PIH also processed applications submitted under the HAP Set-aside Unforeseen Circumstance category for per unit cost increases, which was treated as a subset of the Extraordinary Circumstance category. Finally, HUD also prioritized the ARP funds for shortfall prevention in calendar year 2021.

On August 20, 2021, HUD issued Notice PIH 2021-25, which revised the reporting guidance in Notice PIH 2021-20 and Notice PIH 2021-15 and set forth the reporting requirements for PHAs to report EHV data into the Voucher Management System (VMS) and the Financial Data Schedule (FDS).

More recently, June 29, 2023, HUD issued Notice PIH 2023-14. This notice details the statutory restriction prohibiting the reissuance of turnover EHVs after September 30, 2023, as discussed in Section 13 of the Notice PIH 2021-15. Turnover EHVs stand for vouchers made available by families ending their participation with the EHV Program. This notice also provides new guidance for EHV shortfalls and amends section 7.b.4 of Notice PIH 2021-15 with respect to the requirements under which a PHA may receive an adjustment to the PHA's EHV renewal funding during a calendar year."

On December 19, 2023, HUD issued Notice PIH-2023-35. This notice describes the EHV Program cash management procedures for the disbursement and reconciliation of HAP and Administrative Fee funds provided to participating public housing agencies, including Moving-to-Work agencies. PIH will use the EHV Program HAP cash reconciliation procedures for the Closeout of EHV Programs. This notice also provides supplemental guidance to PIH Notice 2021-15 Section 7(b), regarding the EHV Program contract renewal calculation.

7. *Stability Vouchers*

The Consolidated Appropriations Act, 2021 (Public Law 116-260) (2021 Act), makes available $43,439,000 for new incremental voucher assistance under Section 8(o) of the United States Housing Act of 1937 for use by individuals and families experiencing or at-risk of homelessness; those fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking, and veterans and families that include a veteran family member that meet one of the proceeding criteria. The Consolidated Appropriations Act, 2022 (Public Law 117-103 (2022 Act) further provides that HUD may waive certain statutory and regulatory provisions to administer the SVs (except for requirements related to tenant rights and protections, rent setting, fair housing, nondiscrimination, labor standards and the environment) upon a finding that any such waivers or alternative requirements are necessary to facilitate the use of funds made available for SVs.

On August 16, 2022, HUD issued Notice PIH-2022-24: Stability Voucher Program. This Notice describes the program requirements for these vouchers, including eligibility criteria, mandatory waivers and alternative requirements.

Stability Vouchers are included in under Assistance Listing Number 14.871. Related revenues and expenses should be recorded under the HCVP, 14.871 on the FDS. PHAs are also required to submit family data (HUD-50058) in PIC, and HAP and leasing information using HUD-52681-B via the VMS.

C. Other

The Section 8 Management Assessment Program (SEMAP) is HUD's assessment program to measure the performance of PHAs that administer the HCV program. Under SEMAP, PHAs submit an annual or biennial (depending on the size and previous SEMAP scores), certification, Form HUD-52648 *(OMB No. 2577-0215*), to HUD concerning their compliance with program requirements under 14 indicators of performance (24 CFR Part 985).

In the HCV program, required program contracts and other forms must be word- for-word in the form prescribed by HUD. Any additions to our modifications of required program contracts or other forms must be approved by HUD headquarters (24 CFR section 982.162). In addition, housing agencies that are contract administrators for this program must comply with the HUD Uniform Financial Reporting Standards

rule. Accordingly, PHAs that administer Section 8 tenant-based housing assistance payment programs are required to submit financial statements, prepared in accordance with generally accepted accounting principles (GAAP), in the electronic format specified by HUD. The unaudited financial statement is due two months after the PHA's fiscal year- end and the audited financial statement is due nine months after its fiscal year end (24 CFR section 5.801). The financial statement must include the financial activities of this program. Also, PHAs have access to the Real Estate Assessment Center's PHAs accounting briefs, which provide technical assistance in reporting their unaudited and audited financial statements through FASS, which are available at https://www.hud.gov/program_offices/public_indian_housing/reac/products/fass/pha_briefs.

HUD uses HUD-52681-B via the VMS to monitor the PHA's HCVP financial and operational performance. In 2021, HUD published Notice PIH 2021-08, which clarified the financial reporting requirements and deadlines for those PHAs that administer the HCV program and HCV program-related programs.

Source of Governing Requirements

The HCV program regulations are found in 24 CFR parts 5, 982, 983, and 985.

Availability of Other Program Information

Copies of PIH notices can be found at http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/notices/pih.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	N	N	N	N	Y	N	Y

A. Activities Allowed or Unallowed

1. *Activities Allowed – HCV Program and Mainstream Vouchers*

a. PHAs may use HCVP and MV funds only for HAPs to participating owners, and for associated administrative fees (24 CFR sections 982.151 and 982.152). In addition, see expanded authority in the use of administrative fees under PIH Notice 2022-18 Use of Housing Choice Voucher (HCV) and Mainstream Voucher Administrative Fees for Other Expenses to Assist Families to Lease Units.

(1) Accumulated administrative fees prior to Federal Fiscal Year (FFY) 2004 may be used for any housing-related purpose permitted by State and local law. Unspent administrative fees accumulated post FFY 2003 (i.e., fees from Federal fiscal year 2004 and later funding, see III.L.1.e.(4)(a), "Financial Reporting – Financial Reports") may be used only to support the HCVP. These funds are still considered to be administrative fee reserves and are subject to all of the requirements applicable to administrative fee reserves including, but not limited to, those in 24 CFR section 982.155. The fees accumulated from fiscal year 2003 and later funding must be used for activities related to the provision of tenant-based rental assistance authorized under Section 8 of the United States Housing Act of 1937, including related development activities. PHAs must maintain and report balances for both funding sources (see notice PIH 2015-17 (HA) dated October 6, 2015) (Division I, Title II, Section (5) of Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, 118 Stat. 3296, and subsequent appropriations acts; see Section 5 of Notice PIH 2005-01; 24 CFR section 982.155).

(2) Current Calendar Year (CY) HAP funding must be used for current CY HAP and later HAP expenses and shall not be used to cover prior year deficits. PHA's HAP equity balance, also known as restricted

net position (RNP), provides the balance of the unspent HAP at any given point in time. A negative HAP equity balance at the calendar year end indicates that the PHA may be facing a shortfall, and auditors must be alert that the PHAs cannot use the following year HAP budget authority to cover this shortfall (i.e., cover last year's HAP expense) (2005 Appropriations Act each subsequent appropriations act; see Section 15 of Notice PIH 2015-03).

b. PHAs are allowed to recover their indirect costs related to the HCVP through the use of a fee-for-service model in lieu of a cost allocation plan. In order for a PHA to use a fee-for-service model, the PHA must create a central office cost center (COCC) (24 CFR section 990.280(d)). (Also see Section 7.8 of Handbook 7475.1 and Section 2 of Notice PIH 2008-17.) HUD has established the following as the types of fees the COCC can charge for the HCVP:

(1) HCVP management fee; and

(2) Bookkeeping fee.

2. *Activities Allowed – Emergency Housing Vouchers Program Funding*

Section 3202 of the ARP provided appropriations for new incremental EHVs, the renewal of those EHVs, and fees for the cost of administering the EHVs and other eligible expenses defined by notice to prevent, prepare for, and respond to coronavirus to facilitate the leasing of the emergency vouchers, such as security deposit assistance and other costs related to retention and support of participating owners.

Eligibility for these EHVs is limited to individuals and families who are (1) homeless; (2) at risk of homelessness; (3) fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking; or (4) recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability. After September 30, 2023, a PHA may not reissue any previously leased EHV, regardless of when the assistance for the formerly assisted family ends or ended.

EHVs are tenant-based rental assistance under section 8(o) of the United States Housing Act of 1937 (42 USC 1437f(o)). The ARP further provides that HUD may waive any provision of the United States Housing Act of 1937 or regulation applicable to such statute used to administer the amounts made available under section 3202 (except for requirements related to fair housing, nondiscrimination, labor standards and the environment), upon a finding that any such waivers or alternative requirements are necessary to expedite or facilitate the use of amounts made available for the EHVs. EHV waivers and alternate requirements are included in HUD issued PIH Notice 2021-15, *Emergency Housing Vouchers – Operating*

Requirements.

Notice PIH 2021-15 provided operating requirements to PHAs administering the EHV program. Notice PIH 2021-20 revised the reporting guidance in Notice PIH 2021-15 and set forth new requirements for PHAs to report Emergency Housing Voucher (EHV) household data into HUD's existing IMS/PIC system.

Notice PIH 2021-25, *Emergency Housing Vouchers – Voucher Management System and Financial Data Schedule Reporting Requirements Notice* revised the reporting guidance in Notice PIH 2021- 20, *Emergency Housing Vouchers – Household Reporting Requirements Notice* and Notice PIH 2021-15 and set forth the reporting requirements for PHAs to report EHV data into the VMS and FDS.

3. *Activities Allowed – MTW Program*

The MTW program (Assistance Listing 14.881) allows selected PHAs the flexibility to design and test various approaches to providing and administering housing assistance consistent with the MTW Agreement executed by the PHA and HUD and under the MTW Operations Notice. An MTW agency may apply funding fungibility from the following three programs:

(1) Section 8 Housing Choice Vouchers (Assistance Listing 14.871)

(2) Public Housing Capital Fund (Assistance Listing 14.872)

(3) Public and Indian Housing (Assistance Listing 14.850)

Depending on whether a PHA is operating under an MTW Agreement or the MTW Operations Notice, the auditor can look at the MTW Agreement or the MTW Operations Notice, as applicable, to determine which funds are included. Even though the Mainstream Vouchers program (Assistance Listing 14.879) follows HCVP procedures, that program is excluded from the MTW program. Other Special Purpose Vouchers such as HUD-VASH, NED vouchers and FUP vouchers are also excluded from the MTW program, meaning funds can only be used for the intended purposes. If HCVP funds are transferred out of HCVP, pursuant to an MTW Agreement or the MTW Operations Notice, they are subject to the requirements of the MTW Agreement or the MTW Operations Notice and should not be included in the audit universe and total expenditures for HCVP when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred out should not be shown as HCVP expenditures but should be shown as expenditures for the MTW Demonstration program. Also, if other program funds are transferred into the HCVP account, pursuant to an MTW Agreement or the MTW Operations Notice, all the HCVP funds would then be considered MTW funds.

If the MTW agency does not transfer all the funds from the HCVP into the MTW

account or another of the authorized programs, those funds would be considered, and audited, under the HCVP.

PHAs may obtain proceeds from dispositions of public housing real property under Sections 18 and 22 of the 1937 Act (Assistance Listing Number 14.850). PHAs may use net proceeds, if approved by HUD, for the provision of low-income housing, which includes certain Section 8 HCVP uses. If a PHA receives HUD approval to use proceeds for certain HCVP purposes, those funds would be considered, and audited, under the HCVP.

4. *Activities Unallowed – HCV, Mainstream*

a. Non MTW PHAs must use HAP for HAP expenses only, and other uses are unallowed.

b. With the exception of Moving to Work Housing Authorities, Transfers of HAP, and associated administrative fees, even temporarily, to support another program (such as the Low-Rent program or Local Housing programs) or use are not allowed and could be considered a breach of the ACC (see III.L.1.e.(3), "Reporting--Financial Reporting--FDS Transfer Line Items"). Such use may result in civil penalties or sanctions (24 CFR section 985.109).

c. The 2005 Appropriations Act, and subsequent appropriations acts prohibit the use of appropriated funds by any PHA for "over- leasing." Over-leasing occurs when a PHA has more unit months under a HAP contract for the CY than are available under its ACC baseline, even if the PHA has sufficient Budget Authority to support the additional unit months. Over-leasing is measured on a CY basis. If a PHA engages in over-leasing, it must identify other allowable non-HAP sources to pay for the over-leasing. In addition, the 2008 Appropriations Act and subsequent appropriations acts require that administrative fees be based on actual leasing as of the first day of the month (Division I, Title II, Section (5) of Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, 118 Stat. 3295; Division K, Title II, Section (1) of Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, 121 Stat. 2413; see Section 7 of Notice PIH 2005-01 and Section 17 of Notice PIH 2015-03). PHAs submit lease information via VMS (See also III.L.1.d (1), "Reporting--Financial Reporting--Unit Months Leased.").

B. Allowable Costs/Cost Principles

The amount of salary, including bonuses, of PHA chief executive officers, other officers, and employees paid with Section 8 HCV administrative fees and Section 9 Capital and Operating funds may not exceed the annual rate of basic pay payable for a federal position at Level IV of the Executive Schedule (currently 2024 $191,900) (Section 227 of Pub. L. No. 113-235, 128 Stat. 2756, December 16, 2014, and carried forward in each subsequent appropriations act). Implementing guidance has been issued in PIH_2024-16"Guidance on

PHA salary restrictions in HUD's annual appropriations" (https://www.hud.gov/program_offices/public_indian_housing/publications/notices).

E. Eligibility

1. Eligibility for Individuals

a. Most PHAs devise their own application forms that are filled out by the PHA staff during an interview with the tenant. The head of the household and spouse, regardless of age, and each member of the family of an assistance applicant or participant who is at least 18 years of age signs (a) one or more release forms to allow the PHA to obtain information from third parties; (b) a federally prescribed general release form for employment information; and (c) a privacy notice. (24 CFR sections 5.212 and 5.230).

b. The PHA must do the following:

(1) As a condition of admission or continued occupancy, require the tenant and other family members to provide necessary information, documentation, and releases for the PHA to verify income eligibility (24 CFR sections 5.230, 5.609, and 982.516).

(2) For both family income examinations and reexaminations, obtain and document in the family file third party verification of (1) reported family annual income; (2) the value of assets; (3) expenses related to deductions from annual income; and (4) other factors that affect the determination of adjusted income or income- based rent (24 CFR section 982.516).

(3) Determine income eligibility and calculate the tenant's rent payment using the documentation from third party verification in accordance with 24 CFR Part 5 Subpart F (24 CFR section 5.601 et seq.) (24 CFR sections 982.201, 982.515, and 982.516).

(4) Use the Enterprise Income Verification (EIV) system in its entirety to verify tenant employment and income information during mandatory reexaminations of family composition and income in accordance with 24 CFR 5.233; and reduce administrative and subsidy payment errors in accordance with 24 CFR 5.236 and other administrative guidance issued by HUD.

(5) Tenants need to be on the HCVP waiting list (see III.N.1, "Special Tests and Provisions – Selection from the Waiting List") (24 CFR sections 982.202 through 982.207).

(6) Reexamine family income and composition at least once every 12

months and adjust the tenant rent and housing assistance payment as necessary using the documentation from third party verification (24 CFR section 982.516).

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

Not Applicable.

3. Eligibility for Subrecipients

Not Applicable.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable.

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable.

c. *SF-425, Federal Financial Report* – Not Applicable

2. Performance Reporting

Report Title: HUD-52648, *SEMAP Certification – Addendum for Reporting Data for De-concentration Bonus Indicator*
OMB PRA Number: OMB No. 2577-0215
Reporting Authority: 24 CFR Part 985
Reporting period/submission date(s): PHAs with jurisdiction in metropolitan Fair Market Rent areas have the option of submitting data to HUD with their annual SEMAP certifications on the percent of their tenant-based Section 8 families with children who live in and who have moved during the PHA fiscal year to low poverty census tracts in the PHA's principal operating area. Submission of this information with the SEMAP certification makes the PHA eligible for bonus points under SEMAP (24 CFR section 985.3(h)).

The auditor will review this information only if the PHA chooses to report on this bonus indicator. The auditor will request the PHA to provide a description of how they pulled the data, and the auditor will confirm that it properly represents the required information listed below under *Key Line Item*s.
Link to report and report instructions:
https://www.hud.gov/sites/dfiles/OCHCO/documents/52648.pdf

Key Line Items – The following report line items contain critical information and should be tested against the PHA's system of record or a printout from HUD's

systems and matched with poverty data:

1. Line 1a – Number of Section 8 families with children assisted by the PHA in its principal operating area at the end of the last PHA fiscal year (FY) who live in low poverty census tracts.

2. Line 1b – Total Section 8 families with children assisted by the PHA in its principal operating area at the end of the last PHA FY.

3. Line 1c – Percent of all Section 8 families with children residing in low poverty census tracts in the PHA's principal operating area at the end of the last PHA FY.

4. Line 2a – Percent of all Section 8 families with children residing in low poverty census tracts at the end of the last completed PHA FY.

5. Line 2b – Number of Section 8 families with children who moved to low poverty census tracts during the last completed PHA FY.

6. Line 2c – Number of Section 8 families with children who moved during the last completed PHA FY.

7. Line 2d – Percent of all Section 8 mover families with children who moved to low poverty census tracts during the last PHA fiscal year (line b divided by line c).

3. Special Reporting

Report Title: HUD-50058, *Family Report*
OMB PRA Number: OMB No. 2577-0083
Reporting Authority: 24 CFR Part 908, 24 CFR Part 982, 24 CFR Part 960
Reporting Period/Submission date(s): The PHA is required to submit this form electronically to HUD each time the PHA completes an issuance, admission, annual reexamination, interim reexamination, portability move-in, expiration, or other change of unit for a family. The PHA must also submit the Family Report when a family ends participation in the program or moves out of the PHA's jurisdiction under portability (24 CFR Part 908 and 24 CFR section 982.158).
Link to report and report instructions: https://omb.report/omb/2577-0083

Key Line Items – The following line items contain critical information that the auditor tests by confirming the items for accuracy and completeness when submitted to HUD's Public Housing Information Center (PIC). The auditor collects the information from the PHA.

The auditor will verify that the information reported on the HUD-50058 is supported

by documentation in the file.

1. Line 2a – *Type of Action*
2. Line 2b – *Effective Date of Action*
3. Line 3b, 3c – *Names*
4. Line 3e – *Date of Birth*
5. Line 3n – *Social Security Numbers*
6. Line 5a – *Unit Address*
7. Line 5h, 5i – *Unit Inspection Dates*
8. Line 7i – *Total Annual Income*
9. Lines 2k and 17a – *Family's Participation in the Family Self Sufficiency (FSS) Program*
10. Line 17k (2) – *FSS Account Balance*

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Selection from the Waiting List

Compliance Requirements: The PHA must have written policies in its HCVP administrative plan for selecting applicants from the waiting list and PHA documentation must show that the PHA follows these policies when selecting applicants for admission from the waiting list. Except as provided in 24 CFR section 982.203 Special admission (non-waiting list), all families admitted to the program must be selected from the waiting list. "Selection" from the waiting list generally occurs when the PHA notifies a family whose name reaches the top of the waiting list to come in to verify eligibility for admission (24 CFR sections 5.410, 982.54(d), and 982.201 through 982.207).

Audit Objectives: Determine whether the PHA is following its own selection policies in selecting applicants from the waiting list to become participants.

Suggested Audit Procedures

a. Review the PHA's applicant selection policies.

b. Test a sample of new participants admitted to the program to ascertain if they were selected from the waiting list in accordance with the PHA's applicant selection policies.

c. Test a sample of applicant names that reached the top of the waiting list to ascertain if they were admitted to the program or provided the opportunity to be admitted to the program in accordance with the PHA's applicant selection policies.

2. Reasonable Rent

Compliance Requirements: The PHA administrative plan must state the method used by the PHA to determine that the rent to owner is reasonable in comparison to rent for other comparable unassisted units. The PHA determination must consider unit attributes such as the location, quality, size, unit type, and age of the unit, and any amenities, housing services, maintenance, and utilities provided by the owner.

The PHA must determine that the rent to the owner is reasonable at the time of initial leasing. Also, the PHA must determine reasonable rent during the term of the contract (a) before any increase in the rent to owner, and (b) at the HAP contract anniversary if there is a 10 percent decrease in the published Fair Market Rent in effect 60 days before the HAP contract anniversary. The PHA must maintain records to document the basis for the determination that rent to owner is a reasonable rent (initially and during the term of the HAP contract) (24 CFR sections 982.4, 982.54(d)(15), 982.158(f)(7), and 982.507).

Audit Objectives: Determine whether the PHA is documenting the determination that the rent to owner is reasonable in accordance with the PHA's administrative plan at initial leasing and during the term of the contract.

Suggested Audit Procedures

a. Review the PHA's method in its administrative plan for determining reasonable rent.

b. Test a sample of leases for newly leased units and ascertain if the PHA has documented the determination of reasonable rent in accordance with the PHA's administrative plan.

c. Test a sample of leases for which the PHA is required to determine reasonable rent during the term of the HAP contract and ascertain if the PHA has documented the determination of reasonable rent in accordance with the PHA's administrative plan.

3. Utility Allowance Schedule

Compliance Requirements: The PHA must maintain an up-to-date utility allowance schedule. The PHA must review utility rate data for each utility category each year and must adjust its utility allowance schedule if there has been a rate change of 10 percent or more for

a utility category or fuel type since the last time the utility allowance schedule was revised (24 CFR section 982.517).

Audit Objectives: Determine whether the PHA has reviewed utility rate data within the last 12 months and has adjusted its utility allowance schedule if there has been a rate change of 10 percent or more in a utility category or fuel type since the last time the utility allowance schedule was revised.

Suggested Audit Procedures

a. Review PHA procedures for obtaining and reviewing utility rate data each year.

b. Review data on utility rates that the PHA obtained during the last 12 months and ascertain, based on data available at the PHA, if there has been a change of 10 percent or more in a utility rate since the last time the utility allowance schedule was revised, and if so, verify that the PHA revised its utility allowance schedule to reflect the rate increase.

4. National Standards for the Physical Inspection of Real Estate (NSPIRE) / Housing Quality Standards Inspections

Compliance Requirements: The PHA must inspect the unit leased to a family at least biennially to determine if the unit meets Housing Quality Standards (HQS) and the PHA must conduct quality control re-inspections. The PHA must prepare a unit inspection report (24 CFR sections 982.158(d) and 982.405(b)). However, NSPIRE for HCV and Project Based Vouchers (PBV) programs, referred to as NSPIRE-V during HUD's demonstration, was effective October 1, 2023, and replaced HQS, as previously defined in 24 CFR 982.401, as the inspection standards for these programs. As announced in the Federal Register, "Economic Growth Regulatory Relief and Consumer Protection Act: Implementation of National Standards for the Physical Inspection of Real Estate (NSPIRE); Extension of NSPIRE Compliance Date for HCV Programs," HUD extended the compliance date for HCV and PBV programs until October 1, 2024. This applies to all Public Housing Agencies (PHAs), including MTW PHAs, administering Section 8 Housing Choice Voucher programs.

NSPIRE official notices PIH 2023-16 and PIH 2023-23, and proposed rules can be found here: Federal Register :: Economic Growth Regulatory Relief and Consumer Protection Act: Implementation of National Standards for the Physical Inspection of Real Estate (NSPIRE); Extension of NSPIRE Compliance Date for HCV Programs (hud.gov)

Audit Objectives: Determine whether the PHA documented the required annual HQS inspections and quality control re-inspections.

Suggested Audit Procedures

a. Review the PHA's procedures for performing HQS inspections and quality control re-inspections.

b. Test a sample of units for which rental assistance was paid during the fiscal year and review inspection reports to ascertain if the unit was inspected.

c. Review the PHA's reports of re-inspections to ascertain if quality control re-inspections were performed.

5. HQS Enforcement

Compliance Requirements: For units under HAP contract that fail to meet HQS, if the reported deficiency is life-threatening, the PHA must, within 24 hours of notification, both inspect the housing unit and notify the owner if the life-threatening deficiency is confirmed. The owner must then make the repairs within 24 hours of PHA notification. If the reported deficiency is non-life-threatening, the PHA must, within 15 days of notification, both inspect the unit and notify the owner if the deficiency is confirmed. The owner must then make the repairs within 30 days of notification from the PHA or within any PHA-approved extension. (24 CFR section 982.405(d)). If the owner does not correct the cited HQS deficiencies within the specified correction period, the PHA must stop (abate) HAPs beginning no later than the first of the month following the specified correction period or must terminate the HAP contract. The owner is not responsible for a breach of HQS as a result of the family's failure to pay for utilities for which the family is responsible under the lease or for tenant damage. For family-caused defects, if the family does not correct the cited HQS deficiencies within the specified correction period, the PHA must take prompt and vigorous action to enforce the family obligations (24 CFR sections 982.158(d) and 982.404).

Audit Objectives: Determine whether the PHA documented enforcement of the HQS.

Suggested Audit Procedures

Select a sample of units with failed HQS inspections during the audit period from the PHA's logs or records of failed HQS inspections.

a. Verify that the files document that the PHA required correction of any cited life threatening HQS deficiencies within 24 hours of the inspection and of all other HQS deficiencies within 30 calendar days of the inspection or within a PHA-approved extension. If the reported deficiency is non-life-threatening, the PHA must, within 15 days of notification, both inspect the unit and notify the owner if the deficiency is confirmed.

b. If the correction period has ended, verify that the files contain a unit inspection report or evidence of other verification documenting that any PHA-required repairs were completed.

c. Where the file shows that the owner failed to correct the cited HQS deficiencies within the specified time frame, verify that documents in the file show that the PHA properly stopped (abated) HAPs or terminated the HAP contract.

d. Where the file shows that the family failed to correct the cited HQS deficiencies within the specified time frame, verify that documents in the file show that the PHA took action to enforce the family obligations.

6. Housing Assistance Payment

Compliance Requirements: The PHA must pay a monthly HAP on behalf of the family that corresponds with the amount on line 12u of the HUD-50058. This HAP amount must be reflected on the HAP contract and HAP register (24 CFR section 982.158 and 24 CFR Part 982, Subpart K).

A payment standard is used to calculate the monthly housing assistance payment for a family. The "payment standard" is the maximum monthly subsidy payment. The PHA shall pay a monthly housing assistance payment on behalf of the family that is equal to the lower of: (1) The payment standard for the family minus the total tenant payment; or (2) The gross rent minus the total tenant payment. The payment standard for the family is the lower of: (i) The payment standard amount for the family unit size; or (ii) The payment standard amount for the size of the dwelling unit rented by the family. 24 CFR 982.505

PHAs must adopt a payment standard schedule that establishes voucher payment standard amounts for each area in the PHA jurisdiction. PHAs must establish a payment standard amount for each unit size, measured by number of bedrooms (zero-bedroom, one-bedroom, and so on). These payment standard amounts comprise the PHA's payment standard schedule. Generally, PHAs may set payment standards within the basic range, which is 90 percent to 110 percent, of the HUD published Fair Market Rents (FMR) or Small Area FMRs (SAFMRs), whichever is applicable, without HUD notification or approval. PHAs may set payment standards outside of the basic range with HUD notification or HUD approval (24 CFR 982.503(d)).

FMRs/SAFMRs represent the cost to rent a moderately-priced dwelling unit in the local housing market and defined as the 40th percentile of rents paid by recent movers in the given FMR area.

HUD will designate SAFMR areas at the beginning of a Federal fiscal year, and such designations will be permanent. HUD will make new area designations every 5 years thereafter as new data becomes available. Recently, on October 25, 2023, HUD designated new mandatory SAFMR areas in Federal Register notice entitled "Small Area Fair Market Rents in the Housing Choice Voucher Program Metropolitan Areas Subject to Small Area Fair Market Rents" (88 FR 73352 https://www.federalregister.gov/documents/2023/10/25/2023-23685/small-area-fair-market-rents-in-the-housing-choice-voucher-program-metropolitan-areas-subject-to). All PHAs administering HCV programs in designated SAFMR areas are required to use Small Area FMRs. A PHA administering an HCV program in either a metropolitan area not subject to the application of SAFMRs or in a non-metropolitan area for which HUD publishes SAFMRs may choose to use SAFMRs after notification to HUD. See Notice PIH 2023-32 for guidance on SAFMRs and a list of all mandatory SAFMR areas. The goal for setting

adequate payment standards is to strike a balance between maximizing the number of families assisted while minimizing family rent burden. It also has the goal of providing sufficient subsidy that allows families to be competitive in the open rental market.

HUD publishes new FMRs around August every year and the FMRs are generally effective for October 1st. PHAs must revise its payment standard amounts and schedule no later than 3 months following the effective date of the published FMR if revisions are necessary to stay within the basic range (24 CFR 982.503(c)(3). HUD requires PHAs to perform annual reviews of the adequacy of payment standard schedules and to amend them as needed.

For new HAP contracts, the PHA applies the payment standard in effect at the time of HAP contract execution. For existing HAP contracts, when the PHA's payment standard increases, the PHA must use the increased payment standard amount to calculate the monthly housing assistance payment for each program participant beginning no later than the earliest of: The effective date of an increase in the gross rent that would result in an increase in the family share; The family's first regular or interim reexamination; or one year following the effective date of the increase in the payment standard amount. PHAs may apply a payment standard increase at any earlier date, so long as that policy is included in the PHA Administrative Plan, and the policy is applied consistently to all families. 24 CFR 982.505(c)(4)

When the PHA's payment standard decreases while the family continues to reside in the unit for which the family is receiving assistance, the PHA has three options: hold harmless: The PHA may choose not to reduce the payment standard amount used to calculate the subsidy for a family for as long as the family continues to reside in the unit for which the family is receiving assistance; gradual reduction: Upon proper notification (as described below) to the family, the PHA may gradually reduce the payment standard amount used to calculate the family's subsidy, phasing in the reduction. The initial reduction in payment standard cannot take place earlier than two years following the effective date of the decrease in the payment standard; two years after effective date: Upon proper notification to the family, the PHA may choose to reduce the payment standard amount used to calculate such a family's subsidy no earlier than two years following the effective date of the decrease in the payment standard. 24 CFR 982.505(c)(3)

If the family unit size either increases or decreases during the HAP contract term, the new family unit size may be used to determine the payment standard amount for the family immediately but no later than the family's first regular reexamination following the change in family unit size. 24 CFR 982.505(c)(6)

Audit Objectives: Determine whether owners are receiving, and HUD is billed for, correct HAPs.

Suggested Audit Procedures

a. Review PHAs' quality control procedures for maintaining the HAP register.

b. Obtain supporting schedules and documents evidencing HAP disbursement as made to proper payee and on behalf of the corresponding participating family.

c. Obtain documentation and confirm the payee is entitled to HAP payment.

d. Perform recalculation of supporting schedules and documents evidencing HAP disbursement was made in the proper amount. Effective January 1, 2024, the PHA will not be considered out of compliance solely due to de minimis errors in calculating family income but is still obligated to correct errors once the PHA becomes aware of the errors. A de minimis error is an error where the PHA determination of family income deviates from the correct income determination by no more than $30 per month in monthly adjusted income ($360 in annual adjusted income). As PHAs become aware of the existence of an income calculation error, they are obligated to correct the error(s) retroactive to the effective date of the action the error was made regardless of the dollar amount associated with the error. PHAs must take corrective action to credit or repay a family if the family was overcharged tenant rent, including when PHAs make de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent.

e. Verify that HAP contracts or contract amendments agree with the amount recorded on the HAP register and the amount on 12u of the HUD-50058.

f. Obtain documentation and test whether the correct payment standard was utilized.

h. Verify a HAP contract and tenancy addendum has been fully executed. A "fully executed HAP" for the HCV Program means that the Housing Assistance Payments contract between the landlord (owner) and the Public Housing Agency (PHA) has been signed by both parties, signifying that the landlord has agreed to lease a unit to a voucher holder and the PHA has approved the unit and will provide housing assistance payments to the landlord on behalf of the tenant, with all necessary documents and conditions met according to HUD regulations. Similarly, a "tenancy addendum" is considered fully executed when both the landlord and tenant have signed the document, signifying their agreement to the additional terms and conditions outlined within it, which are now legally binding and part of the overall lease agreement; essentially, all parties involved have completed their required actions by signing the addendum.

IV. OTHER INFORMATION

EHV program funding is reported under Assistance Listing number 14.871 - “Housing Choice Voucher Program” on the Schedule of Expenditures of Federal Awards. The PHA should identify how much of the EHV funding is included in the total either by a footnote to the SEFA or by adding detail lines in the SEFA itself under the provisions of PIH Notice 2021-25 (HA), Section 8. k.

Housing Opportunity through Modernization Act of 2016 (HOTMA)

HOTMA was signed into law on July 29, 2016 (Public Law 114–201, 130 Stat. 782). The HOTMA statute consists of 14 sections of law that affect the Public Housing and Section 8 rental assistance programs. Sections 102 and 104 of HOTMA make sweeping changes to the United States Housing Act of 1937 (1937 Act), particularly those affecting income calculations and reviews. Section 102 changes requirements related to income reviews for Public Housing and Section 8 programs. Section 104 sets maximum asset limits for Public Housing and Section 8 applicants and participants. Notice PIH 2023-27, which provides implementation guidance on Sections 102 and 104 of (income and assets regulations), established that while the HOTMA Final Rule's effective date is January 1, 2024, PHAs would establish a compliance date as early as January 1, 2024, but no later than January 1, 2025. On February 23, 2024 Principal Deputy Assistant Secretary Richard Monocchio sent a letter to PHAs and noted that compliance with the final HOTMA rule requires access to Housing Information Portal and that Inventory Management System/PIH Information Center (IMS/PIC) only reflects pre-HOTMA requirements, which means that PHAs cannot implement the income and asset requirements in Sections 102 and 104 of HOTMA without having access to the revised HUD-50058 in HIP. HUD will be providing additional time for PHAs to comply beyond January 1, 2025.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANCE LISTING 14.872 PUBLIC HOUSING CAPITAL FUND

I. PROGRAM OBJECTIVES

The primary objective of the Capital Fund Program (CFP) is to make assistance available to public housing agencies (PHAs) to carry out capital and management improvement activities. The CFP can also be used for demolition, resident relocation, resident economic development, security, financing costs, and homeownership. The CFP is the major source of funding made available by HUD to PHAs for their capital activities, including modernization and development of public housing.

The objectives of modernization activities are the repair/replacement of aging building systems and the improvement of the physical condition of existing public housing developments, including the redesign, reconstruction, addition, and reconfiguration of public housing sites, buildings, facilities and/or related appurtenances or improvements (including accessibility improvements).

The objectives of management improvement activities are to upgrade the operation of public housing developments, sustain physical improvements at those developments, or correct management deficiencies.

The objective of development activities is to provide PHAs with the opportunity to replace, build, or acquire existing units to house low-income families, including costs for planning, financing, land acquisition, demolition, and construction. PHAs are able to build or acquire units up to the Faircloth limits. The Faircloth limits for PHAs are updated annually and posted on the Office of Capital Improvements website here:
Office of Capital Improvements | HUD.gov / U.S. Department of Housing and Urban Development (HUD)

The current Faircloth limits for PHAs are posted here:
https://www.hud.gov/sites/dfiles/PIH/documents/Faircloth%20List_10-15-23_FINAL2.xlsx

II. PROGRAM PROCEDURES

1. Overview

The CFP awards formula grants and several set aside specialty grants. CFP formula grants account for over 95 percent of CFP annual awards. CFP formula grants are made available to all PHAs that administer public housing units, based on a complex formula, which takes into account a number of variables related to unit characteristics and, ultimately, multiplies a per-unit amount by the number of units in the PHA. PHAs can use formula grants for any eligible Capital Fund activity.

The CFP also awards several set-aside specialty grants including Emergency/Disaster, Emergency/Disaster-Safety and Security, Emergency/Disaster-Carbon Monoxide, Housing-

Related Hazards, and Lead- Based Paint grants. The CFP also contains the Capital Fund Financing Program (CFFP), and this financing program is described below.

For Emergency/Disaster grants, Congress has set aside an annual average of $20 million within the Capital Fund account to assist PHAs that have incurred damage to their public housing units as a result of an emergency or non-presidentially declared natural disaster. PHAs submit an application for this funding. The funding is allocated based on the order in which the Department of Housing and Urban Development (HUD) receives approvable applications.

For Emergency/Disaster - Safety and Security grants, Congress has set aside $10 million within the Capital Fund account to support PHAs as they address the safety of public housing residents. These grants support PHAs as they address the safety of public housing residents. These grants may be used to install, repair, or replace capital needs items including security systems/surveillance cameras, fencing, lighting systems, emergency alarm systems, window bars, deadbolt locks and doors. PHAs submit an application for this funding. The funding is allocated based on a lottery in which the Department of Housing and Urban Development (HUD) reviews approvable applications and enters the approvable applications in the lottery.

For Emergency/Disaster - Safety and Security Carbon Monoxide grants, the Department has set aside of $10 million for the Safety and Security program. These grants support PHAs as they address the safety of public housing residents. These grants may be used to install carbon monoxide detectors in public housing. PHAs submit a competitive application for this funding. The funding is allocated based on application score.

Note that Lead-Based Paint and Housing-Related Hazards grants are covered under the Part 4 program section for Assistance Listing 14.888.

For the Capital Fund Financing Program (CFFP), HUD has permitted PHAs to borrow funding secured to a portion of future Capital Fund grants under the CFFP. PHAs must obtain HUD’s permission prior to borrowing funds securitized by any public housing asset (including real property, other PHA owned property purchased with federal grant funds, and CFP grant funds themselves). HUD reviews each transaction to ensure that PHAs will not be overcommitted to payment of debt service to the detriment of the public housing stock/program, for the reasonableness of the terms of the transaction, and to mitigate risk of default. CFFP transactions continue to be underwritten with the current portfolio of approximately $5 billion impacting close to 300 PHAs nationwide.

2. Subprograms/Program Elements

Prior to submitting the 5-Year Action Plan to HUD for review and approval, a PHA must annually conduct a public hearing and consult with the Resident Advisory Board (RAB) of the PHA to discuss the Capital Fund submission. The PHA may elect to conduct a separate annual public hearing in order to solicit public comments or to hold the annual public hearing at the same time as the hearing for the Annual PHA Plan, the 5-Year Plan, or the required annual hearing for qualified public housing authorities. The hearing must be

conducted at a location that is convenient to the residents served by the PHA.

A PHA must have an approved 5-Year Action Plan (HUD 50075.2 (OMB No. 2577-0226)) and Document package in EPIC to have access to Capital Funds. Once a PHA submits an Annual Statement/Budget in EPIC (HUD 50075.1), HUD spreads Capital Funds to all of the appropriate budget line items (BLIs) in the Line of Credit Control System (LOCCS) in accordance with the information contained in the 5-Year Action Plan (HUD 50075.2). A PHA may then drawdown funds as needed on a three-day turnaround basis to pay for approved work activities. The three-day turnaround means the PHA expends the funds drawn down from LOCCS within three business days.

In planning its modernization projects, the PHA is required to consult with residents and local government officials. After grant award, the PHA may select an architect or engineer through competitive negotiation to develop the plans and specifications for the construction work. Construction work as well as management improvements may be carried out through contract labor (competitively procured) or the PHA's own work force (force account). The PHA or its architect monitors the work in progress for compliance with contract requirements and acceptable work quality and submits periodic progress reports to HUD.

PHAs may develop public housing in accordance with 24 CFR section 905.600. For development projects, the PHA is responsible for negotiating a local cooperation agreement that establishes what services the locality will provide to the public housing project, for project planning, and for submitting a development proposal (and a site acquisition proposal, if applicable). This includes selecting sites or properties to be acquired, contracting with builders to construct or rehabilitate housing, contracting with developers for the purchase of completed (new or rehabilitated) housing, and purchasing existing housing that may require repairs. In addition, as a developer, the PHA is responsible for selecting and contracting with other parties (e.g., architects and engineers) and for expediting and coordinating the preparation of required HUD submissions.

3. Other

Financial Reporting
In accordance with HUD's Uniform Financial Reporting Standards rule, annually, a PHA is required to submit financial statements, prepared in accordance with generally accepted accounting principles (GAAP), in the electronic format specified by HUD. The unaudited financial statement is due two months after the PHA's fiscal year end (FYE) and the audited financial statement is due nine months after its FYE (24 CFR section 5.801). The financial statement must include the financial activities of this program.

PHAs submit actual modernization cost certificates (AMCC) form *HUD-53001* and actual development cost certificates (ADCC) form *HUD -52427* with the local HUD Field Office for approval when they complete a modernization or development project. The AMCC or ADCC is required for CFP grant closeout.

Source of Governing Requirements

The programs are authorized under 42 USC 1437g. The program implementing regulation is 24 CFR Part 905.

Availability of Other Program Information

HUD posts guidance on the CFP to its Office of Capital Improvements Home Page that provides grantees with information on timelines, budgets, financial instructions, and other program guidance. Information regarding the financial reporting requirements of the PHAs is provided by HUD on the Real Estate Assessment Center (REAC) website.

Here are some helpful links:

Office of Capital Improvements web page:
https://www.hud.gov/program_offices/public_indian_housing/programs/ph/capfund

REAC web pages:
https://www.hud.gov/program_offices/public_indian_housing/reac
https://www.hud.gov/program_offices/public_indian_housing/reac/products/prodpha
https://www.hud.gov/program_offices/public_indian_housing/reac/products/prodphasintrule

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	N	Y	N	N	Y	N	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. For Capital Fund formula grants and grants from the set-aside for emergencies and natural disasters, allowed Capital Fund activities include the following: (1) developing, financing, or modernizing public housing; (2) vacancy reduction; (3) deferred maintenance; (4) replacement of obsolete utility systems and dwelling equipment; (5) code compliance; (6) management improvements; (7) demolition and replacement; (8) resident relocation; (9) resident economic empowerment/economic self- sufficiency; and (10) security; and (11) homeownership (42 USC 1437g(d): Annual contributions for operation of low-income housing (house.gov); 24 CFR section 905.200). A PHA with fewer than 250 units that is not designated as troubled under the Public Housing Assessment System (PHAS) may use up to 100 percent of its annual Capital Fund grant for activities that are eligible under the Operating Fund at 24 CFR part 990 (see Assistance Listing 14.850, III.A, “Activities Allowed or Unallowed”), except that the PHA must have determined that there are no debt service payments, significant Capital Fund needs, or emergency needs that must be met prior to transferring 100 percent of its funds to operating expenses 24 CFR section 905.314(l).

   b. For Capital Fund Replacement Housing Factor (RHF) grants, activities are limited to the development of replacement housing (24 CFR section 905.400(i)).

2. *Activities Unallowed*

   A PHA must not incur any cost in excess of the total HUD-approved PHA - Annual Statement/Budget. Budget revisions must be submitted in EPIC for deviations from the originally approved program. A PHA must not incur any cost on behalf of any development that is not covered by its current approved 5-Year Action Plan (24 CFR section 905.200(a)).

The ineligible activities and costs for the Capital Fund Program are located at 24 CFR 905.202 (https://www.ecfr.gov/current/title-24/subtitle-B/chapter-IX/part- 905). The following list describes ineligible activities and costs for the Capital Fund Program:

a. Not Related to Public Housing. PHAs may not spend Capital Funds on costs that are not associated with a Public Housing Development or Modernization Project.

b. Not in 5-Year Action Plan. PHAs may not spend Capital Funds on activities and costs that are not included in the PHA's 5-Year Action Plan (Note: Emergency Work or Non-Presidentially Declared Natural Disaster assistance that is not identified in the 5-Year Action Plan is an eligible cost).

c. Not Modest Design. PHAs may not spend Capital Funds on improvements or purchases that are not considered modest in design and cost because they include amenities, materials, and design in excess of what is customary for the locality, as determined by the PHA and field office. These include, but are not limited to, granite counter tops, dishwashers, microwaves, swimming pools, saunas, whirlpool baths, and hot tubs. Modernization and development activities require Field Office review and approval of the PHA's annual and five-year plans detailing the activities. These activities must be within the total development costs (TDC) limits. The TDC limits for PHAs are updated annually and posted on the Office of Capital Improvements website here: Office of Capital Improvements | HUD.gov / U.S. Department of Housing and Urban Development (HUD). The current TDC limits are posted here: 2023_Units_TDC_Limits.pdf (hud.gov)

d. Not Eligible based on OMB Regulatory and Circular Guidance. PHAs may not spend Capital Funds on any costs not authorized in 2 CFR Part 200 Subpart E (formerly OMB Circular A-87 and 2 CFR Part 225), including indirect Administrative Costs, indemnification, and capitalizing reserves.

e. Operating Assistance. PHAs may not spend Capital Funds on Public Housing operating assistance, except as provided through transfers to BLI 1406.

f. Benefitting Other Programs. Eligible costs that exceed the amount directly attributable to the public housing units when the physical or management improvements, including salaries and employee benefits and contributions, will benefit programs other than public housing, such as Section 8 Housing Choice Voucher, or local revitalization programs. For example, the annual audit covers all of the PHA's activities such as the Operating Fund, Capital Fund, Housing Choice Vouchers, and non- federally funded activities. Only a pro-rata share of the Audit cost attributable to the Capital Fund may be charged to the Capital Fund.

g. Security Services. Ongoing security services, including:

(1) Contracts with local police departments including above baseline police services except where permitted by HUD FY Appropriations Acts;

(2) The salaries and benefits for security guards, patrols, or police officers (full-time, part-time, or after hours); and

(3) The purchase or leasing of vehicles for security personnel.

h. Supportive Services. The provision of supportive services to public housing residents, including:

(1) The salaries and benefits or contract costs for service providers, including resident coordinators, case managers, social workers, nurses, chore service providers, supplemental police or probation services providers, and tutors;

(2) Health and wellness activities;

(3) Educational enrichment and recreational activities, including social organizations; and

(4) Job development and placement services, including the cost of professional licenses, certifications and exams, and transportation assistance.

i. Duplicate Funding. An otherwise eligible cost that is funded by another source and would result in duplicate funding; and

j. Other Activities. Any other activities and costs that HUD may determine are ineligible on a case-by-case basis, consistent with the 1937 Act and its regulations.

B. Allowable Costs/Cost Principles

Allocation of Costs with Other Programs. Where the physical or management improvement costs will benefit programs other than public housing, such as the Housing Choice Voucher program or local revitalization programs, Capital Fund-eligible costs are limited to the amount directly attributable to the public housing program. The amount of salary, including bonuses, of PHA chief executive officers, other officers, and employees paid with Section 8 Housing Choice Vouchers administrative fees and Section 9 Capital and Operating funds may not exceed the annual rate of basic pay payable for a federal position at Level IV of the Executive Schedule 1 (Section 227 of Pub. L. No. 113-235, 128 Stat. 2756, December 16, 2014, and carried forward in each subsequent appropriations act). Implementing guidance

has been issued in PIH Notice 2016-14, "Guidance on Public Housing Agency (PHA) salary restriction in HUD's annual appropriations." The Executive Pay Schedule may be obtained at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2023/EX.pdf (24 CFR section 1006.370(b)).

1. Insurance Proceeds

PHAs are required to use insurance proceeds to promptly restore, reconstruct, and/or repair any damaged or destroyed property of a project, except when a written approval of HUD instructs a PHA to do otherwise. Unspent insurance proceeds are normally recorded as cash-restricted modernization and development, FDS line 112, up to the amount of the repair (Section 13 of Part A of ACC).

Emergency and Natural Disaster Reserve – In cases of unforeseeable and unpreventable emergencies that include damages to the physical structure of the housing stock, PHAs may request funding from the Emergency and Natural Disaster Reserve of the Capital Fund, an appropriated set-aside of the Capital Fund. Such grants would have a "D" or an "E" as the fifth character in the grant number. The approval for these grants requires that the PHA pay first from any insurance proceeds, but while the PHA's warranty or insurance policy may cover the damages fully or partially, it usually takes time for the PHA to receive the insurance proceeds. These grant funds may be used to cover any costs not met with insurance proceeds, but any remaining funds must be returned to HUD. If these grant funds are used before insurance proceeds are received, the PHA must pay back the Emergency and Natural Disaster Reserve.

2. Debt Secured to Public Housing Asset

PHAs are only permitted to borrow funds secured to public housing assets (including real property, other PHA owned property purchased with federal grant funds and CFP grant funds themselves) if they have obtained HUD's authorization prior to creating a security interest in public housing assets. This requirement does not prohibit a PHA from borrowing funds that are unsecured or that are not secured to public housing assets. In granting the required authorization, HUD will issue both an approval letter as well as a CFFP ACC Amendment (42 USC 1437z-2).

C. Cash Management

Congress provides funding for the Public Housing programs through annual appropriation acts. HUD then allocates and awards funding to PHAs in accordance with the appropriations acts. PHAs that have public housing units under an Annual Contributions Contract (ACC,) as described in 24 CFR 5.403 are subject to 24 CFR Part 905 and 24 CFR Part 990. PHAs are to comply with all HUD and Treasury fiscal requirements.

2 CFR 200.305 for Federal Payments and 24 CFR 905.310 for Disbursements from HUD establish the cash management procedures for controlled disbursement of federal funds. 2 CFR 200.305 requires PHAs to minimize the time federal funds are drawn down to

expenditure. The Capital Fund Program provides guidelines of three business days from draw down to expenditure to minimize the interest accrued by the PHA. 24 CFR 905.310 states the PHA shall initiate a fund requisition from HUD only when funds are due and payable, unless HUD approves another payment schedule as authorized by 2 CFR 200.305.

H. Period of Performance

1. Obligations

Unless an extension is approved by HUD, a PHA must obligate at least 90 percent of each Capital Fund grant, including formula grants, non-accumulating RHF, natural disaster, and lead-based paint grants within 24 months of the funds becoming available to the PHA for obligation. For emergency grants, safety and security grants and safety and security-carbon monoxide grants, the PHA must obligate at least 90 percent within twelve months of the funds becoming available. The funds become available when HUD executes the Annual Contributions Contract (ACC) Amendment (24 CFR section 905.306).

Obligation means a binding agreement for work or financing that will result in outlays, immediately or in the future. All obligations must be incorporated within the CFP 5-Year Action Plan that has been approved by the PHA Board of Commissioners and HUD. This includes funds obligated by the PHA for work to be performed by contract labor (i.e., contract award), or by force account labor (i.e., work actually started by PHA employees). Capital Funds identified in the PHA's CFP 5-Year Action Plan to be transferred to operations are obligated by the PHA once the funds have been budgeted and drawn down by the PHA. Once these funds are drawn down they are subject to the requirements of 24 CFR part 990.

The date of the contract signing is the obligation date. If the parties sign the contract at different times, the date of the last signature is the obligation date. In some instances, a purchase order would constitute an obligation (e.g., large items such as stoves or refrigerators). All obligations should reflect work items detailed in the approved 5-year action plan.

2. Expenditures

For Capital Fund formula, RHF, natural disaster, and lead-based paint grants, unless HUD approves an extension, a PHA must expend all grant funds no later than 48 months after HUD executes the ACC Amendment (24 CFR section 905.306(f)). However, for emergency grants, safety and security grants and safety and security-carbon monoxide grants, a PHA must expend all grant funds no later than 24 months after HUD executes the ACC Amendment if such a requirement is contained in the ACC Amendment.

A PHA must also expend 100% percent of the authorized amount of a Capital Fund grant within 48 months of the date that funds are made available, or the obligation start date. (24 CFR section 905.306).

3. Capital Funds for Operating Costs

Capital Funds transferred to operations (BLI 1406) are not considered obligated until the PHA has budgeted and drawn down the funds. To meet this requirement, the funds must be budgeted in line BLI 1406 (Operations) and the PHA must submit the voucher request in LOCCS. The PHA's reported obligation amount in LOCCS must be the same amount in the PHA's accounting system since the date of the voucher request in LOCCS is the point of obligation for funds in BLI 1406. The voucher request date must occur before those funds are reported as obligated in LOCCS under the Obligation & Expenditure tab (24 CFR section 905.314(l)).

L. Reporting:

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement*- Not applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* – Not applicable

c. *SF-425, Federal Financial Report*- Not applicable

d. *HUD-53001, Actual Modernization Cost Certificate (AMCC) Capital Fund Program* (OMB No. 2577-0157)

Report authority: 24 CFR 905.324 Data Reporting Requirements

For modernization projects, the PHA shall submit the AMCC within 90 days after Expenditure End Date. To initiate the closeout process, the PHA shall submit the AMCC which details actual costs incurred between the DOFA date and the completion of the modernization project.

Key line items: The following line items contain critical information

1. **Line 1B, Funds Disbursed** - For the identified grant, enter the total funds disbursed by HUD. This amount may never exceed the amount on line 1A.

2. **Line 1E, Excess of Funds Disbursed (B minus C) -** For the identified grant, enter the excess of funds disbursed by subtracting line 1C from line 1B; this is the amount to be remitted by the PHA to HUD. If line 1C is greater than line 1B, enter the figure in brackets; this is the amount of funds owed by HUD to the PHA.

2. Performance Reporting

Report Title: *HUD 50075.1,* Annual Statement Performance and Evaluation Report

OMB PRA Number: (OMB No. 2577-0157)

Report Authority: 24 CFR 905.324 Data Reporting Requirements

Reporting period/submission date/s: Initial estimated report submitted prior to grant being awarded. Final Report submitted within 90 days of the expenditure end date.

Link to report and report instructions:
https://www.hud.gov/sites/dfiles/OCHCO/documents/50075.1.pdf

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

Line 20 Amount of Annual Grant. After initial approval by HUD, the sum of lines 2 through 19 in the Revised Total Estimated Cost column may not exceed the annual grant amount.

3. Special Reporting:

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act:

Not Applicable

IV. OTHER INFORMATION

The Moving to Work (MTW) demonstration program (Assistance Listing 14.881) allows selected PHAs the flexibility to design and test various approaches to providing and administering housing assistance consistent with the MTW Agreement executed by the PHA and HUD. An MTW agency may combine funds from the following three programs:

1. Section 8 Housing Choice Vouchers (Assistance Listing 14.871)
2. Public Housing Capital Fund (Assistance Listing 14.872)
3. Public and Indian Housing (Assistance Listing 14.850)

If a PHA is operating under an MTW Agreement, the auditor should look to the MTW Agreement to determine which funds are included in the MTW Agreement. If CFP funds are transferred out of CFP, pursuant to an MTW Agreement, they are subject to the requirements of the MTW Agreement and should not be included in the audit universe and total expenditures for CFP when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred out should not be shown as CFP expenditures but should be shown as expenditures for the MTW Demonstration program. Also, if other program funds are transferred into the CFP account pursuant to an MTW Agreement, all of the CFP funds would then be considered MTW funds.

Where the MTW agency does not transfer all the funds from the CFP into the MTW account or another of the authorized program, those funds would be considered, and audited, under the CFP.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANCE LISTING 14.873 NATIVE HAWAIIAN HOUSING BLOCK GRANT

I. PROGRAM OBJECTIVES

The primary objectives of the Native Hawaiian Housing Block Grant (NHHBG) program is to (1) assist and promote affordable housing activities to develop, maintain, and operate affordable housing in safe and healthy environments for occupancy by low-income Native Hawaiian families; (2) ensure better access to private mortgage markets and to promote self-sufficiency of low-income Native Hawaiian families; (3) coordinate activities to provide housing for low-income Native Hawaiian families with Federal, State, and local activities to further economic and community development; (4) plan for and integrate infrastructure resources on the Hawaiian home lands with housing development; (5) promote the development of private capital markets; and (6) allow the private capital markets to operate and grow, thereby benefiting Native Hawaiian communities. (25 USC 4228(a)(1)).

II. PROGRAM PROCEDURES

The U.S. Department of Housing and Urban Development (HUD) allocates the funds to the Department of Hawaiian Home Lands (DHHL), provided DHHL complies with the requirements of Section 802 of the Native American Housing Assistance and Self-Determination Act (NAHASDA). To access funds, DHHL must submit a Native Hawaiian Housing Plan (NHHP) to HUD, and HUD must find that the NHHP meets the requirements of NAHASDA. NHHBG funds may only be used for eligible activities that are consistent with the DHHL's NHHP (24 CFR section 1006.201).

Source of Governing Requirements

This program is authorized by NAHASDA, codified at 25 USC 4221 through 4243. The implementing regulations are in 24 CFR Part 1006.

Availability of Other Program Information

Additional information on the NHHBG program is available at https://www.hud.gov/program_offices/public_indian_housing/ih/codetalk/onap/nhhbgprogram.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the Federal program at the auditee. For each such compliance

requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	N	Y	Y	N	Y	N	Y

A. Activities Allowed or Unallowed

NHHBG funds (including program income generated by activities carried out with grant funds) may only be used for the following NAHASDA-eligible activities:

1. *Development* – The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include real property acquisition, site improvement, development of utilities and utility services, conversion, demolition, financing, administration and planning, and other related activities (25 USC 4229(b)(1)).

2. *Housing Services* – The provision of housing-related services for affordable housing, such as housing counseling in connection with rental or home ownership assistance, establishment and support of resident organizations and resident management corporations, energy auditing, activities related to the provision of self-sufficiency and other services, and other services related to assisting owners, tenants, contractors, and other entities participating or seeking to participate in other housing activities assisted by this program (25 USC 4229(b)(2)).

3. *Housing Management Services* – The provision of management services for affordable housing, including preparation of work specifications; loan processing, inspections; tenant selection; management of tenant-based rental assistance; and management of affordable housing projects (25 USC 4229(b)(3)).

4. *Crime Prevention and Safety Activities* – The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable

housing from crime (25 USC 4229(b)(4)).

5. *Model Activities* – Housing activities under model programs that are designed to carry out the purposes of NAHASDA and are specifically approved by the secretary of HUD as appropriate for such purpose (25 USC 4229(b)(5)).

B. Allowable Costs/Cost Principles

1. All items of cost listed in 2 CFR Part 200, Subpart E that require prior Federal agency approval are allowable without prior approval, except for the following:

   a. Depreciation methods for fixed assets shall not be changed without the approval of the federal cognizant agency.

   b. Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances, and personal living expenses (goods or services for personal use), regardless of whether reported as taxable income to the employees, require prior HUD approval.

   c. Organization costs require prior HUD approval.

2. Fines, penalties, damages, and other settlements are unallowable.

3. No person providing consultant services in an employer-employee type of relationship may receive more than a reasonable rate of compensation. Such compensation must not exceed the equivalent of the daily rate paid for Level IV of the Executive Schedule (currently $191,900). The Executive Pay Schedule may be obtained at *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/* (24 CFR section 1006.370(b)).

E. Eligibility

1. Eligibility for Individuals

   a. The Director of DHHL shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under NAHASDA (25 USC 4230(d)).

   b. The following families are eligible for affordable housing activities:

      (1) Low-income Native Hawaiian families eligible to reside on the Hawaiian Home Lands (24 CFR section 1006.301(a)).

      (2) When approved by HUD, a non-low-income Native Hawaiian family may receive assistance for homeownership activities to address a need for housing that cannot be reasonably met without

that assistance (24 CFR section 1006.301(b)).

c. A non-low-income and non-Native Hawaiian family may receive housing or NHHBG assistance if the DHHL documents that the family's housing needs cannot be reasonably met without such assistance, and the presence of that family is essential to the well-being of Native Hawaiian families (24 CFR section 1006.301(c)).

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

H. Period of Performance

Grant funds received prior to fiscal year (FY) 2015 may be used until expended. For NHHBG grant funds received in FY 2015 and subsequent fiscal years, all funds must be expended by September 30 of the 9th year of the appropriation. For example, FY 2015 funds must be expended by September 30, 2024 (Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113-235, 128 Stat. 2738, December 16, 2014, and subsequent appropriations).

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable. Be advised that, pursuant to 2 CFR section 200.328, Notice PIH 2022-15 was issued on June 8, 2022, advising grantees that Office of Native American Programs (ONAP) reduced the frequency for NHHBG grant recipients submitting SF-425 forms from quarterly to annually.

2. **Performance Reporting**

Report Title: *HUD-50090, Native Hawaiian Housing Plan/Annual Performance Report*

OMB PRA Number: Exempt from OMB Approval 5 CFR section 1320.3(c)(4)

Report Authority: 24 CFR section 1006.410
Reporting period/submission date/s: Annual Performance Report section of the report submitted by the 90th day after DHHL's program year.

Link to report and report instructions:
https://www.hud.gov/sites/dfiles/OCHCO/documents/50090.pdf

Key Line Items – The following line items contain critical information. The data reported by the recipient in response to each line item is documented in the recipient's file.

1. Section 3, Line 1.9 – *Planned and Actual Outputs for 12-month Fiscal Year*

2. Section 5, Line 1 – *Sources of Funds* – columns G and K

3. Section 5, Line 2 – *Uses of Funds* – columns O through Q

4. Section 9, Line 1 – *Inspections of Units* – column B

5. Section 12, Lines 1 and 2 – *Jobs Supported by NAHASDA* – NHHBG Assistance Lines 1 and 2; Section of the HUD Act of 1968 Reporting Requirements Lines 1, 2, and 3

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3. L for audit guidance.

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements For NHHBG funds, contracts and agreements for assistance, sale, or lease under this part must require prevailing wage rates under the Wage Rate Requirements to be paid to laborers and mechanics employed in the development of affordable housing. When NHHBG assistance is only used to assist homebuyers to acquire single family housing, the Wage Rate Requirements apply to the construction of the housing if there is a written agreement with the owner or developer of the housing that NHHBG assistance will be used to assist homebuyers to buy the housing (25 USC 4225(b); 24 CFR section 1006.345(a)).

See Part 4, 20.001, Wage Rate Requirements Cross-Cutting Section.

2. Environmental Review

Compliance Requirements Program regulations provide that DHHL will assume responsibilities for environmental review and decision making under the requirements of 24 CFR Part 58. Funds may not be committed to a grant activity or project before the completion of the environmental review and approval of the request for release of funds and related certification (24 CFR Section 1006.350). Additional information on environmental review requirements can be found at https://www.hudexchange.info/programs/environmental-review/.

Audit Objectives. Determine whether (1) the required environmental reviews have been performed and (2) program funds were not obligated or expended prior to completion of the environmental review process.

Suggested Audit Procedures

Select a sample of projects for which expenditures were made and verify that:

Environmental Reviews

a. Environmental determinations were made for each project or activity.

b. Environmental determinations were supported by an environmental review, including supporting documentation for each applicable law and authority.

c. For any project where a Request for Release of Funds (RROF) and environmental certification was not submitted, the environmental review includes a written determination that the project or activity is covered by PIH Notice 2024-24 Programmatic Part 50, or is exempt under a criterion of 24 CFR section 58.34 or is categorically excluded under a criterion of 24 CFR section 58.35(b), and meets the conditions specified for such exemption or categorical exclusion, with supporting documentation.

Request for Releases of Funds

a. Examine HUD's approval of the RROF and environmental certification and note receipt dates.

b. Review the expenditure and related records and determine the dates the funds were obligated or expended.

c. Determine those funds were obligated or expended subsequent to RROF and environmental certification approval by HUD .

3. Section 3 of the Housing and Urban and Development Act of 1968.

Compliance Requirements Section 3 is a provision of the Housing and Urban and Development Act of 1968 and is found at 12 U.S.C. 1701u. It requires that recipients of certain HUD financial assistance including NHHBG, see 24 CFR section 1006.375(e), to the greatest extent possible, provide training, employment, contracting and other economic opportunities to low- and very low-income persons, especially recipients of government assistance for housing, and to businesses that provide economic opportunities to low- and very low-income persons. Grantees must establish and maintain (or ensure that a subrecipient, contractor, or subcontractor maintains) documentation to demonstrate that workers on Section 3 projects meet the definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting period. This includes requiring written reports from developers or contractors summarizing the totals for labor hours worked, including Section 3 worker and Targeted Section 3 worker labor hours, and documentation from employees or employers certifying that the employee (the procedure was done on the same sample that procedures a-c above it were coming from) met the requirements to receive Section 3 worker status.

Audit Objectives Determine whether the Grantee is following its own Section 3 policy and procedures by collecting and maintaining adequate records demonstrating Section 3 compliance.

Suggested Audit Procedures

a. Review the grantee's Section 3 policy and procedures.

b. Review a sample of contracts/agreements for housing rehabilitation, housing construction, or other public construction projects, to determine if the grantee notified contractors of requirements to maintain or ensure that the contractor, or subcontractor, maintains adequate records demonstrating Section 3 compliance.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANCE LISTING 14.881 MOVING TO WORK DEMONSTRATION PROGRAM

I. PROGRAM OBJECTIVES

The Moving to Work (MTW) Demonstration program offers public housing authorities (PHAs) the opportunity to design and test innovative, locally designed housing and self-sufficiency strategies for low-, very-low, and extremely low-income families by allowing exemptions from existing public housing and tenant-based Housing Choice Voucher (HCV) rules. Additionally, the program provides PHAs the flexibility to apply funding flexibility among three core funding program streams - public housing Operating Fund, public housing Capital Fund, and HCV funds (both Housing Assistance Payments and HCV Administrative Fees) hereinafter referred to as "MTW Funding."

The purpose of the MTW Demonstration program is to give PHAs and United States Department of Housing and Urban Development (HUD) the flexibility to design and test various approaches for providing and administering housing assistance that accomplish the statutory objectives to

a. Reduce cost and achieve greater costs effectiveness in federal expenditures;

b. Give incentives to families with children where the head of household is working, is seeking work, or is preparing for work by participating in job training, educational programs, or programs that assist people to obtain employment and become economically self-sufficient; and

c. Increase housing choices for low-income families.

II. PROGRAM PROCEDURES

A. Overview

The MTW Demonstration program is authorized by Section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (see "Source of Governing Requirements").

Initially, 30 PHAs were permitted to participate in the demonstration program and since then Congress has authorized nine additional agencies. The Consolidated Appropriations Act of 2016 authorized HUD to add an additional 100 new agencies to the demonstration. All one hundred (100) new Expansion PHAs have been selected. The agencies authorized to conduct MTW programs are required to establish a reasonable rent policy designed to encourage employment and self-sufficiency by participating families, such as by excluding some (or all of) a family's earned income for purposes of determining rent.

The MTW Demonstration program does not provide any additional funding to PHAs. Funding originates from the following HUD programs:

a. Section 8, Housing Choice Vouchers (Assistance Listing 14.871)

b. Section 9, Public and Indian Housing (Assistance Listing 14.850)

c. Section 9, Public Housing Capital Fund (Assistance Listing 14.872)

The authorized funding is stated in Attachment A of the Standard MTW Agreement for existing MTW agencies designated under Section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996. New MTW agencies designated under the Consolidated Appropriations Act of 2016, and to any previously designated MTW agency that elects to operate under the terms of the Operations Notice, will be funded according to the Operations Notice.

B. Statutory Requirements for MTW Agencies

All PHAs participating in the MTW Demonstration program must meet the following statutory requirements:

1. Ensure that at least 75 percent of the families assisted by the PHA under the demonstration will be very low-income families (i.e., families with incomes of less than 50 percent of area median income) (Section 204(c)(3)(A) of Pub. L. No. 104-134 (42 USC 1437f (note)));
2. Establish a reasonable rent policy that is designed to encourage employment and self-sufficiency on the part of participating families (Section 204(c)(3)(B) of Pub. L. No. 104-134 (42 USC 1437f (note)));
3. Continue to assist substantially the same total number of low-income families under the demonstration as would have been served had the PHA not participated in MTW Section 204(c)(3)(C) of Pub. L. No. 104-134 (42 USC 1437f (note)));
4. Maintain under the demonstration a comparable mix of families, by family size, as would have been assisted had the PHA not participated in MTW (Section 204(c)(3)(D) of Pub. L. No. 104-134 (42 USC 1437f (note))); and
5. Ensure that housing assisted under the demonstration meets housing quality standards established or approved by HUD (Section 204(c)(3)(E) of Pub. L. No. 104-134 (42 USC 1437f (note))).

In addition, the following sections of the 1937 Housing Act continue to apply:

6. The term “low-income families” is defined by reference to Section 3(b)(2) of the 1937 Housing Act (42 USC 1437a(b)(2)) (Section 204(b) of Pub. L. No. 104-134 (42 USC 1437f (note)));
7. Section 18 of the 1937 Housing Act (42 USC 1437p), which governs demolition and disposition, applies to public housing notwithstanding any use of the housing under MTW (Section 204(e)(1) of Pub. L. No. 104-134 (42 USC 1437f (note))); and

8. Section 12 of the 1937 Housing Act (42 USC 1437j), which governs wage rates and the community service requirement, applies to housing assisted under MTW, other than housing assisted solely due to occupancy by families receiving tenant-based assistance (Section 204(e)(2) of Pub. L. No. 104-134 (42 USC 1437f (note))).

C. The Moving to Work Agreement
The Standard MTW Agreement, Attachments and Amendments

A Standard MTW Agreement was developed in 2008 by HUD in consultation with existing MTW Agencies. The Standard MTW Agreement, initially set up for a ten-year period from 2008–2018, was extended to 2028.Congress recently extended the Standard MTW Agreement for another 10 years to 2038 (Section 241 of the FY2024 HUD Appropriations Act). It consists of the following:

1. *Attachment A* of the Standard MTW Agreement contains the calculation of subsidies, customized for each individual PHA.

2. *Attachment B* of the Standard MTW Agreement contains standard reporting requirements that apply to all MTW Agencies. The Standard MTW Agreement provides a mechanism, through the submission of MTW annual plans and Reports, for HUD to review and approve new MTW activities and for PHAs to share their anticipated and actual activity outcome data with HUD and the PHA's stakeholders. Activities approved in the Annual MTW Plan must be reported in the ongoing activities section as stipulated in Attachment B:

   a. Annual MTW Plans

   The PHA will prepare and submit an Annual MTW Plan, in accordance with Attachment B, or equivalent HUD form. The Annual MTW Plan is due no later than 75 days prior to the start of the PHA's fiscal year. HUD will respond to the PHA within 75 days after receiving the Annual MTW Plan. If HUD does not respond to the PHA within 75 days after an on-time receipt of the PHA's Annual MTW Plan, the PHA's Annual MTW Plan is approved and the PHA is authorized to implement that Plan. If HUD does not receive the PHA's Annual MTW Plan 75 days before the beginning of the PHA's fiscal year, the PHA's Annual MTW Plan is not approved until it is submitted and HUD responds.

   b. Annual MTW Reports

   The PHA will prepare Annual MTW Reports, including the required information in HUD Form 50900, which will provide information on the status and outcomes of the activities approved in the Annual MTW Plan (see III.L.2.c, "Reporting – Performance Reporting").

   Attachment C of the Standard MTW Agreement contains a standard statement of authorizations that all MTW PHAs may carry out under the

MTW Demonstration. The authorizations in Attachment C include acceptable uses of MTW funds and administrative activities related to both Public Housing (Assistance Listing 14.850) and Section 8 Housing Choice Vouchers (Assistance Listing 14.871), authorizations related to Public Housing only Housing only, authorizations related to Section 8 Housing Choice Vouchers only, and authorizations related to family self-sufficiency.

3. *Attachment D of the Standard MTW Agreement* contains a statement of agency-specific authorizations that are customized for each individual PHA. This may include, but is not limited to, legacy and community-specific authorizations, authorizations related to both Public Housing and Section 8 Housing Choice Vouchers, authorizations related to public housing only and authorizations related to Section 8 Housing Choice Vouchers only, acceptable uses of MTW funds, asset management, and administrative issues.

4. The *First Amendment to the Standard MTW Agreement* deletes Section I.E. of the Standard MTW Agreement. Section I.E. of the Standard MTW Agreement states that "Notwithstanding any provision set forth in this Restated Agreement, including without limitations, the term of years and all extensions, renewals and options, and the terms set forth herein otherwise, any federal law that amends, modifies, or changes the aforementioned term of years and/or other terms of this Restated Agreement shall supersede this Restated Agreement such that the provisions of the law shall apply as set forth in the law." The First Amendment replaces Section II.F of the Standard MTW Agreement and inserts new language regarding local asset management. The First Amendment also addresses financial reporting requirements and other reporting requirements pertaining to the Annual MTW Plan and Report under Attachment B. PHAs are not required to sign the First Amendment.

D. The Operations Notice for the Expansion of the MTW Demonstration Program

The MTW Operations Notice was developed pursuant to the Consolidated Appropriations Act of 2016. The MTW Operations Notice establishes requirements for the implementation and continued operation of the MTW demonstration program, for the term of the MTW Annual Contributions Contracts ("the ACC") amendment once an agency is designated. The appendices to the Operations Notice provide agencies specific information as related to the requirements of the MTW demonstration. The appendices consist of the following:

1. *Waivers* and associated activities afford MTW agencies the opportunity to use their MTW authority to pursue locally driven policies, procedures, and programs in order to further the goals of the demonstration. When implementing MTW waivers through MTW activities, MTW agencies

must ensure assisted families are made aware of the impacts the activity(ies) may have on their tenancy. MTW agencies may pursue waivers under the four categories: MTW Waivers, Safe Harbor Waivers, Agency-Specific Waivers, and Cohort-Specific Waivers.

2. An *MTW Supplement* is a submission by MTW agencies as part of their Annual PHA Plan. MTW agencies must submit to HUD the Annual PHA Plan, including any required attachments, and the MTW Supplement no later than 75 days prior to the start of the agency's fiscal year. Per the MTW Operations Notice, while MTW agencies that are qualified under 24 CFR 903.3(c) are not required to submit the Annual PHA Plan, they are required to submit the MTW Supplement on an annual basis.

3. The *MTW ACC Amendment* is an amendment to the ACC between the PHA and HUD to designate the PHA as part of the MTW demonstration. The ACC amendment outlines the term of the demonstration for 20 years, and the requirements and covenants to follow the MTW operations notice, participate in a cohort study, and the PHA's exemptions from specific provisions of the Housing Act of 1937, the necessary transition plan for when a PHA leaves the demonstration. Additionally, it includes the conditions under which a PHA may be found in default of the MTW demonstration, and the remedies HUD may undertake, including the PHA's possible termination from the program.

E. Procedure for Budget Flexibility

PHAs in the MTW Demonstration program have flexibility in determining how to use federal funds. They are allowed to combine funds from the Public Housing Operating (Assistance Listing 14.850) and Capital Fund (Assistance Listing 14.772) Programs and the Housing Choice Voucher (Assistance Listing 14.871) tenant-based rental assistance program to meet the purposes of the demonstration if they have requested the use of *Authorization B.1 – Single Fund Budget with Full Flexibility* from Attachment C of the Standard MTW Agreement via an Annual MTW Plan that was approved by HUD.

Source of Governing Requirements

The MTW program is authorized by Section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. No. 104-134, dated April 26, 1996, 110 Stat 1321-281)). The requirements in the Housing Act of 1937 listed above and the other statutes that apply to the three programs apply to MTW Agencies, including environmental requirements. In addition, the following sections of the Housing Act of 1937 apply: Section 3(b)(2) (42 USC 1437a(b)(2)); Section 12 (42 USC 1437j); and Section 18 (42 USC 1437p).

Availability of Other Program Information

Additional information regarding the Moving to Work Demonstration program is available on HUD's website at:

https://www.hud.gov/program_offices/public_indian_housing/programs/ph/mtw
The Office of Public and Indian Housing notices are available at:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/regs.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	N	N	N	N	Y	N	Y

A. Activities Allowed or Unallowed

The authorizations in Attachment C of the Standard MTW Agreement and the Appendixes I and II of the MTW Operations Notice include acceptable uses of MTW funds and administrative activities related to both Public Housing (Assistance Listing 14.850) and Section 8 Housing Choice Vouchers (Assistance Listing 14.871), authorizations related to Public Housing only, authorizations related to Section 8 Housing Choice Vouchers only, and authorizations related to family self-sufficiency. Unless otherwise stated in Attachment D of the Standard MTW Agreement, the MTW Demonstration Program applies to all of the PHA's public housing-assisted units (including PHA-owned properties and units comprising a part of mixed-income, mixed finance communities), tenant-based Section 8 voucher assistance, Section 8 project-based voucher assistance under Section 8(o) and Homeownership units developed using Section 8(y) voucher assistance.

Activities using the authorizations granted in Attachment C of the Standard MTW Agreement or Appendices I and II of the MTW Operations Notice must be included in the PHA's Annual MTW Plan in accordance with the Revised HUD Form 50900 or MTW Supplement to the PHA Plan, respectfully, and subsequently approved by HUD. HUD will review these activities in order to verify that they are within the MTW authorizations provided by HUD. All activities must be approved before the PHA can implement that activity. Lists of approved activities for the MTW agencies designated under the 1996 MTW Statute can be found in the Ongoing Activities Section of the PHA's HUD Form 50900, Annual MTW Plan and Annual MTW Report. Similarly, lists of approved activities for the MTW agencies designated, or those who have elected to come under the MTW Operations Notice, can be found in the MTW Supplement.

B. Allowable Costs/Cost Principles

The amount of salary, including bonuses, of PHA chief executive officers, other officers, and employees paid with Section 8 Housing Choice Vouchers administrative fees and Section 9 Capital and Operating funds may not exceed the annual rate of basic pay payable for a federal position at Level IV of the Executive Schedule (currently $183,500) (Section 227 of Pub. L. No. 113-235, 128 Stat. 2756, December 16, 2014, and carried forward in each subsequent appropriations act). Implementing guidance has been issued in PIH Notice 2016-14, "Guidance on Public Housing Agency (PHA) salary restriction in HUD's annual appropriations" http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/publications/notices.

MTW agencies are authorized to use amounts received through the Public Housing Operating Fund, Capital Fund, and HCV Program flexibly. That is, MTW agencies can use these funding sources (Operating Fund, Capital Fund, and HCV) for MTW eligible expenses that might not be eligible under the original funding source. For instance, MTW agencies can use Operating Funds to issue new HCV vouchers. Implemented activities and use of MTW Funding flexibility under MTW is designed to meet one of three statutory objectives: achieving cost efficiencies, promoting self-sufficiency among residents, and/or increasing housing choice. It is the expectation that agencies exercise sound fiscal management to ensure the continuous operation of its agency and satisfaction of the MTW demonstration's statutory objectives.

For MTW agencies subject to the MTW Agreement, any implemented MTW activity must cite one or multiple Attachment C authorizations in the Standard MTW Agreement and be contained in an approved Annual MTW Plan. MTW agencies cannot implement any activities outside of the authorizations contained in the Standard MTW Agreement (including its attachments).

For MTW agencies subject to the MTW Operations Notice, any implemented MTW Waiver, Agency-Specific Waiver, Safe Harbor Waiver, and Cohort-Specific Waiver must be contained in an approved MTW Supplement to the PHA Plan.

C. Cash Management

Congress provides funding for the HCV and Public Housing programs through annual appropriation acts. HUD then allocates and awards funding to PHAs in accordance with the appropriations acts. PHAs participating in the MTW demonstration are subject to the financial

management requirements that apply to non-MTW agencies.

For those MTWs agencies administering the HCV program, Notice PIH 2017-06 establishes the cash management procedures for controlled disbursement of federal funds. This includes, but is not limited to, the drawdown of Housing Assistance Payment (HAP) funds for landlord payments, and the drawdown of HAP funds for non-HAP purposes, such as payments for development contracts or other eligible MTW activities.

MTWs with public housing under an ACC are subject to 24 CFR Part 990, with the exception of 11 PHAs with alternative funding formulas, as articulated in their Standard MTW Agreements. This includes PHAs that have not received operating subsidy previously but are eligible for operating subsidy under the Operating Fund Formula.

MTW agencies are to comply with all HUD and Treasury fiscal requirements. No flexibility under the MTW demonstration permits an agency to waive any requirements regarding cash management. MTW agencies are subject to the same cash management requirements as non-MTW agencies.

E. Eligibility

1. Eligibility for Individuals

Beneficiaries must be "low-income families," as defined in Section 3(b)(2) of the 1937 Housing Act (42 USC 1437a(b)(2)) (Section 204(b) of Pub. L. No. 104-134 (42 USC 1437f (note)))

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

d. *Financial Reports (OMB No. 2535-0107)* – Financial Assessment Sub-system, FASS-PH. The Uniform Financial Reporting Standards (24 CFR

section 5.801) require PHAs to submit timely GAAP-based unaudited and audited financial information electronically to HUD (see Section 13, Moving to Work (MTW) Agencies Reporting to FASS-PH, of Notice PIH-2012-21 (HA), issued May 10, 2012). The Financial Data Schedule Line-Item Guide also provides definitions to these key line items.

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

1. FDS Line 111 – (Cash-unrestricted)
2. FDS Line 114 – (Cash-tenant security deposits)
3. FDS Line 120 – (Total receivables – net of allowances for doubtful accounts)
4. FDS Line 122 – (Accounts receivable – HUD other projects)
5. FDS Line 131 – (Investments – unrestricted)
6. FDS Line 132 – (Investments – restricted)
7. FDS Line 142 – (Prepaid expenses and other assets)
8. FDS Line 144 – (Inter-program – due from)
9. FDS Line 145 – (Assets held for sale)
10. FDS Line 310 – (Total current liabilities)
11. FDS Line 331 – (Accounts payable – HUD PHA programs)
12. FDS Line 342 – (Deferred revenue)
13. FDS Line 345 – (Other current liabilities)
14. FDS Line 346 – (Accrued liabilities – other)
15. FDS Line 347 – (Inter-program – due to)
16. FDS Line 508.1 – (Invested in capital assets, net of related debt)
17. FDS Line 511.1 – (Restricted Net Assets)
18. FDS Line 512.1 – (Unrestricted net assets)
19. FDS Line 96900 – (Total operating expense)

20. FDS Line 97100 – (Extraordinary maintenance)

21. FDS Line 97200 – (Casualty losses – non-capitalized)

22. FDS Line 97300 – (Housing assistance payments)

23. FDS Line 97350 – (HAP portability – in)

24. FDS Line 97800 – (Dwelling units rent expense)

25. FDS Line 10010 – (Operating transfers in)

26. FDS Line 10020 – (Operating transfers out)

27. FDS Line 10030 – (Operating transfers from/to primary government)

28. FDS Line 10093 – (Transfers between programs and projects in)

29. FDS Line 10094 – (Transfers between programs and projects out)

2. Performance Reporting

Not applicable

3. Special Reporting

a. *HUD-50058-MTW, Family Report (OMB No. 2577-0083)* – The information on this form is submitted to HUD through the Inventory Management System/Public and Indian Housing Information Center (IMS/PIC). The use of the HUD-50058 MTW form is restricted to the Initial 39 MTW agencies; the new 100 agencies brought onto the MTW demonstration through the Consolidated Appropriations Act of 2016 will report to HUD using the HUD-50058 MTW Expansion Family Report (OMB No. 2577-0083). Data must be submitted each time the PHA completes an admission, annual reexamination, interim reexamination, portability move-in, or other change of unit for a family. The PHA must also submit the Family Report when a family ends participation in the program or moves out of the PHA's jurisdiction under portability.

Key Line Items – The following line items contain critical information from the HUD-50058, HUD 50058-MTW and HUD 50058 MTW Expansion that is documented in the recipient's file:

1. Line 1c – Program

2. Line 2a – Type of action

3. Line 2b – Effective date of action

4. Line 2k – FSS participation now or in the last year

5. Line 3b, 3c – Last name, First name

6. Line 3e – Date of birth

7. Line 3n – Social Security Numbers

8. Line 5a – Unit address

9. Line 5h – Date unit last past HQS inspection

10. Line 5i – Date of last annual HQS Inspection

11. Line 7i – Total annual income

12. Line 13h – Contract rent to owner (only if MTW PHA has a Section 8 moderate rehabilitation program)

13. Line 13k – Tenant Rent

14. Line 13x – Mixed family tenant rent

15. Line 17a – Participation in special programs – Participation in the Family Self Sufficiency (FSS) Program

16. Line 17k(2) – FSS account information – Balance

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements With respect to public housing, the PHA must comply with federal-wide or HUD-determined wage rate requirements of Section 12 of the Housing Act of 1937 (42 USC 1437j(a) and (b)). More information can be found at https://www.hud.gov/program_offices/davis_bacon_and_labor_standards. The PHA should be using the appropriate wage rate determinations for their geographic area. A The appropriate PHA's wage rate determinations can be found at https://sam.gov/content/wage-determinations.

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

2. Reasonable Rent Policy

Compliance Requirements MTW agencies are required to establish a reasonable rent policy, which shall be designed to encourage employment and self-sufficiency by participating families, consistent with the purpose of this demonstration, such as by excluding some or all of a family's earned income for purposes of determining rent. The rent policy must be in the Annual MTW Plan and Reports (Section 204(c)(3)(B) of Pub. L. No. 104-134 (42 USC 1437f (note))) or the MTW Supplement.

Audit Objectives Determined whether the PHA has implemented a reasonable rent policy.

Suggested Audit Procedures

a. Review the reasonable rent policy in the Annual MTW Plan and reports.

b. Verify that the reasonable rent policy has been implemented.

3. Housing Quality Standards

Compliance Requirements MTW Agencies must ensure that housing assisted under the demonstration program meets housing quality standards established or approved by the Secretary. The HCV program regulations at 24 CFR sections 982.401 through 982.405 set forth basic housing quality standards (HQS) which all units must meet, and the PHA must verify by inspection, before initial assistance can be paid on behalf of a family and at least annually throughout the term of the assisted tenancy. Current HQS regulations consist of 13 key aspects of housing quality, performance requirements, and acceptability criteria to meet each performance requirement. HQS include requirements for all housing types, including single and multi-family dwelling units, as well as specific requirements for special housing types, such as manufactured homes, congregate housing, single room occupancy, shared housing, and group residences (Section 204(c)(3)(E) of Pub. L. No. 104-134 (42 USC 1437f (note))).

Audit Objectives Determine whether the PHA has implemented procedures to ensure that units meet HUD housing quality standards.

Suggested Audit Procedures

a. Review the Annual MTW Plan or MTW Supplement to determine how HQSs are proposed to be implemented. The PHA should explain whether it plans to follow HQS as established by HUD or if it plans to develop a local HQS standard that is at least as stringent as the HUD standard.

b. Verify by a review of documentation that the PHA identifies those units on which housing quality inspections are due.

c. Verify by a review of documentation that the PHA performs inspections of these units and that any needed repairs were completed timely.

IV. OTHER INFORMATION

An MTW agency may utilize MTW Funding flexibility using three programs: Section 8 Housing Choice Vouchers (Assistance Listing 14.871); Public Housing Capital Fund (Assistance Listing 14.872); and Public and Indian Housing (Assistance Listing 14.850).

If a PHA is operating under an MTW Agreement, the auditor should look to the MTW should look to the MTW Operations Notice for a PHA operating under the MTW Operations Notice. The amounts transferred into the MTW account are subject to the requirements of the MTW Agreement and should be included in the audit universe and total expenditures for MTW Agencies (Assistance Listing 14.881) when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred in should be shown as expenditures for the MTW program.

If the MTW agency does not set up a separate MTW account but uses the flexibility of the MTW demonstration program to transfer funds among the three programs, the accounts would become MTW accounts and would need to be identified as MTW funds.

If the MTW agency does not transfer all of the funds from a program into the MTW account or another of the three programs, the remaining funds would be considered, and audited, under the Assistance Listing number for that program.

The auditor should review the agency's specific MTW agreement, attachments, and amendments for the authorizations applicable to each MTW agency.

Alternative Operating Subsidy PHAs: Baltimore, Cambridge, Chicago, Delaware, Lawrence-Douglas, New Haven, Oakland, Philadelphia, Pittsburgh, Home Forward (Portland), and Seattle.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANCE LISTING 14.888 LEAD-BASED PAINT CAPITAL FUND PROGRAM

I. PROGRAM OBJECTIVES

This program is comprised of the Lead-Based Paint Capital Fund (LBPCF) and the Housing-Related Hazards Capital Fund (HRHCF). The LBPCF is for Public Housing Authorities (PHAs) to evaluate and reduce lead-based paint hazards in public housing. The LBPCF provides competitive grants to PHAs to evaluate and reduce lead-based paint hazards in public housing by carrying out the activities of risk assessments, abatement, and interim controls (as those terms are defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 USC 4851b)).

The HRHCF provides competitive grants to help PHAs identify and eliminate housing-related hazards in public housing such as mold, carbon monoxide, pest infestation, radon, fire hazards and asbestos.

II. PROGRAM PROCEDURES

A. Overview

In Fiscal Year (FY) 2022, HUD combined Lead-Based Paint and Housing-Related Hazards funding under one combined Notice of Funding Opportunity (NOFO). HUD has set aside up to $65 million of which $25 million is dedicated to Lead-Based Paint hazards. LBPCF and HRHCF grants support PHAs as they address the health and safety of public housing residents.

For LBPCF grants, HUD has set aside $25 million within the Capital Fund account to assist PHAs with lead-based paint challenges. These grants support PHAs as they address the safety of public housing residents. LBPCF grants may be used for lead-based paint inspection, risk assessment, clearance exams, relocation, and hazard controls. PHAs submit a competitive application for this funding. The funding is allocated based on application score.

For HRHCF grants, the Department has set aside $40 million. These funds were set aside to assist PHAs to identify and eliminate housing-related hazards in public housing such as carbon monoxide, mold, radon, fire safety, and asbestos. PHAs submit a competitive application for this funding. The funding is allocated based on application score.

B. Subprograms/Program Elements

Below outlines the Capital Fund Program's (CFP) general grant process. The LBPCF and HRHCF are subject to this process.

Prior to submitting the five-year action plan to HUD for review and approval, a PHA must annually conduct a public hearing and consult with the Resident Advisory Board (RAB) of the PHA to discuss the Capital Fund submission. The PHA may elect to conduct a separate annual public hearing in order to solicit public comments or to hold the annual public hearing at the same time as the hearing for the Annual PHA Plan, the 5- Year Plan, or the required annual hearing for qualified public housing authorities. The hearing must be conducted at a location that is convenient to the residents served by the PHA.

In FY 2018, the CFP 5-Year Action Plan and Annual Statement/Budget submission was moved to an electronic platform called EPIC for submission and approval. A PHA must have an approved 5-Year Action Plan (HUD 50075.2 (*OMB No. 2577-0226*)) and Document package in EPIC to have access to Capital Funds. Once a PHA submits an Annual Statement/Budget in EPIC (HUD 50075.1), HUD spreads Capital Funds to all of the appropriate budget line items (BLIs) in the Line of Credit Control System (LOCCS) in accordance with the information contained in the 5-Year Action Plan (HUD 50075.2). A PHA can then drawdown funds as needed on a three-day turnaround basis to pay for approved work activities. The three-day turnaround means the PHA expends the funds drawn down from LOCCS within three business days.

In planning its LBPCF and/or HRHCF projects, the PHA is required to consult with residents and local government officials. After grant award, the PHA may select an architect or engineer through competitive negotiation to develop the plans and specifications for the construction work. Construction work as well as management improvements may be carried out through contract labor (competitively procured) or the PHA's own work force (force account). The PHA or its architect monitors the work in progress for compliance with contract requirements and acceptable work quality and submits periodic progress reports to HUD.

C. Other

In accordance with HUD's Uniform Financial Reporting Standards rule, annually, a PHA is required to submit financial statements, prepared in accordance with generally accepted accounting principles (GAAP), in the electronic format specified by HUD. The unaudited financial statement will be required three months after the PHA's fiscal year end (FYE) and the audited financial statement is due nine months after its FYE (24 CFR section 5.801). The financial statement must include the financial activities of this program.

PHAs submit an actual modernization cost certificate (AMCC) form HUD-53001 (OMB Approval No. 2577-0157) with the local HUD Field Office for approval when they complete a LBPCF and/or HRHCF project. The AMCC is required for LBPCF and/or HRHCF grant closeout.

Source of Governing Requirements

The programs are authorized under 42 USC 1437g. The program implementing regulation is 24 CFR Part 905.

Availability of Other Program Information

HUD posts guidance on the LBPCF and/or HRHCF to its Office of Capital Improvements Home Page that provides grantees with information on timelines, budgets, financial instructions, and other program guidance. Information regarding the financial reporting requirements of the PHAs is provided by HUD on the Real Estate Assessment Center (REAC) website.

Here are some helpful links:

Office of Capital Improvements web page:
https://www.hud.gov/program_offices/public_indian_housing/programs/ph/capfund

HRHCF web page:
Housing-Related Hazards & Lead-Based Paint Capital Fund Program | HUD.gov / U.S. Department of Housing and Urban Development (HUD)

REAC web pages:
https://www.hud.gov/program_offices/public_indian_housing/reac
https://www.hud.gov/program_offices/public_indian_housing/reac/products/prodp ha
https://www.hud.gov/program_offices/public_indian_housing/reac/products/prodp hasintrule

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	N	Y	N	N	Y	N	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. For LBPCF grants, allowed Capital Fund activities include the following: activities of lead-based paint risk assessments, inspections, abatement, interim controls, clearance examinations and relocation. Other work in the property, including work to prepare for lead hazard control (e.g., repairs to the substrate, fixing leaks or other renovations) shall be funded by other sources.

   b. For HRHCF grants, allowed Capital Fund activities include the following: activities associated with the housing-related hazard(s) identified in the PHA application and approved by HUD. Other work in the property, including work to prepare for hazard control (e.g., repairs to the substrate, fixing leaks or other renovations) shall be funded by other sources.

2. *Activities Unallowed*

   A PHA may not incur any cost in excess of the total HUD-approved PHA Annual Statement/Budget. Budget revisions may be submitted in EPIC for deviations from the originally approved program. A PHA shall not incur any cost on behalf of any development that is not covered by its current approved 5-Year Action Plan (24 CFR section 905.200(a)).

   This following list describes ineligible activities and costs for the CFP

   a. Not Related to Public Housing. PHAs may not spend Capital Funds on costs that are not associated with a Public Housing Development or Modernization Project.

   b. Not in 5-Year Action Plan. PHAs may not spend Capital Funds on activities and costs that are not included in the PHA's 5-Year Action Plan (Emergency

Work or Non-Presidentially Declared Natural Disaster assistance that is not identified in the 5-Year Action Plan is an eligible cost).

c. Not Modest Design. PHAs may not spend Capital Funds on improvements or purchases that are not considered modest in design and cost because they include amenities, materials, and design in excess of what is customary for the locality, as determined by the PHA and Field Office.

These include, but are not limited to, granite counter tops, dishwashers, microwaves, swimming pools, saunas, whirlpool baths, and hot tubs. Modernization and development activities require Field Office review and approval of the PHA's annual and five-year plans detailing the activities. These activities must be within the total development costs (TDC) limits. The TDC limits for PHAs are updated annually and posted on the Office of Capital Improvements website here: Office of Capital Improvements | HUD.gov / U.S. Department of Housing and Urban Development (HUD). The current TDC limits are posted here: https://www.hud.gov/sites/dfiles/PIH/documents/2023_Units_TDC_Limits.pdf

d. Not Eligible based on OMB Regulatory and Circular Guidance. PHAs may not spend Capital Funds on any costs not authorized in 2 CFR Part 200 (formerly OMB Circular A-87 and 2 CFR Part 225), including indirect Administrative Costs, indemnification, and capitalizing reserves.

e. Operating Assistance. PHAs may not spend Capital Funds on Public Housing operating assistance, except as provided through transfers to BLI 1406.

f. Benefitting Other Programs. Eligible costs that exceed the amount directly attributable to the public housing units when the physical or management improvements, including salaries and employee benefits and contributions, will benefit programs other than public housing, such as Section 8 Housing Choice Voucher, or local revitalization programs.

For example, the annual audit covers the breadth of the PHA's activities such as the Operating Fund, Capital Fund, Housing Choice Vouchers, and non-federally funded activities. Only a pro rata share of the Audit cost attributable to the Capital Fund may be charged to the Capital Fund.

g. Security Services. Ongoing security services, including:

(1) Contracts with local police departments including above baseline police services except where permitted by HUD FY Appropriations Acts;

(2) The salaries and benefits for security guards, patrols, or police

officers (either full-time, part-time, or after hours); and

(3) The purchase or leasing of vehicles for security personnel.

h. Supportive Services. The provision of supportive services to public housing residents, including:

(1) The salaries and benefits or contract costs for service providers, including resident coordinators, case managers, social workers, nurses, chore service providers, supplemental police or probation services providers, and tutors;

(2) Health and wellness activities;

(3) Educational enrichment and recreational activities, including social organizations; and

(4) Job development and placement services, including the cost of professional licenses, certifications and exams, and transportation assistance.

i. Duplicate Funding. An otherwise eligible cost that is funded by another source and would result in duplicate funding. Duplicate funding can be other federal, state, and non-federal programs; and

j. Other Activities. Any other activities and costs that HUD may determine are ineligible on a case-by-case basis, consistent with the 1937 Act and its regulations.

LBPCF and HRHCF grants may not be used for any activities that are not both part of the original application and approved by HUD.

Additionally, LBPCF and HRHCF grants are restricted to specific budget line items (BLIs) by the applicable Notice of Funding Availability (NOFA) and/or Notice of Funding Opportunity (NOFO). PHAs may not place funds in a BLI that is not supported by the NOFA/NOFO.

B. Allowable Costs/Cost Principles

Allocation of Costs with Other Programs. Where the physical or management improvement costs will benefit programs other than public housing, such as the Housing Choice Voucher program or local revitalization programs, Capital Fund-eligible costs are limited to the amount directly attributable to the public housing program. The amount of salary, including bonuses, of PHA chief executive officers, other officers, and employees paid with Section 8 Housing Choice Vouchers administrative fees and Section 9 Capital and Operating funds may not exceed the annual rate of basic pay payable for a federal position at Level IV of the

Executive Schedule 1 (Section 227 of Pub. L. No. 113-235, 128 Stat. 2756, December 16, 2014, and carried forward in each subsequent appropriations act). Implementing guidance has been issued in PIH Notice 2016-14, "Guidance on Public Housing Agency (PHA) salary restriction in HUD's annual appropriations." The Executive Pay Schedule may be obtained at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2023/EX.pdf (24 CFR section 1006.370(b)).

C. Cash Management

Congress provides funding for the Public Housing programs through annual appropriation acts. HUD then allocates and awards funding to PHAs in accordance with the appropriations acts. PHAs that have public housing units under an Annual Contributions Contract (ACC,) as described in 24 CFR 5.403 are subject to 24 CFR Part 905 and 24 CFR Part 990. PHAs are to comply with all HUD and Treasury fiscal requirements.

2 CFR 200.305 for Federal Payments and 24 CFR 905.310 for Disbursements from HUD establish the cash management procedures for controlled disbursement of federal funds. 2 CFR 200.305 requires PHAs to minimize the time federal funds are drawn down to expenditure. The Capital Fund Program provides guidelines of three business days from draw down to expenditure to minimize the interest accrued by the PHA. 24 CFR 905.310 states the PHA shall initiate a fund requisition from HUD only when funds are due and payable, unless HUD approves another payment schedule as authorized by 2 CFR 200.305.

H. Period of Performance

1. Obligations

Unless an extension is approved by HUD, a PHA must obligate at least 90 percent of each Capital Fund grant, including formula grants, non-accumulating RHF, natural disaster, and lead-based paint grants within 24 months of the funds becoming available to the PHA for obligation. For emergency grants, safety and security grants and safety and security-carbon monoxide grants, the PHA must obligate at least 90 percent within twelve months of the funds becoming available. The funds become available when HUD executes the Annual Contributions Contract (ACC) Amendment (24 CFR section 905.306).

Obligation means a binding agreement for work or financing that will result in outlays, immediately or in the future. All obligations must be incorporated within the CFP 5-Year Action Plan that has been approved by the PHA Board of Commissioners and HUD. This includes funds obligated by the PHA for work to be performed by contract labor (i.e., contract award), or by force account labor (i.e., work actually started by PHA employees). Capital Funds identified in the PHA's CFP 5-Year Action Plan to be transferred to operations are obligated by the PHA once the funds have been budgeted and drawn down by the PHA. Once these funds are drawn down they are subject to the requirements of 24 CFR part 990.

The date of the contract signing is the obligation date. If the parties sign the contract at different times, the date of the last signature is the obligation date. In some instances, a

purchase order would constitute an obligation (e.g., large items such as stoves or refrigerators). All obligations should reflect work items detailed in the approved 5-year action plan.

2. Expenditures

For Capital Fund formula, RHF, natural disaster, and lead-based paint grants, unless HUD approves an extension, a PHA must expend all grant funds no later than 48 months after HUD executes the ACC Amendment (24 CFR section 905.306(f)). However, for emergency grants, safety and security grants and safety and security-carbon monoxide grants, a PHA must expend all grant funds no later than 24 months after HUD executes the ACC Amendment if such a requirement is contained in the ACC Amendment.

A PHA must also expend 100% percent of the authorized amount of a Capital Fund grant within 48 months of the date that funds are made available, or the obligation start date. (24 CFR section 905.306).

3. Capital Funds for Operating Costs

Capital Funds transferred to operations (BLI 1406) are not considered obligated until the PHA has budgeted and drawn down the funds. To meet this requirement, the funds must be budgeted in line BLI 1406 (Operations) and the PHA must submit the voucher request in LOCCS. The PHA's reported obligation amount in LOCCS must be the same amount in the PHA's accounting system since the date of the voucher request in LOCCS is the point of obligation for funds in BLI 1406. The voucher request date must occur before those funds are reported as obligated in LOCCS under the Obligation & Expenditure tab (24 CFR section 905.314(l)).

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

d. *HUD-53001, Actual Modernization Cost Certificate (AMCC) Capital Fund Program (OMB No. 2577-0157)* – The authority for this report is 24 CFR 905.324 Data Reporting Requirements. For modernization projects, the PHA shall submit the AMCC within 90 days after Expenditure End Date. To initiate the closeout process, the PHA shall submit the AMCC which details actual costs incurred between the DOFA date and the completion of the modernization project.

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

1. Line 1B *Funds Disbursed* For the identified grant, enter the total funds disbursed by HUD. This amount may never exceed the amount on line 1A.
2. Line 1E *Excess of Funds Disbursed (B minus C)* For the identified grant, enter the excess of funds disbursed by subtracting line 1C from line 1B, this is the amount to be remitted by the PHA to HUD. If line 1C is greater than line 1B, enter the figure in brackets; this is the amount owed by HUD to the PHA.

2. Performance Reporting

Report Title: *HUD 50075.1, Annual Statement Performance and Evaluation Report*
OMB PRA Number: *(OMB No. 2577-0157)*
Report Authority: 24 CFR 905.324 Data Reporting Requirements
Reporting period/submission date/s: *Initial estimated report submitted prior to grant being awarded. Final Report submitted within 90 days of the expenditure end date.*
Link to report and report instructions:
https://www.hud.gov/sites/dfiles/OCHCO/documents/50075.1.pdf

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

1. Line 20 *Amount of Annual Grant* After initial approval by HUD, the sum of lines 2 through 19 in the Revised Total Estimated Cost column may not exceed the annual grant amount.

2. Line 5 *1480 General Capital Activity* This is the only line item allowed to be used for Lead-Based Paint and Housing Related Hazards grants.

3. Special Reporting Not Applicable.

4. Special Reporting for Federal Funding Accountability and Transparency Act Not Applicable.

IV. OTHER INFORMATION

The Moving to Work (MTW) demonstration program (Assistance Listing 14.881) allows selected PHAs the flexibility to design and test various approaches to providing and administering housing assistance consistent with the MTW Agreement executed by the PHA and HUD.

An MTW agency may combine funds from the following three programs:

1. Section 8 Housing Choice Vouchers (Assistance Listing 14.871)

2. Public Housing Capital Fund (Assistance Listing 14.872)

3. Public and Indian Housing (Assistance Listing 14.850)

Funds from LBPCF and/or HRHCF cannot be combined under the MTW Agreement.

DEPARTMENT OF THE INTERIOR

ASSISTANCE LISTING 15.000 BIA/BIE CROSS-CUTTING SECTION

INTRODUCTION

This section contains compliance requirements that apply to more than one program of the Bureau of Indian Affairs (BIA) or Bureau of Indian Education (BIE) in the Department of the Interior (DOI) because of requirements set forth in (1) the Indian Self Determination and Education Assistance Act (ISDEAA), as amended, and the Tribally Controlled Schools Act; and (2) 25 USC 450e-3 regarding the investment and deposit of BIA funds advanced to tribal organizations pursuant to the provisions of the ISDEAA and Tribally Controlled Schools Act of 1988. The compliance requirements in this BIA/BIE Cross-Cutting Section reference the applicable programs in Part 4, Agency Compliance Requirements. Similarly, the applicable programs in Part 4 reference this BIA/BIE Cross-Cutting Section.

Important: Due to program priorities, for 2019 each program may not have included all the cross-cutting section requirements within their "pick 6." Past Compliance Supplements did not have a restriction for a maximum number of requirements; therefore, the cross-cutting section could apply to all impacted programs without consideration of the number of requirements. Agencies need to reconsider which requirements will remain in the cross-cutting section for future years; this will be addressed in the 2020 Compliance Supplement. For 2019, auditors are advised to use the program selections as the final guidance and not the cross-cutting section for the purposes of the 2019 audit.

Program	Assistance Listing No.	Program Name
ISDEAA Programs	15.021	Consolidated Tribal Government
ISDEAA Programs	15.022	Tribal Self-Governance
ISDEAA Programs	15.030	Indian Law Enforcement
ISDEAA Programs	15.047	Indian Education Facilities, Operations, and Maintenance
Tribally Controlled Schools Act	15.042	Indian School Equalization

I. PROGRAM OBJECTIVES

The ISDEAA, of which the Tribal Self-Governance Act is part, was implemented to establish meaningful Indian self-determination that will permit an orderly transition from the federal domination of programs for, and services to, Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services. The Tribally Controlled Schools Act provides a grant process for the operation of schools funded by the BIE.

II. PROGRAM PROCEDURES

The ISDEAA and the Tribally Controlled Schools Act allow tribal organizations to draw down funds in advance of need. The frequency and timing of the drawdowns are set forth in the statutes. The provision for advancing funds is to ensure sufficient capital for the delivery of program services.

The Tribal Self-Governance Act provides for advance payments to tribes and tribal consortia in the form of annual or semiannual payments at the discretion of the tribes (25 USC 458cc (g)(2)). The ISDEAA provides for payments to Indian tribes and tribal organizations on a quarterly basis, in a lump-sum payment, or as semiannual payments, or any other payment method authorized by law with such method as may be requested by the tribe or tribal organization (25 USC 450l(c)(b)(6)(B)(i)). The Tribally Controlled Schools Act provides for two payments per year: the first payment to be made not later than July 1 and the second payment not later than December 1 (25 USC 2506(a)(1)).

Prior to the expenditure of these funds for the purposes for which they were intended, these funds can be invested (25 USC 450e-3). Indian tribes and tribal organizations are not accountable to BIA/BIE for the income earned from these investments (25 USC 450j(b)).

III. COMPLIANCE REQUIREMENTS

B. Allowable Costs/Costs Principles

BIA/BIE programs in this Supplement that this section applies to are: Consolidated Tribal Government (15.021); Indian Law Enforcement (15.030); and Indian School Equalization (15.042).

Indian tribes and tribal organizations may without the approval of the BIA/BIE expend funds provided under a self-determination contract for purposes identified in 25 USC 450j-1(k), including the following, to the extent that the expenditure of the funds is supportive of a contracted program (25 USC 450j-1(k)).

1. Building, realty, and facilities costs, including rental costs or mortgage expenses.

2. Automated data processing and similar equipment or services.

3. Costs for capital assets and repairs.

4. Costs incurred to raise funds or contributions from nonfederal sources for the purpose of furthering the goals and objectives of the self-determination contract.

5. Interest expenses paid on capital expenditures, such as buildings, building renovation or acquisition or fabrication of capital equipment, and interest expenses on loans necessitated due to delays by the secretary in providing funds under a contract.

6. Expenses of a governing body of a tribal organization that are attributable to the management or operation of programs under ISDEAA.

H. Period of Performance

BIA/BIE programs in this Supplement that this section applies to are: Consolidated Tribal Government (15.021); Indian Law Enforcement (15.030); and Indian Education Facilities, Operations, and Maintenance (15.047).

Any funds appropriated under an ISDEAA contract or compact or a Tribally Controlled Act grant are available until expended (25 USC 450l(c)(b)(9)).

N. Special Tests and Provisions

Investment and Deposit of Advance Funds

BIA/BIE programs in this Supplement that this section applies to are: Consolidated Tribal Government (15.021); Tribal Self-Governance (15.022); Indian Law Enforcement (15.030); and Indian School Equalization (15.042).

Compliance Requirements A tribe, tribal organization, or consortia receiving advance payments under the ISDEAA or the Tribally Controlled Schools Act may invest advance payments (some recipients refer to these advance payments as "deferred revenue") before such funds are expended for the purposes of the grant, contract, or funding agreement, so long as such funds are (1) invested only in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States or securities that are guaranteed or insured by the United States; or (2) deposited only in accounts that are insured by an agency or instrumentality of the United States, or are fully collateralized to ensure protection of the advance funds, even in the event of a bank failure (25 USC 450e-3).

Audit Objectives Determine whether Indian tribes, tribal organizations, or consortia are properly investing or depositing advanced ISDEAA or the Tribally Controlled Schools Act funds.

Suggested Audit Procedures

a. Obtain and review tribal policies and procedures for the investment and deposit of ISDEAA or the Tribally Controlled Schools Act funds and verify that those procedures comply with the investment and deposit requirements.
b. Review unused/unexpended BIA/BIE advance funds and verify that all unused/ unexpended funds were properly invested or deposited throughout the audit period.

DEPARTMENT OF THE INTERIOR

ASSISTANCE LISTING 15.021 CONSOLIDATED TRIBAL GOVERNMENT PROGRAM

I. PROGRAM OBJECTIVES

The objective of the Consolidated Tribal Government program is to provide funds for certain programs of an ongoing nature to Indian tribal governments in a manner which minimizes program administrative requirements and maximizes flexibility.

II. PROGRAM PROCEDURES

The Bureau of Indian Affairs (BIA) makes direct payments to federally recognized Indian tribal governments to carry out a variety of activities for which appropriations are made within the Tribal Priority Allocations activity of the BIA budget. For example, Scholarships, Johnson O'Malley, Job Placement and Training, and Agricultural Extension could be combined under a single contract for education and training. This allows tribal contractors greater flexibility in planning their programs and meeting the needs of their people. The simplified contracting procedures and reduction of tribal administrative costs allow for increased services under these contracts.

Source of Governing Requirements

The program is authorized by the Indian Self-Determination and Education Assistance Act (ISDEAA), Title I, Pub. L. No. 93-638, as amended (25 USC 450 et seq.).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	N	Y	N	N	Y	N	Y

A. Activities Allowed or Unallowed

The ISDEAA provides for the expenditure of funds by Indian tribes and tribal organizations under self-determination contracts for programs and activities previously provided by the BIA. Funds may be used for a variety of programs and services that the federal government otherwise would have provided directly. The specific activities allowed will be indicated in the self-determination contract between the tribal organization and the secretary of the interior (25 USC 450f). While the tribe or tribal organization may propose to redesign the program or activity, such redesign must be approved by the BIA (25 USC 450j(j)).

B. Allowable Costs/Costs Principles

See Part 4, 15.000 BIA/BIE Cross-Cutting Section.

H. Period of Performance

See Part 4, 15.000 BIA/BIE Cross-Cutting Section.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

See Part 4, 15.000 BIA/BIE Cross-Cutting Section.

DEPARTMENT OF THE INTERIOR

ASSISTANCE LISTING 15.022 TRIBAL SELF GOVERNANCE

I. PROGRAM OBJECTIVES

The objective of the Tribal Self-Governance program is to further the goals of the Indian Self-Determination and Education Assistance Act by providing funds to Indian tribes to administer a wide range of programs with maximum administrative and programmatic flexibility.

II. PROGRAM PROCEDURES

The Tribal Self-Governance Act of 1994 (25 USC 5361 et seq.) established tribal self-governance as a permanent option for tribal governments. Under tribal self-governance, Indian tribes have greater control and flexibility in the use of funds, reduced reporting requirements, and authority to redesign or consolidate programs, services, functions, and activities and to reallocate funds (25 USC 5363(b)). Tribes are selected from an applicant pool upon meeting certain eligibility requirements (25 USC 5362).

The Office of Self-Governance makes direct payments to federally recognized Indian tribal governments and tribal consortia authorized by federally recognized Indian tribal governments. Funds may be used to support tribal programs such as law enforcement, social services, welfare assistance payments, natural resource management and enhancement, housing improvement, and road maintenance (25 USC 5363(b)).

Source of Governing Requirements

The program is authorized by the Indian Self-Determination and Education Assistance Act (ISDEAA), Title IV, Pub. L. No. 93-638, as amended (25 USC 5361 et seq.).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not

being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	N	N	Y	N	Y	N	Y

A. Activities Allowed or Unallowed

The ISDEAA provides for the expenditure of funds by Indian tribes and tribal organizations under self-determination contracts or self-governance annual/multi-year funding agreements for programs and activities previously provided by the Bureau of Indian Affairs (BIA). Funds may be used for a variety of programs and services that the federal government otherwise would have provided directly. The specific activities allowed will be indicated in the funding agreement between the tribal organization and the secretary of the Interior (25 USC 5363(b) and (c)). Indian tribes and tribal consortia are provided latitude in redesigning programs and activities. However, such redesign is limited to programs covered by the annual/multi-year funding agreement (25 USC 5363(b)(3); 25 CFR section 1000.85).

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

See Part 4, 15.000 BIA/BIE Cross-Cutting Section.

IV. OTHER INFORMATION

Certain compliance requirements that apply to multiple BIA and Bureau of Indian Education (BIE) programs are discussed once in Part 4, 15.000 BIA/BIE Cross-Cutting Section of this Supplement rather than repeated in each individual program.

DEPARTMENT OF THE INTERIOR

DEPARTMENT OF LABOR

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 15.025 SERVICES TO INDIAN CHILDREN, ELDERLY AND FAMILIES
ASSISTANCE LISTING 15.026 INDIAN ADULT EDUCATION
ASSISTANCE LISTING 15.113 INDIAN SOCIAL SERVICES-WELFARE ASSISTANCE
ASSISTANCE LISTING 15.114 INDIAN EDUCATION-HIGHER EDUCATION GRANT
ASSISTANCE LISTING 15.130 INDIAN EDUCATION-ASSISTANCE TO SCHOOLS
ASSISTANCE LISTING 17.265 NATIVE AMERICAN EMPLOYMENT AND TRAINING
ASSISTANCE LISTING 93.558 TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)
ASSISTANCE LISTING 93.569 COMMUNITY SERVICES BLOCK GRANT
ASSISTANCE LISTING 93.575 CHILD CARE AND DEVELOPMENT BLOCK GRANT
ASSISTANCE LISTING 93.594 TRIBAL WORK GRANTS
ASSISTANCE LISTING 93.596 CHILD CARE MANDATORY AND MATCHING FUNDS OF THE CHILD CARE AND DEVELOPMENT FUND

Note: In February 2015, OMB approved a new reporting system for Pub. L. No. 102-477 Demonstration Projects (477). The reporting system maintained the prior reporting, referred to as "Version 1," in which Indian tribal governments with an approved 477 Plan may continue to use through report periods ending in 2017. Effective for annual report periods ending after 2017, Indian tribal governments with an approved 477 Plan are required to use the new reporting forms referred to as "Version 2" (September 26, 2014, *Federal Register* [75 FR 57970]). The 477 program supplement for this cluster is applicable only to tribes who have started reporting under Version 2. If the Indian tribal government with an approved 477 Plan reports under Version 1 forms, then the auditor would use other applicable sections in the Supplement in the same manner as used in auditing under the 2016 Supplement (i.e., using Part 4 for programs/clusters included in that part or using Part 7 if not included in Part 4).

I. PROGRAM OBJECTIVES

Based upon a 477 Plan approved by the secretary of the Interior, an Indian tribal government (tribal government) is authorized to coordinate its federally funded employment, training, and related services grant programs in a manner that integrates the program services involved into a single, coordinated, comprehensive program with a single, integrated budget, and a single reporting system (25 USC 3401, 3403, and 3405).

The purposes of Pub. L. No. 102-477 are to demonstrate how Indian tribal governments can integrate the employment, training, and related services they provide in order to improve the effectiveness of those services, reduce joblessness in Indian communities, foster economic

development on Indian lands, and serve tribally determined goals consistent with the policies of self-determination and self-governance (25 USC 3401).

II. PROGRAM PROCEDURES

A. Overview

Participation by a tribal government in a 477 Plan is completely voluntary. The lead federal agency is the Department of the Interior (DOI) and the coordinating federal partner agencies are the Department of Labor (DOL) and Health and Human Services (HHS).

Each 477 Plan is for up to a three-year period and is required to identify the federal grant programs to be integrated. There is no separate funding associated with Pub. L. No. 102-477. All the funds included in the 477 Plan are those which the tribal government would otherwise receive under the authority of the individual programs that are included in the 477 Plan.

While the 477 Cluster lists all of the possible programs which a tribal government may integrate into its 477 Plan, a particular tribe may decide not to include all of the listed programs in its 477 plan. The 477 Cluster for a particular tribal government will only include the programs listed in the 477 Cluster that are included in the tribal government's 477 Plan (25 USC 3405).

B. Administration of Funds

The tribal government is not required to report expenditures under its 477 Plan by Assistance Listing number.

In general, program funds under a 477 Plan must be administered in such a manner as to allow for a determination that funds from specific programs (or an amount equal to the amount transferred from each program) are spent on allowable activities authorized under such program. Pub. L. No. 102-477 does not require a tribal government to maintain separate records tracing any services or activities conducted under its 477 Plan to the individual programs under which funds were authorized, nor must a tribe be required to allocate expenditures among such individual programs (25 USC 3413(a)).

Administrative costs of programs under a 477 Plan may be commingled and participating tribal governments are entitled to the full amount of such costs under each applicable federal program, and no overage shall be counted for federal audit purposes, provided that the overage is used for the purposes approved in the 477 Plan (25 USC 3413(b)). A single report format is used for the programs included in the 477 Plan such that, together with records maintained on the consolidated program at the tribal level, the report contains sufficient information to allow a determination that the tribal government has complied with the requirements incorporated in its 477 Plan and will provide assurances that the tribal government has complied with all directly applicable statutory

requirements and with those directly applicable regulatory requirements which have not been waived (35 USC 3410(b)).

Source of Governing Requirements

The combining of these programs is authorized under Pub. L. No. 102-477, the Indian Employment, Training, and Related Services Demonstration Act of 1992, as amended by Pub. L. No. 106-568, the Omnibus Indian Advancement Act of 2000 (25 USC 3401-3417).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	N	N	N	N	Y	N	Y

A. Activities Allowed or Unallowed

The expenditures included under each Functional Cost Category (Category), as listed on the Annual Financial Expenditure Report in lines 8.b through 8.f, must be properly classified in the Category and must be for activities allowable under the tribal government's 477 Plan.

B. Allowable Costs/Cost Principles

As discussed in Appendix I to this Supplement, "Programs Excluded from A-102 Common Rule/Portions of 2 CFR Part 200," the CCDF Cluster funds (Assistance Listings 93.575 and 93.596) are excluded from Subpart E of 2 CFR Part 200 at both the recipient and subrecipient levels. Similarly, CSBG (Assistance Listing 93.569) funds are excluded from Subpart E since tribal governments participating in 477 receive CSBG funds directly as a recipient. When funds are excluded from Subpart E, the tribal government must expend and account for CCDF and CSBG funds in accordance with the laws and procedures they use for expending and accounting for other nonfederal funds of the tribal government.

E. Eligibility

1. Eligibility for Individuals

The expenditures included under each Category, as listed on the Annual Financial Expenditure report in lines 8.b through 8.d, must be properly classified in that Category and must be paid to the correct individual for the correct amount under the requirements of the tribal government's 477 Plan.

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request from Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

d. *Public Law 102-477 Annual Financial Expenditure Report (Version 2) (OMB Control No. 1076-0135)* – This annual report must be submitted for each Plan Period until all of the funds available for the Plan Period have been fully expended and reported. For example, if there are Total Unexpended Funds at the end of the Plan Period from 10/01/2017 to 9/30/2020, for the Annual Report Period from 10/01/2020 to 9/30/2021

there would be two reports. One report is required for the10/01/2017 to 9/30/2020 Plan Period and another report would be required for the 10/01/2020 to 9/30/2023 Plan Period.

2. Performance Reporting

Not Applicable

3. Special Reporting

Public Law 102-477 Statistical Report (Version 2) (OMB Control No. 1076-0135) – This annual report provides statistical summary data of participants receiving any of the services available under the initiative.

The data includes current participants and those terminated from the program.

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

1. Line I – *Participants Served*
   - Line A – Total Participants
   - Line B – Total Terminees
   - Line C –Total Current Participants

2. Line II – *Terminee Outcomes*
   - Line A – Total with Employment Objective
   - Line B – Total with Educational/Training Objective
   - Line C – Misc. Objective Received
   - Line D – Other (Non-Positive)

3. Line V – *Child Care and Development Activities*
   - Line A – Families Receiving Child Care
   - Line B – Children Receiving Child Care
   - Line C – Care Received – Type of Provider
     - Line 1 – Center Based
     - Line 2 – Family Child Care Home
     - Line 3 – Group Home
     - Line 4 – Child's Home

4. Line VI – *Jobs Creation/Economic Development*
   - Line A – Number

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Accountability, Deposit, and Investment of Lump-Sum Drawdowns

Compliance Requirements Tribal governments participating in a Pub. L. No. 102-477 demonstration project may draw down the full amount of available Pub. L. No. 102-477 funding under a 477 Plan in accordance with guidance provided by DOI.

Lump-sum drawdown/payments must be retained in clearly identifiable cash or investment accounts to be used only in accordance with the tribal government's 477 Plan, must be readily accessible for payment of allowable expenditures in accordance with the 477 Plan from which it was derived in compliance with applicable requirements, and to the extent practical, earn interest. This does not require a tribal government to open a separate account with a financial institution or an investment manager. Investments of lump-sum payments must comply with 25 USC 450e-3, "Investment of Advance Payments: Restrictions." All interest earned must be used on allowable expenditures in accordance with the 477 Plan from which it was derived and in compliance with applicable requirements.

Tribal governments receiving lump-sum drawdown/payments under a 477 Plan may invest these payments (some tribal governments refer to these advance payments as "deferred revenue") before they are expended in accordance with the 477 Plan, as long as such funds are: (1) invested only in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States or securities that are guaranteed or insured by the United States; or (2) deposited only in accounts that are insured by an agency or instrumentality of the United States, or are fully collateralized to ensure protection of the advance funds, even in the event of a bank failure (25 USC 450e-3).

Audit Objectives Determine whether the tribal government has properly accounted for, deposited, and invested lump-sum drawdowns/payments received under its 477 Plan and drawdown but unexpended funds are identifiable and readily accessible for use to carry out its 477 Plan.

Suggested Audit Procedures

a. Obtain and review the tribal government's policies and procedures and verify that those procedures comply with the requirements for lump-sum drawdowns/payments under a Pub. L. No. 102-477 demonstration project.

b. Test lump-sum drawdowns/payments and ascertain if they were properly accounted for, deposited, and invested throughout the audit period.

c. Review unused/unexpended lump-sum drawdowns/payments at year-end and verify that they are properly invested/deposited and are identifiable and readily accessible to carry out the work outlined in the 477 Plan.

d. For each Plan Period with unexpended funds, compare the line 8.h, Total Unexpended Funds, of the Annual Financial Expenditure report to the sum of the unexpended drawdowns plus available funds not drawn down to ascertain if total unexpended funds are properly accounted for including cash balances for unexpended lump sum drawdowns.

IV. OTHER INFORMATION

Reporting on the Schedule of Expenditures of Federal Awards (SEFA)

The total expenditures for the 477 Cluster for the fiscal year must be shown on the SEFA as one line for each Plan Period covered with no identification of the individual Assistance Listing numbers included in the 477 Cluster. For example, for a tribal government with a fiscal year-end and annual report end of 9/30/2017, and a three-year plan period of 10/01/2017 to 9/30/2020, the amount reported on the Annual Financial Expenditure Report (Version 2) in line 8.g (Total Federal Expenditures), "Column II: This Annual Report Period," would be the same amount reported on the fiscal year (FY) 2017 SEFA for the 477 Cluster. If the tribal government's fiscal year-end date and reporting year-end differed, the amounts reported would be based upon general ledger amounts adjusted accordingly for the applicable reporting period.

If the tribal government had transactions or balances from multiple Plan Periods in a fiscal year, and, therefore, was required to file multiple Annual Financial Expenditure Reports, the SEFA must show a separate line for each Plan Period and identify the applicable Plan Period.

Notes to the SEFA

The notes to the SEFA should list the Assistance Listing number and name of each contributing federal program that is a source of funding in the tribal government's 477 Plan. This disclosure in the notes should not include dollar amounts either by Assistance Listing number or otherwise.
Reporting to the Federal Audit Clearinghouse (FAC) on the Data Collection Form (SF-SAC).

The 477 Cluster is reported to the FAC on the SF-SAC in a manner consistent with the display on the SEFA. For example, on the SF-SAC in Part II, Item 1(a), Federal Awarding Agency, would be "15"; Part II, Item 1(b), Assistance Listing Three Digit Extension, would be "U" for unknown followed by two digit number assigned per FAC instructions (e.g., "U01"; Part II, Item 1(c), Additional Award Identification, would be "Plan Period Ending 9/30/2020" (example of Plan Period end date); Part II, Item 1(d) Name of Federal Award would be "Public Law 102-477 Programs"; and the other columns would correspond to normal SF-SAC reporting). If multiple plan periods, a separate line on the SF-SAC would be used for each Plan Period consistent with the SEFA with a different Assistance Listing Three Digit Extension for each Plan Period (e.g., "U01" for Plan Period ending 9/30/2020 and "U02" for Plan Period ending 9/30/2023).

DEPARTMENT OF THE INTERIOR

ASSISTANCE LISTING 15.030 INDIAN LAW ENFORCEMENT

I. PROGRAM OBJECTIVES

The objective of the Indian Law Enforcement program is to provide funds to Indian tribal governments to operate police departments and detention facilities.

II. PROGRAM PROCEDURES

The Bureau of Indian Affairs (BIA) makes direct payments to federally recognized Indian tribal governments exercising federal criminal law enforcement authority over crime under the Major Crimes Act (18 USC 1153) on their reservations. Funds may be used for salaries and related expenses of criminal investigators, uniformed officers, detention officers, radio dispatchers, and administrative support.

Source of Governing Requirements

The program is authorized by the Indian Self-Determination and Education Assistance Act (ISDEAA), Pub. L. No. 93-638, as amended (25 USC 450 et seq.) and the Indian Law Enforcement Reform Act, Pub. L. No. 101-379 (25 USC 2801 et seq.).

Availability of Other Program Information

Part 40 of the Indian Affairs Manual provides information applicable to all law enforcement programs operated by an Indian tribe or tribal organization under a Self-Determination contract. Part 40 does not apply to Indian tribes that have negotiated Self-Governance compacts. The website at which this manual has been available is not currently operational.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not

being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	N	Y	N	N	Y	N	Y

A. Activities Allowed or Unallowed

The ISDEAA provides for the expenditure of funds by Indian tribes and tribal organizations under self-determination contracts for programs and activities previously provided by the BIA. Funds may be used for a variety of programs and services that the federal government otherwise would have provided directly. The specific activities allowed will be indicated in the self-determination contract between the tribal organization and the secretary of the Interior (25 USC 450f). While the tribe or tribal organization may propose to redesign the program or activity, such redesign must be approved by the BIA (25 USC 450j(j)).

B. Allowable Costs/Costs Principles

See Part 4, 15.000 BIA/BIE Cross-Cutting Section.

H. Period of Performance

See Part 4, 15.000 BIA/BIE Cross-Cutting Section.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

See Part 4, 15.000 BIA/BIE Cross-Cutting Section.

DEPARTMENT OF THE INTERIOR

ASSISTANCE LISTING 15.042 INDIAN SCHOOL EQUALIZATION

I. PROGRAM OBJECTIVES

The objective of the Indian School Equalization program is to provide funding for elementary and secondary education.

II. PROGRAM PROCEDURES

The Bureau of Indian Education (BIE) programs make direct payments to federally recognized Indian tribal governments or tribal organizations currently operating a BIE-funded school.

Funds may be used for the education of Indian children in BIE-funded schools. Funds may not be used for construction.

Source of Governing Requirements

The program is authorized by the Indian Self-Determination and Education Assistance Act (ISDEAA), Pub. L. No. 93-638, as amended (25 USC 450 et seq.), Indian Education Amendments of 1978, Pub. L. No. 95-561 (25 USC 2001 et seq.), and Tribally Controlled Schools Act (25 USC 2501 et seq.).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	N	Y	Y	N	Y	N	Y

A. Activities Allowed or Unallowed

The expenditure of funds is restricted to those federal programs covered by the grant. The Tribally Controlled Schools Act provides for the expenditure of funds by Indian tribes and tribal organizations under grants for education-related programs and activities, including school operations, academic, educational, residential, guidance and counseling, and administrative purposes, and support services for the school, including transportation and maintenance and repair costs (25 USC 2502).

B. Allowable Costs/Cost Principles

See Part 4, 15.000 BIA/BIE Cross-Cutting Section.

H. Period of Performance

See Part 4, 15.000 BIA/BIE Cross-Cutting Section.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable only if specifically required in the grant agreement assurance statement.

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

Also see Part 4, 15.000 BIA/BIE Cross-Cutting Section.

1. Character Investigations by Indian Tribes and Tribal Organizations

Compliance Requirements The Indian Child Protection and Family Violence Prevention Act (25 USC 3201 et seq.) requires Indian tribes and tribal organizations that receive funds under the ISDEAA or the Tribally Controlled Schools Act to conduct an investigation of the character of each individual who is employed or is being considered for employment by such Indian tribe or tribal organization in a position that involves regular contact with, or control over, Indian children. The Act further states that the Indian tribe or tribal organization may employ individuals in those positions only if the individuals meet standards of character, no less stringent than those prescribed under Subpart B – Minimum Standards of Character and Suitability for Employment (25 CFR Part 63), as the Indian tribe or tribal organization establishes.

Audit Objectives Determine whether Indian tribes and tribal organizations are performing the required background character investigations of school employees.

Suggested Audit Procedures

a. Obtain and review policies and procedures for the performance of background investigations.

b. Perform tests of selected security and personnel files of employees occupying positions that have regular contact with or control over Indian children to verify:

   (1) A suitability determination was conducted by an appropriate adjudicating official who herself/himself was the subject of a favorable background investigation (25 CFR section 63.17(c)).

   (2) The background investigation covered the past five years of the individual's employment, education, etc. (25 CFR section 63.16(b)).

   (3) A security investigation was obtained and compared to the employment application (25 CFR section 63.17(e)(1)).

(4) Written record searches were obtained from local law enforcement agencies, former employers, former supervisors, employment references, and schools (25 CFR section 63.17(e)(2)).

(5) Fingerprint charts were compared to information maintained by the Federal Bureau of Investigation or other law enforcement information maintained by other agencies (25 CFR section 63.17(e)(3)).

DEPARTMENT OF THE INTERIOR

ASSISTANCE LISTING 15.047 INDIAN EDUCATION FACILITIES, OPERATIONS, AND MAINTENANCE

I. PROGRAM OBJECTIVES

The objective of this program is to provide funds to Bureau of Indian Education (BIE) funded elementary or secondary schools or peripheral dormitories for facilities, operations, and maintenance.

II. PROGRAM PROCEDURES

The Indian Self-Determination and Education Assistance Act (ISDEAA) was implemented to establish meaningful Indian self-determination that will permit an orderly transition from the federal domination of programs for, and services to, Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services. The Tribally Controlled Schools Act provides a grant process for the operation of schools funded by the BIE.

Source of Governing Requirements

ISDEAA, Pub. L. No. 93-638, as amended, 25 USC 450 et seq.; Indian Education Amendments of 1978, Pub. L. No. 95-561, 25 USC 2001 to 2021; and Tribally Controlled Schools Act, 25 USC 2501 to 2511. Regulations for ISDEAA are in 25 CFR Part 900.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	Y	N	N	Y	N	Y

A. Activities Allowed or Unallowed

Funds can be used for education related activities, including:

1. School operations, academic, educational, residential, guidance and counseling, and administrative purposes; and

2. Support services for the school, including transportation (25 USC 2502(a)(3)).

G. Matching, Level of Effort, Earmarking

1. Matching

This program has no statutory matching requirements. However, a recipient may commit to providing matching share in the grant agreement.

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

H. Period of Performance

See Part 4, 15.000 BIA/BIE Cross-Cutting Section.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable only if specifically required in the grant agreement assurance statement.

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

See Part 4, 15.000 BIA/BIE Cross-Cutting Section.

DEPARTMENT OF THE INTERIOR

ASSISTANCE LISTING 15.252 ABANDONED MINE LAND RECLAMATION (AMLR) GRANTS

I. PROGRAM OBJECTIVES

This program is considered a "higher risk" program for 2023, pursuant to 2 CFR section 200.519(c)(2). Refer to the "Programs with Higher Risk Designation," Appendix IV, Internal Reference Tables, for a discussion of the impact of the "higher risk" designation on the major program determination process.

The main objective of the Office of Surface Mining Reclamation and Enforcement (OSMRE) Abandoned Mine Land (AML) Reclamation program is to address the hazards and environmental degradation posed by legacy coal mines. The main objectives of the Bipartisan Infrastructure Law (BIL) investment in the AML Reclamation program are to improve federal stewardship of critical infrastructure and to significantly increase OSMRE efforts to support its partners, stakeholders, Tribal nations, and communities. The BIL appropriated $11.293 billion for deposit into the Abandoned Mine Reclamation Fund administered by OSMRE. Of the $11.293 billion appropriated, OSMRE will distribute approximately $10.873 billion in BIL AML grants to eligible States and Tribes on an equal annual basis—approximately $725 million a year—over a 15-year period. BIL AML funds will expand the AML Reclamation Program to meet the priorities described in the BIL and the Surface Mining Control and Reclamation Act of 1977 (SMCRA), as amended, which include addressing coal AML related problems described in sections 403(a), 403(b), and 410 of SMCRA, reduction of methane emissions, and providing employment for current and former employees of the coal industry.

II. PROGRAM PROCEDURES

Annual BIL AML grant amounts are calculated using a congressionally mandated formula based on the number of tons of coal historically produced in the States or from applicable Indian lands before August 3, 1977. Adjustments will be made to ensure the total amount of the distributions to any individual State or Tribe is not less than $20 million over the life of the program to the extent that amount is needed for eligible projects and to reconcile the amount of the BIL AML funding with the total unfunded cost of coal problems at the end of the preceding fiscal year, as reflected in the enhanced Abandoned Mine Land Inventory System (e-AMLIS). BIL AML grants will be awarded to eligible State and Tribal AML programs on an annual basis and adjustments will be made to these distributions as required and needed to achieve the objectives of the program. The period of performance for BIL grants will be five-years, with an option for a one-time no-cost extension of up to one year, subject to OSMRE's review and approval.

Source of Governing Requirements

The OSMRE AML Reclamation fund is authorized by Section 401, Title IV, Pub. L. No. 95-87, 30 USC 1231. The AML grant program regulations are at 30 CFR Part 870—887. The Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law, Division D, Title VII - ABANDONED MINE LAND RECLAMATION; SEC. 40701. ABANDONED MINE RECLAMATION FUND AUTHORIZATION OF APPROPRIATIONS.

Availability of Other Program Information

Other program information for the BIL AML reclamation program is found at http://www.osmre.gov/bil.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	N	Y	N	N	Y	Y	N

A. Activities Allowed or Unallowed

1. Activities Allowed

a. Reclaim coal AML sites with hazards resulting from legacy coal mining that pose a threat to public health, safety, and the environment within their jurisdictions

Examples: Projects covering dangerous highwalls, waste piles, subsidence, open portals, features that may be routes for the release of harmful gases, acid mine drainage, etc.).

b. Water supply restoration (infrastructure).

Examples: Protection, repair, replacement, construction, or enhancement of facilities relating to water supply, including water distribution facilities and treatment plants, to replace water supplies adversely affected by coal mining practices.

c. Coal AML emergencies - a sudden danger or impairment related to coal mining that presents a high probability of substantial physical harm to the health, safety, or general welfare of people before the danger can be abated under normal AML program operation procedures.

Examples: Addressing problems including subsidence, shaft failures, gas leaks, and landslides.

d. In accordance with the STREAM Act, BIL grant recipients can set-aside not more than 30 percent of the total amount of grant made annually into a long-term abandoned mine land reclamation fund established under State law, from which amounts (together with all interest earned on the amounts) are expended by the State or Indian Tribe for the abatement of the causes and the treatment of the effects of acid mine drainage resulting from coal mining practices, including for the costs of building, operating, maintaining, and rehabilitating acid mine drainage treatment systems; the prevention, abatement, and control of subsidence; or the prevention, abatement, and control of coal mine fires.

2. Activities Unallowed

a. Reclamation projects for hazards resulting from legacy non-coal sites that pose a threat to public health, safety, and the environment within their jurisdictions.

Examples: Projects resulting from non-coal mining, covering dangerous highwalls, waste piles, subsidence, open portals, features that may be routes for the release of harmful gases, acid mine drainage, etc.).

b. Ineligible abandoned coal mine reclamation projects (not eligible per the requirements in Section 404 of SMCRA).
Examples: Coal mining sites abandoned after SMCRA enactment; coal sites regulated under Title V of SMCRA

3. Use of BIL funding differences from the traditional fee-based AML funding

a. Stand-alone projects classified as Priority 3 under SMCRA Title IV are eligible for BIL funding, whether or not the project is in conjunction with other projects classified as Priority 1 and Priority 2 projects under SMCRA Title IV;

b. Acid mine drainage (AMD) treatment projects that are not part of a qualified hydrologic unit are eligible for BIL funding.

c. Eligible states and tribes are not authorized under the BIL to place BIL AML grant funds into existing state AMD set-aside accounts. See 1d above regarding STREAM Act.

H. Period of Performance

The period of performance for BIL grants will be five-years, with an option for a one-time no-cost extension of up to one year, subject to OSMRE's review and approval.

L. Reporting

For BIL AML grants, information should be reported to OSMRE as part of the State or Tribe's regular AML reporting processes (2 CFR 200; 30 CFR 885.20; 30 CFR 886.21).

1. Financial Reporting

a. SF-270, Request for Advance or Reimbursement – Not Applicable

b. SF-271, Outlay Report and Request for Reimbursement for Construction Programs – Not Applicable

c. SF-425 and 425A, Federal Financial Report - Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

DEPARTMENT OF THE INTERIOR

ASSISTANCE LISTING 15.504 WATER RECYCLING AND DESALINATION CONSTRUCTION PROGRAMS

I. PROGRAM OBJECTIVES

The objectives of the Water Reclamation and Reuse program are to investigate and identify opportunities for reclamation and reuse of municipal, industrial, domestic, and agricultural wastewater, and naturally impaired ground and surface waters, for the design and construction of demonstration and permanent facilities to reclaim and reuse wastewater; and to conduct research, including desalting, for the reclamation of wastewater and naturally impaired ground and surface waters.

II. PROGRAM PROCEDURES

The Bureau of Reclamation in the Department of the Interior (DOI) has the discretionary authority to fund financial assistance awards for appraisal investigations, feasibility studies, research, and demonstration projects under Sections 1602 through 1605 of the Reclamation Wastewater and Groundwater Study and Facilities Act of 1992, Pub. L. No. 102-575 (43 USC 390h et seq.). Funding for construction is limited to projects specifically authorized by statute through Title XVI of Pub. L. No. 102-575, as amended (43 USC 390h et seq.).

Source of Governing Requirements

Title XVI of Pub. L. No. 102-575 (43 USC 390h et seq.).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor muse Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	N	N	N	Y	N	N

A. Activities Allowed or Unallowed

Operation and maintenance costs are only allowable for demonstration water reclamation and reuse projects constructed under this program (43 USC 390h-3).

G. Matching, Level of Effort, Earmarking

1. Matching

a. The federal share of appraisal investigations can be up to 100 percent (43 USC 390h-1).

b. The federal share of feasibility studies shall not exceed 50 percent of the total costs unless the secretary of the interior determines, based upon a demonstration of financial hardship on the part of the nonfederal participant, that the nonfederal participant is unable to contribute at least 50 percent of the study costs (43 USC 390h-2).

c. The federal share of the total costs to construct, operate, and maintain cooperative research and demonstration projects shall not exceed 25 percent unless DOI determines that the project is not feasible without a greater than 25 percent federal contribution (43 USC 390h-3).

d. The federal share of planning, design, and construction of permanent water reclamation and reuse projects shall not exceed 25 percent of the total project costs (43 USC 390h et seq.).

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

L. Reporting

1. Financial Reporting

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

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

DEPARTMENT OF THE INTERIOR

ASSISTANCE LISTING 15.507 WaterSMART (SUSTAIN AND MANAGE AMERICA's RESOURCES FOR TOMORROW)

I. PROGRAM OBJECTIVES

The objectives of the WaterSMART program are to make funding available for eligible applicants to leverage their money and other resources by cost sharing with the Department of the Interior (DOI) on projects that save water, improve energy efficiency, address endangered species and other environmental issues, and facilitate transfers to new uses. The WaterSMART program works to establish a framework to provide federal leadership and assistance on the efficient use of water; integrate water and energy policies to support the sustainable use of all natural resources; and coordinate water conservation activities of various federal agencies and DOI bureaus and offices. Through the WaterSMART program, the DOI is working to achieve a sustainable water management strategy to meet the nation's water needs.

II. PROGRAM PROCEDURES

The Bureau of Reclamation, DOI, has the discretionary authority to award projects funded through grants and cooperative agreements to recipients who are selected through a competitive process.

Source of Governing Requirements
Governing requirements are specified in Section 9504 of Pub. L. No. 111-11 (42 USC 10364).

Availability of Other Program Information
For additional information on the WaterSMART program, see https://www.usbr.gov/watersmart/.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not

being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	N	N	N	Y	N	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. Planning, designing, and constructing improvements that:

      (1) Conserve water;

      (2) Increase water use efficiency;

      (3) Facilitate water markets;

      (4) Enhance water management, including increasing the use of renewable energy in the management and delivery of water; or

      (5) Accelerate the adoption and use of advanced water treatment technologies; or to benefit threatened and endangered species (42 USC 10364(a)(1)).

   b. Research activities designed to:

      (1) Conserve water resources;

      (2) Increase the efficiency of the use of water resources; or

      (3) Enhance the management of water resources, including increasing the use of renewable energy in the management and delivery of water (42 USC 10364(b)(1)).

2. *Activities Unallowed*

   Operation and maintenance costs (42 USC 10364(a)(3)(E)(iv)).

G. Matching, Level of Effort, Earmarking

1. Matching

a. The federal share of costs for planning, design, and construction activities shall not exceed 50 percent (42 USC 10364(a)(3)(E)(i)).

b. The federal share of costs for research activities can be up to 100 percent. Specific cost-share requirements are identified within each award agreement (42 USC 10364(b)).

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

DEPARTMENT OF THE INTERIOR

ASSISTANCE LISTING 15.605 SPORT FISH RESTORATION PROGRAM
ASSISTANCE LISTING 15.611 WILDLIFE RESTORATION AND BASIC HUNTER EDUCATION AND SAFETY
ASSISTANCE LISTING 15.626 ENHANCED HUNTER EDUCATION AND SAFETY PROGRAM

I. PROGRAM OBJECTIVES

The objective of the Sport Fish Restoration program is to restore, conserve, and enhance sport fish populations, and to provide for public use and enjoyment of these fishery resources.
The objective of the Wildlife Restoration program is to restore, rehabilitate, and improve wild birds and mammals and their habitats; conduct wildlife management research; conduct wildlife population surveys and inventories; acquire land; coordinate, develop, operate, and maintain facilities, acquire land for expanding, or constructing, public target ranges (up to 10 percent); and provide for public use of wildlife resources.

The objective of Basic Hunter Education (Hunter Education and Safety program) is to provide training in the safe handling and use of firearms and archery equipment; hunter responsibilities and ethics; construction, operation, and maintenance of public target ranges (used for hunter education or recreational shooting); recruiting, retaining, and reactivating hunters and recreational shooters; basic wildlife management and identification; and public outreach and communications activities as covered under the definition of *hunter recruitment and recreational-shooter recruitment* at 16 U.S.C. 669(a)(3).

The objective of the Enhanced Hunter Education and Safety program is to provide funds for enhancing hunter education programs; recruitment, and safety; increase interstate coordination of hunter education programs; enhance programs for bow hunters and archers; enhance construction and development of firearm and archery ranges; update safety features of firearm and archery ranges; enhance activities for hunter and recreational shooter recruitment, retention, and reactivation; and public outreach and communications activities as covered under the definition of *hunter recruitment and recreational-shooter recruitment* at 16 U.S.C. 669(a)(3).

II. PROGRAM PROCEDURES

A. Overview

The U.S. Fish and Wildlife Service (FWS) Wildlife and Sport Fish Restoration Program provides funds to the fish and wildlife agencies of the 50 States, District of Columbia (not eligible to receive Wildlife Restoration, Basic Hunter Education and Safety or Enhanced Hunter Education and Safety program funding), Commonwealths of Puerto Rico and the Northern Mariana Islands, and Territories of Guam, U.S. Virgin Islands, and American Samoa (collectively referred as “State” or “States”) with funds apportioned to each State

through a statutory formula. States may submit either a comprehensive plan or project proposal to FWS. When either is approved, any of the 50 States can be paid up to 75 percent of the cost of the work performed. The District of Columbia and Puerto Rico may receive up to 100 percent with Regional Director approval. The insular areas of American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands are waived from match requirements.

B. Subprograms/Program Elements

The Sport Fish Restoration program has three subprograms: the Sport Fish Restoration–Recreational Boating Access subprogram; the Sport Fish Restoration–Aquatic Resources Education subprogram; and the Sport Fish Restoration–Outreach and Communication subprogram. Definitions of terms applicable to these programs are listed in 50 CFR 80.2, including the definition of sport fish.

The Wildlife Restoration program has two subprograms: the Wildlife Restoration–Basic Hunter Education and Safety subprogram; and the Enhanced Hunter Education and Safety program. Definitions of terms applicable to these programs are listed in 50 CFR 80.2, including the definition of wildlife.

Source of Governing Requirements
The Sport Fish Restoration program is authorized by the Sport Fish Restoration (Dingell-Johnson) Act (16 USC 777 through *777m*, except *777e-1* and *777g-1*). The Wildlife Restoration Program is authorized by the Wildlife Restoration (Pittman-Robertson) Act (16 U.S.C. 669 et seq., except for provisions inserted for WCRP by Public Law 106-553). Program regulations are at 50 CFR Part 80.

Availability of Other Program Information
Program policies for FWS staff are available in the FWS Manual chapters pertaining to Federal Financial Assistance and Wildlife and Sport Fish Restoration grants—Parts 516 through 522 at http://www.fws.gov/policy/manuals/.
Other program information is available at Toolkit Homepage - WSFR Toolkit - FA Wiki (fws.gov).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program and the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not

being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	N	N	Y	N	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

a. *Wildlife Restoration*

(1) Activities eligible for funding under the Wildlife Restoration program per 16 USC 669 et seq., as amended, and 50 CFR 80.50 include:

(a) Restore and manage wildlife for the benefit of the public.

(b) Conduct research on the problems of managing wildlife and its habitat if necessary to administer wildlife resources efficiently.

(c) Obtain data to guide and direct the regulation of hunting.

(d) Acquire real property suitable or capable of being made suitable for wildlife habitat or public access for hunting or other wildlife-oriented recreation.

(e) Restore, rehabilitate, improve, or manage areas of lands or waters as wildlife habitat.

(f) Build structures or acquire equipment, goods, and services to: restore, rehabilitate, or improve lands and waters as wildlife habitat; or provide public access for hunting or other wildlife-oriented recreation.

(g) Operate or maintain: projects that the State fish and wildlife agency completed under the Pittman-Robertson Wildlife

Restoration Act; or facilities that the agency acquired or constructed with funds other than those authorized under the Pittman-Robertson Wildlife Restoration Act if these facilities are necessary to carry out activities authorized by the Pittman-Robertson Wildlife Restoration Act.

(h) Coordinate grants in the Wildlife Restoration program and related programs and subprograms.

(i) Provide technical assistance.

(j) Make payments in lieu of taxes on real property under the control of the State fish and wildlife agency when the payment is: Required by State or local law; and Required for all State lands including those acquired with Federal funds and those acquired with non-Federal funds.

(k) Acquiring land for expanding, or constructing, public target ranges (up to 10 percent) (16 U.S.C. 669g(b)(2)).

(2) Activities eligible for funding under the Wildlife Restoration–Basic Hunter Education and Safety subprogram per 16 U.S.C. 669 et seq., as amended, and 50 CFR 80.50 include:

(a) Teach the skills, knowledge, and attitudes necessary to be a responsible hunter.

(b) Acquire real property suitable or capable of being made suitable for firearm and archery ranges for public use.

(c) Construct, operate, or maintain firearm and archery ranges for public use.

(d) Recruiting, retaining, and reactivating hunters and recreational shooters (16 U.S.C. 669c(c)(4)).

(e) Public relations activities as eligible under the definition of *hunter recruitment and recreational-shooter recruitment* and defined at 16 U.S.C. 669(a)(3).

(3) Activities eligible for funding under the Enhanced Hunter Education and Safety program per 16 U.S.C. 669 et seq., as amended, and 50 CFR 80.50 include:

(a) Enhance programs for hunter education, hunter development, and firearm and archery safety. Hunter-development programs introduce individuals to and recruit

them to take part in hunting, bow hunting, target shooting, or archery.

(b) Enhance interstate coordination of hunter education, and firearm and archery range programs.

(c) Enhance programs for education, safety, or development of bow hunters, archers, and shooters.

(d) Enhance construction and development of firearm and archery ranges.

(e) Update safety features of firearm and archery ranges.

(f) Acquire real property suitable or capable of being made suitable for firearm and archery ranges for public use.

(g) Enhance activities for hunter and recreational shooter recruitment, retention, and reactivation 16 U.S.C. 669h-1(a)(1)(A)(v).

(h) Public relations activities as eligible under the definition of *hunter recruitment and recreational-shooter recruitment* and defined at 16 U.S.C. 669(a)(3).

b. *Sport Fish Restoration*

(1) Activities eligible for funding under the Sport Fish Restoration program per 50 CFR 80.51 include:

(a) Restore and manage sport fish for the benefit of the public.

(b) Conduct research on the problems of managing fish and their habitat and the problems of fish culture if necessary to administer sport fish resources efficiently.

(c) Obtain data to guide and direct the regulation of fishing. These data may be on: size and geographic range of sport fish populations; changes in sport fish populations due to fishing, other human activities, or natural causes; and effects of any measures or regulations applied.

(d) Develop and adopt plans to restock sport fish and forage fish in the natural areas or districts covered by the plans; and obtain data to develop, carry out, and test the effectiveness of the plans.

(e) Stock fish for recreational purposes.

(f) Acquire real property suitable or capable of being made suitable for: sport fish habitat or as a buffer to protect that habitat; or public access for sport fishing. Closures to sport

fishing must be based on the recommendations of the State fish and wildlife agency for fish and wildlife management purposes.

(g) Restore, rehabilitate, improve, or manage: aquatic areas adaptable for sport fish habitat; or land adaptable as a buffer to protect sport fish habitat.

(h) Build structures or acquire equipment, goods, and services to: Restore, rehabilitate, or improve aquatic habitat for sport fish, or land as a buffer to protect aquatic habitat for sport fish; or provide public access for sport fishing.

(i) Construct, renovate, operate, or maintain pumpout and dump stations. A pumpout station is a facility that pumps or receives sewage from a type III marine sanitation device that the U.S. Coast Guard requires on some vessels. A dump station, also referred to as a "waste reception facility," is specifically designed to receive waste from portable toilets on vessels.

(j) Operate or maintain: projects that the State fish and wildlife agency completed under the Dingell-Johnson Sport Fish Restoration Act; or facilities that the agency acquired or constructed with funds other than those authorized by the Dingell-Johnson Sport Fish Restoration Act if these facilities are necessary to carry out activities authorized by the Act.

(k) Coordinate grants in the Sport Fish Restoration program and related programs and subprograms.

(l) Provide technical assistance.

(m) Make payments in lieu of taxes on real property under the control of the State fish and wildlife agency when the payment is: required by State or local law; and required for all State lands including those acquired with Federal funds and those acquired with non-Federal funds.

(2) Activities eligible for funding under the Sport Fish Restoration–Recreational Boating Access subprogram include acquiring land and building recreational boating access facilities and conducting surveys (50 CFR 80.51(b)).

(3) Activities eligible for funding under the Sport Fish Restoration–Aquatic Resources Education subprogram include enhancing the public's understanding of water resources, aquatic life forms, and

sport fishing, and develop responsible attitudes and ethics toward the aquatic environment (50 CFR 80.51(c)).

(4) Activities eligible for funding under the Sport Fish Restoration–Outreach and Communication subprogram include improving communications with anglers, boaters, and the general public on sport fishing and boating opportunities; increasing participation in sport fishing and boating; advancing the adoption of sound fishing and boating practices including safety; and promoting conservation and responsible use of the aquatic resources of the United States (50 CFR 80.51(d)).

2. *Activities Unallowed*

The following activities are ineligible except, when necessary, to carry out project purposes approved by the FWS regional director:

a. Law enforcement activities (50 CFR 80.54(a)).

b. Public relations activities to promote the state fish and wildlife agency or any other state entity (50 CFR 80.54(b)).

c. Activities primarily for producing income (50 CFR 80.54(c)).

d. Activities that oppose regulated fishing, hunting, or trapping (50 CFR 80.54(d)).

F. Equipment and Real Property Management

Real property acquired or constructed with Wildlife Restoration program or Sport Fish Restoration program funds shall continue in perpetuity to serve the purpose for which it was acquired or constructed. Where grant funds are used for a capital improvement, a State fish and wildlife agency must have control adequate for the protection, maintenance, and use of the capital improvement for its authorized purpose during its useful life even if the agency did not acquire the land with grant funds. When property passes from management control of the State fish and wildlife agency or the State fish and wildlife agency allows use of real property that interferes with its authorized purpose, the control shall be fully restored to the State fish and wildlife agency or the real property shall be replaced using nonfederal funds. If the State fish and wildlife agency and the Regional Director jointly decide grant-funded real property is not needed for its original purpose, the real property must be used for another eligible purpose or the State fish and wildlife agency must dispose of the property (50 CFR Part 80, Subpart J).

G. Matching, Level of Effort, Earmarking

1. Matching

a. The federal share is at least 10 percent and up to 75 percent of allowable costs of the grant-funded project for the 50 States. The specific amount will be in the approved grant award. The federal cost sharing for the Commonwealths of Puerto Rico and the District of Columbia (not eligible to receive Wildlife Restoration program funding)may be from 75 to 100 percent of the allowable costs of a grant-funded project as decided by the Regional Director (50 CFR section 80.83). The Commonwealth of the Northern Mariana Islands, and the Territories of Guam, the U.S. Virgin Islands, and American Samoa are waived from match requirements.

A State with matching requirements may allocate up to 10 percent of its apportioned WR funds to supplement Enhanced Hunter Education and Safety funds for acquiring land for, expanding, or constructing public target ranges (as defined at 16 U.S.C. 669a(4)). For these specific activities, a State will receive up to 90 percent Federal cost share and are available for five years.

b. The State fish and wildlife agency must not draw down federal funds in a greater proportion to the use of match than total federal funds bear to total match unless:

(1) The drawdown is to pay for construction, including land acquisition;

(2) An in-kind contribution is not yet available for delivery to the grantee or subgrantee; or

(3) The project is not at the point where it can accommodate an in-kind contribution.

The conditions above require the Regional Director’s prior approval and the State must satisfy the match requirement before it submits the final Federal Financial Report (50 CFR section 80.96(a)).

2. Level of Effort

Not Applicable

3. Earmarking

Funding Limitations

a. The amount of overhead or indirect costs charged to the projects under these programs for State central services provided from outside the State

fish and game agency in one year may not exceed 3 percent of the annual apportionment to the State (50 CFR section 80.53).

b. Each State's fish and wildlife agency may not spend more than 15 percent of the annual amount apportioned to the State from the Sport Fish Restoration and Boating Trust Fund for activities in both the Aquatic Resources Education Outreach and the Communication subprograms. The 15 percent maximum applies to both subprograms as if they were one. The Commonwealths of Puerto Rico and the Northern Mariana Islands, the District of Columbia, and the Territories of Guam, the U.S. Virgin Islands, and American Samoa are not limited to the 15 percent cap imposed on the 50 States. Each of these entities may spend more for these purposes with the approval of the Regional Director (50 CFR section 80.62).

c. A State fish and wildlife agency must allocate 15 percent of its annual apportionment for the Recreational Boating Access subprogram on a Regional level, over a designated 5-year period. As long as this requirement is met, an individual State fish and wildlife agency may allocate more or less than 15 percent of its annual apportionments in a single FFY year with the Regional Director’s approval. Allocations of more or less than 15 percent require the approval of the Regional Director (50 CFR section 80.61).

DEPARTMENT OF THE INTERIOR

ASSISTANCE LISTING 15.614 COASTAL WETLANDS PLANNING, PROTECTION AND RESTORATION PROGRAM (National Coastal Wetlands Conservation Grants)

I. PROGRAM OBJECTIVES

The objective of the National Coastal Wetlands Conservation Grants program is to provide funds to coastal states (except Louisiana) for coastal wetlands conservation projects. The primary goal of the National Coastal Wetlands Conservation Grant program is the long-term conservation of coastal wetland ecosystems. It accomplishes this goal by helping states in their efforts to protect, restore, and enhance their coastal habitats. The program's accomplishments are primarily on-the-ground and measured in acres.

II. PROGRAM PROCEDURES

The National Coastal Wetlands Conservation Grants program provides funds on a competitive basis for acquisition of interests in coastal lands or waters, and for restoration, enhancement, or management of coastal wetlands ecosystems. All coastal states except Louisiana are eligible to apply. Proposed projects must provide for long-term conservation of coastal wetlands or waters and the hydrology, water quality, and fish and wildlife dependent thereon. Use of property acquired with grant funds that is inconsistent with program requirements and that is not corrected can be grounds for denying a state future grants under this program (50 CFR section 84.48(a)(6)).

Source of Governing Requirements

The National Coastal Wetlands Conservation Grants program is authorized by Section 305, Title III, Pub. L. No. 101-646, 16 USC 3951-3956. The National Coastal Wetlands Conservation Grant program regulations are at 50 CFR Part 84.

Availability of Other Program Information

Other program information for the Coastal Wetlands Planning, Protection and Restoration program is found at http://www.fws.gov/coastal/CoastalGrants/.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance

requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	N	N	Y	N	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. Acquisition of a real property interest in coastal lands or waters from willing sellers or partners (coastal wetlands ecosystems) under terms and conditions that will ensure that the real property will be administered for long-term conservation (50 CFR section 84.20(a)(1)).

   b. The restoration, enhancement, or management of coastal wetlands ecosystems (50 CFR section 84.20(a)(2)).

   c. Planning as a minimal component of project plan development (50 CFR section 84.20(b)(6)) (see III.A.2.f. for unallowable planning activities).

2. *Activities Unallowed*

   a. Projects that primarily benefit navigation, irrigation, flood control, or mariculture (50 CFR section 84.20(b)(1)).

   b. Acquisition, restoration, enhancement, or management of lands to mitigate recent or pending habitat losses resulting from the actions of agencies, organizations, companies, or individuals (50 CFR section 84.20(b)(2)).

   c. Creation of wetlands by humans where wetlands did not previously exist (50 CFR section 84.20(b)(3)).

d. Enforcement of fish and wildlife laws and regulations, except when necessary for the accomplishment of approved project purposes (50 CFR section 84.20(b)(4)).

e. Research (50 CFR section 84.20(b)(5)).

f. Planning as a primary project focus (50 CFR section 84.20(b)(6)).

g. Operations and maintenance (50 CFR section 84.20(b)(7)).

h. Acquiring and/or restoring upper portions of watersheds where benefits to the coastal wetlands ecosystem are not significant and direct (50 CFR section 84.20(b)(8)).

i. Projects providing less than 20 years of conservation benefits (50 CFR section 84.20(b)(9)).

F. Equipment and Real Property Management

States must submit documentation (e.g., appraisals and appraisal reviews) to the Fish and Wildlife Service (FWS) regional director who must approve it before the state becomes legally obligated for the purchase. States must provide title vesting evidence and summary of land costs upon completion of the acquisition to the FWS regional director. Any deed to third parties (e.g., conservation easement or other lien on a third-party property) must include appropriate language to ensure that the lands and/or interests would revert back to the state or federal government if the conditions of the grant are no longer being implemented (50 CFR section 84.48(a)(1)).

G. Matching, Level of Effort, Earmarking

1. Matching

a. Except for those insular areas specified in paragraph G.1.b, below, the federal share will not exceed 50 percent of approved costs incurred. However, the federal share may be increased to 75 percent for coastal states that have established and are using a fund as defined in 50 CFR section 84.11. The FWS Service regional directors must certify the eligibility of the fund in order for the state to qualify for the 75 percent matching share (50 CFR section 84.46(a)).

b. The following insular areas—American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the US Virgin Islands—have been exempted from the matching share, as provided in Pub. L. No. 95-134, as amended by Pub. L. No. 95–348, Pub. L. No. 96-205, Pub. L. No. 98-213, and Pub. L. No. 98-454 (48 USC 1469a). Puerto Rico is not exempt from the match requirements of this program (50 CFR section 84.46(b)).

c. Total federal contributions (including all federal sources outside of the program) may not exceed the maximum eligible federal share under the program. This includes monies provided to the state by other federal programs. If the amount of federal money available to the project is more than the maximum allowed, FWS will reduce the program contribution by the amount in excess (50 CFR section 84.46(h)).

d. Natural Resource Damage Assessment funds that are managed by a nonfederal trustee are considered to be nonfederal, even if these monies were once deposited in the Department of the Interior's Natural Resource Damage Assessment and Restoration Fund, provided the following criteria are met:

(1) The monies were deposited pursuant to a joint and indivisible recovery by the Department of the Interior and nonfederal trustees under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) or the Oil Pollution Act (OPA);

(2) The nonfederal trustee has joint and binding control over the funds;

(3) The co-trustees agree that monies from the fund should be available to the nonfederal trustee and can be used as a nonfederal match to support a project consistent with the settlement agreement, CERCLA, and OPA; and

(4) The monies have been transferred to the nonfederal trustee (50 CFR section 84.46(i)).

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

J. Program Income

If rights or interests obtained with the acquisition of coastal wetlands generate revenue during the grant agreement period, the state will treat the revenue as program income and use it to manage the acquired properties (50 CFR section 84.48(a)(5)).

DEPARTMENT OF THE INTERIOR

ASSISTANCE LISTING 15.615 COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

I. PROGRAM OBJECTIVES

The objective of the Cooperative Endangered Species Conservation Fund program is to provide federal financial assistance to a state or territory, through its appropriate state or territorial agency, to assist in the development of programs for the conservation of federally listed endangered and threatened species.

II. PROGRAM PROCEDURES

Grants for states and territories, offered through the Cooperative Endangered Species Conservation Fund, provide funding for a wide array of voluntary conservation projects for candidate and listed, threatened, and endangered species. Grants awarded are in the categories of: Conservation Grants for the implementation of conservation projects; Recovery Land Acquisition for the acquisition of habitat in support of approved species recovery goals or objectives; Habitat Conservation Planning Assistance to support development of Habitat Conservation Plans (HCPs); and HCP Land Acquisition for the acquisition of land associated with approved HCPs. These funds may in turn be sub-awarded by states and territories in support of conservation projects.

Source of Governing Requirements
The Cooperative Endangered Species Conservation Fund is authorized by the Endangered Species Act of 1973, as amended, 16 USC 1531 to 1543; and the Land and Water Conservation Fund Act of 1965, 16 USC 4601, as amended. Program regulations are at 50 CFR Part 81. Program guidance is available in the Fish and Wildlife Service (FWS) Manual chapters pertaining to Cooperative Endangered Species Conservation Fund grants—Chapters 521 FW and 523 FW.

Availability of Other Program Information
Program information for endangered species grants to states and territories is available on the FWS website at https://www.bia.gov/as-ia/revisions-pl-102-477-forms and https://www.bia.gov/bia/ois/dwd. The FWS Manual is available at https://fws.gov/program/wildlife-and-sport-fish-restoration.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then

determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	N	Y	N	Y	Y	N

A. Activities Allowed or Unallowed

All methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Endangered Species Act of 1973 are no longer necessary are allowable. Such methods and procedures include, but are not limited to, habitat restoration, species status surveys, public education and outreach, captive propagation and reintroduction, nesting surveys, genetic studies, habitat acquisition and maintenance, and development of management plans (50 CFR section 81.1(b)).

G. Matching, Level of Effort, Earmarking

1. Matching

a. Except as noted in paragraphs G.1.b and c, below, the federal share of such program costs shall not exceed 75 percent of the program costs (16 USC 1535(d)(2); 50 CFR section 81.8).

b. The federal share may be increased to 90 percent whenever two or more states having a common interest in one or more endangered or threatened species, the conservation of which may be enhanced by cooperation of such states, enter jointly into an agreement with the secretary of the interior (16 USC 1535(d)(2); 50 CFR section 81.8).

c. Per the FWS Director's Memorandum, of May 9, 2003, the following insular areas are exempt from the matching requirement up to $200,000: American Samoa, Guam, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the US Virgin Islands (48 USC 1469a).

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

L. Reporting

1. Financial Reporting

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

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs*– Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

DEPARTMENT OF THE INTERIOR

ASSISTANCE LISTING 15.623 NORTH AMERICAN WETLANDS CONSERVATION FUND

I. PROGRAM OBJECTIVES

The objective of North American Wetlands Conservation Fund program is to encourage public-private partnerships to protect, enhance, restore, and manage wetland ecosystems and habitats to benefit wetland-associated migratory bird populations.

II. PROGRAM PROCEDURES

The US Fish and Wildlife Service (FWS), within the Department of the Interior, makes grants on a competitive basis to organizations or individuals to acquire, restore, enhance, or create wetland and associated upland habitat. Applicants must submit a comprehensive proposal outlining activities to be completed with project funds and describing the participation of all partner organizations involved in the project. A partner in a project is a group, agency, organization, or individual that participates in the project as a recipient, subrecipient, or match provider. Funds provided directly to a federal entity by FWS are governed by a separate agreement between FWS and the recipient federal entity.

Source of Governing Requirements
The North American Wetlands Conservation Program is authorized by the North American Wetlands Conservation Act (NAWCA), 16 USC 4401.

Availability of Other Program Information
Other program information is available on the FWS grant information site at http://www.fws.gov/grants/.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	N	N	N	Y	N	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

Allowable activities include acquisition, management, restoration (rehabilitating a degraded or nonfunctioning wetland ecosystem), enhancement (modifying a functioning wetland ecosystem to provide additional long-term wetlands conservation benefits), and establishment or reestablishment of wetland habitat and wetland-associated upland habitat (16 USC 4401(b)).

2. *Activities Unallowed*

Federally required mitigation activity for compliance with the Fish and Wildlife Coordination Act of 1934 or the Water Resources Development Act of 1986 are unallowable, including, but not limited to, the following:

a. Actions that will put credits into wetlands mitigation banks; and

b. Mitigation activity required by federal, state, or local wetland regulations (16 USC 4411(b)).

F. Equipment and Real Property Management

Any real property acquired under a grant that is not included in the National Wildlife System and is conveyed to another public agency or other entity is subject to terms and conditions that will ensure that the interest will be administered for the long-term conservation and management of the wetland ecosystem and the fish and wildlife dependent thereon. All interests in real property shall contain provisions that revert interest to the federal government if the entity fails to manage the property in accordance with the objectives of NAWCA (16 USC 4405(a)(3)).

G. Matching, Level of Effort, Earmarking

1. Matching

The required matching share varies on a grant-by-grant basis and is set forth in the grant award, but must be at least 50 percent of project costs, except that project activities located on federal lands and waters can be funded with 100 percent federal funding (16 USC 4407(b)).

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

DEPARTMENT OF THE INTERIOR

ASSISTANCE LISTING 15.635 NEOTROPICAL MIGRATORY BIRD CONSERVATION

I. PROGRAM OBJECTIVES

The objectives of the Neotropical Migratory Bird Conservation program are to provide financial resources and foster international cooperation to (1) perpetuate healthy populations of neotropical migratory birds; and (2) assist in the conservation of neotropical migratory birds by supporting conservation initiatives in the United States, Canada, Latin America, and the Caribbean.

II. PROGRAM PROCEDURES

The US Fish and Wildlife Service (FWS), a component of the Department of the Interior, makes grants on a competitive basis to organizations or individuals to protect and manage neotropical migratory bird populations; maintain, manage, protect, and restore neotropical migratory bird habitat; conduct research and monitoring; support law enforcement; and provide for community outreach and education contributing to neotropical migratory bird conservation. Applicants must submit a proposal outlining activities to be completed with grant and required matching funds. A partner in a project is a group, agency, organization, or individual which participates in the project as a recipient, subrecipient, or match provider. Funds provided to a federal entity are governed through a separate agreement between FWS and the recipient federal entity.

Source of Governing Requirements
The Neotropical Migratory Bird Conservation program is authorized by the Neotropical Migratory Bird Conservation Act, 16 USC 6101 et seq.

Availability of Other Program Information
Other program information is available on the FWS grant information site at http://www.fws.gov/grants/.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a

compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	N	N	N	Y	N	N

A. Activities Allowed or Unallowed

Allowable activities include protection and management of neotropical migratory bird populations; maintenance, management, protection, and restoration of neotropical migratory bird habitat; research and monitoring; law enforcement; and community outreach and education (16 USC 6103(3)).

G. Matching, Level of Effort, Earmarking

1. Matching

A recipient carrying out grant activities in the United States or Canada is required to provide a nonfederal matching share in cash. A recipient carrying out grant activities in geographic areas outside of the United States or Canada, including Puerto Rico and the US Virgin Islands, is required to provide a nonfederal matching share, which may be in the form of cash or in-kind contributions. The required matching share varies on a grant-by-grant basis and is set forth in the award document but is at least 75 percent of the project costs (16 USC 6103(2) and 6104(e)).

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

DEPARTMENT OF JUSTICE

ASSISTANCE LISTING 16.034 CORONAVIRUS EMERGENCY SUPPLEMENTAL FUNDING

I. PROGRAM OBJECTIVES

The Coronavirus Emergency Supplemental Funding (CESF) program provides funding to assist eligible states, units of local government, and federally recognized tribal governments in preventing, preparing for, and responding to the coronavirus. Allowable projects and purchases include, but are not limited to, overtime, equipment (including law enforcement and medical personal protective equipment), hiring, supplies (such as gloves, masks, sanitizer), training, travel expenses (particularly related to the distribution of resources to the most impacted areas), and addressing the medical needs of inmates in state, local, and tribal prisons, jails, and detention centers.

II. PROGRAM PROCEDURES

States, US territories, the District of Columbia, units of local government, and federally recognized tribal governments that were identified as eligible for funding under the fiscal year (FY) 2019 state and local Edward Byrne Memorial Justice Assistance Grant (JAG) program are eligible to apply under Coronavirus Emergency Supplemental Funding Program Solicitation. The solicitation is located at https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/bja-2020-18553.pdf.

Note: Only the state administering agency (SAA) that applied for FY 2019 JAG funding for a state/territory may apply for the state allocation of CESF funding.

In general, CESF allocations were calculated by proportionally increasing the allocations available under the FY 2019 JAG program to align with the CESF appropriation amount. The JAG-specific provision requiring “disparate jurisdictions” to choose a single fiscal agent to apply on behalf of each of the disparate jurisdictions does not apply to the CESF program. Instead, each “disparate” unit of local government under FY 2019 JAG (including those that were identified as “zero-county disparates”) will be eligible for a direct award under CESF. In order to ensure that zero-county disparates receive funding under CESF, the portion of funds for units of local government that were eligible to receive less than $10,000 under FY 2019 JAG (an amount that is added to state awards under JAG) was divided equally among the zero-county disparates. The DOJ Grants Financial Guide, which contains information on allowable costs, methods of payment, procurement, audit requirements, accounting systems, and financial records, is available on the Office of Justice programs (OJP) web site at https://www.ojp.gov/funding/financialguidedoj/overview.

Source of Governing Requirements
The CESF program is authorized by Division B of HR 748, Pub. L. No. 116-136 (Emergency Appropriations for Coronavirus Health Response and Agency Operations), 28 USC 530C.

Availability of Other Program Information
Program guidance, including program statutes and other general information about the program, is posted to the Bureau of Justice Assistance (BJA) web page (https://www.bja.gov), specifically at https://bja.ojp.gov/program/cesf/overview. In addition, the BJA FY 2020 Coronavirus Emergency Supplemental Funding Program Frequently Asked Questions (FAQs) document at https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/cesf-faqs.pdf provides guidance on allowable costs and other topics. The DOJ Grants Financial Guide, which contains information on allowable costs, methods of payment, audit requirements, accounting systems, and financial records, is available on the Office of Justice Programs (OJP) web site at http://ojp.gov/financialguide/DOJ/index.htm.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	Y	N	Y	N	Y	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

Funds awarded under the CESF program must be utilized to prevent, prepare for, or respond to the coronavirus. Allowable projects and purchases include, but are not limited to, overtime, equipment (including law enforcement and medical personal protective equipment), hiring, supplies (such as gloves, masks, and sanitizer), training, travel expenses (particularly related to the distribution of resources to the most impacted areas), and addressing the medical needs of inmates in state, local, and tribal prisons, jails, and detention centers.

See the CESF solicitation at https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/bja-2020-18553.pdf, as well as the BJA CESF FAQs at https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/cesf-faqs.pdf for more detailed information about activities allowed.

2. *Activities Unallowed*

In addition to the unallowable costs that are identified in the DOJ Grants Financial Guide at http://ojp.gov/financOMBialguide/DOJ/index.htm, the use of BJA grant funds for unmanned aircraft systems (UAS), including unmanned aircraft vehicles (UAV), and all accompanying accessories to support UAS or UAV is unallowable.

C. Cash Management

Eligible states (or SAAs) or units of local government may draw down funds either in advance or on a reimbursable basis. To draw down in advance, funds must be placed in an interest-bearing account, unless one of the exceptions in 2 CFR section 200.305(b)(8) apply. This interest-bearing account must allow for sufficient tracking and traceability of CESF program award funds (see, e.g., 2 CFR 200.302). It is not necessary that the interest-bearing account be a "trust fund."

Special Condition #40 of each award states, "Establishment of interest-bearing account. If award funds are being drawn down in advance, the recipient (or a subrecipient, with respect to a subaward) is required to establish an interest-bearing account dedicated specifically to this award. Recipients (and subrecipients) must maintain advance payments of federal awards in interest-bearing accounts unless regulatory exclusions apply (2 CFR 200.305(b)(8)). The award funds, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Coronavirus Emergency Supplemental Funding (CESF) program. The recipient also agrees to obligate the award funds in the account (including any interest earned) during the period of performance for the award and expend within 120 days thereafter. Any unobligated or unexpended funds, including interest earned, must be returned to OJP at the time of closeout."

G. Matching, Level of Effort, Earmarking

Funds may not be used for direct administrative costs that exceed 10 percent of the total award amount, and funds may not be used to supplant state or local funds, but must be used to increase the amounts of such funds that would, in the absence of federal funds, be made available.

I. Procurement and Suspension and Debarment

Individual items costing $500,000 or more require prior approval.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable.

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

DEPARTMENT OF JUSTICE

ASSISTANCE LISTING 16.710 PUBLIC SAFETY PARTNERSHIP AND COMMUNITY POLICING GRANTS

I. PROGRAM OBJECTIVES

The Office of Community Oriented Policing Services (COPS Office) grant programs provide state, local, territorial, and tribal law enforcement agencies, as well as other public, private, and nonprofit entities, with resources to address law enforcement needs with a focus on advancing public safety through the implementation of community policing strategies. These strategies are focused on three primary elements of community policing: (1) developing community/law enforcement partnerships; (2) developing problem solving and innovative approaches to crime issues; and (3) implementing organizational transformation to build and strengthen community policing capacity.

II. PROGRAM PROCEDURES

A. Overview

COPS Office awards are made to law enforcement agencies, large and small, across the country as well as other public, private, and nonprofit entities. The overall intent of the grant programs is to help support and develop community policing capacity and practices that will advance public safety.

COPS Office awards provide funds for personnel, technology, equipment, training and technical assistance, and innovative community policing strategies. The two main categories of awards are hiring and non-hiring.

B. Subprograms/Program Elements

1. *Hiring Awards*

There are two types of hiring awards actively managed within the COPS Office:

a. COPS Hiring Program (CHP) awards, which provide funding directly to state, local, territorial, and tribal law enforcement agencies to hire new and/or rehire full-time career law enforcement officers to increase their community policing capacity and crime prevention efforts.

b. Tribal Resources Grant Program – Hiring (TRGP-Hiring) awards, which provide funds to tribal law enforcement agencies for newly hired or rehired full-time sworn career law enforcement officers and village public safety officers to improve crime-fighting capabilities in Indian country.

2. *Non-Hiring Grants*

There are nine types of non-hiring awards actively managed within the COPS Office:

a. Anti-Heroin Task Force Program (AHTF), which provides funds to locate and investigate illicit activities through statewide collaboration related to the distribution of heroin, fentanyl, or carfentanil, or the unlawful distribution of prescription opioids.

b. COPS Anti-Methamphetamine Program (CAMP), which provides funds to locate and investigate illicit activities related to the manufacture and distribution of methamphetamine.

c. Tribal Resources Grant Program-Equipment/Training (TRGP-E/T), which provides funds to tribal law enforcement agencies for equipment, training, and officer hiring to improve crime-fighting capabilities in Indian country.

d. Community Policing Development (CPD) program awards are used to develop the capacity of law enforcement to implement community policing strategies by providing guidance on promising practices through the development and testing of innovative strategies; building knowledge about effective practices and outcomes; and supporting new, creative approaches to preventing crime and promoting safe communities. These awards are currently focused on improving law enforcement capacity in the areas of de-escalation, crisis intervention teams, accreditation, microgrants, tolerance diversity and antibias.

e. Collaborative Reform Initiative for Technical Assistance (CRI-TA), which provides funding to advance the practice of community policing in law enforcement agencies by providing technical assistance to state, local, territorial, and tribal law enforcement agencies on a variety of topics that are tailored to meet their unique needs. This program provides practical "by the field, for the field" technical assistance from leading experts across a range of public safety, crime reduction, and community policing topics. The program also provides for comprehensive organizational assessments and after-action reviews and assistance to agencies following critical incidents.

f. Technology and Equipment Program (TEP), which provides funds for projects to develop and implement technologies that will advance community policing and help fight crime.

g. Preparing for Active Shooter Situations (PASS) training program, a competitive award program designed to increase law enforcement and public safety by providing funds to advance the practice of community policing in law enforcement agencies through nationally recognized,

scenario-based training that prepares officers and other first responders to handle active shooter and other violent threats safely and effectively.

h. COPS Office STOP School Violence: School Violence Prevention Program (SVPP) provides funding directly to states, units of local government, Indian tribes, and public agencies to improve security at schools and on school grounds in the jurisdiction of the grantee through evidence-based school safety programs.

i. Law Enforcement Mental Health and Wellness Act (LEMHWA) helps law enforcement agencies establish or enhance mental health care services for their officers and deputies. The program initiates pilot programs that support peer mentoring, annual mental health checks, crisis hotlines, and the delivery of other critical mental health and wellness services. It also supports the development of resources for the mental health providers who deliver tailored, specific services to law enforcement based on the unique challenges they face.

Source of Governing Requirements

All programs (except for one) are authorized under the Omnibus Crime Control and Safe Streets Act of 1968 as amended by the Violent Crime Control and Law Enforcement Act of 1994, Title I, Part Q, Pub. L. No. 103-322, 34 USC 10381 et seq. COPS Office School Violence Prevention Program (SVPP) is authorized under the Students, Teachers, and Officers Preventing (STOP) School Violence Act of 2018 (34 USC 10551 et seq.).

Availability of Other Program Information

The DOJ-COPS home page, COPS Office (usdoj.gov), under the selection titled “Grants” provides information on regulations and other general information about each program.

Additional information about each program is found in the applicable Award Owner’s Manuals (AOM) and the Application Resource Guides (Guide) developed by the COPS Office. Grant recipients can access the Award Owner’s Manuals on the COPS Office home under the Grants tab by clicking Program Documents and Compliance and Reporting. In reference to the Application Resource Guide, this document describes the award terms, conditions, and additional requirements that applicants should be aware of before applying to COPS Office programs. Grant recipients can also access the Guide at the same location as the AOM.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a

direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	Y	Y	N	N	Y	N	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. *Hiring*- Hiring grants (CHP and TRGP–Hiring) may include programs, projects, and other activities to:

      (1) Hire and train new, additional career law enforcement officers for deployment into community-oriented policing (34 USC 10381(b)(2));

      (2) Rehire law enforcement officers who have been laid off or who are scheduled to be laid off on a specific future date as a result of state, local, and/or tribal budget reductions for financial reasons unrelated to the availability of COPS grant funds for deployment into community-oriented policing (34 USC 10381(b)(1)); and

   Since FY 2015 CHP awards, the COPS Office has awarded additional consideration for CHP funding to applicants who commit to hiring or rehiring at least one military veteran (as defined in Appendix A).

   b. *Non-Hiring Awards*

   Non-hiring grants may include programs, projects, and other activities to obtain a wide variety of equipment, technology, civilian personnel, training, and technical, and technical assistance. These grants include

programs and projects that are very specific in terms of allowable and unallowable activities. The individual grant must be evaluated to determine allowable activities, in accordance with program guidelines in the Awards Owner's Manual 34 USC 10381(b) and (d)).

B. Allowable Costs/Cost Principles

All costs are subject to the requirements in 2 CFR 200 Subpart E – Cost Principles, and approved costs are limited to those included in the award package for each award.

The following apply to hiring grants only:

1. CHP and TRGP-hiring awards fund the approved entry-level salaries and fringe benefits of newly hired or rehired full-time officers. The approved entry-level salaries and fringe benefits are based on a grantee agency's actual entry-level sworn officer salary and fringe benefit costs and are identified in the award package that is provided to the grantee agency. Any additional costs for higher than entry-level salaries and fringe benefits will be the responsibility of the recipient agency (34 USC 10381(b) and applicable Solicitation and Application Resource Guide.

2. Beginning with FY 2012, CHP recipient costs are limited to the approved entry-level salaries and fringe benefits of each newly hired and/or rehired full-time officer, with a maximum federal share of $125,000 per officer position (unless a local match waiver is approved by the COPS Office), over the three-year (36 month) period that the position is filled.

H. Period of Performance

The following apply to hiring grants only:

1. Beginning in FY2020, the TRGP-hiring awards period of performance was extended from 36 months to 60 months, but federal funding only covers 36 months of salary and fringe; the additional time is to allow for hiring delays.

2. Beginning in FY 2021, the period of performance for CHP awards is 60 months, but federal funding only covers 36 months of salary and fringe; the additional time is to allow for hiring delays.

G. Matching, Level of Effort, Earmarking

1. Matching

a. There is no match requirement for AHTF, CAMP, CSPP, CPD, CRI-TA, PASS, LEMHWA, TRGP-Hiring, TRGP-E/T, and TEP.

b. SVPP recipients must contribute a minimum of 25 percent of the allowable project costs (34 USC 10551(f)(1)). The COPS Office director

may waive/alter the 25 percent required match in the case of a recipient with a demonstrated financial need (34 USC 10551(f)(3)).

c. Beginning with FY2015, CHP recipients must contribute a minimum of 25 percent of the allowable project costs (applicable Application Guide), unless a local match waiver is approved by the COPS Office (34 USC 10381(g)).

2. Level of Effort

Not Applicable

3. Earmarking

Technology and Equipment Program (TEP) distributes funding to support projects designated in the Consolidated Appropriations Act, 2022 (Pub. L. 117-103) and 2023 (Pub. L 117-328) for law enforcement technologies, interoperable communications, and public safety equipment. The joint explanatory statement accompanying Pub. L. No. 117-103 and Pub. L. 117-328 lists the designated projects, which is incorporated by reference into the Appropriations Act.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Report Title: *COPS Progress Report (OMB No. 1103-0102)*

Report Authority: 2 CFR 200.329

Reporting period/submission date/s: This report is required semi-annually during the life of the award for all COPS Office grants.

For additional information, please visit the Performance Reporting section on the Compliance and Reporting page found on the COPS website. https://cops.usdoj.gov/complianceandreporting

Key Line Items – The following questions contain critical information:

1. *Question 1* – How many active COPS grant position(s) were filled/hired? Full-time and part-time.

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

IV. OTHER INFORMATION

Auditors should be alert for additional requirements that may be included in the award package relevant to the requirements above noted as subject to audit, such as a restriction on the use of award funds to supplant existing personnel positions or the requirement to retain grant-funded positions for one year after the award period expires.

DEPARTMENT OF JUSTICE

ASSISTANCE LISTING 16.738 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM

I. PROGRAM OBJECTIVES

The Edward Byrne Memorial Justice Assistance Grant (JAG) program, authorized under Title I of Pub. L. No. 90-351 (generally codified at 34 USC 10101–10726), including Subpart 1 of Part E (codified at 34 USC 10151–10158), is the leading source of federal justice funding to state and local jurisdictions. The JAG program provides states, tribes, and local governments with critical funding necessary to support personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice or civil proceedings including for any one or more of the following programs: law enforcement, prosecution, indigent defense, courts, crime prevention and education, corrections and community corrections, drug treatment and enforcement, planning, evaluation, technology improvement, and crime victim and witness initiatives, mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams, and implementation of state crisis intervention court proceedings and related programs or initiatives, including but not limited to mental health courts; drug courts; veterans courts; and extreme risk protection order programs. It should be noted that the JAG statute defines "criminal justice" as "activities pertaining to crime prevention, control, or reduction, or the enforcement of the criminal law, including, but not limited to, police efforts to prevent, control, or reduce crime or to apprehend criminals, including juveniles, activities of courts having criminal jurisdiction, and related agencies (including but not limited to prosecutorial and defender services, juvenile delinquency agencies and pretrial service or release agencies), activities of corrections, probation, or parole authorities and related agencies assisting in the rehabilitation, supervision, and care of criminal offenders, and programs relating to the prevention, control, or reduction of narcotic addiction and juvenile delinquency."

II. PROGRAM PROCEDURES

JAG grants are awarded to states, including the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, and American Samoa as well as eligible units of local government which, pursuant to statutory definition, includes tribes that perform law enforcement functions.

The JAG funding formula includes a state allocation consisting of a minimum base allocation with the remaining amount determined on population and violent crime statistics. States also have a variable percentage of the allocation that is required to be "passed-through" to units of local government. This amount, calculated by the Bureau of Justice Statistics (BJS), Department of Justice (DOJ), is based on each state's crime expenditures. In addition, the formula calculates direct allocations for local governments within each state, based on their share of the total violent crime reported within the state. Local governments that are entitled to an award of at least $10,000 may apply directly to the Bureau of Justice Assistance (BJA) for local JAG funds. The

BJS Technical Report, which contains more information on the award calculation process, is available on BJA's JAG web page at https://bjs.ojp.gov/library/publications/justice-assistance-grant-jag-program-2021.

All JAG program guidance for states and units of local governments, including pass-through requirements, restrictions on funding usage, required certifications, and application checklists, can be found within the state and local program solicitations (application guidance), which are updated annually and posted to BJA's JAG web page at https://www.bja.gov/Jag/. The DOJ Grants Financial Guide, which contains information on allowable costs, methods of payment, procurement, audit requirements, accounting systems, and financial records, is available on the Office of Justice programs (OJP) web site at https://www.ojp.gov/funding/financialguidedoj/overview.

Source of Governing Requirements

Subpart 1 of Part E of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (34 USC 10151–10158).

Availability of Other Program Information

Program guidance, including program statutes and other general information about the program, is posted to the BJA web page (https://www.bja.gov), specifically at https://www.bja.gov/Jag. In addition, the BJA JAG Frequently Asked Questions (FAQs) document at https://bja.ojp.gov/doc/jag-faqs.pdf provides guidance on allowable costs and other topics. Prior versions of the JAG FAQs are located at https://bja.ojp.gov/program/jag/archives. The DOJ Grants Financial Guide, which contains information on allowable costs, methods of payment, audit requirements, accounting systems, and financial records, is available on the Office of Justice Programs (OJP) web site at http://ojp.gov/financialguide/DOJ/index.htm.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	N	N	Y	Y	Y	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

Use of funds is restricted to the following broad program areas, consistent with 34 USC section 10152 (a)(1): law enforcement programs, prosecution and court programs, prevention and education programs, corrections and community corrections programs, drug treatment and enforcement programs, planning, evaluation, and technology improvement programs, crime victim and witness programs (other than compensation), mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams, and implementation of state crisis intervention court proceedings and related programs or initiatives, including but not limited to mental health courts; drug courts; veterans courts; and extreme risk protection order programs.

See solicitations for specific program areas. Current fiscal year JAG solicitations are located at https://www.bja.gov/Jag, and prior year JAG solicitations are located at https://bja.ojp.gov/program/jag/archives.

2. *Activities Unallowed*

In addition to the unallowable costs identified in the DOJ Grants Financial Guide, the JAG statute, at 34 U.S.C. § 10152(d), specifically identifies a list of prohibited items. In addition, consistent with Executive Order 14074, "Advancing Effective, Accountable Policing and Criminal Justice Practices To Enhance Public Trust and Public Safety," the use of OJP grant funds for the purchase or transfer of certain equipment has been designated as prohibited or controlled starting with FY 2023 OJP grant funds. Details and associated procedures for requesting prior approval (waiver), where applicable, can be found in the JAG Prohibited and Controlled Equipment Guidance at https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/jagcontrolledpurchaselist.pdf. Lists of prohibited items, details, and associated procedures for requesting prior approval (waiver), where applicable, for JAG awards made prior

to FY 2023 can be found at https://bja.ojp.gov/doc/jag-controlled-purchase-list-pre-2023.pdf.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

DEPARTMENT OF JUSTICE

ASSISTANCE LISTING 16.922 EQUITABLE SHARING PROGRAM

I. PROGRAM OBJECTIVES

The Department of Justice Asset Forfeiture Program is a nationwide law enforcement initiative that removes the tools of crime from criminal organizations, deters crime and deprives wrongdoers of their criminal proceeds, and recovers property that may be used to compensate victims. Equitable sharing further enhances the law enforcement mission by fostering cooperation among federal, state, and local law enforcement agencies. Federal law authorizes the Attorney General to share federally forfeited property with participating state and local law enforcement agencies. The exercise of this authority is discretionary and limited by statute. The Attorney General is not required to share property in any case.

II. PROGRAM PROCEDURES

State, local, and tribal law enforcement agencies can request federally forfeited funds through the Equitable Sharing Program (Program) based on their qualitative and quantitative contributions to a federal forfeiture. The Program is managed by the Money Laundering and Asset Recovery Section (MLARS), a section within the Department of Justice's Criminal Division. Equitably shared funds must be used by law enforcement agencies for law enforcement purposes only. The Department of the Treasury also manages its own Program under Assistance Listing 21.016. Funds from each Program must be maintained and managed separately.

Source of Governing Requirements- The Program is authorized by the following statutes: 21 USC section 881(e)(1)(A); 18 USC section 981(e)(2); 19 USC section 1616a; 31 USC sections 9705(b)(4)(A) and (b)(4)(B); and 21 USC section 881(e)(3).

Availability of Other Information- Program policies and procedures are set forth in the *Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies (Guide)* (July 2018) as well as *Equitable Sharing Wires (Wires)*. *Wires* may be issued to address policy changes or Program updates without updating the *Guide*. These updates become policy and applicable Program requirements should be tested as part of the audit process. The *Guide* and *Wires* are available on the Department of Justice public website at https://www.justice.gov/criminal-mlars/equitable-sharing-program.

Equitable sharing funds are considered federal financial assistance as defined by 2 Code of Federal Regulations (CFR) Section 200.1 Equitable sharing payments are classified as "Direct Payments for Specified Use" in the System for Award Management.

As such, the funds are only subject to certain sections of the CFR, including Title 2, Subtitle A, Chapter II, Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The applicable sections to the Program include Subpart A – Acronyms and Definitions; Subpart B – General Provisions (excluding sections 200.111–

200.113); Subpart D – Post Federal Award Requirements (sections 200.303 – Internal Controls and 200.331–333 – Subrecipient Monitoring); and Subpart F – Audit Requirements.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	N	Y	N	Y	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. The Guide and Wires are the authoritative criteria. Specifically, sharing funds may be used for permissible law enforcement purposes. As of the July 2018 Guide, equitable sharing funds may be used to support the following activities:

      (1) Law enforcement operations and investigations

      (2) Law enforcement training and education

      (3) Law enforcement, public safety, and detention facilities

      (4) Law enforcement equipment

(5) Joint law enforcement/public safety operations

(6) Contracts for services

(7) Law enforcement travel and per diem

(8) Law enforcement awards and memorials

(9) Drug, gang, and other prevention or awareness programs

(10) Matching grants

(11) Support of community-based organizations

b. Equitable sharing funds may not be used for salaries, except under certain provisions outlined in Section V.B.3 in the Guide, including the following:

(1) Allowable matching grants

(2) Overtime

(3) Federal task force replacement

(4) Specialized programs

2. *Activities Unallowed*

a. Similarly, the following are considered impermissible uses of funds and assets:

(1) Use of forfeited property by non-law enforcement personnel

(2) Creation of endowments or scholarships

(3) Uses contrary to state or local laws

(4) Personal or political use of shared assets

(5) Purchase of food and beverages

(6) Extravagant or wasteful expenditures and entertainment

(7) Cash on hand, secondary accounts, and stored value cards

(8) Transfers to other law enforcement agencies

(9) Purchase of items for other law enforcement agencies

(10) Costs related to lawsuits

(11) Loans

(12) Money laundering operations

For more information, consult the Guide for specific detail.

B. Allowable Costs/Cost Principles

The *Guide,* sections V.B.1, 2, and 3, detail allowable and unallowable uses of federal equitable sharing funds. Note that there may be specific exceptions for use of shared funds, so the *Guide* should be consulted for details. The *Guide's* policies on the use and administration of equitable sharing funds may also be updated at any time through the issuance of an *Equitable Sharing Wire*. For more detail, refer to the previous section.

F. Equipment and Real Property Management

Although 2 CFR sections 200.311 and 313 are not applicable, the *Guide,* Section VI, details the requirements for tangible property. Property purchased with equitable sharing funds, or obtained for official use, is subject to inventory control, log maintenance, and disposal requirements.

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable.

2. Level of Effort

2.1 Level of Effort – *Maintenance of Effort* – Not Applicable

2.2 Level of Effort – *Supplement Not Supplant*

The *Guide,* Section V.A.1, states that agencies may supplement, not supplant, their appropriated funds.

3. Earmarking

The *Guide,* Section V.A.2, states that agencies may earmark funds already received and on hand but may not budget or commit funds not yet awarded or received.

I. Procurement and Suspension and Debarment

1.. Procurement – Although 2 CFR section 200.317-200.327 are not applicable, the *Guide,* Section VI.A.3, requires agencies to follow their jurisdiction's procurement policies.

2. Suspension and Debarment – 2 CFR section 180.200-225 Applicable.

L. Reporting

1. Financial Reporting

a. SF-270, *Request for Advance or Reimbursement* – Not Applicable

b. SF-271, Outlay *Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. SF-425, Federal *Financial Report* – Not Applicable

d. *Equitable Sharing Agreement and Certification* (OMB Number 1123-0011) – Applicable. The *Guide*, Section VII, details the annual reporting requirements for equitable sharing funds through the submission of the annual Equitable Sharing Agreement and Certification (ESAC). Agencies report on the ESAC the amount of funds received and how they were expended in general categories.

Key Line Items – The following sections contain critical information:

1. *Summary of Equitable Sharing Activity*

    a. Beginning Equitable Sharing Fund Balance

    b. Equitable Sharing Funds Received

    c. Equitable Sharing Funds Received from Other Law Enforcement Agencies and Task Force

    d. Other Income

    e. Interest Income

    f. Total Equitable Sharing Funds Received

    g. Equitable Sharing Funds Spent

    h. Ending Equitable Sharing Funds Balance

2. *Summary of Shared Funds Spent*

    a. Law Enforcement Operations and Investigations

    b. Training and Education

    c. Law Enforcement, Public Safety, and Detention Facilities

    d. Law Enforcement Equipment

    e. Joint Law Enforcement/Public Safety Equipment and Operations

f. Contracts for Services

g. Law Enforcement Travel and Per Diem

h. Law Enforcement Awards and Memorials

i. Drug, Gang, and Other Education or Awareness Programs

j. Matching Grants

k. Transfers to Other Participating Law Enforcement Agencies

l. Support of Community-Based Programs

m. Non-Categorized Expenditures

n. Salaries

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

Not Applicable

M. Subrecipient Monitoring

The 2 CFR sections 200.331–200.333 are applicable. The *Guide,* Section V.B.1.k, allows agencies to transfer equitable sharing funds to qualifying community-based organizations. The *Guide,* Section V.B.2.h, prohibits the transfer of equitable sharing funds to other Program participants unless a waiver is granted from MLARS. Subrecipient monitoring is applicable to any transfer of Program funds.

DEPARTMENT OF LABOR

ASSISTANCE LISTING 17.207 EMPLOYMENT SERVICE/WAGNER-PEYSER FUNDED ACTIVITIES

ASSISTANCE LISTING 17.801 JOBS FOR VETERANS STATE GRANT

I. PROGRAM OBJECTIVES

Wagner-Peyser Act Funded Workforce Employment Services – General

The Wagner-Peyser Act Employment Service (ES) is an integrated component of the nation's public workforce system. The public workforce system provides services to job seekers and employers through nearly 2,400 American Job Centers (AJC) (also known as One-Stop Centers) nationwide. They are coordinated and co-located with other programs under the Workforce Innovation and Opportunity Act (WIOA) to ensure that job seekers, workers, and employers have convenient and comprehensive access to a full continuum of workforce-related services.

The main purpose of the ES program is to improve the functioning of the nation's labor markets by bringing together individuals who are seeking employment and employers who are seeking workers. Under the Wagner-Peyser Act, unemployed individuals and other job seekers obtain career services, including job search, assessment, and career guidance services, to support them in obtaining and retaining employment. In addition, the ES assists employers with building skilled, competitive workforces through recruitment assistance, employment referrals, and other workforce solutions. The ES provides labor exchange services through an array of electronic tools, to both job seekers and employers, allowing comprehensive and accessible economic and industry data to inform workforce and economic development activities.

State Workforce Agencies (SWAs) must use Wagner-Peyser Act ES funding to provide employment services to migrant and seasonal farmworkers (MSFW), as described at 20 CFR § 651, 653, 654, and 658. These services include, but are not limited to, outreach MSFWs, State Monitor Advocate (SMA) responsibilities, clearance of job orders through the Agricultural Recruitment System (ARS), and operation of the Employment Service and Employment-Related Law Complaint System.

Jobs for Veterans State Grants

Non-competitively awarded grant funds are provided to states in amounts determined by a formula. Jobs for Veterans State Grant (JVSG) funds are provided to states for employing Disabled Veterans' Outreach Program (DVOP) specialists and Local Veterans' Employment Representative (LVER) staff and deploying them, as practicable, among AJCs. In addition, consolidated DVOP/LVER staff may be requested if the position promotes a more efficient administration of services to veterans. DVOP specialists carry out individualized career services and facilitate placements to meet the needs of eligible veterans and eligible persons who are experiencing employment barriers, as well as certain additional populations. LVER staff assist businesses with their workforce needs, facilitating employment and placement services to assist

veterans in gaining employment, including conducting seminars for employers and, in conjunction with employers, conducting job search workshops and establishing job search groups. DVOP specialists and LVER staff must successfully complete training through the National Veterans' Training Institute (NVTI) authorized under 38 USC 4109, in accordance with 38 USC 4102A(c)(8)(A).

The Veterans' Employment and Training Service (VETS) approves grant recipients' four-year state plans that describe how their JVSG program will be carried out across their state and integrated into their workforce delivery system. States must ensure JVSG funded staff coordinate and cooperate with the staff who are funded through other WIOA/One Stop partner programs.

Title 38, U.S. Code, §§ 4103A and 4104, define the roles and responsibilities of JVSG staff and prohibit them from performing duties that detract from their ability to meet the employment needs of eligible populations. AJC program staff must continue to provide priority of service to veteran populations who are not eligible for DVOP services, or where a DVOP is not available, as described in Veterans Program Letter (VPL) 07-09 and TEGL 10-09.

States should establish minimum qualifications and position descriptions for JVSG staff to ensure selected applicants are able to carry out the roles and responsibilities as described in statute and VPL 05-24.

II. PROGRAM PROCEDURES

A. Overview

The ES is a core program identified in WIOA and must be included as part of each state's Unified or Combined State Plan (20 CFR section 652.211).

Federal funds are granted to the states for the delivery of employment and workforce information services through a national network of AJC Career Centers. The governor of the state submits to the secretary of labor a Unified or Combined State Plan, which outlines a four-year strategy. The governor retains responsibility for all funds authorized under the Wagner-Peyser Act, specifically those funds authorized under Section 7(a) for providing the services and activities delivered through the one-stop delivery system. The governor has discretion to choose various approaches to planning for the utilization of funds reserved by Section 7(b) of the Wagner-Peyser Act.

B. Subprograms/Program Elements

Disabled Veterans' Outreach Program (DVOP)

In accordance with 38 USC 4103A(a), the primary objective of the DVOP specialist is to provide career services to meet the employment needs of eligible veterans with the following priority in the provision of services: (1) special disabled veterans; (2) other disabled veterans; and (3) other eligible veterans in accordance with priorities determined by the Secretary. Placing maximum emphasis on assisting eligible populations who are economically or educationally disadvantaged.

Local Veterans' Employment Representative (LVER)

Per 38 U.S.C. § 4104(b), LVERs conduct outreach to the employer community and facilitate employment, training, and placement services furnished to veterans under the state's employment service delivery system. States must assign LVERs duties that inform employers, employer associations, and business groups of the advantages of hiring veterans. States must also integrate LVERs into their employment service delivery systems (see 38 U.S.C. § 4102A(c)(2)(A)(i)(II)). When employer outreach is primarily accomplished by business services teams or similar entities, states satisfy the LVER integration requirement by including LVERs as active members of these teams.

LVERs should advocate for all veterans and the additional populations described in VPL 05-24 with business, industry, and other community-based organizations by participating in appropriate activities.

In addition to their work with employers, LVERs play an important role in developing the veteran service delivery strategies in the state workforce system, educating all AJC staff with current veterans' employment initiatives and programs, and providing regular updates on veteran services and programs.

Source of Governing Requirements

These programs are authorized by the Wagner-Peyser Act, as amended by the WIOA of 2014 (the Act) (Pub. L. No. 113-128) (29 USC 49 et seq.), and the Jobs for Veterans Act (Pub. L. nos. 107-288 and 109-461), as amended by the VOW to Hire Heroes Act (Pub. L. No. 112-56); and 38 USC chapters 41 and 42 (employment and training programs for veterans). Implementing regulations are found at 20 CFR parts 652, 1001, and 1010.

Availability of Other Program Information

Other program information is available https://www.dol.gov/agencies/eta and https://www.dol.gov/agencies/vets

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not

being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	Y	N	N	N	Y	N	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

a. *Labor Exchange*

Funds allotted to each state may be utilized by the State Workforce Agency (SWA) for a variety of activities, consistent with an approved plan pursuant to the Act and implementing regulations (20 CFR sections 652.5 and 652.8(d)). At a minimum, each SWA shall provide the basic labor exchange elements defined in 20 CFR section 652.3. Career services are also made available within the one-stop system (20 CFR section 678.430).

b. Wagner-Peyser Act, *Section 7(a)*

Services and activities provided for under Section 7(a) of the Wagner-Peyser Act (relevant sections) can be found at: https://www.govinfo.gov/content/pkg/USCODE-2021-title29/html/USCODE-2021-title29-chap4B.htm) are:

(1) To unemployed individuals and other job seekers: job search and job placement and job information services, including counseling, testing, occupational and labor market information, assessment, and referral to employers;

(2) To employers: a source for recruitment of qualified job applicants and technical assistance in resolving workforce problems; and

(3) The following employment-related activities:

- Evaluating programs;

- Developing linkages between services funded under this Act and related federal or state legislation, including the provision of labor exchange services at education sites;

- Providing employment-related services for workers who have received notice of permanent or impending layoff, and reemployment services for workers in occupations that are experiencing limited demand due to changes in technology, impact of imports, or plant closures;

- Developing and providing state and local labor market and occupational information;

- Developing a management information system and compiling and analyzing reports; and

- Administering the work test for the state unemployment compensation system and providing job finding and placement services for unemployment insurance claimants (29 USC 49f(a); 20 CFR section 652.210).

c. Wagner-Peyser Act, *Section 7(b)*

Services and activities provided for under Section 7(b) of the Wagner-Peyser Act are:

(1) Performance incentives for public employment service offices and programs, consistent with performance standards established by the secretary;

(2) Services for groups with special needs carried out pursuant to joint agreements between the Employment Service and the local workforce investment board and chief elected official(s), or other public agencies or private nonprofit organizations; and

(3) Models for delivering Employment Service Program services which incorporate activities listed in Section 7(a) of the Act, including but not limited to: reemployment services; program evaluations; developing partnerships with related programs and entities; developing and distributing labor market and workforce information; compiling and analyzing reports; and administering the UI work test (services of the types described in Section 7(a) of the Act (29 USC 49f(b))).

(4) In coordination with the state agencies, plan activities that will allow staff to enhance their professional development and career advancement opportunities (Title III, WIOA section 303(b)(2)).

d. Wagner-Peyser Act, *Section 7(d)*

In addition to the activities described under paragraphs two and three, above, Section 7(d) of the Wagner-Peyser Act authorizes SWAs to perform other activities as specified in cost-reimbursement agreements with the secretary of labor or with any federal, state, or local public agency, or WIOA administrative entity, or private nonprofit organization (29 USC 49f(d)).

e. Wagner-Peyser Act, *Section 7(e)*

Section 7(e) of the Wagner-Peyser Act provides that all services authorized under 7(a) shall be provided as part of an AJC delivery system established by the state (29 USC 49f(e)).

f. *DVOP*

DVOP includes a wide variety of services directly related to meeting the employment needs of eligible veterans as defined at 38 U.S.C. 4103A(a) and agency directives (based on Pub. L. No. 107-288). These services include:

(1) Providing individualized career services to meet the employment needs of eligible veterans with employment barriers (see III.E.1, “Eligibility - Eligibility for Individuals,” regarding employment barriers).

(2) Placing maximum emphasis in meeting the employment needs of eligible veterans who are economically and educationally disadvantaged.

(3) Providing individualized career services using a case management approach.

(4) Coordinating and cooperating with Local Veterans’ Employment Representative and other agency partners collocated in the AJCs.

(5) Develop linkages in the community who may fill their participants’ supportive service needs.

g. *LVER*

LVER staff conduct outreach to employers and facilitate the provision of employment services to veterans. These services include, but are not limited to, the following (38 USC 4104):

(1) Maintain regular contact with community leaders, employers, labor unions, training programs, and veterans' organizations to apprise them of the benefits of hiring veterans.

(2) Assist, through automated data processing, in securing and maintaining current information regarding available employment and training opportunities.

(3) Conduct or facilitate job search workshops for job-seeking veterans.

h. *Consolidated DVOP/LVER*

Consolidated staff perform both DVOP specialist and LVER duties in any combination of their time. They may only perform DVOP specialist and LVER duties as specified in VPL 05-24, and they are subject to all requirements (including National Veterans' Training Institute (NVTI) training) for both positions. Any reference to either DVOP specialist or LVER duties in any statute, regulation, or policy applies equally to these consolidated positions unless otherwise specified or clearly not applicable.

E. Eligibility

1. Eligibility for Individuals

a. DVOP specialists may serve an eligible veteran (defined in 38 USC 4211(4)) or eligible person (defined in 38 USC 4101(5)) who is experiencing any of the following employment barriers as defined in VPL 05-24:

a. Has a disability, which may include any of the following:
i. Special disabled veteran, defined in 38 U.S.C. § 4211(1) as a veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary of Veterans Affairs for a disability rated at 30 percent or more, or rated at 10 or 20 percent in the case of a veteran who has been determined to have a serious employment handicap; or person who was discharged or released from active duty because of a service-connected disability.
ii. Disabled veteran, defined in 38 U.S.C. § 4211(3) as a veteran who is entitled to compensation (or who but for the receipt of military

retired pay would be entitled to compensation) under laws administered by the Secretary of Veterans Affairs ; or a person who was discharged or released from active duty because of a service-connected disability.

iii. Other disability. Eligible veterans and eligible persons who self-identify as having a disability, as defined by the Americans with Disabilities Act, 42 U.S.C. § 12102.

b. Is a Vietnam-era veteran, as defined by 38 U.S.C. § 4211(2) as an eligible veteran any part of whose active military, naval, or air service was during the Vietnam era, as defined by 38 U.S.C. § 101(29).

c. Is a recently separated veteran, defined in 38 U.S.C. § 4211(6) as a veteran who was discharged or released from active duty within the last three years.

d. Has been referred for employment services by a representative of the Department of Veterans Affairs.

e. Is experiencing homelessness, as defined in Sections 103(a) and (b) of the McKinney Vento Homeless Assistance Act (42 U.S.C. § 11302(a) and (b)).

f. Is justice-involved, as defined in WIOA Section 3(38), 29 U.S.C. § 3102(38) (definition of "offender").

g. Is between the ages of 18–24 years of age at the time of enrollment.

h. Is educationally disadvantaged, meaning that the individual lacks a high school diploma or equivalent certificate.

i. Is economically disadvantaged, which means any of the following:

i. Meets the definition of a low-income individual in WIOA Section 3(36), 29 U.S.C. § 3102(36).

ii. Unemployed.

iii. Heads of single-parent households containing at least one dependent child.

b. A member of an additional population as designated by annual appropriation language may also receive services from a DVOP specialist. For the past five years, each annual appropriation has included the following sentence:

Provided, That, in addition, such funds may be used to support such specialists and representatives in the provision of services to transitioning members of the Armed Forces who have participated in the Transition

Assistance Program and have been identified as in need of intensive services, to members of the Armed Forces who are wounded, ill, or injured and receiving treatment in military treatment facilities or warrior transition units, and to the spouses or other family caregivers of such wounded, ill, or injured members;

In VPL 05-24, VETS clarified that the authorizing language is interpreted as follows:

a. Transitioning Service Members (TSM) who, at the time of enrollment have participated in any part of the Transition Assistance Program, including self-paced online modules and Individualized Initial Counseling.

b. Wounded, ill, or injured members of the Armed Forces who are receiving treatment in military treatment facilities or warrior transition units.

c. *Spouses or other* ***family caregivers*** *of those* ***wounded, ill, or injured*** *service members described in subparagraph b.*

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort

Not Applicable

3. Earmarking

Ten percent of each state's Wagner-Peyser Act allotment shall be reserved by the SWA to provide services and activities authorized by Section 7(b) of the Act (29 USC 49f(b)).

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable (Assistance Listing numbers 17.801).

d. Employment and Training Administration (ETA) form *9130, Financial Report (OMB No. 1205-0461)* – All ETA grantees are required to submit quarterly financial reports for each grant award they receive. Reports are required to be prepared using the specific format and instructions for the applicable program(s); in this case, *Employment Service and Unemployment Insurance Programs*. Reports are due 45 days after the end of the reporting quarter. Financial data is required to be reported cumulatively from grant inception through the end of each reporting period. Additional information on managing DOL grants can be accessed at https://www.dol.gov/agencies/eta/grants, or go directly to the ETA 9130 Financial Reporting webpage at: https://www.dol.gov/agencies/eta/grants/management/reporting.

e. *VETS-402, Expenditure Detail Report* – This expenditure and funded staff position report separately identifies JVSG expenditures each quarter and year-to-date as a supplement to SF-425, *Federal Financial Report*. This and other JVSG forms and instructions may be found at Forms | U.S. Department of Labor.

2. Performance Reporting

Not Applicable.

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

DEPARTMENT OF LABOR

ASSISTANCE LISTING 17.225 UNEMPLOYMENT INSURANCE (UI)

I. PROGRAM OBJECTIVES

The Unemployment Insurance (UI) program, created by the Social Security Act (SSA), provides benefits, also known as Unemployment Compensation (UC), to unemployed workers for periods of involuntary unemployment and helps stabilize the economy by maintaining the spending power of workers while they are between jobs. The UI program initially consisted of the regular state programs (20 CFR part 601). However, UC coverage was extended to federal civilian employees in 1954 and to ex-members of the Armed Forces in 1958. UC programs now cover almost all wage and salaried workers.

The Federal-State Extended Unemployment Compensation Act (EUCA) of 1970 (Pub. L. 91-373; 26 USC 3304 note) provides for the Extended Benefits (EB) program (20 CFR part 615). During periods of high unemployment, that program pays extended benefits for an additional (or extended) period of time to eligible unemployed workers who have exhausted their entitlement to UC, UC for Federal Employees (UCFE), or UC for Ex-Service Members (UCX).

II. PROGRAM PROCEDURES

A. Overview

The structure of the federal-state UI program partnership is based on federal statute; however, it is implemented through state law. State UI program operations are conducted by the State Workforce Agency (SWA)—the generic name for the agency that has responsibility for the state's Employment Security function. SWAs were previously referred to as State Employment Security Agencies (SESAs).

State responsibilities include: (1) establishing specific, detailed policies and operating procedures which comply with the requirements of federal laws and regulations; (2) determining the state UI tax structure; (3) collecting state UI contributions from employers (commonly called "unemployment taxes"); (4) determining claimant eligibility and disqualification provisions; (5) making payment of UI benefits to claimants; (6) managing the program's revenue and benefit administrative functions; (7) administering the programs in accordance with established policies and procedures; (8) enacting state UC law that conforms with federal UC law; and (9) ensuring that state law and operations substantially comply with federal law.

Unless otherwise noted, responsibilities of the US Department of Labor (DOL) include: (1) allocating available administrative funds among states; (2) administering the Unemployment Trust Fund (UTF) through the US Department of the Treasury and monitoring activities of the UTF; (3) establishing program performance measures; (4) monitoring state performance; (5) ensuring conformity and substantial compliance of

state law and operations with federal law; and (6) setting broad overall policy for program administration.

Benefits payable under several additional programs also are administered by the SWAs, as agents for DOL; however, they are distinct programs with separate compliance requirements—the Trade Adjustment Assistance/Alternative Trade Adjustment Assistance/Reemployment Trade Adjustment Assistance (TAA/ATAA/RTAA) programs to workers adversely affected by foreign trade and the Disaster Unemployment Assistance (DUA) program to workers and self-employed individuals who are unemployed as a direct result of a presidentially declared major disaster and are not eligible for regular UI benefits paid by states (Assistance Listings 17.245 and 97.034, respectively).

For example, SWAs provide weekly Trade Readjustment Allowances (TRA) /ATAA/RTAA payments for eligible program participants consistent with the eligibility requirements as noted in Assistance Listing 17.245.

Under the DUA program, the SWA is accountable to DOL and, through DOL, to the Federal Emergency Management Agency (FEMA). The SWA works in coordination with both agencies in preparing prompt announcements regarding the availability of DUA, submitting initial and supplemental funding requests, and accurately reporting funding and workload information on DUA monthly and quarterly reports.

In 2020, in response to the Coronavirus Disease 2019 (COVID-19), new UC programs were created via legislation. Title II, Subtitle A of the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 (Pub. L. 116-136), created the Pandemic Unemployment Assistance (PUA), Federal Pandemic Unemployment Compensation (FPUC), and Pandemic Emergency Unemployment Compensation (PEUC) programs. Division N, Title II, Subtitle A of the Consolidated Appropriations Act, 2021, The Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) (Pub. L. 116-260) created the Mixed Earners Unemployment Compensation (MEUC) program and provided for additional changes to the CARES Act programs. Additionally, the American Rescue Plan Act of 2021 (ARPA), Subtitle A of Title IX (Pub. L. 117-2), further extended and modified the programs provided under the CARES Act and Continued Assistance Act.

For each program administered under the UI program umbrella (UC, UCFE, UCX, TRA/ATAA/RTAA, EB, and DUA, FPUC, PUA, PEUC, and MEUC), states must ensure full payment of applicable benefits “when due” (and states must deny payments when not due).

Note: Informal references are frequently made to eligibility for “weeks” of UC. The auditor is cautioned that, with the exception of PUA, eligibility is generally for a maximum dollar amount of UC, which is often inaccurately referred to as receipt of UC for a given number of weeks. PUA is limited to a specific number of weeks, as discussed further below.

B. Subprograms/Program Elements

We note that federal legislation created four new temporary extension programs in response to the spread of COVID-19, as described below. Because these were temporary programs and subject to changes from subsequent legislation, we provide a high-level summary in this section and refer to Departmental guidance for additional details on the latest iteration. Auditors may refer to Attachment I of Unemployment Insurance Program Letter (UIPL) No. 14-21for the latest summary of coordination across UI programs. Auditors may refer to Attachment II of UIPL No. 14-21 for the latest table describing effective start and end dates for each of the programs.

These temporary programs—PUA, PEUC, FPUC, and MEUC—expired on September 6, 2021. Despite the expiration of the programs, states must process and pay benefits to eligible individuals under the PUA, PEUC, FPUC, and MEUC programs for all weeks of unemployment ending on or before the date of termination or expiration (whichever comes first).

In March 2020, SWAs entered into an agreement with the Secretary of Labor to administer and operate these programs. Though voluntary, states that participated signed the "Agreement Implementing the Relief for Workers Affected by Coronavirus Act (Agreement)." In January 2021, SWAs signed an addendum to the Agreement which incorporated the MEUC program. Accordingly, the Agreement remains in effect with respect to the PUA, PEUC, FPUC, and MEUC programs for weeks of unemployment ending on or before the date of termination or expiration (whichever comes first) until all issues relating to those weeks are resolved. The state must also comply with all responsibilities with respect to claims filed under these programs for those weeks, including, without limitation, the requirements under the Agreement and in guidance. See section 4.a. of UIPL No. 14-21, Change 1. See UIPL No. 16-20, Change 8, for additional information regarding the period of performance for these programs.

1. *Regular UI Program*

The regular UI program provides UI coverage to most wage and salary workers in each state, the District of Columbia, Puerto Rico, and the Virgin Islands. Except for provisions necessary to comply with federal law, the provisions of state UI laws vary greatly, including their qualifying requirements and methods used to compute UC amounts.

The period during which a claimant may receive UC is referred to as the "benefit year." In all but two states, Arkansas and New York, a benefit year lasts one year from the effective date of the claim. The total regular UC that a claimant may receive in a benefit year is computed by the SWA in a dollar amount. A claimant may collect UC up to the maximum benefit amount allowable for the benefit year during periods of unemployment that occur during the benefit year. Under state UI laws, the total (maximum) UC a claimant is entitled to varies within certain limits according to the worker's wages in the base period (see III.E, "Eligibility – Eligibility for Individuals"). Reduced benefits may be paid for weeks of partial

unemployment. In some states, the weekly UI benefit payment is augmented by a dependent's allowance if provided under state UI law, which may be paid for each dependent up to a maximum number of dependents.

2. *Extended Benefits (EB) Program*

When certain measures of unemployment exceed thresholds established in law, the EB program will "trigger on" a period of not less than 13 consecutive weeks during which the state will make EB payments to eligible unemployed workers who have exhausted their entitlement to regular compensation (20 CFR section 615.11). With certain exceptions, EB is payable at the same rate as the claimant's regular benefits (20 CFR section 615.6). Eligibility for EB and the period for which the claimant is eligible is determined by the state in which the original claim was established (Section 202(a)(2), EUCA; 20 CFR section 615.4). When all measures of unemployment fall below the established thresholds, the EB program will "trigger off" the period of EB, ending benefit payments. An alternate trigger is available in some states. In addition to a mandatory trigger mechanism required in all states, federal law provides for optional triggers which some states have adopted. For information on the triggers, see Section 203, EUCA, and 20 CFR sections 615.11 through 615.13.

Section 266 of the Continued Assistance Act provided states with the option to disregard the 13-week mandatory "off" period described in Section 203(b)(1)(B), EUCA for weeks between November 1, 2020, and December 31, 2021, if permitted under state law.

Additionally, Section 206(c) of the Continued Assistance Act provided that, if permitted under state law, an individual would be eligible for EB after exhausting PEUC as long as the state was in an EB period after the date the individual exhausted PEUC, even if the individual's benefit year had expired. A claimant could receive EB equal to the lesser of the following amounts: (1) one-half the total amount of regular compensation, including dependent's allowances; (2) thirteen times the weekly amount of regular compensation; or (3) thirty-nine times the weekly amount of regular compensation reduced by the amount of regular compensation paid to the claimant (Section 202(a)(2), EUCA; 20 CFR section 615.7(b)). However, the amount of EB payable increases if the unemployment measure reaches a benchmark rate established in EUCA. While EB is payable under the terms and conditions of state law, the Federal Unemployment Tax Act (FUTA) requires that state UC law conform to certain provisions of EUCA (26 USC 3304(a)(11)). The Middle Class Tax Relief and Job Creation Act of 2012, Subtitle E of Title II (Pub. L. 112-96) amended the law to allow states to offer self-employment assistance (SEA) to eligible individuals in lieu of EB if state law is amended to provide it.

States are reimbursed with federal funds for one-half the cost of EB paid to claimants by the SWAs, with the following exceptions: (1) EB paid to former UCFE and UCX claimants are 100 percent reimbursable from federal funds; and

(2) EB paid to former employees of the state government, and political subdivisions and instrumentalities of the state, and federally recognized Indian tribes are not reimbursable from federal funds.

Reimbursements are prorated for claimants who had employment in both the private and public sectors during their "base periods." The first week of EB is reimbursable to the state only if the state requires the first week in an individual's benefit year be an unpaid "waiting week" (Section 204, EUCA; 20 CFR section 615.14).

The auditor should refer to 20 CFR section 615.14 for a complete explanation of when EB is not reimbursed to the state.

The Families First Coronavirus Response Act (Pub. L. 116-127), specifically Division D, the Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA), made emergency supplemental appropriations in response to the economic impacts of COVID-19. Section 4105 of EUISAA provided full federal funding, under certain circumstances, of 1) sharable regular compensation and sharable extended compensation; and 2) temporary federal matching for the first week of EB for states with no waiting week. Under EUISAA, these provisions were set to expire on December 31, 2020 (Section 6 of UIPL No. 13-20). The Continued Assistance Act extended the availability of these reimbursements as described above to March 14, 2021 (Section 4.a.iii. of UIPL No. 09-21). ARPA further extended the availability of these reimbursements to weeks beginning before September 6, 2021 (Section 4.a.ii. of UIPL No. 14-21).

On March 27, 2020, the president signed the CARES Act (Pub. L. 113-136), which included the Relief for Workers Affected by Coronavirus Act set out in Title II, Subtitle A. Section 2107 of the CARES Act created the PEUC program, which provided additional weeks of benefits to individuals who exhausted regular UC—while an individual generally must exhaust PEUC before becoming eligible for EB, many individuals were receiving EB at the time that additional weeks of PEUC were authorized under the Continued Assistance Act and again under ARPA. Individuals who were receiving EB at the time these additional weeks were made available must exhaust EB before resuming collection of the PEUC claim (Section 4.f. of UIPL No. 17-20, Change 2, and Section 4.f. of UIPL No. 17-20, Change 3.).

Additionally, the Continued Assistance Act provided optional, time-limited, and temporary waiver authority regarding the 13-week "off" period in Section 203(b)(1)(B) of EUCA, if permitted by state law (Section 4.c. of UIPL No. 24-20, Change 1).

On March 11, 2021, the president signed ARPA into law. This Act amended certain provisions of the EUISAA, set out in Division D of the Families First Coronavirus Response Act (Pub. L. 116-127) and the CARES Act as amended by

both the Protecting Nonprofits from Catastrophic Cash Flow Strain Act of 2020, Section 2 (Protecting Nonprofits Act) (Pub. L. 116-151) and the Continued Assistance Act (Division N, Title II, Subtitle A of the Consolidated Appropriations Act, 2021 (Pub. L. 116-260)).

ARPA provided temporary federal matching for the first week of EB for states with no waiting week and was extended to weeks of unemployment beginning before September 6, 2021. In states where the week of unemployment ends on a Saturday, the last week of unemployment for which this funding is available is the week ending on September 11, 2021. In states where the week of unemployment ends on a Sunday, the last week of unemployment for which this funding is available is the week ending on September 5, 2021.

The auditor should also refer to UIPL No. 28-20, Change 1-5 , for more specific guidance to code payment to the correct source and ensure overpayments are returned to the proper source.

3. *UCFE and UCX Programs*

For UCFE, the qualifying requirements, determination of the benefit amounts, and duration of UC are generally determined under the applicable state law, which is generally the state in which the official duty station was located (5 USC 8501 - 8508; 20 CFR part 609).

The UCX program combines elements of the applicable state law and factors unique to the UCX program, such as "schedules of remuneration" (20 CFR section 614.12), which must be considered by the SWA in making its determinations of eligibility, UI benefit amounts and duration (20 CFR part 614).

States are reimbursed from the UTF for UC paid to UCFE and UCX claimants. On a quarterly basis, states report the amount of UCFE and UCX paid to the DOL, which is responsible for obtaining reimbursement to the UTF from the appropriate federal agencies (20 CFR sections 609.14 and 614.15).

4. *TRA/RTAA Benefit Payments/Wage Subsidies*

Effective July 1, 2021, the TAA program reverted to a modified version of the 2002 program known as Reversion 2021. Individuals receive benefits and services based on the version of the program under which their petition was certified. For fiscal year (FY) 2023, more than 85 percent of program participants were eligible under the 2015 version. DOL's Office of Trade Adjustment Assistance administers the concurrent programs and oversees TAA program operations in the states in cooperation with the Regional Offices of ETA.

TRA is available as a weekly income support to eligible workers under the TAA program who have exhausted UI benefits. The federal regulations for the TAA program were published in August of 2020 and are found at 20 CFR part 618. There are various TEGLs and UIPLs that also apply to TRA. The most recent

version of the TAA Program operates under the amendments enacted by Title IV of the Trade Adjustment Assistance Reauthorization Act of 2015 (Pub. L. 114-27) (2015 program). The 2015 program includes up to 130 weeks of income support (including regular UI). Reversion 2021 provides the same number of weeks of income support, but with more limited flexibility around other TRA-related issues. Guidance on Reversion 2021 is contained in TEGL No. 24-20 and TEN No. 01-21.

In addition to TRA, the 2015 program includes the RTAA benefit, originally established under the Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA). RTAA is a wage subsidy available to certain eligible workers who are 50 years of age and older and elect to receive this benefit upon obtaining qualifying reemployment. The maximum benefit is $10,000. Under Reversion 2021, RTAA reverts to the rules for ATAA which limit receipt of other TAA Program benefits.

On July 1, 2022, the termination provision under Section 285(a) of the Trade Act of 1974, as amended, took effect. Until further notice, the Department may not issue any determinations and may not accept any new petitions or requests for reconsideration. Requests to amend current certifications may still be filed. Workers who were certified and separated from their job on or before June 30, 2022, may still be eligible for benefits. See TEGL No. 13-21, for more details.

5. *DUA Benefit Payments*

DUA is authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Section 410 (Pub. L. 93-288), (Stafford Act), PDF page 63. DOL oversees the DUA program and coordinates with FEMA, which provides the funds for payment of DUA and for state administration. SWA's administer the DUA program on behalf of the federal government.

Based on a request by the governor of a state or the chief executive of a federally recognized Indian tribal government, the president declares a major disaster and authorizes the type(s) of federal assistance to be made available and the geographic areas that have been adversely affected by the disaster. The presidential declaration may authorize Individual Assistance (IA), which includes the provisions for DUA (20 CFR part 625).

6. *PUA Benefit Payments*

The PUA program was created under the CARES Act to provide benefits to covered individuals. A "covered individual" is someone who meets each of the following three conditions:

a. The individual is not eligible for regular UC, EB, or PEUC. This also includes those who have exhausted all rights to such benefits, self-

employed, those seeking part-time employment, individuals lacking sufficient work history. Self-employed individuals include independent contractors and gig economy workers.

b. Such individual must self-certify that they are unemployed, partially unemployed, or unable or unavailable to work due to one of the COVID-19 related reasons identified in Section 2102(a)(3)(A)(ii)(I) of the CARES Act and in Departmental guidance (see UIPL No. 16-20 and Attachment I, Section C.1. of UIPL No. 16-20, Change 4). Because this eligibility is based on self-certification, states may only request supporting documentation if they have reasonable suspicions of fraud (see question 23 of Attachment I to UIPL No. 16-20, Change 2).

c. Additionally, individuals who are paid on or after December 27, 2020, must submit proof of documentation substantiating employment, self-employment, or the planned commencement of employment or self-employment (see Attachment I, Section C.2. of UIPL No. 16-20, Change 4). This includes individuals requesting retroactive payments that are not received until after December 27, 2020.

PUA was payable for weeks of unemployment, partial unemployment, or inability to work caused by the COVID-19 related reasons listed above beginning on or after January 27, 2020. For states where the week of unemployment ends on a Saturday, the first week for which PUA may be paid was the week ending February 8, 2020. In states where the week of unemployment ends on a Sunday, the first week for which PUA may be paid was the week ending February 9, 2020.

Identity Verification. For states to have an adequate system for administering the PUA program, states must include procedures for "identity verification or validation and for timely payment, to the extent reasonable and practicable" by January 26, 2021, which is 30 days after December 27, 2020 (Section 242 of the Continued Assistance Act), PDF page 780). States that previously verified an individual's identity on a UC, EB, or PEUC claim within the last 12 months were not required to re-verify identity on the PUA claim, though the Department encouraged the state to take additional measures if the identity was questioned. Individuals filing new PUA initial claims that had not been through the state's identity verification process must have had their identities verified to be eligible.

Claim Effective Dates and Backdating Limitations. Individuals filing for PUA must have had their claim backdated to the first week during the Pandemic Assistance Period in which the individual was unemployed, partially unemployed, or unable or unavailable to work because of COVID-19 related reason(s) identified in Attachment I to UIPL No. 16-20, Change 6. Section 201(f) of the Continued Assistance Act, PDF page 772, provides a limitation on backdating for claims filed after December 27, 2020 (the enactment date of the Continued Assistance Act).

- *PUA initial claims filed on or before December 27, 2020.* Initial PUA claims filed on or before this date may be backdated no earlier than the week that begins on or after February 2, 2020, the first week of the Pandemic Assistance Period (PAP).

- *PUA initial claims filed after December 27, 2020*. Initial PUA claims filed after this date may be backdated no earlier than December 1, 2020 (a claim effective date of December 6, 2020, for states with a Saturday week ending date and a claim effective date of December 7, 2020, for states with a Sunday week ending date).

To comply with the requirements in Section 263 of the Continued Assistance Act, all states must have ensured, with respect to weeks of unemployment beginning on or after January 26, 2021 (30 days after the enactment date of the Continued Assistance Act), continued claim forms contained a self-certification process for PUA claimants to identify the specific COVID-19 related reason, under Section 2102(a)(3)(A)(ii)(I)(aa) through (kk) of the CARES Act, for which they were unemployed, partially unemployed, or unable or unavailable to work. For states with a Saturday week ending date, this began with ending February 6, 2021. For states with a Sunday week ending date, this began with week ending February 7, 2021.

For continued claims filed with respect to weeks ending before January 26, 2021 (January 30, 2021, for states with a Saturday week ending date and January 31, 2021, for states with a Sunday week ending date), if a state made a good faith effort to implement the PUA program, an individual was not denied benefits solely for failing to submit a weekly recertification. The determination of whether a state made a "good faith effort" to implement the PUA program will be performed by the Employment and Training Administration and it will determine what, if any, retroactive action is required to obtain self-certifications (Attachment III to UIPL No. 16-20, Change 6).

Calculating Weekly Benefit Amounts (WBA). The PUA WBA is equal to the WBA authorized under state UC law where the individual was employed. For individuals without reported wages sufficient to establish a WBA, the WBA was calculated according to processes for Disaster Unemployment Assistance (see Attachment II of UIPL No. 16-20, Change 1). As set out in 20 CFR section 625.6(b), the minimum PUA WBA was "50 percent of the average weekly payment of regular compensation in the state, as provided quarterly by the Department." The minimum WBA for all PUA claims is identified by state in UIPL No. 03-20.

Duration of PUA Claims. The maximum number of weeks of PUA benefits was 79 weeks. The number of weeks available continued to be reduced by any weeks of regular UC and EB that the individual received with respect to the PAP (Section 4.c.i. of UIPL No. 14-21).

States are reminded, as described in Section C.17. of Attachment I to UIPL No. 16-20, Change 4, the additional 11 weeks provided under the Continued Assistance Act (increasing the duration from 39 weeks to 50 weeks) may only be paid with respect to weeks of unemployment beginning on or after December 27, 2020. In states where the week of unemployment ends on a Saturday, the first week for which the additional 11 weeks may be paid is the week ending January 2, 2021. In states where the week of unemployment ends on a Sunday, the first week for which these additional 11 weeks of benefits may be paid is the week ending January 3, 2021.

The additional 29 weeks of benefits provided under ARPA (increasing the duration from 50 to 79 weeks) may only be paid with respect to weeks of unemployment ending after March 14, 2021. We note that there are 25 weeks between the week ending March 13, 2021, and the last payable week of September 4, 2021. As such, individuals could not exhaust their full PUA entitlement before the program expired.

In states where the week of unemployment ends on a Saturday, the first week for which the additional 29 weeks of benefits may be paid was the week ending on March 20, 2021. In states where the week of unemployment ends on a Sunday, the first week for which the additional 29 weeks of benefits may be paid was the week ending on March 21, 2021.

Program End Date. The state must process and pay benefits to eligible individuals under the PUA program for all weeks of unemployment ending on or before the date of termination or expiration (whichever comes first) (Attachment II of UIPL No. 16-20, Change 6 and UIPL No. 14-21, Change 1).

The state must also comply with all responsibilities with respect to claims filed under the PUA program for those weeks, including, without limitation, the requirements under the Agreement and in guidance. Accordingly, the Agreement remains in effect with respect to the PUA program for weeks of unemployment ending on or before the date of termination or expiration (whichever comes first) until all issues relating to those weeks are resolved.

In all states, under current federal law, no PUA payment may be made with respect to weeks of unemployment ending after September 6, 2021. In states where the week of unemployment ends on a Saturday, the last payable week for PUA was the week ending September 4, 2021. In states where the week of unemployment ends on a Sunday, the last payable week for PUA was the week ending September 5, 2021. For states that terminated the Agreement to operate the PUA program before September 6, 2021, no payments for the PUA program may be made with respect to weeks of unemployment ending after the date the state terminated participation in the Agreement.

Hold Harmless for Proper Administration (Section 9011(c), ARPA, PDF page 116). Generally, an individual must have exhausted all entitlement to regular UC, PEUC, and EB before being eligible for PUA. However, ARPA provides a "hold harmless" provision for an individual who previously exhausted PEUC and is now receiving PUA, but, because of Section 9016(b), ARPA, becomes eligible for additional amounts of PEUC beginning on or after March 11, 2021. States could have temporarily continued paying PUA to an individual receiving PUA who was newly eligible to receive PEUC due to the additional weeks of PEUC. The hold harmless flexibility was allowed for an appropriate period of time UIPL No. 14-21 as determined by the secretary.

Additional information on the PUA program can be found in UIPL No. 16-20; UIPL No. 16-20, Change 1; UIPL No. 16-20, Change 2 ; UIPL No. 16-20, Change 3; UIPL No. 16-20, Change 4 ; UIPL No. 16-20, Change 5; UIPL No. 16-20 Change 6; UIPL No. 14-21; and UIPL No. 14-21, Change 1.

7. *PEUC Benefit Payments*

Eligible Individuals. PEUC was a temporary program that provided additional weeks of benefits to individuals who:

a. had exhausted all rights to regular compensation under state law or federal law with respect to a benefit year that ended on or after July 1, 2019;

b. had no rights to regular compensation with respect to a week under any other state UC law or federal UC law, or to compensation under any other federal law;

c. were not receiving compensation with respect to a week under the UC law of Canada; and

d. were able to work, available to work, and actively seeking work, while recognizing that states must provide flexibility in meeting the "actively seeking work" requirement if individuals were unable to search for work because of COVID-19, including because of illness, quarantine, or movement restriction.

Duration of PEUC Claims. The maximum amount of PEUC compensation that could be established in an individual's account for the benefit year was 53 times the individual's average WBA (Section 4.c.v. of UIPL No. 14-21).

States are reminded, as described in Section 4.d. of UIPL No. 17-20, Change 2, the additional amount provided under the Continued Assistance Act (increasing entitlement from 13 times the individual's average WBA to 24 times the individual's average WBA) may only be paid with respect to weeks of unemployment beginning on or after December 27, 2020. In states where the week of unemployment ends on a Saturday, the first week for which this

additional amount may be paid was the week ending January 2, 2021. In states where the week of unemployment ends on a Sunday, the first week for which this additional amount may be paid was the week ending January 3, 2021.

The additional amount provided under ARPA (increasing entitlement from 24 times the individual's average WBA to 53 times the individual's average WBA) may only be paid with respect to weeks of unemployment ending after March 14, 2021. In states where the week of unemployment ends on a Saturday, the first week for which this additional amount may be paid was week ending on March 20, 2021. We note that there are 25 weeks between the week ending March 13, 2021, and the last payable week of September 4, 2021. As such, individuals may not exhaust their full PEUC entitlement before the program expires.

In states where the week of unemployment ends on a Sunday, the first week for which this additional amount may be paid was week ending on March 21, 2021.

Program End Date. The state must process and pay benefits to eligible individuals under the PEUC program for all weeks of unemployment ending on or before the date of termination or expiration (whichever comes first) (UIPL No. 14-21, Change 1).

The state must also comply with all responsibilities with respect to claims filed under the PEUC program for those weeks, including, without limitation, the requirements under the Agreement and in guidance. Accordingly, the Agreement remains in effect with respect to the PEUC program for weeks of unemployment ending on or before the date of termination or expiration (whichever comes first) until all issues relating to those weeks are resolved.

In all states, under current federal law, no PEUC payment may be made with respect to weeks of unemployment ending after September 6, 2021. In states where the week of unemployment ends on a Saturday, the last payable week for PEUC was the week ending September 4, 2021. In states where the week of unemployment ends on a Sunday, the last payable week for PEUC was the week ending September 5, 2021. For states that terminated the Agreement to operate the PEUC program before September 6, 2021, no payments for the PEUC program may be made with respect to weeks of unemployment ending after the date the state terminates participation in the Agreement.

Additional information on the PEUC program can be found in UIPL No. 17-20; UIPL No. 17-20, Change 1; and UIPL No. 17-20, Change 2; UIPL No. 17-20, Change 3 ; UIPL No. 14-21; and UIPL No. 14-21, Change 1.

8. *FPUC Benefit Payments*

The FPUC program was created under Section 2104 of the CARES Act. This program provided an additional $600 per week to individuals who were collecting

regular UC (including UCFE and UCX), as well as the following unemployment compensation programs:

a. Pandemic Emergency Unemployment Compensation (PEUC);

b. Pandemic Unemployment Assistance (PUA);

c. Extended Benefits (EB);

d. Short Time Compensation (STC);

e. Trade Readjustment Allowances (TRA);

f. Disaster Unemployment Assistance (DUA); and

g. Payments under the Self-Employment Assistance (SEA) program.

If an individual was eligible to receive at least $1 of underlying benefit for the week in question, then they must also receive the $600 FPUC supplemental payment. This applied to all weeks of unemployment beginning with week ending April 4, 2020, through week ending July 25, 2020.

The FPUC program was reauthorized under the Continued Assistance Act to provide $300 per week in supplemental benefits for weeks of unemployment starting with week ending January 2, 2021, through week ending March 13, 2021. FPUC was not payable with respect to any week during the gap in applicability, that is, weeks of unemployment ending after July 31, 2020, through weeks of unemployment ending on or before December 26, 2020.

ARPA further extended the FPUC program at $300 per week through the week ending on or before September 6, 2021 (Section 4.c.iii. of UIPL No. 14-21).

Program End Date. The state must process and pay benefits to eligible individuals under the FPUC program for all weeks of unemployment ending on or before the date of termination or expiration (whichever comes first) (UIPL No. 14-21, Change 1).

The state must also comply with all responsibilities with respect to claims filed under the FPUC program for those weeks, including, without limitation, the requirements under the Agreement and in guidance. Accordingly, the Agreement remains in effect with respect to the FPUC program for weeks of unemployment ending on or before the date of termination or expiration (whichever comes first) until all issues relating to those weeks are resolved.

In all states, under current federal law, no FPUC payment may be made with respect to weeks of unemployment ending after September 6, 2021. In states where the week of unemployment ends on a Saturday, the last payable week for FPUC was the week ending September 4, 2021. In states where the week of unemployment ends on a Sunday, the last payable week for FPUC was the week ending September 5, 2021. For states that terminated the Agreement to operate the FPUC program before September 6, 2021, no payments for the FPUC program may be made with respect to weeks of unemployment ending after the date the state terminates participation in the Agreement.

Additional information on the FPUC program can be found in UIPL No. 15-20; UIPL No. 15-20, Change 1; UIPL No. 15-20, Change 2; UIPL No. 15-20, Change 3; UIPL No. 15-20, Change 4; UIPL No. 14-21; and UIPL No 14-21, Change 1.

9. *MEUC Benefit Payments*

The MEUC program was created under the Continued Assistance Act. State participation in the MEUC program was optional and required the state to enter into an agreement with DOL to operate the program. This program provided $100 each week, in addition to FPUC, to individuals with $5,000 or more in self-employment income in the previous tax year who received unemployment benefits from a program other than PUA.

Eligible individuals must: (i) have received at least $5,000 of self-employment income in the most recent taxable year prior to the individual's application for regular UC, (ii) be receiving a UI benefit (other than PUA) for which FPUC is payable, and (iii) submit documentation substantiating their self-employment income. This supplemental payment did not apply to individuals collecting PUA.

States were required to determine an individual's eligibility for MEUC prior to releasing MEUC payments. Once verified the state must make the MEUC supplemental payment for each week during the program dates in which the individual qualified for at least $1 of underlying benefit (except PUA).

MEUC was payable beginning with weeks of unemployment no earlier than week ending January 2, 2021 (January 3, 2021, for states with a Sunday week ending date) through the week ending March 13, 2021. ARPA further extended the MEUC program at $100 per week through the week ending on or before September 6, 2021 (Section 4.c.iii. of UIPL No. 14-21).

Program End Date. The state must process and pay benefits to eligible individuals under the MEUC program for all weeks of unemployment ending on or before the date of termination or expiration (whichever comes first) (UIPL No. 14-21, Change 1).

The state must also comply with all responsibilities with respect to claims filed under the MEUC program for those weeks, including, without limitation, the

requirements under the Agreement and in guidance. Accordingly, the Agreement remains in effect with respect to the MEUC program for weeks of unemployment ending on or before the date of termination or expiration (whichever comes first) until all issues relating to those weeks are resolved.

In all states, under current federal law, no MECU payment may be made with respect to weeks of unemployment ending after September 6, 2021. In states where the week of unemployment ends on a Saturday, the last payable week for MEUC was the week ending September 4, 2021. In states where the week of unemployment ends on a Sunday, the last payable week for MEUC was the week ending September 5, 2021. For states that terminate the Agreement to operate the MEUC program before September 6, 2021, no payments for the MEUC program may be made with respect to weeks of unemployment ending after the date the state terminates participation in the Agreement.

Additional information on the MEUC program can be found in UIPL No.15-20, Change 3; UIPL No. 15-20, Change 4; UIPL No. 14-21; and UIPL No. 14-21, Change 1.

C. Program Funding

UI payments to claimants are funded primarily by state UI taxes on covered employers (three states, Alaska, New Jersey, and Pennsylvania, also have provisions for employee taxes). Some employers make direct reimbursements to the state for UI payments made on their behalf rather than paying UI taxes. State governments, political subdivisions, and instrumentalities of the states; federally recognized Indian tribes; and qualified nonprofit organizations may reimburse the state for UI benefits paid by the SWA; however, they may elect to be contributory employers (i.e., remit state UI taxes) in lieu of reimbursing the state. Also, states are reimbursed from the UTF for UCFE and UCX paid by the SWA on behalf of various federal entities. Program administration is funded by a federal UI tax on covered employers (see below). Generally, the employment covered by state UI taxes and federal UI taxes is the same; however, there are specific differences.

State UI taxes and reimbursements are used exclusively for the payment of regular UC and the state share of EB to eligible claimants. UI taxes and reimbursements remitted by employers to the states are deposited in state accounts in the UTF. SWAs periodically draw funds from their UTF accounts for the purpose of making UI payments.

FUTA imposes a federal tax on covered employers. Effective July 1, 2011, the FUTA tax is 6 percent of the first $7,000 of covered employee wages. The law, however, provides a credit against federal tax liability of up to 5.4 percent to employers who pay state UI taxes timely under an approved state UI program. This credit is allowed regardless of the amount of the UI tax paid to the state by the employer. Employers may receive these credits only when the state UI law, and its application, conform and substantially comply with FUTA requirements.

The Secretary certifies which state UI laws meet these requirements each year on October 31. The certifications are then published in the Federal Register. Currently, all states meet the FUTA requirements.

Another aspect of the FUTA tax is the FUTA credit reduction, which could occur when a state with an insolvent UI trust fund borrows from the US Treasury and those loans remain unpaid for a certain period. When a state has an outstanding UC trust fund loan on January 1 for two consecutive years and there is an outstanding balance on November 10 following the second January 1, the FUTA tax rate for employers in that state will be increased by 0.3 percent. Each additional year the loans remain unpaid will cause additional and incremental increases to the FUTA tax rate until the loans are repaid. Revenue derived from the FUTA credit reduction is used solely to reduce outstanding UI trust fund loans.

FUTA revenues are collected by the Internal Revenue Service (IRS) and deposited into the general fund of the US Treasury, which by statute are appropriated to the UTF. FUTA revenues are used primarily to finance federal and SWA administrative expenses, the federal share of EB, and advances to states whose UTF account balances are exhausted. DOL allocates available administrative grant funds (as appropriated by Congress) to states based on forecasted workload and costs and is adjusted for increases or decreases in workload during the current year.

Section 903 of the Social Security Act requires FUTA taxes to be refunded to states when amounts in the individual federal account in the UTF meet statutory caps. Title IX funds are credited to the state accounts in the UTF and may be used to pay benefit payments under state law and, subject to certain requirements, may be used for administering the UI programs.

States annually compute an “experience rate” for contributing, or tax-remitting, employers. The experience rate is the dominant factor in the computation of an employer’s state UI tax rate. While methods of computation differ, the key factor in most methodologies is the amount of UI benefits paid by the SWA, within a time period specified by state UI law, to claimants who are former employees of the employer. Also, various methods are used by the SWAs to identify which one or more of the claimant’s former employers will be “charged” with the UI benefits paid to the claimant. Since FEMA has delegated to the secretary of labor the responsibility for administering the DUA program, FEMA transfers resources to DOL’s Employment and Training Administration (ETA) to provide funding to states impacted by the disaster after a major disaster declaration has been made. Funding for each disaster is provided separately. States are expected to report the DUA costs for each disaster separately by administrative and benefits costs. The funding period (known as the disaster assistance period) generally covers a 26-week period after the declaration.

See III.E.1. Eligibility for Individuals, for additional information on temporary emergency flexibilities related to employer experience rating.

Source of Governing Requirements

The federal-state UI program partnership is provided for by Titles III, IX, and XII of the Social Security Act of 1935 (SSA) (42 USC 501, 1101, 1321, et seq.), FUTA (26 USC 3301 et seq.), UCFE (5 USC 8501 et seq.), and UCX (5 USC 8521 et seq.). Program regulations are found in 20 CFR parts 601 through 616.

The TAA/ATAA program is authorized by the Trade Act of 1974, as amended by the TAA Reform Act of 2002 (Pub. L. 107-210 (19 USC 2271 et seq.)). Implementing regulations are 29 CFR part 90, subpart B and 20 CFR part 618. Operating instructions for the TAA program are found in TEGL No. 11-02, and operating instructions for the ATAA program are found in TEGL No. 2-03. The RTAA program is authorized by the Trade Act of 2009 (Division B, Title I, Subtitle I of ARRA), which further amended the Trade Act of 1974**.** Operating instructions for the TAA/RTAA program are found in TEGL No. 22-08, , and.

The DUA program can be found at 42 USC 5177 and the implementing regulations for the DUA program are found at 44 CFR sections 206.8 and 206.141 for FEMA, and 20 CFR part 625 for DOL.

Availability of Other Program Information

Other information on the UI programs can be found at these links:

- About Unemployment Insurance
- Unemployment Insurance Performance Management
- DUA
- TAA and ATAA

Additional information on programs created in response to COVID-19 can be found at COVID-19 Information for State Unemployment Insurance Agencies.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not

being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	Y	Y	N	N	Y	N	Y

A. Activities Allowed or Unallowed

1. *Activities Allowed*

Administrative grant funds may be used only for the purposes and in the amounts necessary for proper and efficient administration of the UI program (20 CFR part 601; 20 CFR sections 609.14(d), and 614.15(d); 20 CFR section 618.800 (TRA/ATAA); and 44 CFR section 206.8 (DUA)).

a. TRA and ATAA/RTAA

(1) TRA – Allowable activities include payment of weekly TRA benefits to eligible participants (20 CFR sections 618.700 through 618.780).

(2) ATAA/RTAA – Allowable activities include payment of ATAA wage subsidies to eligible participants (Section 113 of Pub. L. 107-210, Pub. L. 111-5, and Section 211 of Pub. L. 112-40).

b. DUA- Funds may be used only for the payment of DUA benefits and for DUA-related state administrative costs.

c. FPUC- Payments may be payable either as (1) as an increase of the weekly benefit payment to the individual, or (2) as a separate supplemental payment made, on the same schedule as regular UC, to the individual (Section 2104(b)(2), CARES Act, PDF page 38).

2. *Activities Unallowed*

(a) FPUC is not payable to individuals receiving state additional compensation.

E. Eligibility

1. Eligibility for Individuals

A note on temporary emergency flexibilities. Section 4102(b), EUISAA (PDF page 15), provided states with the ability to modify or waive certain aspects of their UC law, as needed, to respond to the spread of COVID-19. These provisions included work search, waiting week, good cause, and employer experience rating. If exercised, the state's regular eligibility requirements described below regarding work search, waiting week, good cause, and employer experience rating may be modified or waived for a temporary period of time in response to the spread of COVID-19. A state should have supporting documentation (e.g., statutory changes, emergency rules, or executive orders) if these temporary flexibilities were exercised for the time period in question (see Section 5 of UIPL No. 13-20 for emergency flexibilities).

a. *Regular Unemployment Compensation Program* – Under state UC laws, a worker's benefit rights depend on the amount of the worker's wages and/or weeks of work in covered employment in a "base period." While most states define the base period as the first four of the last five completed calendar quarters prior to the filing of the claim, other base periods may be used. To qualify for benefits, a claimant must have earned a certain number of wages or have worked a certain number of weeks or calendar quarters within the base period or meet some combination of wage and employment requirements. Some states require a waiting period of one week of total or partial unemployment before UC is payable. A "waiting period" is a non-compensable period of unemployment in which the worker is otherwise eligible for benefits.

   To be eligible to receive UC, all states provide that a claimant must have been separated from suitable work for non-disqualifying reasons under state law (i.e., leaving voluntarily without good cause or discharged for misconduct connected with work). After separation, they must be able and available for work, actively seeking work, legally authorized to work in the United States and must not have refused an offer of suitable work.

b. *EB Program* – To qualify for EB, a claimant must have exhausted regular UI benefits (20 CFR section 615.4(a)). To be eligible for a week of EB, a claimant must apply for and be able and available to accept suitable work, if offered. What constitutes suitable work is dependent on a required SWA's evaluation of the claimant's employment prospects. EB claimants must make a "systematic and sustained effort" , as defined by the SWA, to seek work and must provide "tangible evidence" of their work search to the SWA (20 CFR section 615.8).

   Section 206(c)(2)(B) of the Continued Assistance Act, PDF page 774-776 amended Section 2107(a) of the CARES Act regarding the application of

Section 203(c) of EUCA to PEUC exhaustees. First, Section 206(c)(2)(A) of the Continued Assistance Act, PDF page 775, provides that any individual who received EB for the week of unemployment that includes December 27, 2020 (the date of enactment of the Continued Assistance Act) shall not be eligible for PEUC until the individual has exhausted all rights to EB.

Second, at a state's option, for weeks of unemployment beginning after December 27, 2020, and before April 12, 2021, an individual's eligibility for EB shall be considered to include any week that begins after the individual exhausts all rights to PEUC and that falls during an EB period that began after the date the individual exhausted all rights to PEUC. This applies even if the individual's benefit year had expired, provided the state was in an EB period as of the date the individual exhausts PEUC.

c. *UCFE and UCX Programs* – For UCFE, the claimant's eligibility and benefit amount will generally be determined in accordance with the UI law of the state of the claimant's last duty station (20 CFR section 609.8). For UCX, a claimant's initial eligibility for UCX benefits is determined in accordance with 20 CFR section 614.3. Continued eligibility for UCX benefits, after the UCX claim has been established is determined in accordance with the UI law of the state in which the claimant files a first claim after separation from active military service (20 CFR section 614.8).

d. *TRA* – For weekly TRA payments, the worker must (a) have been employed at wages of $30 or more per week in adversely-affected employment with a single firm or subdivision of a firm for at least 26 of the previous 52 weeks ending with the week of the individual's qualifying separation (up to seven weeks of employer-authorized leave, up to seven weeks as a full-time representative of a labor organization, or up to 26 weeks of disability compensation may be counted as qualifying weeks of employment); (b) have been entitled and have exhausted all UC to which the individual is entitled; and (c) be enrolled in or have completed an approved job training program, unless a waiver from the training requirement has been issued after a determination is made that training is not feasible or appropriate (20 CFR section 618.735).

TRA is payable to eligible claimants after exhaustion of UI benefits, which include and are defined as (1) regular compensation under state law; (2) EB; and (3) any federal supplemental compensation program that may be authorized by Congress from time-to-time.

TRA may consist of (1) basic, (2) additional, (3) remedial, (4) remedial and/or pre-requisite, and (5) completion. The distinction depends on whether the benefits accrue under the 2002, 2009, 2011, Reversion 2014, or 2015 program amendments, and is determined by the petition number.

The maximum basic TRA amount payable is the product of 52 times the WBA of the first benefit period. This maximum amount is reduced by the entire UI entitlement of the first benefit period including EB, and/or any federal supplemental compensation, such as EUC08. This maximum amount is the same under the 2002, 2009, and Reversion 2014, as well as 2015 program amendments. If the combination of all UI entitlement in the first benefit period exceeds the maximum basic TRA amount payable, no basic TRA is payable.

Additional TRA requires that the individual participate in TAA training for each week claimed. Under the 2002 program amendments, additional TRA may be payable for up to 52 weeks in a 52 consecutive-weeks period. Under the 2009 program amendments, additional TRA may be payable for up to 78 weeks in a 91 consecutive-weeks period. Under the 2011 program amendments, Reversion 2014, and 2015 program amendments, additional TRA may be payable for up to 65 weeks in a 78 consecutive-weeks period. Please note that, under all additional TRA payable (including completion TRA discussed below), each week paid counts towards the maximum weeks payable regardless of the amount paid each week.

Under the 2002 program amendments, up to an additional 26 weeks may be payable as TRA if the individual engaged in remedial education. Under the 2009 program amendments, up to an additional 26-week total may be payable as TRA if the individual engaged in either remedial education, and/or pre-requisite education. Under the 2011 program amendments, Reversion 2014, and 2015 program amendments, up to an additional 13 weeks may be payable as completion TRA if the individual is pursuing a degree or industry-recognized credential, continues to make satisfactory progress in meeting the training benchmarks, and will complete the training within the period of eligibility.

For TRA eligibility derived from petitions filed before May 18, 2009, or between February 15, 2011, and October 21, 2011 (2002 program amendments), as well as those filed on or after January 1, 2014, under Reversion 2014, the enrollment in TAA training must have occurred by the end of the 8th week after the certification or the end of the 16th week of the most recent qualifying separation, unless the requirement is waived. For TRA eligibility derived from petitions filed on or after May 18, 2009, and before February 15, 2011 (2009 program amendments), or on and after October 21, 2011, and before January 1, 2014 (2011 program amendments), the enrollment in TAA training must have occurred by the end of the 26th week after the certification or the end of the 26th week of the most recent qualifying separation, unless the requirement is waived. For TRA eligibility derived from petitions filed on or after June 29, 2015, the enrollment in TAA training must have occurred by the end of the 26th

week after the certification or the end of the 26th week of the most recent qualifying separation, unless the requirement is waived.

e. *ATAA* – For ATAA payments, an individual must be an adversely affected worker covered under a DOL TAA certification of eligibility and meet the following conditions at the time of reemployment as provided in TEGL No. 11-02:

(1) Be at least age 50 at the time of reemployment.

(2) Obtain reemployment by the last day of the 26th week after the worker's qualifying separation from the TRA/ATAA certified employment.

(3) Must not be expected to earn more than $50,000 annually in gross wages (excluding overtime pay) from the reemployment.

(4) Be reemployed full-time as defined by the state law where the worker is employed.

(5) Cannot return to work to the employment from which the worker was separated.

f. *RTAA* – To be eligible to receive RTAA payments, an individual must be an adversely affected worker covered under a DOL TAA certification of eligibility if at the time of reemployment, the following conditions are met (TEGL No. 22-08):

(1) Is at least 50 years of age.

(2) Earns not more than $55,000 each year in wages from reemployment (2009 program amendments) or $50,000 each year in wages from reemployment (2011, 2015 program amendments).

(3) Is employed on a full-time basis as defined by the law of the state in which the worker is employed and is not enrolled in a training program or is employed at least 20 hours per week and is enrolled in a TAA-approved training program.

(4) Is not employed at the firm from which the worker was separated.

g. *DUA* – To be eligible for DUA, the individual's employment or self-employment was lost or interrupted as a direct result of a major disaster or the individual was prevented from commencing employment or self-employment due to the major disaster. This includes individuals who reside in the major disaster area but are unable to reach their place of employment or self-employment outside of the major disaster area, and individuals who must travel through a major disaster area to their

employment or self-employment, but who are unable to do so as a direct result of the major disaster (20 CFR sections 625.4 and 625.5).

DUA weekly benefits and reemployment assistance services are provided to individuals who are unemployed as a direct result of a presidentially declared major disaster and who are not eligible for regular unemployment compensation but meet the DUA qualifying requirements.

Generally, an individual is eligible for DUA for a week of unemployment if the following conditions are met (20 CFR section 625.4):

(1) Each week of unemployment claimed begins during the disaster assistance period.

(2) The individual is an unemployed worker or an unemployed, self-employed individual whose unemployment (total or partial) has been found to be the direct result of a major disaster in the major disaster area.

(3) The individual is able to work and available for work, within the meaning of the applicable state law, except an individual will be deemed to meet this requirement if any injury directly caused by the major disaster is the reason for inability to work.

(4) The individual is not eligible for compensation (as defined in 20 CFR section 625.2(d)) or for waiting-period credit for such week under any other federal or state law; except that an individual determined ineligible because of the receipt of disqualifying income shall be considered eligible for such compensation or waiting period credit.

(5) Claimants eligible for UC are *not* eligible for DUA. DUA may not be paid as a supplement to UC for the same week of unemployment. DUA also is not payable for any unemployment compensation waiting period required under state UC law (20 CFR section 625.4(i)).

(6) The individual files an initial application for DUA within 30 days after the announcement date of the major disaster. An initial application filed later than 30 days after the announcement date shall be considered timely filed if the state finds that there is good cause for the late filing. At the request of the state, the administrator of DOL's Office of Unemployment Insurance may authorize extension of the 30-day filing requirement for all DUA applicants. In no case will initial applications be accepted if filed after the expiration of the disaster assistance period (20 CFR section 625.8).

h. Aliens must show proof that they are authorized to work by the US Citizenship and Immigration Services (USCIS) in order to be eligible to receive a federal public benefit (42 USC 1320b-7(d) and (e)).).

i. *PUA* – PUA provided benefits to covered individuals, who were those individuals not eligible for regular unemployment compensation (UC or extended benefits under state or federal law or PEUC, including those who had exhausted all rights to such benefits). Covered individuals also included self-employed, those seeking part-time employment, individuals lacking sufficient work history, and those who otherwise did not qualify for regular unemployment compensation or extended benefits under state or federal law or PEUC.

PUA was payable to individuals who were ineligible for regular UC, EB, or PEUC and were unemployed, partially unemployed, or unable or unavailable to work due to one of the COVID-19 related reasons identified in Attachment I to UIPL No. 16-20, Change 6. Section 2102(a)(3)(A)(ii)(I) of the CARES Act included 10 specific COVID-19 related reasons. The Department, under the authority provided by Section 2102(a) (3) (A) (ii) (I) (kk) of the CARES Act, added additional COVID-19 related reasons three new COVID-19 related reasons with the publication of UIPL No. 16-20, Change 5 on February 25, 2021. All COVID-19 related reasons applied retroactively to the beginning of the PUA program. Additionally, individuals who were paid on or after December 27, 2020, were required to submit proof of documentation substantiating employment, self-employment, or the planned commencement of employment or self-employment (see Attachment I, Section C.2. of UIPL No. 16-20, Change 4). This included individuals requesting retroactive payments that were not received until after December 27, 2020.

Further, as described in Section 4.b.i. of UIPL No. 16-20, Change 5, paraphrasing of the COVID-19 related reasons was not permissible; individuals were permitted to select more than one COVID-19 related reason; individuals were permitted to select different COVID-19 related reasons each week; and individuals were permitted to file and select no COVID-19 related reasons. Below is a list of acceptable COVID-19 related reasons:

(1) The individual was diagnosed with COVID-19 or was experiencing symptoms of COVID-19 and was seeking a medical diagnosis;

(2) A member of the individual's household had been diagnosed with COVID-19;

(3) The individual was providing care for a family member or a member of the individual's household who had been diagnosed with COVID-19;

(4) A child or other person in the household for which the individual had primary caregiving responsibility was unable to attend school or another facility that was closed as a direct result of the COVID-19 public health emergency and such school or facility care was required for the individual to work;

(5) The individual was unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency;

(6) The individual was unable to reach the place of employment because the individual had been advised by a health care provider to self-quarantine due to concerns related to COVID-19;

(7) The individual was scheduled to commence employment and did not have a job or was unable to reach the job as a direct result of the COVID-19 public health emergency;

(8) The individual had become the breadwinner or major support for a household because the head of the household had died as a direct result of COVID-19;

(9) The individual had to quit their job as a direct result of COVID-19;

(10) The individual's place of employment was closed as a direct result of the COVID-19 public health emergency; or

(11) The individual met additional criteria established by the Department for unemployment assistance under this section.

(a) An individual who worked as an independent contractor with reportable income also qualified for PUA benefits if the individual was unemployed, partially employed, or unable or unavailable to work because the COVID-19 public health emergency had severely limited their ability to continue perform their customary work activities, and thereby, forced the individual to suspend such activities;

(b) The individual had been denied continued unemployment benefits because the individual refused to return to work or accept an offer of work at a worksite that, in either instance, was not in compliance with local, state, or

national health and safety standards directly related to COVID-19. This included, but was not limited to, those related to facial mask wearing, physical distancing measures, or the provision of personal protective equipment consistent with public health guidelines;

(c) An individual provided services to an educational institution or educational service agency and the individual was unemployed or partially unemployed because of volatility in the work schedule that was directly caused by the COVID-19 public health emergency. This included, but was not limited to, changes in schedules and partial closures; or

(d) An individual was an employee and their hours had been reduced or the individual was laid off as a direct result of the COVID-19 public health emergency.

j. *PEUC* – To be eligible for PEUC, a claimant must have exhausted all rights to regular compensation under state law or federal law with respect to a benefit year that ended on or after July 1, 2019; had no rights to regular compensation with respect to a week under any other state UC law or federal UC law, or to compensation under any other federal law; did not receive compensation with respect to a week under the UC law of Canada; and was able to work, available to work, and were actively seeking work, while recognizing that states must provide flexibility in meeting the "actively seeking work" requirement if individuals were unable to search for work because of COVID-19, including because of illness, quarantine, or movement restriction.

k. *FPUC* – To be eligible for FPUC during the program dates described in Section 8 above, individuals had to be eligible to receive at least $1 of underlying benefits for the week in question (including regular UC, UCFE, UCX, PEUC, PUA, EB, STC, TRA, DUA, and SEA). FPUC did not require the individual to submit a separate initial application or continued claim.

l. *MEUC* – Eligible individuals must: (i) have received at least $5,000 of self-employment income in the most recent taxable year prior to the individual's application for regular UC, (ii) to receive a UI benefit (other than PUA) for which FPUC was payable, and (iii) submit documentation substantiating their self-employment income. This additional payment did not apply to individuals collecting PUA. States had to determine an individual's eligibility for MEUC prior to releasing MEUC payments. Once verified, the state was required to make the MEUC supplemental

payment for each week during the program dates in which the individual qualified for at least $1 of underlying benefit (except PUA).

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

a. *Shareable Compensation Program (EB)*

From its UI tax revenues, the state is required to pay zero percent (UCFE, UCX), 50 percent (EB), or 100 percent (regular compensation) of the UC paid by the SWA to eligible claimants.

The state is required to provide 50 percent of the amounts paid to the majority of eligible EB claimants (those not covered by federal law or special provisions of state law) (20 CFR sections 615.2 and 615.14(a)). Those EB amounts paid by the SWA, and that are not the responsibility of the state, are reimbursable to the state from the UTF (20 CFR section 615.14). The first week of EB is reimbursable to the state only if, in addition to other requirements, the state requires the first week of an individual's benefit year to be an "unpaid waiting week" (EUCA section 204; 20 CFR section 615.14).

The 50 percent share of EB for which the state is responsible is prorated for those claimants whose base period includes wages from both public and private sector employment.

The federal government will reimburse the state at 100 percent of eligible costs for EB starting with weeks of unemployment beginning after March 18, 2020, (starting with weeks of unemployment ending March 28, 2020, for states with a Saturday week ending date). This reimbursement continues through weeks of unemployment beginning before September 6, 2021. For states with a Saturday week ending date, the last reimbursable week is week ending September 11, 2021. For states with a Sunday week ending date, the last reimbursable week is week ending September 5, 2021. Any overpayment recoveries made during the period of 100 percent federal funding must be returned to the Extended Unemployment Compensation Account (EUCA) in the UTF. In addition, all payments made for the EB program, PEUC, and PUA are 100 percent federally funded and must be returned to EUCA in the UTF.

b. *Federal Pandemic Unemployment Compensation*

The state is required to pay zero of the FPUC paid by the SWA to eligible claimants (i.e., FPUC funds are not required to be matched).

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

H. Period of Performance

1. *TRA/ATAA/RTAA* – Funds allotted to a state for any fiscal year are available for expenditure by the state during the year of award and the two succeeding fiscal years (Section 130 of the Trade Act of 2002 (Pub. L. 107-210)).

2. *DUA* – Funding for each disaster is provided separately for administrative costs and benefits. States must report the cost of each disaster separately by administrative cost and benefits. The funding period for disasters generally covers a 26-week period after the declaration has been declared. Within 60 days after all payment activity has been concluded for a particular disaster, which may be less than 26 weeks after declaration, the DUA program should be closed out by the state.

3. *Extended Benefits* – The start and end date of extended benefits are paid based on statutory triggers.

4. *Temporary Federal Extensions and Supplemental Payments* – For the period of performance for PUA, PEUC, FPUC, and MEUC, refer to Attachment II of UIPL No. 14-21 for the most recent start and end dates for these temporary federal extensions. States may continue to report non-zero activity on these programs beyond the expiration of the program. The original period of performance for these programs varied by state. . Currently, under UIPL No. 17-24, there are new grant opportunities with specific performance periods available to SWAs.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

d. *ETA 9130, Financial Status Report, UI Programs (OMB No. 1205-0461)* – This report is used to report program and administrative expenditures. All ETA grantees are required to submit quarterly financial reports for each grant award which they operate, including standard program and pilot, demonstration, and evaluation projects. Financial data is required to be reported cumulatively from grant inception through the end of each reporting period. Additional information on the ETA 9130 (OMB No. 1205-0461) can be accessed at Department of Labor's grant Financial Reporting webpage. A separate ETA 9130 is submitted for each of the following: UI, PEUC, and PUA Administration, DUA, TRA/RTAA, and UI Projects (administration and benefits).

e. *ETA 2112, UI Financial Transaction Summary (OMB No. 1205-0154)* – A monthly summary of transactions, which account for all funds received in, passed through, or paid out of the state unemployment fund (ET Handbook 401, 5th Edition. See page 112 of handbook).

f. *ETA 191, Financial Status of UCFE/UCX (OMB No. 1205-0162)* – Quarterly report on UCFE and UCX expenditures and the total amount of benefits paid to claimants of specific federal agencies (ET Handbook 401, 5th Edition. See page 69 of handbook).

2. Performance Reporting

States are required to submit periodic reporting to evaluate the performance of the states' UI programs. It is recommended the auditor test the information included in the key reports included below that ensure the timeliness of benefits paid. Detailed information on these reports can be accessed under: ET Handbook 401, 5th Edition.

a. *Title of Report: ETA 9050-Time Lapse of All First Payments except Workshare*
PRA Number: 1205-0359
Reporting Cycle: Monthly.
Authoritative Requirement: SSA 303(a)6
Blank Copy and Report Instructions of the Report: See page 224 of handbook.

Key Line Item(s)-

1. *Section A, (excluding Workshare):* First Payment Time Lapse 14/21 days, Interstate and Intrastate UI, UCFE, and UCX, full and partial weeks.

b. *Title of Report: ETA 9052 – Nonmonetary Determination Time Lapse Detection*
PRA Number: 1205-0359
Reporting Cycle: Monthly.

Authoritative Requirement: SSA 303(a)6
Blank Copy and Report Instructions of the Report: See page 241 of handbook.

Key Line Item(s)-

1. *Section A, B, and C*: Nonmonetary Determinations 21-Day Timeliness.

c. *Title of Report: ETA 9055 – Appeals Case Aging – Lower and Higher Authority Appeals*
PRA Number: 1205-0359
Reporting Cycle: Monthly.
Authoritative Requirement: SSA 303(a)6
Blank Copy and Report Instructions of the Report: See page 255 of handbook.

Key Line Item(s)-

1. *Section A.* Exclude the test for states that do not have Higher Authority Appeals: Average Age of Pending Lower and Higher Authority Appeals.

3. Special Reporting

ETA 2208A, Quarterly UI Above-Base Report (OMB No. 1205-0132) – Quarterly report of staff years worked and paid by program category.

Key line items are one through seven of Section A. The auditor is not expected to test sections B through E.

Detailed information on this report can be found at: Appendix III of ET Handbook 336, 18th Edition, Change 4.

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Employer Experience Rating

Compliance Requirements Certain benefits accrue to states and employers as a result of the state having a federally approved experience-rated UI tax system. All states currently have an approved system. For the purpose of proper administration of the system, the SWA maintains accounts, or subsidiary ledgers, on state UI taxes received or due from individual employers, and the UI benefits charged to the employer.

The employer's "experience" with the unemployment of former employees is the dominant factor in the SWA computation of the employer's annual state UI tax rate. The computation of the employer's annual tax rate is based on state UI law (26 USC 3303).

Note that states were provided with temporary emergency flexibility regarding experience rating as needed in response to the spread of COVID-19. As such, a state should have supporting documentation (e.g., statutory changes, emergency rules, or executive orders) if this temporary flexibility was exercised for the time period in question.

Audit Objectives To verify the accuracy of the employer's annual state UI tax rate and determine if the tax rate was properly applied by the state.

Suggested Audit Procedures

a. Experience rating systems are generally highly automated systems. These systems could contain errors that are material in the aggregate, but which are not susceptible to detection solely by sampling. If errors are detected, sampling may not be the most effective and efficient means to quantify the extent of such errors. For this reason, the auditor should have a thorough understanding of the operation of these systems and is strongly encouraged to consider the use of computer-assisted auditing techniques (CAATs) to test these systems.

b. On a test basis, reconcile the subsidiary employer accounts with the state's UI general ledger control accounts.

c. Trace a sample of taxes received and benefits paid to postings to the applicable employer accounts. Verify the propriety of any non-charging of benefits paid to an employer account.

d. Trace a sample of postings to employer accounts to documentation of taxes received and benefits paid.

e. On a test basis, recompute employer experience-related tax rates.

2. UI Benefit Payments

Compliance Requirements Due to the complexity of the UI benefit payment operations, it is unlikely the auditor will be able to support an opinion that UI benefit payments are in compliance with applicable laws and regulations without relying on the SWA's systems and internal controls.

The Payments Integrity Information Act (PIIA) of 2019 (Pub. L. 116-117) codified the requirement for valid statistical estimates of improper payments. SWAs are required by 20 CFR section 602.11(d) to operate and maintain a quality control system. The Benefits Accuracy Measurement (BAM) program is DOL's quality control system designed to assess the accuracy of UI benefit payments and denied claims, unless the SWA is excepted from such requirement (20 CFR section 602.22). The program estimates error

rates, that is, numbers of claims improperly paid or denied and dollar amounts of benefits improperly paid or denied, by projecting the results from investigations of statistically sound random samples to the universe of all claims paid and denied in a state. Specifically, the SWA's BAM unit is required to draw a weekly sample of paid and denied claims, complete prompt, and in-depth investigations to determine if the administration of the UC program is consistent with state and federal law (20 CFR section 602.21(d)). DOL has promulgated investigational requirements and instructions in ET Handbook No. 395, 5th Edition (see below), pursuant to 20 CFR section 602.30(a). As presented in the handbook, the investigation involves a review of state agency records, as well as contacting the claimant, employers, and third parties (either in-person, by telephone, or by fax) to conduct new and original fact-finding related to all of the information pertinent to the paid or denied claim that was sampled. BAM investigators review cases for adherence to federal and state law as well as official policy. For claims that were overpaid or underpaid, the BAM investigator determines the amount of payment error, the cause of and the responsibility for any payment error. For erroneously denied, BAM investigators also determine the potential eligibility of the claimant and the point in the UI claims process at which the error was detected. Investigators record the actions taken by the agency and employer prior to the payment or denial decision that is in error. BAM covers state UC, UCFE, and UCX.

Additional information on BAM procedures, historical data, and a state contacts list can be obtained at Unemployment Insurance Performance Management.

The auditor should review the requirements relating to the investigative process and data collection in ET Handbook No. 395, 5th Edition, Benefit Accuracy Measurement State Operations Handbook, Chapters IV, V, VI, VII, and Appendix C (Investigative Guide Source, Action, and Documentation); pertinent UIPLs, including UIPL Nos. 25-20 and 18-21; TEN No. 2-22; and the BAM Question and Answer series on the WorkforceGPS website (see TEN 2-22 for WorkforceGPS registration instructions).

Audit Objectives To verify that states operate a BAM program in accordance with federal requirements to assess the accuracy of UI benefit payments and denied claims.

Suggested Audit Procedures

a. Review state BAM case investigative procedures and methodology to assess the SWA's adherence to BAM requirements.

b. Determine whether BAM samples of UI weeks paid and disqualifying eligibility determinations (monetary, separation, and non-separation) are selected for investigation and verification once a week by the state agency's BAM unit. Please note that due to the COVID-19 pandemic, on a case-by-case basis, some states were provided operational flexibilities to temporarily suspend BAM sampling and investigations.

c. Determine whether BAM case sampling and case assignment for paid and denied claims were reviewed for compliance with state law and policy.

d. Determine whether the state agency is meeting its completion and timeliness requirements and identify any impediments to the state BAM unit's performance in this area.

e. Conduct reviews of a representative sub-sample of completed cases to ensure that established BAM procedures were followed (e.g., cases selected for supervisory review) and information is accurately recorded. The auditor should not attempt to conduct a new investigation, or new fact finding.

3. Match with IRS 940 FUTA Tax Form

Compliance Requirements States are required to annually certify for each taxpayer the total amount of contributions required to be paid under the state law for the calendar year and the amounts and dates of such payments in order for the taxpayer to be allowed the credit against the FUTA tax (26 CFR sections 31.3302(a)-3(a)). In order to accomplish this certification, states annually perform a match of employer tax payments with credit claimed for these payments on the employer's IRS 940 FUTA tax form.

Audit Objectives Determine whether the state properly performed the match to support its certification of state FUTA tax credits.

Suggested Audit Procedures

a. Ascertain the state's procedures for conducting the annual match.

b. Obtain and examine documentation supporting the annual match process from the group of employers' state unemployment tax payments used by the state in its match process.

c. For a sample of employer payments:

(1) Verify that the tax payments met the stated criteria for FUTA tax credits allowance (e.g., timely state unemployment tax filings and payments).

(2) Compare the audit results to the states' reported annual match results.

4. UI Program Integrity – Overpayments

Compliance Requirements. Title II of the Trade Adjustment Assistance Extension Action of 2011 (Pub. L. 112-40), enacted on October 21, 2011, and effective October 21, 2013, amended sections 303(a) and 453A of the Social Security Act and sections 3303, 3304, and 3309 of FUTA to improve program integrity and reduce overpayments (see UIPL No. 02-12, Change 1 and UIPL No. 02-12, Change 2). States are (1) required to impose a monetary penalty (not less than 15 percent) on claimants whose fraudulent acts resulted in overpayments, and (2) states are prohibited from providing relief from charges to an employer's UI account when overpayments are the result of the employer's failure to respond timely or adequately to a request for information. States may continue to waive recovery of overpayments in certain situations and must continue to offer the

individual a fair hearing prior to recovery. In addition, states may approve "blanket waivers" where individuals are eligible for payment under an unemployment benefit program for a given week, but through no fault of the individual, they were paid incorrectly under either the PUA or PEUC program at a higher WBA, or specific to PUA, when, through no fault of the individual, the state paid the individual a minimum WBA based on DUA guidance other than UIPL No. 03-20 (UIPL No. 20-21, section 4.d.ii).

Section 2103 of the Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112-96) amended FUTA and the Social Security Act to require states to recover overpayments through an offset against UC payments. States must enter into two agreements prior to commencing the recoveries: Cross Program Offset and Recovery Agreement (see UIPL No. 05-13), which allows states to offset state UI from federal UI overpayments; and Interstate Reciprocal Overpayment Recovery Agreement, which allows states to recover overpayments from benefits being administered by another state.

States that recover PEUC and EB overpayments must ensure that the recovered payments are returned to EUCA in chronological order from the date the overpayment was established, identifying the program source (PEUC or EB) when the funds are returned to the UTF. In addition, any FPUC that is recovered must be returned to the UTF.

Additionally, states that recover FPUC, PUA, PEUC, and MEUC overpayments must ensure that the recovered payments are returned to the source of such funds. Program Integrity-related requirements and guidance for each of the programs above are described in more detail in various UIPLs listed below:

- FPUC/MEUC: UIPL No. 15-20 and any changes.
- PUA: UIPL No. 16-20 and any changes.
- PEUC: UIPL No. 17-20 and any changes.

The Bipartisan Budget Act of 2013, Section 201 (Pub. L. 113-67) amended Section 303 of the Social Security Act to require states to utilize the Treasury Offset Program (TOP), authorized by Section 6402(f)(4) of the Internal Revenue Code (IRC), to recover covered unemployment compensation debts that remain uncollected one year after the debt was determined to be due. Covered unemployment compensation debts include benefit overpayments due to fraud and benefit overpayments due to a claimant's failure to report earnings. Some states may need to amend their UI law in order to have the authority to collect overpayments through TOP. In addition, states will also need to enter into an agreement with Treasury. See UIPL No. 02-19, and UIPL No. 12-14, for guidance on the implementation of the TOP requirement. Please note that Section 6103(l)(10), IRC, restricts access to TOP federal tax information (FTI). The access limitation extends to contractors employed by the state, including those managing state technology systems that process and store TOP FTI, and to auditors engaged to conduct the Single Audit process, whether they are contractors or employees of the state. DOL recognizes that this restriction to accessing TOP FTI used for benefit administration prevents state auditors from meeting the audit objectives concerning a state's use of TOP for the recovery of UI

improper payments. Because of this legal restriction auditors should not create an audit issue or finding based on their lack of access to TOP FTI.

Audit Objectives To determine if states are (a) properly identifying and handling overpayments, including, as applicable, assessment and deposit of penalties and not relieving employers of charges when their untimely or inaccurate responses cause improper payments; and (b) offsetting all debts resulting from an overpayment of the individual's UC payments. Please note that the suggested audit procedures mentioned below are not applicable to offsets through TOP.

Suggested Audit Procedures

a. Determine if the state has a written procedure for identifying overpayments and classifying them in a manner that allows the state to take appropriate follow-up action (e.g., as resulting from individual fraud or employer fault).

b. Determine if the state entered into a Cross Program Offset and Recovery Agreement and an Interstate Reciprocal Overpayment Recovery Agreement.

c. Determine if the state law prohibits the state from providing relief from charges to an employer's UI account when a UI overpayment results from an employer failing to respond timely or adequately to a request for information by the state agency.

d. Based on a sample of overpayment cases:

    (1) Determine if the state identified the basis for the overpayment consistent with its written procedures.

    (2) If the overpayment was based on fraud, determine if the claimant was notified of the 15 percent penalty, and if there was no appeal or the claimant was unsuccessful in appeal, there was follow-up to collect the penalty, and the state deposited the penalty into the state's account in the Unemployment Trust Fund.

    (3) If the overpayment was a result of the employer's untimely or inaccurate response, determine if the state enforced the requirement in state law that the employer not be relieved of charges.

    (4) Verify that states are offsetting against UI payments.

Program	Offsets limited to no more than 50 percent	Offsets limited to three years	Subject to Cross-Program Offsets (CPORA)	Subject to Interstate Offsets (IRORA)	Reference
Regular UC	State law	State law	Yes	Yes	State law
EB	State law	State law	Yes	Yes	State law
PEUC	Yes	Yes	Yes	Yes	Section E of Attachment I to UIPL No. 17-20 Section F of Attachment I to UIPL No. 17-20, Change 1
PUA	Yes	No	Yes	Yes	Section C.13.h. of Attachment I to UIPL No. 16-20 Section H of Attachment I to UIPL No. 16-20, Change 1 Questions 20-23 of Attachment I to UIPL No. 16-20, Change 2 Section C.21. of Attachment I to UIPL No. 16-20, Change 4
FPUC	Yes	Yes	Yes	Yes	Section F of Attachment I to UIPL No. 15-20 Section B of Attachment I to UIPL No. 15-20, Change 1
MEUC	Yes	Yes	Yes	Yes	Same as FPUC

5. UI Reemployment Programs: Worker Profiling and Reemployment Services (WPRS) and Reemployment Services and Eligibility Assessments (RESEA)

Compliance Requirements: The UI program serves as one of the principal "gateways" to the workforce system. It is often the first workforce program accessed by individuals who need workforce services. The WPRS and RESEA programs serve as UI's primary programs that facilitate the reemployment needs of UI claimants.

WPRS, which is mandated by Section 303(j) of the Social Security Act, is designed to identify UI claimants who are most likely to exhaust their benefits and need reemployment assistance to return to work, and refer them to appropriate reemployment services, such as: job search and job placement assistance; counseling; testing; provision of occupational and labor market information; and assessments. WPRS provides

reemployment services to selected claimants through an early intervention process. The number of individuals served under WPRS is determined by the state (and/or local areas) based on its capacity to serve these individuals. UIPL No. 41-94, provides guidance on WPRS requirements.

RESEA is authorized by Section 306 of the Social Security Act and builds on the success of RESEA's predecessor, the former UI Reemployment and Eligibility Assessment (REA) program. RESEA uses an evidence-based integrated approach that combines an eligibility assessment for continuing UI eligibility and the provision of reemployment services. State administration of the RESEA is voluntary and under certain circumstances may be designed to also satisfy WPRS requirements. Operating guidance for the RESEA program is updated annually. UIPL No. 08-24 provides RESEA operating Guidance for FY 2024.

Audit Objectives To verify that states operate a WPRS or RESEA program that satisfies the WPRS mandate in accordance with federal requirements.

Suggested Audit Procedures

a. Verify that the state is operating a WPRS and/or RESEA program.

b. If the state operates a WPRS, determine if the state's WPRS program components satisfy the following program components:

   (1) Verify that the UI agency profiles all claimants to identify those likely to exhaust regular UI and in need of reemployment services.

   (2) Verify that to the extent that reemployment services are available, the "identified" claimants will either be immediately referred to these services or placed in a selection pool from which a referral may later be made.

   (3) Verify that services begin with an orientation session advising claimants of the availability and benefit of reemployment services, and, if appropriate, an individual assessment of each claimant's needs including referral to reemployment services tailored to the individual's needs.

   (4) Verify that procedures and agreements are in place between UI and the reemployment service provider regarding: (1) the number of claimants to be referred to the provider and (2) the information the provider must forward to the UI agency.

c. If the state operates a RESEA program, to comply with WPRS, determine if the state's RESEA program components satisfy WPRS requirements:

   (1) Verify that the state's procedure for selecting RESEA participants includes the profiling of all claimants to identify those likely to exhaust regular UI and in need of reemployment services.

(2) Verify that the state is providing RESEA services statewide. (A state is considered to be operating RESEA statewide if RESEA services are available in each Workforce Innovation and Opportunity Act designated local workforce development area.)

(3) Verify that the state operates a WPRS program in addition to the RESEA program if item one and/or two fails verification.

d. For RESEA programs, determine if UI staff is engaged in the planning, administration, oversight, and training of eligibility issues.

(1) Select a sub-sample of RESEA cases and perform the following:

(a) Verify that the state notice to claimant includes the RESEA's eligibility condition, requirements, benefits, and clear warnings regarding the consequences of failing to complete required elements and reasonable scheduling accommodations are provided.

(b) Verify that the UI staff have received feedback that the claimant reported as directed and participated in required RESEA activities.

(c) Verify that if UI eligibility issues are identified in the eligibility review, then they have been referred to UI for adjudication.

(2) Verify that UI staff provided training to RESEA service provider staff on UC eligibility requirements.

(3) Review state procedures and verify that UI staff review quarterly RESEA performance reports prior to submission.

IV. OTHER INFORMATION

State unemployment tax revenues and the governmental, tribal, and nonprofit reimbursements in lieu of state taxes (state UI funds) must be deposited to the UTF in the US Treasury, primarily to be used to pay benefits under the federally approved state unemployment law. This program supplement includes several compliance requirements that must be tested with regard to these state UI funds. Consequently, state UI funds, as well as federal funds for benefit payments under UCFE, UCX, EB, TRA /ATAA/RTAA, DUA, and special administrative funding, (e.g., EUISAA, PUA, PEUC, FPUC, and MEUC) must be included in the total expenditures of Assistance Listing 17.225 when determining Type, A programs. Therefore, state UI funds must be included with federal funds on the Schedule of Expenditures of Federal Awards. A footnote to the Schedule to indicate the individual state and federal portions of the total expenditures for Assistance Listing 17.225 is encouraged.

DEPARTMENT OF LABOR

ASSISTANCE LISTING 17.235 SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

I. PROGRAM OBJECTIVES

The Senior Community Service Employment Program (SCSEP) is the only federally funded workforce development program that targets low-income older individuals (55 years and older) who want to enter or reenter the workforce. SCSEP provides part-time subsidized work experience through community service assignments before transitioning program participants into unsubsidized employment. Program participants work an average of 20 hours per week, are paid the highest of the federal, state or local minimum wage, and are employed in a wide variety of community service activities at non-profit and public agencies, including schools, hospitals, day-care centers, and senior centers. The program supports civic engagement of older Americans, and provides a significant source of work experience, skilled training, supportive services, and job placement and employment opportunities to program participants, coordinated through the American Job Center network. Typically, between 40,000 and 50,000 older individuals participate in the SCSEP program annually, and the program provides over 40 million community service hours to public and non-profit agencies.

II. PROGRAM PROCEDURES

Overview

To allot program funds for use in each state, the Department of Labor (DOL) utilizes a statutory formula based on fiscal year (FY) 2000 level of activities, the number of persons aged 55 and over, per capita income, and hold-harmless considerations. Program grants are awarded to eligible applicants, which include states, US territories, and national grantees (public and private nonprofit entities other than political parties (see Sec. 506 of the Older Americans Act)). SCSEP predominantly operates through relationships with local partner organizations. Local partners are drawn from aging services, workforce development, and other non-profit or government agencies who work closely with local employers, social services, and community organizations. The relative amount of funding for each type of eligible applicant is 22 percent allotted to state and territorial agencies, and 78 percent allotted to national grantees. As a result of a national grantee competition conducted in 2024, there are now 20 national grantees. The program year period of performance is July 1 to June 30.

Source of Governing Requirements

SCSEP is authorized by the Older Americans Act of 1965 (OAA), as reauthorized by Pub. L. 114-144, the Older Americans Act Reauthorization Act of 2016 (OAA-2016). The OAA implementing regulations are published at 20 CFR Part 641. The OAA-2016 amendments require SCSEP to adopt several of the Workforce Innovation and Opportunity Act (WIOA) primary indicators of performance, and these new indicators were implemented through the 2018

Final Rule (20 CFR 641). Federal Register: Senior Community Service Employment Program; Performance Accountability (2018 Final Rule). The Final Rule updated outdated terminology and references to the Workforce Investment Act of 1998 (WIA), which WIOA superseded. The implemented regulations, referred to as an IFR, took effect on January 2, 2018. SCSEP is a required partner in the workforce development system (per WIOA sec. 121(b)(1)(B)(v)), and SCSEP is required to coordinate with the WIOA One-Stop delivery system (OAA sec. 511, 42 U.S.C. 3056i), now commonly referred to as the American Job Center (AJC) system. The underlying notion of the AJC (formerly known as One-Stop) delivery system is the coordination of programs, services, and governance structures, to ensure customer access to a seamless system of workforce development services.

Availability of Other Program Information

For more information on SCSEP, visit https://www.dol.gov/agencies/eta/seniors or https://www.benefits.gov/benefit/89.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	Y	Y	N	N	Y	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed.*

   a. Allowable activities include but are not limited to: (1) outreach, (2) orientation, (3) assessment, (4) counseling, (5) classroom training, (6) job development, (7) community service assignments, (8) payment of wages and fringe benefits, (9) training, (10) supportive services, and (11) placement in unsubsidized employment.

   b. Costs of participating as a required partner in the American Job Centers (AJC) Delivery System, established in accordance with section 134(c) 121(b) of the Workforce Innovation and Opportunity Act (WIOA) of 2014 (Pub. L. 113-128) are allowable, as long as SCSEP services and funding provided in accordance with the Memorandum of Understanding required by WIOA and section 502(b)(1)(O) of the OAA (20 CFR section 641.850(d)).

   c. SCSEP funds may be used to meet a recipient's or subgrantee's obligations under section 504 of the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990, and any other applicable federal disability nondiscrimination laws to provide accessibility for individuals with disabilities (20 CFR section 641.850(f)).

2. *Activities Unallowed*

   a. Legal expenses for the prosecution of claims against the federal government, including appeals to an administrative law judge, are unallowable (20 CFR section 641.850(b)).

   b. In addition to the prohibition contained in 29 CFR Part 93 and 2 CFR section 200.450, SCSEP funds cannot be used to pay any salaries or expenses related to any activity designed to influence legislation or appropriations pending before the US Congress or any state legislature (29 CFR section 641.850(c)) and 2 CFR section 200.450.

   c. SCSEP funds may not be used for the purchase, construction, or renovation of any building except for the labor involved in minor remodeling of a public building to make it suitable for use for project purposes; minor repair and rehabilitation of publicly used facilities for the general benefit of the community; and minor repair and rehabilitation by participants of housing occupied by persons with low incomes who are declared eligible for such services by authorized local agencies (20 CFR section 641.850(e)).

E. Eligibility

1. Eligibility for Individuals

Persons 55 years or older whose family is low-income (income does not exceed the low-income standards defined in 20 CFR section 641.507) are eligible for enrollment (20 CFR section 641.500). Low-income means an income of the family which, during the preceding six months on an annualized basis or the actual income during the preceding 12 months (whichever method is more favorable to the individual), is not more than 125 percent of the poverty levels established and periodically updated by the U.S. Department of Health and Human Services (42 U.S.C. § 3056p). The poverty guidelines are issued each year in the *Federal Register* and the Department of Health and Human Services maintains the poverty guidelines at https://aspe.hhs.gov/poverty-guidelines. Enrollee eligibility is redetermined on an annual basis (20 CFR section 641.505).

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

The grantee must contribute matching, in cash or in-kind, of not less than 10 percent of the total cost of the project, except that the federal government may pay all costs of any project that is:

a. an emergency or disaster project; or

b. a project located in an economically depressed area as determined by the secretary of Labor in consultation with the secretary of Commerce and the director of the Office of Community Services of the Department of Health and Human Services; or

c. a project which is exempt by law (42 U.S.C. § 3056(c)).

2. Level of Effort

2.1 **Level of Effort** – *Maintenance of Effort*

Not Applicable

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

Employment of an enrollee shall be only in addition to budgeted employment which would otherwise be funded by the grantee, subgrantee(s), or host agency(ies) without assistance from the Act and shall not result in employee displacement (including persons in lay-off status) or substitute project jobs for contracted work or other federal jobs (20 CFR section 641.844).

3. Earmarking

The amount of federal funds expended for enrollee wages and fringe benefits shall be no less than 75 percent of the grant (20 CFR section 641.873) except in those instances in which a grantee has requested, and DOL has approved, such request to use not less than 65 percent of the grant funds to pay for participant wages and fringe benefits so as to use up to an additional 10 percent of grant funds for participant training and supportive services (42 U.S.C. § 3056(c)(6)(C)(i)).

The amount of federal funds expended for the costs of administration during the program year shall be no more than 13.5 percent of the grant (20 CFR section 641.867(a)). A waiver of this requirement to increase administrative expenditures to 15 percent may be granted by the Secretary of Labor (20 CFR section 641.867(b)).

Grantees are required to negotiate their share in the infrastructure cost with required local partners in accordance with the Workforce Innovation and Opportunity Act (Final Rule 20 CFR 679.370(k).

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

d. *ETA 9130, Financial Report (OMB No. 1205-0461)* – All ETA grantees are required to submit quarterly financial reports for each grant award they receive. Reports are required to be prepared using the specific format and instructions for the applicable program(s); in this case, *Older Worker Program.* Reports are due 45 days after the end of the reporting quarter. Financial data is required to be reported cumulatively from grant inception through the end of each reporting period. Additional information on ETA-9130 and financial reporting can be accessed at https://www.dol.gov/agencies/eta/grants/management/reporting. See TEGL 16-22 Change 1 for specific and clarifying instructions about the

ETA-9130 at https://www.dol.gov/agencies/eta/advisories/tegl-16-22-change-1.

2. Performance Reporting

Not Applicable.

3. Special Reporting

Not Applicable.

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

DEPARTMENT OF LABOR

ASSISTANCE LISTING 17.245 TRADE ADJUSTMENT ASSISTANCE

I. PROGRAM OBJECTIVES

The Trade Act of 1974 (Pub. L. No. 93-618), as amended (the Trade Act) (codified at 19 U.S.C. §§ 2271 et seq.), Title II, Chapter 2, established the Trade Adjustment Assistance (TAA) Program, Alternative Trade Adjustment Assistance (ATAA), and Reemployment Trade Adjustment Assistance (RTAA) programs. These programs, collectively referred to as the TAA Program, assist workers who have been adversely affected by foreign trade. The TAA Program provides adversely affected workers and adversely affected incumbent workers with opportunities to obtain skills, credentials, resources, and support to help them become reemployed.

The TAA Program provides federal assistance to workers who are adversely affected by foreign trade. TAA includes resources and opportunities to obtain the skills, credentials, and support necessary for successful reemployment. TAA Program benefits and services include employment and case management services, training, income support in the form of Trade Readjustment Allowances (TRA), job search allowances, and relocation allowances. ATAA and RTAA are wage supplements available under the TAA Program to eligible reemployed workers, age 50 and over, whose reemployment resulted in lower wages than those earned in their trade-affected employment. Any member of a worker group certified by the Department of Labor (Department) as trade-affected is potentially eligible to receive TAA Program benefits and services through a local American Job Center (AJC).

II. PROGRAM PROCEDURES

The Trade Act amendments provide workers covered by certifications of petitions the benefits and services that were available under the provisions of the Trade Act that were in effect on the date the petitions were filed. Therefore, the Department of Labor (DOL) administers four versions of the TAA Program to provide benefits to all workers covered by certifications of petitions: the 2002, 2009, 2011/2015, and Reversion 2021 programs, as the 2011 and 2015 programs have the same worker group eligibility and benefits provisions. The majority of TAA participants (85%) currently in the TAA Program were certified under the 2015 Program. (See FY 2023 TAA Program Annual Report to Congress https://www.dol.gov/sites/dolgov/files/ETA/tradeact/pdfs/AnnualReport23.pdf)

State Workforce Agencies (SWAs) serve as agents of DOL and are responsible for administering TAA through the American Job Center Network (AJCs). Each FY, through the Office of Trade Adjustment Assistance (OTAA), DOL allocates funds appropriated by Congress to the states for Training and Other Activities (TaOA) and states contact the Office of Unemployment Insurance (UI) as needed for TRA and A/RTAA benefit funding. Through AJCs and other local workforce offices, case managers arrange for eligible program participants to receive TAA benefits and

services needed to return to employment that pays sustainable wages. (See Assistance Listing 17.225 in this Supplement for information on TRA and A/RTAA).

Source of Governing Requirements

The Trade Act of 1974 has been amended multiple times—most recently by the Trade Adjustment Assistance Reform Act of 2002 (Pub. L. No. 107-210) (TAARA or Trade Act of 2002); the Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA or Trade Act of 2009) (Division B, Title I, Subtitle I of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5); the Trade Adjustment Assistance Extension Act of 2011(TAAEA or Trade Act of 2011) (Title II of Pub. L. No. 112-40); and the Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA 2015 or Trade Act of 2015) (Title IV of the Trade Preferences Extension Act of 2015, Pub. L. No. 114-27). On July 1, 2022, section 285(a) of the Trade Act (relating to termination and phase-out) took effect, and TAA entered a phase-out termination. In addition, section 246(b) of the Trade Act also took effect on that date providing for the phase-out termination of ATAA and RTAA. As of this writing, the TAA Program is operating under a phase-out termination status. Under termination, the Department may not conduct new investigations or issue certifications of eligibility for new groups of workers. In addition, benefits and services may not be provided to workers who were certified prior to July 1, 2022, but who were not separated before that date. Restoration or reauthorization of the TAA, ATAA, and RTAA programs requires Congressional action.

Current Regulations: On August 21, 2020, the TAA Final Rule was published in the Federal Register and became effective on September 21, 2020. In this rule, the Department streamlined and consolidated three separate parts of the CFR that contain TAA Program regulations (20 CFR parts 617 and 618, 29 CFR Part 90) into a single part (20 CFR Part 618) with nine subparts. In addition, the rule codified into regulation elements of the most recent TAA Program amendments, the Trade Adjustment Assistance Reauthorization Act of 2015 (Pub. L. No. 114-27, title IV) (TAARA 2015). This final rule also incorporates operating instructions issued via administrative guidance into the TAA Program regulations, with some refinements. Further, the revisions align the TAA Program regulations with the Workforce Innovation and Opportunity Act (WIOA) (Pub. L. No. 113-128), the 2014 comprehensive legislation that reauthorized the public workforce system. See https://www.dol.gov/agencies/eta/tradeact/law/regulations.

Guidance Governing Current TAA Program Operation Trainign and Employment Guidance Letter (TEGL) No. 13-21**,** *TAA for Workers and ATAA and RTAA Program Operations after June 30, 2022,* https://www.dol.gov/agencies/eta/advisories/training-and-employment-guidance-letter-no-13-21, explains on July 1, 2022, the termination provision under Section 285(a) of the Trade Act of 1974, as amended, took effect. This guidance provides instructions to states to serve workers certified as eligible for TAA benefits according to the version of the program in effect when the petition covering the worker was filed. The Department later published TEGL 07-23, *Ongoing Operations of the Trade Adjustment Assistance (TAA) for Workers Program During Phase-Out Termination,* https//www.dol.gov/agencies/training-and-employment-guidance-letter-no-07-23, to further advise and provide clarity to states on the ongoing required activities while TAA is pending reauthorization. The most recent guidance is contained in TEGL 01-24, Fiscal Year (FY) 2024 Trade Adjustment Assistance (TAA) Program Training and Other Activities

(TaOA) Funds Distribution, SF-424 Instructions, and Grants Management Requirements for Accessing TaOA Funds, https://www.dol.gov/agencies/eta/advisories/tegl-01-24.

These TEGLs remind states of the continuing phase-out termination status of the TAA Program and instructs them to continue to provide eligible workers access to TAA benefits and services. The guidance also acknowledges that while reauthorization has taken longer than anticipated, the Department continues to support the Administration and Congress in their efforts to reauthorize the TAA Program.

The Trade Act of 2002 applies to petitions with TA-W numbers less than 69,999 with a petition institution date prior to May 17, 2009, and most petitions with TA-W numbers greater than 80,000 and less than 81,000, with a petition institution date of February 15, 2011, through October 20, 2011. The Trade Act of 2009 applies to petitions with TA-W numbers greater than 70,000 and less than 80,000 with a petition institution date of May 18, 2009 through February 14, 2011, the Trade Act of 2011 applies to petitions with TA-W numbers greater than 81,000 and less than 85,000, with a petition institution date of October 21, 2011 through December 31, 2013, and the Trade Act of 2015 applies to petitions with TA-W numbers greater than 90,000, with a petition institution date of June 29, 2015. Reversion 2014 applied to petitions with TA-W numbers greater than 85,000 and less than 90,000, with a petition institution date of January 1, 2014, through June 28, 2015, but these worker groups transitioned to the Trade Act of 2015 on September 28, 2015. Reversion 2021 applies to petitions filed on and after July 1, 2021, with TA-W numbers greater than 98,000.

Availability of Other Program Information

Other information on TAA Program procedures may be obtained through the agency website at https://www.dol.gov/agencies/eta/tradeact.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	N	N	N	N	Y	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

The following requirements apply to TAA benefits.

a. *Trade Act of 2002, the Trade Acts of 2009, 2011, 2015, and Reversion 2021.*

Allowable activities include payments in the form of income support, i.e., TRA, job search allowances, relocation allowances, and training, employment and case management services, and wage supplements payable to workers 50 and older who find new employment in the form or Alternative/Reemployment Trade Adjustment Assistance (A/RTAA) to eligible participants (Trade Act sections 231–238, and 246, under the Trade Act of 2002, the Trade Act of 2009, the Trade Act of 2011, Reversion provisions of the amendments to the Trade Act of 1974 enacted by the Trade Adjustment Assistance Reauthorization Act of 2015, known as Reversion 2021.

b. *Trade Acts of 2009, 2011, 2015, and Reversion 2021*

Allowable activities for workers covered under certifications of petitions filed under the Trade Acts of 2009, 2011, 2015 and Reversion 2021 include employment and case management activities such as vocational testing, counseling, and job placement services; however, all TAA participants may receive these services and other employment services through other programs such as the Workforce Innovation and Opportunity Act (WIOA) (20 CFR Part 618).

c. Trade Act Termination Provisions (effective July 1, 2022)

Workers covered under a certification and separated on or before June 30, 2022, remain otherwise eligible for the benefits and services of the TAA Program. Allowable benefits and services are governed by the version of

the TAA Program under which they were certified. The termination provision is found in Section 406 of the Trade Adjustment Assistance Reauthorization Act of 2015 (Pub. L. 114-27).

E. Eligibility

1. Eligibility for Individuals

a. *Department of Labor Certification and Qualifying Separations*

TAA – In order to be eligible for training and other reemployment services under the TAA program, an individual must be an adversely affected worker covered under a DOL certification, and have a qualifying separation which occurred: (1) on or after the impact date specified in the certification as the beginning of the import caused unemployment or underemployment; and (2) before the expiration of the period specified in the certification (generally two years after the date of the certification), or before the termination date, if one is issued (19 USC 2272; 20 CFR sections 618).

b. *Training*

Under the Trade Act of 2002 and Reversion 2021, workers must be enrolled in their approved training within 8 weeks of the issuance of the certification or within 16 weeks of their most recent qualifying separation, whichever is later, unless this requirement is waived prior to reaching those deadlines (19 USC 2291(a)(5)(A) and (c)).

Under the Trade Act of 2009, 2011, or 2015, workers must be enrolled in their approved training within 26 weeks of the issuance of the certification or their most recent qualifying separation, whichever is later, unless this requirement is waived prior to reaching those deadlines (19 USC 2291(a)(5)(A)(II) and (c)), as amended by Section 231, TAARA 2015).

c. *Maximum Number of Weeks for Receipt of Approved Training*

Under the Trade Act of 2002 and Reversion 2021, the maximum duration for any approvable training program is 130 weeks, and no individual shall be entitled to more than one training program under a single certification (20 CFR section 618.22(f)(2)).

Under the Trade Act of 2009, the maximum duration for any approvable training program is 156 weeks and no individual shall be entitled to more than one training program under a single certification (20 CFR section 618.22(f)(2)).

Under the Trade Act of 2011 or 2015, the maximum duration for any approvable training program is 130 weeks and no individual shall be

entitled to more than one training program under a single certification (20 CFR section 618.22(f)(2)).

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

d. *ETA-9130 (M), Financial Report (OMB No. 1205-0461)* – All Employment and Training Administration (ETA) grantees are required to submit quarterly financial reports for each grant award they receive. Reports are due 45 days-after the end of the reporting quarter. Financial data is required to be reported cumulatively from grant inception through the end of each reporting period. See TEGL 01-19 for specific and clarifying instructions about the ETA 9130 at https://www.dol.gov/agencies/eta/advisories/tegl-01-19-change-1 and https://www.doleta.gov/grants/financial_reporting/pdf/ETA_9130_M_Instructions_i.pdf for the form.

TEGL No. 18-20 provides guidance on the alignment of reporting requirements in the Participant Individual Record Layout (PIRL) and the ETA-9130, while further providing information on how to document specific scenarios within the submitted data. (See: https://www.dol.gov/agencies/eta/advisories/training-and-employment-guidance-letter-no-18-20).

TEGL 16-22 and its Change 1: Revised ETA-9130 Financial Report Instructions and Additional Guidance provides clarification/updates to the ETA-9130 financial reporting guidance contained in Training and Employment Guidance Letter (TEGL) No. 18-20.

Note to auditors: Auditors will not have access to the individual records due to the likelihood of being able to identify individual workers based on the demographic and other information contained in the PIRL records.

e. *ETA-9117, Trade Adjustment Assistance (TAA) Program Reserve Funding Request Form (OMB No. 1205-0275)* – SWAs are required to furnish this form to ETA, in conjunction with the SF-424, with each request for TAA Program reserve funds (20 CFR section 618.930).

f. *SF-424 Standard Form (SF) 424, Application for Federal Assistance, through www.grants.gov.* SWAs are requested to ensure that the SF-424 for TaOA grant funding for their state is submitted to ETA via www.grants.gov (see TEGL No. 13-20 for additional information).

2. Performance Reporting-

Not Applicable.

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

DEPARTMENT OF LABOR

ASSISTANCE LISTING 17.258 WIOA ADULT PROGRAM

ASSISTANCE LISTING 17.259 WIOA YOUTH ACTIVITIES

ASSISTANCE LISTING 17.278 WIOA DISLOCATED WORKER FORMULA GRANTS

I. PROGRAM OBJECTIVES

The Workforce Innovation and Opportunity Act (WIOA) authorizes formula grant programs to states to help job seekers access employment, education, training, and support services to succeed in the labor market. Using a variety of methods, states provide employment and training services through a network of American Job Centers (AJC), also known as One-Stop Centers. The WIOA programs provide employment and training programs for adults, dislocated workers, and youth, together with the Wagner-Peyser Act Employment Service, all administered by the Department of Labor (DOL). Youth employment and educational services are available to eligible out-of-school youth, ages 16 to 24, and low-income in-school youth, ages 14 to 21, who face barriers to employment. These same objectives apply to each ALNs: 17.258, 17.259, and 17.278.

II. PROGRAM PROCEDURES

Subtitle B Statewide and Local Workforce Development Programs

For each ALN listed above, these programs provide the framework for delivery of workforce activities at the state and local levels to individuals who need those services, with an emphasis on serving individuals with barriers to employment, including job seekers, dislocated workers, youth, incumbent workers, new entrants to the workforce, veterans, persons with disabilities, and employers. Each state's governor is required to establish a state Workforce Development Board and develop a Unified State Plan or a Combined State Plan.

A Local Workforce Development Board (local board) is appointed by the chief elected official in each local area in accordance with state criteria established under WIOA Section 107(b) and must be certified by the governor every two years. Each local board, in partnership with the appropriate chief elected officials, develops, and submits a comprehensive four-year plan to the governor, which identifies and describes certain policies, procedures, and local activities that are consistent with the Unified State Plan or the Combined State Plan. The plan must include a description of the AJC delivery system to be established or designated in the local area, including a copy of the local Memorandum of Understanding (MOU) between the local board and each of the AJC partners (1) describing the operation of the local AJC delivery system; (2) identifying the AJC operator or entity responsible for the disbursal of grant funds; and (3) describing the competitive process to be used to award grants and contracts for activities carried out under Subtitle I of WIOA.

The agreement between the local board and the AJC operator specifies the operator's role. That role may range from simply coordinating service providers within the center, to being the primary provider of services within the center to coordinating activities throughout the local AJC system. The AJC operator may be a single entity or consortium of entities and may operate one or more AJC centers. In addition, there may be more than one AJC operator in a local area. The types of entities that may be selected to be the AJC operator include: (1) an institution of higher education; (2) an employment service state agency established under the Wagner-Peyser Act on behalf of the local office of the agency; (3) a community-based organization, nonprofit organization, or intermediary; (4) a private for-profit entity; (5) a government agency; and (6) another interested organization or entity, which may include a local Chamber of Commerce or other business organization, or a labor organization.

The following federal programs are required to be partners in the local AJC system: (1) programs authorized under Title I of WIOA; (2) programs authorized under the Wagner-Peyser Act (29 USC 49 et seq.); (3) adult education and literacy activities authorized under Title II of WIOA; (4) programs authorized under Title I of the Rehabilitation Act of 1973 (29 USC 720 et seq.), other than Section 112, WIOA, or Part C of that title; (5) senior community service employment activities authorized under Title V of the Older Americans Act of 1965 (42 USC 3056 et seq.); (6) career and technical education programs at the postsecondary level authorized under the Carl D. Perkins Career and Technical Education Act of 2006 (20 USC 2301 et seq.); (7) activities authorized under chapter 2 of Title II of the Trade Act of 1974 (19 USC 2271 et seq.); (8) activities authorized under chapter 41 of Title 38, USC; (9) employment and training activities carried out under the Community Services Block Grant (42 USC 9901 et seq.); (10) employment and training activities carried out by the Department of Housing and Urban Development; (11) programs authorized under state unemployment compensation laws (in accordance with applicable federal law); (12) programs authorized under Section 212 of the Second Chance Act of 2007 (42 USC 17532); and (13) programs authorized under Part A of Title IV of the Social Security Act (42 USC 601 et seq.).

WIOA also provides that other entities delivering workforce development programs may serve as additional partners in the AJC system with the approval of the local board and chief elected official. For a complete list of additional partners, please refer to 29 USC 3151(b)(2)(B).

Each entity in a local area must (1) provide access through the AJC delivery system to the one-stop career services; (2) use a portion of funds made available for the program and activities to maintain the AJC delivery system, including payment of infrastructure costs; (3) enter into a local MOU with the local board relating to the operation of the AJC system; (4) participate in the operation of the AJC system consistent with the terms of the MOU and requirements of authorizing laws; and (5) provide representation on the state Workforce Development Board.

Career services are available at any comprehensive AJC center. Well-trained staff are co-located at each center, and cross-trained. Cost-reimbursement or other agreements between service providers at the comprehensive AJC center and the partner programs are available and are described in the Unified State Plan and the local MOU.

A local board may not itself provide training services to adults and dislocated workers unless it receives a waiver from the governor and meets the requirements of 29 USC 3121(b)(1)(B).

Instead, local boards, in partnership with the state, identify training providers and programs whose performance qualifies them to receive WIOA funds to train adults and dislocated workers. After receiving career services, and in consultation with case managers, eligible participants who need training use the eligible training provider list, which contains performance and cost information on training eligible providers, to make an informed choice.

Individual Training Accounts (ITAs) are established for eligible individuals to finance training through these eligible training providers. Payments from ITAs may be made in a variety of ways, including the electronic transfer of funds through financial institutions, vouchers, or other appropriate methods. Payments also may be made through payment of a portion of the costs at different points in the training course. Exceptions to the use of ITAs are permissible only where the services provided are for on-the-job or customized training; and where the local board determines that there is an insufficient number of eligible providers available locally.

Source of Governing Requirements

The WIOA program is authorized by Title I of the Workforce Innovation and Opportunity Act of 2014 (Pub. L. No. 113-128). The regulations for the Title I WIOA adult, dislocated worker, and youth programs are at 20 CFR parts 680, 681, 682, and 683, as well as the joint DOL and Department of Education regulations found at 20 CFR parts 676 through 678. Beginning in Fiscal Year (FY) 2023, the Consolidated Appropriations Act, 2023 Pub. L. 117-328 authorized the WIOA Adult, Dislocated Worker, and Youth funds to be consolidated into a single grant for Outlying Areas.

Availability of Other Program Information

Other information on programs authorized under the WIOA can be found at http://www.doleta.gov/wioa.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	Y	Y	N	N	Y	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

a. Statewide- Administrative

(1) Preparing the annual performance progress report and submitting it to the secretary of labor (20 CFR sections 677.160 and 683.300(d) and 29 USC 3141(d)(1), 29 USC 3161, 128 Stat. 1476).

(2) Operating a fiscal and management accountability information system (20 CFR sections 652.8(b) and 682.200(l); Section 116(i), 29 USC 3163, Stat. 1481).

(3) Carrying out monitoring and oversight activities (20 CFR sections 682.200(j) and 683.410; sections 129(b)(1)(E), 134(a)(2)(B)(iv), and 184(a)(4), 29 USC 3163, Stat. 1507, 1521, and 1591).

b. Statewide- Programmatic

(1) Conducting statewide workforce development activities:

(a) Required statewide youth activities. Administration of youth workforce development activities (Section 129(b)(1), 29 USC 3163, Stat. 1506 et seq.).

(b) Other allowable statewide youth activities. Providing technical assistance and career services to local areas, including local boards, AJC operators, AJC partners, and eligible training providers (29 USC 3164(b)(2), 128 Stat. 1507).

(c) Required statewide adult dislocated worker services. Providing employment and training activities, such as rapid response activities, and additional assistance to local areas (29 USC 3174(a)(2), 128 Stat. 1520).

(d) Other allowable statewide adult dislocated worker services. Establishing and implementing innovative incumbent worker training programs (29 USC 3174(a)(3), 128 Stat. 1522 et seq.).

(2) Providing support to local areas for the identification of eligible training providers (29 USC 3152(a)(2), 128 Stat. 1493).

(3) Implementing innovative programs for displaced homemakers and programs to increase the number of individuals trained for and placed in nontraditional employment (29 USC 3174(c)(3), 128 Stat. 1528).

(4) Carrying out adult and dislocated worker employment and training activities as the state determines are necessary to assist local areas in carrying out local employment and training activities (29 USC 3174(a)(2), 128 Stat. 1520).

(5) Disseminating the following:

(a) The state list of eligible training providers for adults and dislocated workers.

(b) Information identifying eligible training providers of on-the-job training (OJT) and customized training.

(c) Performance and program cost information about these providers.

(d) A list of eligible providers of youth activities (29 USC 3152, 128 Stat. 1492 et seq.).

(6) Conducting evaluations of workforce activities for adults, dislocated workers, and youth, in order to promote, establish, implement, and utilize methods for continuously improving core program activities to achieve high-level performance within, and high-level outcomes from, the workforce development system (29 USC 3141(e), 128 Stat. 1479).

(7) Providing incentive grants (29 USC 3174(a)(3)(A)(xi), 128 Stat. 1524).

(8) Providing technical assistance to local areas that fail to meet local performance measures (29 USC 3164(b)(2)(E), 128 Stat. 1508).

(9) Assisting in the establishment and operation of AJC delivery systems, in accordance with the strategy described in the Unified State Plan. (29 USC 3112), 128 Stat. 1444)

(10) Providing additional assistance to local areas that have high concentrations of eligible youth (29 USC 3164(b)(1)(F), 128 Stat. 1507).

c. Local Activities- Subtitle B, Chapter 3 Adult and Dislocated Worker Employment and Training Activities – Required Activities

(1) Funds must be used at the local level to pay for career and training services through the AJC system for program participants.

(2) Basic Career Services – The following are basic career services (29 USC 3174(c)(2)(A)(i) through (xi), 128 Stat. 1525 et seq., and TEGL 19-16.

(a) Eligibility determination for WIOA services.

(b) Outreach, intake, and orientation to available information and services.

(c) Initial assessment of skill levels, including literacy, numeracy, and English language proficiency, as well as aptitudes, abilities (including skills gaps), and supportive service needs.

(d) Provision of labor exchange services, including job search and placement assistance, as well as career counseling and appropriate recruitment and other business services provided by employers.

(e) Provision of referrals to and coordination of activities with other programs and services within the AJC system.

(f) Provision of workforce and labor market employment statistics and job information.

(g) Provision of performance information and program cost information on eligible training providers by program and type of provider.

(h) Providing information on local area performance.

(i) Provision of information on availability of supportive services and assistance.

(j) Provision of information and meaningful assistance to individuals seeking assistance in filing a claim for unemployment compensation.

(k) Providing assistance on financial aid eligibility for training and education programs that are not funded under the WIOA.

d. Individualized Career Services – The following are individualized career services (29 USC 3174(c)(2)(A)(xii), 128 Stat. 1527). These services must be provided to participants after AJC staff determine that such services are required to retain or obtain employment, consistent with statutory priorities:

(1) Comprehensive and specialized assessments of skill levels and service needs, including diagnostic testing, in-depth interviewing, and evaluation.

(2) Development of an individual employment plan.

(3) Group and/or individual counseling and mentoring.

(4) Career planning.

(5) Short-term pre-vocational services, including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and workplace behavior skills training.

(6) Internships and work experiences linked to careers.

(7) Workforce preparation activities, including basic academic skills, critical thinking skills, digital literacy skills, and self-management skills.

(8) Financial literacy services.

(9) Out-of-area job search assistance and relocation assistance.

(10) English-language acquisition and integrated education and training programs.

e. Training Services – When determined appropriate, the following training services are allowable (29 USC 3174(c)(3)(D), 128 Stat. 1529):

(1) Occupational skills training, including training for nontraditional employment.

(2) On-the-job-training (OJT). Employers may be reimbursed up to 50 percent, and, in some instances, 75 percent, of the wage rate of an OJT participant for the extraordinary costs of providing the training and additional supervision related to the OJT. The employer is not required to document its extraordinary costs (29 USC 3174(c)(3)(H), 128 Stat. 1531). Instances in which the reimbursement level may be up to 75 percent are based on the following criteria:

(a) Participant characteristics (e.g., length of unemployment, current skill level, and barriers to employment);

(b) Size of the employer;

(c) Quality of employer-provided training and advancement opportunities, and

(d) Other factors the state or local board may determine appropriate, such as number of employees participating in the training, wage and benefit levels of employees, and relation of the training to the competitiveness of the participant.

(3) Incumbent worker training (20 CFR section 680.800; 29 USC 3174(d)(4), 128 Stat. 1535) (see III.G.3.b.(2), "Matching, Level of Effort, Earmarking – Earmarking," for a limitation).

(4) Programs that combine workplace training with related instruction, including cooperative education programs.

(5) Training programs operated by the private sector.

(6) Skill upgrading and retraining.

(7) Entrepreneurial training.

(8) Transitional jobs, as long as they do not exceed 10 percent of the funds allocated to the local area and are consistent with the requirements of 29 USC 3174(d)(5), 128 Stat. 1537.

(9) Job readiness training in combination with other training programs.

(10) Adult education and literacy training.

(11) Customized training (customized training is designed to meet the specific requirements of an employer. Such employers are required to pay a significant portion of the cost of the training (29 USC 3102(14), 128 Stat. 1431)).

f. Follow-up services – Follow-up services must be provided, as appropriate, for participants who are placed in unsubsidized employment, for up to 12 months after the first day of employment. Follow-up services may include counseling about the work place (29 USC 3174(c)(2)(A)(xiii), 128 Stat. 1527; TEGL 19-16,, 4. *Follow-up Services,* p. 5).

g. Pay for Performance (PFP) – Pay for Performance (PFP) is a type of performance-based contract allowed under the WIOA that maximizes the likelihood that the government pays only for demonstrably effective services and may secure performance outcomes at a lower cost than might otherwise occur. Local WIOA funds set aside for PFP contract strategies remain available over an extended period, compared to the usual two-year limit for such funds, and are only paid to a service provider upon meeting certain performance outcome thresholds. If a local area opts to implement a PFP contract strategy, the contract must provide Adult and Dislocated Worker training services in 29 USC 3174(c)(3)(D) and/or Youth activities in 29 USC 3164(c)(2), as applicable. For the Adult and Dislocated Worker contract strategies, such services are the "allowable training" listed in 29 USC 3174(c)(3)(D), which includes occupational skills training, OJT, incumbent worker training, cooperative education, private sector training, skill upgrading and retraining, entrepreneurial training, transitional jobs, job readiness training, adult education and literacy activities, and customized training.

h. Subtitle B, Chapter 3 Adult and Dislocated Worker Employment and Training Activities – *Other Activities.* At the discretion of the state and local boards, the following services may be provided (29 USC 3174(d), 128 Stat. 1532 et seq.):

(1) Job seeker services, including:

(a) Customer support to enable individuals with barriers to employment to navigate among multiple services,

(b) Training programs for displaced homemakers and for individuals training for nontraditional occupations, and

(c) Work support activities for low-wage workers.

(2) Employer services, including:

(a) Customized screening and referral of individuals in career and training services to employers; and

(b) Customized employment-related services to employers, employer associations, or other organization on a fee-for-service basis, in addition to labor exchange services available to employers under the Wagner-Peyser Act; and

(c) Activities to provide business services and strategies.

(3) Coordination activities, including:

(a) Employment and training activities in coordination with child support enforcement and child support services;

(b) Employment and training activities in coordination with cooperative extension programs carried out by the US Department of Agriculture;

(c) Employment and training activities to facilitate remote access to services provided through a one-stop delivery system, including facilitating access through the use of technology;

(d) Improving coordination with economic development activities to promote entrepreneurial skills training and microenterprise services;

(e) Improving linkages with small employers;

(f) Strengthening linkages with unemployment insurance programs;

(g) Improving coordination of activities for individuals with disabilities; and

(h) Improving coordination with other federal agency supported workforce development initiatives.

(4) Implementing PFP contract strategies for training services. PFP contract strategies include only the activities listed in the definition of PFP contracting strategies at 29 USC 3102(47), such as payments for performance outcomes and independent validation of results.

(5) Technical assistance for AJCs, partners, and eligible training providers on the provision of services to individuals with disabilities.

(6) Activities for setting self-sufficiency standards for the provision of career and training services.

(7) Implementing promising services to workers and businesses.

(8) Supportive services, including needs related payments.

(9) Locating transitional jobs, which are time-limited work experiences that are subsidized and are in the public, private, or nonprofit sectors. They are for individuals with barriers to employment who are chronically unemployed or who have an inconsistent work history and are combined with comprehensive career and supportive services (29 USC 3174(d)(5)(A), 128 Stat. 1537).

i. Subtitle B, Youth Activities- Youth activities can provide a wide array of activities relating to employment, education, and youth development. The activities identified in 29 USC 3164(c)(2), (128 Stat. 1509 and 1510) include the following:

(1) Tutoring, study skills training, instruction and evidence-based dropout prevention and recovery strategies that lead to completion of the requirements for a secondary school diploma or its recognized equivalent (including a recognized certificate of attendance or similar document for individuals with disabilities) or for a recognized post-secondary credential;

(2) Alternative secondary school services or dropout recovery services, as appropriate;

(3) Paid and unpaid work experiences that have academic and occupational education as a component of the work experience, which may include the following types of work experiences: (a) summer employment opportunities and other employment opportunities available throughout the school year; (b) pre-apprenticeship programs; (c) internships and job shadowing; and (d) OJT opportunities;

(4) Occupational skill training, which includes priority consideration for training programs that lead to recognized post-secondary credentials that align with in-demand industry sectors or occupations in the local area involved, if the local board determines that the programs meet the quality criteria described in 29 USC 3153, (128 Stat. 1498);

(5) Education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;

(6) Leadership development opportunities, including community service and peer-centered activities encouraging responsibility and other positive social and civil behaviors;

(7) Supportive services;

(8) Adult mentoring for a duration of at least 12 months that may occur both during and after program participation;

(9) Follow-up services for not less than 12 months after the completion of participation;

(10) Comprehensive guidance and counseling, which may include drug and alcohol abuse counseling and referral, as appropriate;

(11) Financial literacy education;

(12) Entrepreneurial skills training;

(13) Services that provide labor market and employment information about in-demand industry sectors or occupations available in the local area, such as career awareness, career counseling, and career exploration services; and

(14) Activities that help youth prepare for and transition to post-secondary education and training;

j. PFP contracting is an optional strategy that may be used to provide Adult and Dislocated Worker training services in 29 USC 4174(c)(3) and/or Youth activities in 29 USC 3164(c)(2), as applicable. The Youth services include training and also tutoring, work experience, supportive services, counseling, entrepreneurship, labor market information, financial literacy, and other services listed in 29 USC 3164(c)(2).

(1) A local area conducts a feasibility study or determination to identify the problem the project will address, the population that will be targeted, the services that will be provided, and the performance outcomes that will be used as criteria; and to estimate the acceptable cost to the government associated with achieving the projected performance outcomes. The state modifies its WIOA grant to set aside the funds that will be used for PFP and thus will have a longer obligation period and establishes financial controls to track this fund use at the local level. The local area begins its PFP project, including negotiating and awarding a PFP contract. The local PFP project recruits participants and provides services. An independent validator determines if the project has achieved its outcomes. The local area pays for any outcomes as named in its

PFP contract. If outcomes have not been achieved, the local area does not pay for outcomes.

k. Funds allocated to a local area for eligible youth shall be used for programs that*:*

(1) Objectively assess academic levels, occupational skills levels, service needs (e.g., occupational, prior work experience, employability, interests, aptitudes), supportive service needs of each participant, and developmental needs of each participant, for the purpose of identifying appropriate services and career pathways;

(2) Develop service strategies that are directly linked to one or more indicators of performance of the youth program described in 29 USC 3141(b)(2)(A)(ii), 128 Stat. 1472, and identify career pathways that include education and employment goals, appropriate achievement objectives, and the appropriate services needed to achieve the goals and objectives for each participant taking into account the assessment conducted; and

(3) Provide activities leading to the attainment of a secondary school diploma or its recognized equivalent, postsecondary education preparation, strong linkages between academic instruction and occupational education that lead to the attainment of recognized postsecondary credentials, preparation for unsubsidized employment opportunities, and effective connections to employers in in-demand industry sectors and occupations of the local and regional labor markets (29 USC 3164(c)(1)(A)(B)(C), 128 Stat. 1508).

l. Waivers and Workforce-Flexibility

(1) Under the secretary of labor’s general waiver authority (Adult, Dislocated Worker, and Youth Waivers), the secretary may waive statutory or regulatory requirements of the adult and youth provisions of the WIOA and sections 8 through 10 of the Wagner-Peyser Act) (29 USC 49g through 49i) (29 USC 3249(i)(3), 128 Stat. 1601).

(2) Under an approved Workforce Flexibility plan, a governor may be granted authority to approve requests for waivers of statutory or regulatory provisions of Title I submitted by local workforce areas (29 USC 2942; 29 USC 3250(a)-(d), 128 Stat.1602 et seq.).

m. WIOA, Activities Unallowed- WIOA Title I funds may not be used for the following activities, except as indicated:

(1) Construction, purchase of facilities or buildings, or other capital expenditures for improvements to land or buildings except with the prior approval of the secretary of labor. WIOA Title I funds can be used for construction only in limited situations, including meeting obligations to provide physical and programmatic accessibility and reasonable accommodations, certain repairs, renovations, alterations, and capital improvements of property, and for disaster relief projects under 29 USC 3225(d), 128 Stat.1575, Youth Build programs under Section 29 USC 3226(c)(2)(A)(i), 128 Stat. 1578, and for other projects that the secretary determines necessary to carry out the WIOA, as described under 29 USC 3249(c), 128 Stat. 1599.

(2) Employment-generating activities, economic development activities, investment in revolving loan funds, capitalization of businesses, investment in contract bidding resource centers, and similar activities not directly related to training for eligible individuals, with the exception of employer outreach and job development activities, which are considered directly related to training for eligible individuals (29 USC 3241(e), 128 Stat. 1588).

(3) The employment or training of participants in sectarian activities. Participants shall not be employed in the construction, operation, or maintenance of a facility that is or will be used for sectarian instruction or as a place for religious worship. However, WIOA funds may be used for the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship if the organization operating the facility is part of a program or activity providing services to WIOA participants (29 USC 3248(a)(3), 128 Stat. 1598).

(4) Encouraging or inducing the relocation of a business or part of a business from any location in the United States if the relocation results in any employee losing his or her job at the original location (29 USC 3241(d)(1)), 128 Stat. 1588).

(5) Providing customized training, skill training, or OJT or company specific assessments of job applicants or employees of a business or a part of a business that has relocated from any location in the United States, until the company has operated at that location for 120 days, if the relocation resulted in any employee losing his or her job at the original location (29 USC 3241(d)(2), 128 Stat. 1588).

(6) Paying the wages of incumbent employees during their participation in economic development activities provided through a statewide workforce investment system (29 USC 3241(b)(1), 128 Stat. 1586).

(7) Public service employment, except to provide disaster relief employment, as specifically authorized in 29 USC 3254(10), (128 Stat.1606).

2. *Activities Unallowed*

a. Funds available to states and local areas under Subtitle B may not be used for foreign travel (29 USC 2931(e), WIOA, 128 Stat. 1588).

E. Eligibility

1. Eligibility for Individuals

a. All Programs -

Selective Service – Participants between the ages of 18 and 26 need to register with the Military Selective Service, Section 3 (50 USC App. 453)) Such registration is also required by Section 189 (h), WIOA 113-128.

b. All Subtitle B Statewide and Local Programs

(1) An adult must be 18 years of age or older (29 USC 3102(2), 128 Stat. 1429).

(2) A dislocated worker means an individual who meets the definition in 29 USC 3102(15), 128 Stat. 1431).

(3) A dislocated homemaker means an individual who meets the definition in 29 USC 3102(16), 128 Stat. 1432).

(4) An in-school youth and an out-of-school youth are eligible to participate in workforce investment activities if they meet the definition in 29 USC 3164(a)(1)(B) and (C), 128 Stat. 1504 et seq.

c. Subtitle B Youth Activities

A person is eligible to receive services under Youth Activities if they are an out-of-school youth or an in-school youth (29 USC 3164(a)(1), 128 Stat. 1504).

(1) An “out-of-school youth” is an individual who is:

(a) Not attending any school (as defined under state law);

(b) Not younger than 16 or older than age 24 at time of enrollment. (Because age eligibility is based on age at enrollment, participants may continue to receive services beyond the age of 24 once they are enrolled in the program); and

(c) One or more of the following:

(i) A school dropout;

(ii) A youth who is within the age of compulsory school attendance, but has not attended school for at least the most recent complete school year calendar quarter (school year calendar quarter is based on how a local school district defines its school year quarters); in cases where schools do not use school year quarters, local programs must use calendar year quarters);

(iii) A recipient of a secondary school diploma or its recognized equivalent who is a low-income individual and is either basic skills deficient or an English language learner;

(d) An offender;

(e) A homeless individual, aged 16 to 24 who meets the criteria defined in Section 41403(6) of the Violence Against Women Act of 1994 (42 USC 14043e–2(6)), a homeless child or youth aged 16 to 24 who meets the criteria defined in Section 725(2) of the McKinney-Vento Homeless Assistance Act (42 USC 11434a(2)) or a runaway;

(f) An individual in foster care or who has aged out of the foster care system or who has attained 16 years of age and left foster care for kinship guardianship or adoption, a child eligible for assistance under Section 477 of the Social Security Act (42 USC 677), or in an out-of-home placement;

(g) An individual who is pregnant or parenting;

(h) An individual with a disability;

(i) A low-income individual who requires additional assistance to enter or complete an educational program or to secure or

hold employment (29 USC 3102(46) and 29 USC 3164(a)(1)(B), 128 Stat. 1437 and 1504).

(2) An "in-school youth" is an individual who is:

(a) Attending school (as defined by state law);

(b) Not younger than age 14 or (unless an individual with a disability who is attending school under state law) older than age 21;

(c) A low-income individual; and

(d) One or more of the following:

(i) Basic skills deficient;

(ii) An English language learner;

(iii) An offender;

(iv) A homeless individual, aged 14 to 21 who meets the criteria in Section 41403(6) of the Violence Against Women Act of 1994 (42 USC 14043e–2(6)), a homeless child or youth aged 14 to 21 who meets the criteria in Section 725(2) of the McKinney-Vento Homeless Assistance Act (42 USC 11434a(2)), or a runaway;

(v) An individual in foster care or who has aged out of the foster care system or who has attained 16 years of age and left foster care for kinship guardianship or adoption, a child eligible for assistance under Section 477 of the Social Security Act (42 USC 677), or in an out-of-home placement;

(vi) An individual who is pregnant or parenting;

(vii) An individual with a disability;

(viii) An individual who requires additional assistance to complete an educational program or to secure or hold employment (29 USC 3102(27) and 29 USC 3164(a)(1)(C), 128 Stat. 1435 and 1505).

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort

Not Applicable

3. Earmarking

a. Statewide Activities

(1) The governor shall reserve not more than 15 percent of each of the amounts allotted to the state Adult, Dislocated Worker, and Youth Activities for a fiscal year to carry out statewide activities under 29 USC 3164(b) or statewide employment and training activities for adults or dislocated workers under 29 USC 3174(a) (29 USC 3163(a), 128 Stat. 1502).

(2) Not more than 5 percent of the funds allotted to a state under 29 USC 3162(b)(1)(C) shall be used by the state for administrative activities related to youth workforce investment and employment and training activities (29 USC 3174(b)(3), 128 Stat 1508).

(3) The state must reserve for rapid response activities a portion of funds, up to 25 percent, allotted for dislocated workers. The funds are used to plan and deliver services to enable dislocated workers to transition to new employment as quickly as possible, following either a permanent closure or mass layoff, or a natural or other disaster resulting in a mass job relocation (20 CFR section 682.350; 29 USC 3173(a)(2) and 29 USC 3174(a)(2)(A), 128 Stat. 1516 and 1520).

b. Local Areas

(1) A local area may expend no more than 10 percent of the Adult, Dislocated Worker, and Youth Activities funds allocated to the local area under 29 USC 3163(b), (128 Stat. 1502) and 29 USC

3173(b) (128 Stat. 1516) for within state allocations. The funds provided for administrative costs by one of the three fund sources (Adult, Dislocated Worker, Youth Activities) can be used for administrative costs of the other two sources. (29 USC 3174(a) and 29 USC 3164(b), 128 Stat. 1504).

(2) The amount that may be spent on incumbent worker training may not exceed 20 percent of the amount of the combined total of federal funds allocated to local areas to carry out the Adult and Dislocated Worker programs for a program year (20 CFR section 680.800; 29 USC 3174(d)(4), 128 Stat. 1535).

(3) WIOA authorizes workforce investment areas, with the approval of the governor, to transfer up to 100 percent of the Adult Activities funds to Dislocated Workers Activities, and up to 100 percent of Dislocated Workers Activities funds to Adult Activities (29 USC 3173(b)(4), 128 Stat. 1518).

(4) At the discretion of the local board, not more than 10 percent of the total funds allocated to the local area under 29 USC 3163(b) and under 29 USC 3173(b)(2)-(3) may be used to implement a pay-for-performance contract strategy as defined in 29 USC 3102(47) (29 USC 3164(c)(1)(D) and 29 USC 3174(d)(1)(A)(iii)).

c. Youth Activities

(1) A minimum of 75 percent of the Youth Activity funds allocated to states and local areas, except for the local area expenditures for administration, must be used to provide services to out-of-school youth (29 USC 3164(a)(4)(A), 128 Stat. 1506).

(2) Not less than 20 percent of Youth Activity funds allocated to the local area, except for the local area expenditures for administration, must be used to provide paid and unpaid work experiences (29 USC 3164(c)(4)), 128 Stat. 1510).

H. Period of Performance

1. *Statewide Activities*

Funds allotted to a state for any program year are available for expenditure by the state during that program year and the two succeeding program years (29 USC 3249(g)(2)).

2. *Local Areas*

Funds allocated by a state to a local area for any program year are available for expenditure only during that program year and the succeeding program year.

Funds which are not expended by a local area in two-year period must be returned to the state, which can use the funds for statewide projects during the third program year of availability. The state may also distribute the funds to local areas, which may have expended their original allocation and may need additional funds to complete their projects within the two-year period (29 USC 3249(g)(2)).

Funds used to carry out PFP contract strategies by local areas shall remain available until expended through procedures outlined in Attachment III of TEGL 8-20 : 29 USC 3249(g)(2)(D)).

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

d. *ETA-9130, Financial Report (OMB No. 1205-0461)* – All ETA grantees are required to submit quarterly financial reports for each grant award they receive. Reports are required to be prepared using the specific format and instructions for the applicable program(s); in this case, *Workforce Innovation and Opportunity Act* instructions for the following: *Statewide Adult; Workforce Statewide Youth; Statewide Dislocated Worker; Local Adult; Local Youth; and Local Dislocated Worker.* A separate ETA 9130 is submitted for each of these categories. Funds reserved and set aside for PFP contract strategies are required to be reported on ETA 9130 basic reports for each WIOA fund source utilized. Reports are due 45 calendar days after the end of the reporting quarter. Financial data is required to be reported cumulatively from grant inception through the end of each reporting period. Also, beginning with reporting period ending in 9/30/23, outlying areas who have requested and been approved to use a consolidated grant application for WIOA funding should use the ETA-9130 basic report. Additional information can be accessed at Financial Reporting | U.S. Department of Labor scroll down to the section on Financial Reporting.

2. Performance Reporting

Not Applicable.

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

M. Subrecipient Monitoring

1. Each state must have a monitoring system which:

   a. Provides for annual on-site monitoring reviews of local areas' compliance with OMB and DOL's uniform administrative requirements, including the appropriate administrative requirements and cost principles for subrecipients and other entities receiving WIOA funds, as required by 29 USC 3244(a)(4), (128 Stat. 1591), 2 CFR Part 200, and 2 CFR Part 2900 ;

   b. Ensures that established policies to achieve program quality and outcomes meet the Act's objectives, including policies relating to the provision of services by AJC centers, eligible providers of training services, and eligible providers of youth activities;

   c. Enables the governor to determine if subrecipients and contractors are in substantial compliance with WIOA requirements;

   d. Enables the governor to determine whether a local plan will be disapproved for failure to make acceptable progress in addressing deficiencies; and

   e. Enables the governor to ensure compliance with WIOA nondiscrimination and equal opportunity requirements (29 USC 3248) (20 CFR sections 683.410(b)(1) through (3)).

2. The state must require that prompt corrective action be taken if any substantial violations are identified as result of annual on-site monitoring and must impose the sanctions provided in 29 USC 3244(b) and (c), if a subrecipient fails to take required corrective action. The state may issue additional requirements and instructions to subrecipients on monitoring activities (20 CFR sections 683.410(b)(4) and (5)).

DEPARTMENT OF LABOR

ASSISTANCE LISTING 17.264 NATIONAL FARMWORKER JOBS PROGRAM

I. PROGRAM OBJECTIVES

The National Farmworker Jobs Program (NFJP) is a nationally directed, locally administered program of services for eligible migrant and seasonal farmworkers (MSFW), including youth MSFW, and their dependents, who encounter chronic unemployment and underemployment. The program partners with community organizations, state agencies, and state monitor advocates to provide services, including career services, training services, housing assistance services, youth services, and related assistance services, to farmworkers who depend primarily on jobs in agricultural labor performed across the country. NFJP helps farmworkers and their dependents achieve better economic outcomes by supporting farmworkers in acquiring necessary skills to obtain, retain, or stabilize their unsubsidized employment, including upgraded employment in agriculture or employment in new industries.

II. PROGRAM PROCEDURES

A. Overview

The NFJP is a required American Job Center (One-stop) partner under the Workforce Innovation and Opportunity Act of 2014 (WIOA, Pub. L. 113-128)). WIOA is designed to help job seekers access employment, education, training, and support services to succeed in the labor market and to match employers with the skilled workers they need to compete in the global economy. In the areas of the state where an NFJP operates, local workforce development boards must negotiate Memorandums of Understanding (MOU) with NFJP grantees. Additionally, State Monitor Advocates are required to negotiate MOUs with NFJP grantees. The Monitor Advocate System is a federal/state monitoring system that ensures migrant and seasonal farmworkers receive career services, skill development, and workforce protections that are qualitatively equivalent and quantitatively proportionate to the services provided to all other job seekers by American Job Centers.

The Department of Labor (DOL) awards NFJP grants competitively to eligible applicants that submit four-year program plans for operating the NFJP in state, substate, and multi-state service areas. Grantees provide career services, training services, youth services, housing assistance and other related assistance to eligible program participants. Funds for employment and training grants are allocated through an administrative formula to state service areas. A percentage of program funding is designated for Housing Assistance grants and is allocated based on the services described and the service areas specified in grantee program plans. Grants are awarded for a four-year period of performance.

Source of Governing Requirements

The NFJP program is authorized by Title I, Subtitle D, Section 167, of the WIOA. The NFJP implementing regulations are located at 20 CFR part 685. Some governing statutory provisions are included in the annual appropriation for the program, with the most recent appropriation being the Further Consolidated Appropriations Act, 2024 (Pub. L. 118-47).

Availability of Other Program Information

Additional information on programs authorized under the WIOA can be found at http://www.doleta.gov/wioa. Information on NFJP program can be found at https://www.dol.gov/agencies/eta/agriculture or https://farmworker.workforcegps.org/.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	N	N	N	Y	Y	N	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

Activities allowed are in accordance with a service delivery strategy described in the grantee's approved four-year program plan.

a. Career services.

b. Training services, including, but are not limited to, occupational-skills training and on-the-job training.

c. Related assistance services that support farmworkers and their families to obtain or retain unsubsidized employment, or stabilize their unsubsidized employment, including upgraded employment in agriculture.

d. Housing Assistance grantees may provide permanent and temporary housing services depending on their grant award.

e. Youth services that include but are not limited to (1) career services and training; (2) youth workforce investment activities specified in WIOA, (Section 129, WIOA, 128 Stat. 1504 et seq.); (3) life skills activities, which may include self- and interpersonal skills development; (4) community service projects; and (5) other activities and services that conform to the use of funds for youth activities described in Section 129, WIOA).

2. *Activities Unallowed*

WIOA Title I funds may not be used for the following activities, except as indicated:

a. Construction, purchase of facilities or buildings, or other capital expenditures for improvements to land or buildings except with the prior approval of the secretary of labor. WIOA Title I funds can be used for construction only in limited situations as described under 20 CFR 685.360 and Funding Opportunity Announcement, FOA-ETA-24-18,(e), including meeting obligations to provide physical and programmatic accessibility and reasonable accommodations, certain repairs, renovations, alterations, and capital improvements of property, and for disaster relief projects under Section 170(d), WIOA, 128 Stat. 1575, YouthBuild programs under Section 171(c)(2)(A)(i), WIOA, 128 Stat. 1578, and for other projects that the Secretary determines necessary to carry out the WIOA, as described under Section 189(c) of WIOA, 128 Stat. 1599.

b. Employment-generating activities, economic development activities, investment in revolving loan funds, capitalization of businesses, investment in contract bidding resource centers, and similar activities not

directly related to training for eligible individuals, with the exception of employer outreach and job development activities, which are considered directly related to training for eligible individuals (Section 181(e), WIOA, 128 Stat. 1588).

c. The employment or training of participants in sectarian activities. Participants shall not be employed in the construction, operation, or maintenance of a facility that is or will be used for sectarian instruction or as a place for religious worship. However, WIOA funds may be used for the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship if the organization operating the facility is part of a program or activity providing services to WIOA participants (Section 188(a)(3), WIOA, 128 Stat. 1598).

d. Encouraging or inducing the relocation of a business or part of a business from any location in the United States if the relocation results in any employee losing his or her job at the original location (Section 181(d)(1)), WIOA, 128 Stat. 1588).

e. Providing customized training, skill training, or on-the-job training or company specific assessments of job applicants or employees of a business or a part of a business that has relocated from any location in the United States, until the company has operated at that location for 120 days, if the relocation resulted in any employee losing his or her job at the original location (Section 181(d)(2), WIOA, 128 Stat. 1588).

f. Paying the wages of incumbent employees during their participation in economic development activities provided through a statewide workforce investment system (Section 181(b)(1), WIOA, 128 Stat. 1586).

g. Public service employment, except to provide disaster relief employment, as specifically authorized in Section 194(10), WIOA, 128 Stat.1606.

E. Eligibility

1. Eligibility for Individuals

a. *Selective Service* – No participant may be in violation of Section 3 of the Military Selective Service Act (50 USC App. 453) by not presenting and submitting to registration under that Act (29 USC 2939(h)).

b. For participation in the NFJP, an individual must be an "eligible migrant and seasonal farmworker" as defined in Section 167(i), WIOA, 128 Stat. 1566, as follows:

(1) Eligible migrant farmworker, as defined in WIOA Section 167(i)(2), means an eligible seasonal farmworker, as defined in WIOA Section 167(i)(3), whose agricultural labor requires travel

to a job site such that the farmworker is unable to return to a permanent place of residence within the same day. Dependents of migrant farmworkers also are eligible.

(2) Eligible seasonal farmworker, as defined in WIOA Section 167(i)(3), means a low-income individual who for 12 consecutive months out of the 24 months prior to application for the program involved, has been primarily employed in agricultural or fish farming labor that is characterized by chronic unemployment or underemployment, and faces multiple barriers to economic self-sufficiency. Dependents of seasonal farmworkers also are eligible.

(3) Eligible migrant and seasonal farmworker youth means an eligible MSFW aged 14–24 who is individually eligible or a dependent of an eligible MSFW (described in 20 CFR section 685.110). Grantees may enroll participants aged 18–24 as either a MSFW adult or a MSFW youth participant (described in 20 CFR section 685.320) but not in both categories.

Additional information on program eligibility is available in TEGL 18-16, Change 1or in successive guidance, available at https://www.dol.gov/agencies/eta/advisories/training-and-employment-guidance-letter-no-18-16-change-1.

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

J. Program Income

1. There is no requirement that a fee-for-service be charged to employers. However, if a fee is charged for services provided under 20 CFR sections 678.435(b) or (c), the fees are considered program income (20 CFR section 678.440).

2. The addition method is required for use on all program income earned under Title I WIOA grants. When the cost of generating program income has been charged to the program, the gross amount earned must be added to the program in which it was earned. However, the cost of generating program income must be subtracted from the amount earned to establish the net amount of program income available for use under the grants when these costs have not been charged to the program (Section 194(7), WIOA, 128 Stat. 1606; 20 CFR section 683.200(c)(6)).

3. WIOA specifically includes the following as program income: (a) receipts from goods and services, including conferences; (b) funds provided to a service provider in excess of the costs associated with the services provided; and (c) interest income earned on funds received under Title I WIOA. Any excess of revenue over costs incurred for services provided by a governmental or nonprofit entity must be included in program income earned (Section 194(7), WIOA, 128 Stat. 1606; 20 CFR sections 683.200(c)(7) and (c)(8)).

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

d. *ETA 9130(J), Financial Report (OMB Control Number 1205-0461)* – DOL requires financial reports to be cumulative by fiscal year of appropriation. All ETA grantees are required to submit quarterly financial reports for each grant award which they receive. Reports are required to be prepared using the specific instructions for the applicable program(s); in this case, *National Farmworkers Jobs Program*. Reports are due 45 days after the end of the reporting quarter. Financial data is required to be reported cumulatively from grant inception through the end of each reporting period. Additional information on ETA-9130 and financial reporting can be accessed at https://www.dol.gov/agencies/eta/grants/management/reporting. See Training and Employment Guidance Letter (TEGL) 16-22 Change 1 for specific and clarifying instructions about the ETA-9130 at https://www.dol.gov/agencies/eta/advisories/tegl-16-22-change-1.

2. Performance Reporting

Not Applicable.

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

DEPARTMENT OF LABOR

ASSISTANCE LISTING 17.265 NATIVE AMERICAN EMPLOYMENT AND TRAINING

I. PROGRAM OBJECTIVES

Section 166 of the Workforce Innovation and Opportunity Act (WIOA) authorizes funding to Indian tribes, tribal organizations, Alaska Native entities, Indian-controlled organizations serving Indians, and Native Hawaiian organizations to provide employment and training services to unemployed and low-income Native Americans, Alaska Natives, and Native Hawaiians. The stated purpose of Section 166 of WIOA is to support employment and training activities in order to (1) develop more fully the academic, occupational, and literacy skills of such individuals; (2) make individuals more competitive in the workforce and equip them with the entrepreneurial skills necessary for successful self-employment; and (3) promote economic and social development in accordance with the goals and values of such communities.

II. PROGRAM PROCEDURES

The Department of Labor's (DOL) Division of Indian and Native American Programs (DINAP) makes grant funds available for comprehensive workforce investment activities for Indians, Alaskan Natives, and Native Hawaiians. In addition, supplemental funding is made available to entities serving Native American youth "on or near Indian reservations and in Oklahoma, Alaska, or Hawaii". Supplemental youth funding is a separate funding award and entities that receive supplemental youth funds must track the funds separately in their financial system. Funding is made available through a competitive grants process and award amounts are determined by use of a funding formula.

Grantees are required to submit a Comprehensive Services Plan for DOL approval. The Plan must (1) identify program emphasis areas, (2) designate a specific target population to be served by the grant, (3) establish specific plans for serving youth (if they receive supplemental funding), (4) develop a budget and identify the level of administrative costs needed for the four-year plan, and (5) identify appropriate program linkages with other agencies. Section 166 grantees are required to negotiate Memorandums of Understanding (MOUs) with the Local Workforce Development Board(s) (LWDBs), which operate in whole or in part within the grantee's service area. The LWDBs receive grant funds from the DOL, which come through the state, to provide employment and training services that are similar to the Native American Section 166 program.

Source of Governing Requirements

This program is authorized by Title I of the WIOA (Pub. L. No. 113-128). The WIOA superseded the Workforce Investment Act of 1998. WIOA regulations are located at 20 CFR parts 678, 683, and 684.

Availability of Other Program Information

Additional information on programs authorized under the WIOA can be found at http://www.doleta.gov/dinap/ and http://www.doleta.gov/.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	N	Y	N	N	Y	N	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

Funds must be used for the following types of activities that are necessary to meet the needs of Indians, Alaska Natives, or Native Hawaiians preparing to enter, reenter, or retain unsubsidized employment leading to self-sufficiency:

a. Comprehensive workforce development activities for Indians, Alaska Natives, or Native Hawaiians, including training on entrepreneurial skills; or

b. Supplemental services for Indian, Alaska Native, or Native Hawaiian youth on or near Indian reservations and in Oklahoma, Alaska, or Hawaii (29 USC 3221(d), Section 166(d), WIOA, 128 Stat. 1560 and 1561).

2. *Activities Unallowed*

Funds may not be used for the following activities, except as indicated:

a. Construction, purchase of facilities or buildings, or other capital expenditures for improvements to land or buildings except with the prior approval of the secretary of labor. WIOA Title I funds can be used for construction only in limited situations, including meeting obligations to provide physical and programmatic accessibility and reasonable accommodations, certain repairs, renovations, alterations, and capital improvements of property, and for other projects that the secretary determines necessary to carry out the WIOA, as described under Section 189(c), WIOA, 128 Stat. 1599.

b. Rental costs under ‘‘less-than arm’s- length’’ leases where one party to the lease agreement can control or substantially influence the actions of the other are allowable only up to the amount described in 2 CFR 200.465 (b). These amounts include expenses such as depreciation, maintenance, taxes, and insurance.

c. Employment-generating activities, economic development activities, investment in revolving loan funds, capitalization of businesses, investment in contract bidding resource centers, and similar activities not directly related to training for eligible individuals, with the exception of employer outreach and job development activities, which are considered directly related to training for eligible individuals (Section 181(e), WIOA, 128 Stat. 1588; 20 CFR section 683.245).

d. The employment or training of participants in sectarian activities. Participants shall not be employed in the construction, operation, or maintenance of a facility that is or will be used for sectarian instruction or as a place for religious worship. However, WIOA funds may be used for the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship if the organization operating the facility is part of a program or activity providing services to WIOA participants (Section 188(a)(3), WIOA, 128 Stat. 1598; 20 CFR section 683.255).

e. Encouraging or inducing the relocation of a business or part of a business from any location in the United States if the relocation results in any employee losing his or her job at the original location (Section 181(d)(1)), WIOA, 128 Stat. 1588; 20 CFR section 683.260(a)(1)).

f. Providing customized training, skill training, or on-the-job training or company-specific assessments of job applicants or employees of a business or a part of a business that has relocated from any location in the United States, until the company has operated at that location for 120 days, if the relocation resulted in any employee losing his or her job at the original location (Section 181(d)(2), WIOA, 128 Stat. 1588; 20 CFR section 683.260(a)(2)).

g. Paying the wages of incumbent employees during their participation in economic development activities provided through a statewide workforce investment system (Section 181(b)(1), WIOA, 128 Stat. 1586; 20 CFR section 683.250(a)(1)).

h. Public service employment, except to provide disaster relief employment, as specifically authorized in Section 194(10), WIOA, 128 Stat. 1606; 20 CFR section 683.250(a)(2)).

E. Eligibility

1. Eligibility for Individuals

a. *Selective Service* – No participant may be in violation of Section 3 of the Military Selective Service Act (50 USC App. 453) by not presenting and submitting to registration under that Act (29 USC 2939(h)).

b. *Adults* – An individual is eligible to receive services under the Indian and Native American adult program if they meet the definition of an Indian, as defined in Section 4(d) of the Indian Self-Determination and Education Assistance Act (25 USC 450b), and also is one of the following:

(1) Unemployed (Section 3(61), WIOA, 128 Stat. 1439); or

(2) Underemployed; or

(3) A low-income individual as defined in Section (3)(36), WIOA (128 Stat. 1435); or

(4) The recipient of a bona fide lay-off notice which has taken effect in the last 6 months or will take effect in the following 6-month period, who is unlikely to return to a previous industry retraining for either employment with another employer or for job retention with the current employer; or

(5) An individual who is employed but is determined by the grantee to be in need of employment and training services to obtain or retain employment that allows for self-sufficiency.

c. *Youth* – Funds available to serve Indian, Alaska Native, and Native Hawaiian youth on or near Indian reservations and in Oklahoma, Alaska, and Hawaii are available as a supplement to the adult funds. To be eligible to receive supplemental youth services, an individual must be:

(1) American Indian, Alaska Native, or Native Hawaiian;

(2) Between the ages of 14 and 24; and

(3) A low-income individual, as defined at WIOA Section 3(36). However, 20 CFR section 684.430(a)(3) allows up to 5 percent of individuals who do not meet the minimum income criteria to be eligible to receive supplemental youth services if such individuals meet the eligibility requirements of paragraphs (1) and (2) above. The term low-income also includes a youth living in a high-poverty area (sections 129(a)(1)(B)(ii), (a)(1)(C)(ii), (a)(2), and (a)(3), WIOA, 128 Stat. 1505 and 1506; 20 CFR section 684.430(b)). "High-poverty area" is defined at 20 CFR section 684.130.

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

H. Period of Performance

Each Indian and Native American (INA) entity will receive a separate grant number for each allotment with a 36-month period of performance. The anticipated start date for each of the four program year allotments is July 1 of that program year; however, all awarded supplemental youth funds will have an effective date of April 1 of that program year. The period of performance includes all necessary implementation and start-up activities.

The statutory period of availability for expenditure for WIOA title I grants will be established as the period of performance for such grants unless otherwise provided in the grant agreement or cooperative agreement. All funds must be fully expended by the expiration of the period of performance, or they risk losing their availability. Unless otherwise authorized in a grant or cooperative agreement or subsequent modification, recipients must expend funds with the shortest period of availability first. (20 CFR 683.110)

The grant recipient must liquidate all financial obligations incurred under the Federal award no later than 120 calendar days after the conclusion of the period of performance.

A subrecipient must liquidate all financial obligations incurred under a subaward no later than 90 calendar days after the conclusion of the period of performance of the subaward (or an earlier date as agreed upon by the pass-through entity and subrecipient). When justified, the Federal agency or pass-through entity may approve extensions for the recipient or subrecipient. (See 2 CFR 200.344 (a) prior to October 1, 2024, 2 CFR 200.344 (c) after October 1, 2024). For Employment and Training Administration (ETA), TEGL 12-22, entities must liquidate all obligations incurred under the award not later than 120 days after the end of the funding period.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

d. *ETA-9130(L), Indian and Native American Programs-Workforce Investment Act-Grantee Activities (OMB No.1205-0461)* – This electronic reporting format, based on the Employment and Training Administration (ETA) 9130, Financial Report, is used to report accrued income, cash on hand, and program and administrative expenditures funded by grants under WIOA Section 166. Tribes participating in the "477" program authorized by the Indian Employment, Training, and Related Services Demonstration Act of 1992 (Pub. L. No. 102-477) are required to submit a single financial report covering all Federal formula programs that are part of their 477 plan to the Bureau of Indian Affairs. Financial data is required to be reported cumulatively from grant inception through the end of each reporting period. See TEGL 16-22 for specific and clarifying instructions about the ETA 9130 at https://www.dol.gov/agencies/eta/advisories/tegl-16-22, and TEGL 16-22 Change 1 at https://www.dol.gov/agencies/eta/advisories/tegl-16-22-change-1.

2. Performance Reporting

a. *ETA-9173, DINAP specific, Quarterly Performance Report (QPR) (OMB No. 1205-0521)* is the required report from the Indian and Native American (INA) Comprehensive Services Program. *ETA-9172, WIOA Participant Individual Record Layout (PIRL) (OMB No. 1205-0521)* is the required report form where individual data is reported on participation, including services, employment and education performance outcomes, and the socio-economic characteristics. The data is used to generate the ETA-9173, DINAP specific, Quarterly Performance Report to determine the levels of program service and accomplishments for the Program Year at an aggregate level. Grantees receiving these funds are required to submit

these reports on a quarterly basis, within 45 days after the end of the quarter, except for federally recognized Indian tribes participating in the Public Law 102-477 are not required to submit quarterly reports.

See ETA Form 9172 located at: https://www.dol.gov/sites/dolgov/files/ETA/Performance/pdfs/ICR/ETA%209172%20DOL%20only%20PIRL%20CLEAN%202.15.2022.pdf

ETA Form 9173, DINAP specific, Quarterly Performance Report is located at ETA-9173-DINAP: Quarterly Performance Report for Indian and Native American Program (dol.gov).

Grantees collect and upload the data file from an ETA case management system, known as Grantee Management Performance System (GPMS), into the Workforce Integrated Performance System (WIPS). Additional reporting information is available in TEGL 14-18 located at https://www.dol.gov/agencies/eta/advisories/training-and-employment-guidance-letter-no-14-18 and TEN 8-16 at https://www.dol.gov/agencies/eta/advisories/training-and-employment-notice-no-08-16.

ETA Form 9173 key line items referenced on performance page. Link: https://www.dol.gov/agencies/eta/dinap/performance. See under DINAP Forms and Reporting Instructions.

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

1. Line A.1. – *Total Exiters- A WIOA exit is the point at which a program participant is no longer expected to return to the program and/or receive services. Exit occurs when a participant has not received a qualifying service for at least 90 days, and no future services are planned. The exit date is applied retroactively to the last date of service. Reference 20 CFR 677.150*

2. Line A.2. – *Total Participants Served- A participant is an individual who has satisfied all applicable WIOA program requirements for the provision of services, this includes eligibility determination and a qualifying service. Reference 20 CFR 677.150*

3. Line D.1. – *Entered Employment Rate Q2- The percentage of participants who are in unsubsidized employment during the second quarter after exit from the program.*

6. Line D.4. – *Credential Rate- The percentage of those participants who enrolled in an education or training program (excluding those in on-the-job training (OJT) and customized training) who attain a recognized postsecondary credential or a secondary school*

diploma, or its recognized equivalent, during participation in or within one year after exit from the program.

b. *ETA-9173, DINAP specific, Performance Report for INAP Youth (OMB No. 1205-0521)* – Reports cumulative data on participation, termination, performance outcomes, and socioeconomic characteristics of participants. Grantees receiving these funds are required to submit quarterly reports except federally recognized Indian tribes participating in the demonstration under Pub. L. No. 102-477 (as is the case for ETA-9130(L) and ETA-9173, Quarterly Performance Report).

See ETA Performance Report for INAP Youth located at https://www.dol.gov/sites/dolgov/files/ETA/dinap/ETA_9173_INAP%20Interim%20Youth_Program_Performance_Report.pdf

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

1. Line A.1. – *Total Exiters- A WIOA exit is the point at which a program participant is no longer expected to return to the program and/or receive services. Exit occurs when a participant has not received a qualifying service for at least 90 days, and no future services are planned. The exit date is applied retroactively to the last date of service. Reference 20 CFR 677.150*

2. Line A.2. – *Total Participants Served- A participant is an individual who has satisfied all applicable WIOA program requirements for the provision of services, this includes eligibility determination and a qualifying service. Reference 20 CFR 677.150*

3. Line D.1. – *2nd Quarter after exit Employment, Education, or Training Placement- The percentage of youth who are in school, training and/or unsubsidized employment during the second quarter after exit from the program.*

6. Line D.4. – *Credential Rate-The percentage of those participants who are enrolled in an education or training program at the time of enrollment or during participation and who attain a recognized postsecondary credential or a secondary school diploma, or its recognized equivalent, during participation in or within one year after exit from the program.*

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

IV. OTHER INFORMATION

Audits of Indian tribal governments whose WIOA funding has been transferred from the DOL to the Department of Interior, Bureau of Indian Affairs, Division of Workforce Development must follow the guidance in the 477 Cluster found in the Department of the Interior's section of Part 4 of this Supplement. See the "Note" at the beginning of the 477 Cluster for additional information.

Audits of Indian tribal governments with the Native American Employment and Training program in their approved 477 Plan with reporting under Version 1 forms must follow this program supplement for Assistance Listing 17.265.

1. The auditor should use the approved Pub. L. No. 102-477 plan in determining compliance requirements to be tested when auditing tribes that receive their WIOA funding through the Department of Interior, Bureau of Indian Affairs;

2. The auditor is permitted to audit the Pub. L. No. 102-477 projects as a cluster of programs; and

3. The Native American Employment and Training program grantee must present expenditures in its Schedule of Expenditures of Federal Awards (SEFA). The expenditures and financial statements on the ETA-9130 should match the audited financial statement expenditures on the SEFA.

    a. Through DOL oversight efforts, auditors should be aware that DOL has noted instances where the expenditures reported on the SEFA by grantees do not match the expenditures reported to the DOL on the ETA-9130 quarterly financial reports.

WAGE RATE REQUIREMENTS CROSS-CUTTING SECTION

INTRODUCTION

This section contains guidance for audit of the Wage Rate Requirements (also known as the Davis-Bacon Act) as they apply to programs of the Department of Transportation and other federal agencies, as specified below and referenced in III.N, "Special Tests and Provisions," of the affected programs in Part 4 of the Supplement. The statutory source requirement (i.e., the "compliance requirement") is stated in the individual programs, along with any program-specific limitations and a reference to this cross-cutting section. The general compliance requirement, audit objectives, and suggested audit procedures are specified in this cross-cutting section.

Assistance Listing #	Program Name

DEPARTMENT OF TRANSPORTATION

Airport Improvement Program

20.106	Airport Improvement Program, Infrastructure Investment and Jobs Act Programs, and COVID-19 Airports Program

Highway Planning and Construction (Federal-Aid Highway Program)

20.205	Highway Planning and Construction

TIFIA Program

20.223	Transportation Infrastructure Finance and Innovation Act (TIFIA) Program

Federal Lands Access Program

20.224	Federal Lands Access Program

High-Speed Intercity Passenger Rail

20.319	High-Speed Rail Corridors and Intercity Passenger Rail Service – Capital Assistance Grants

Maritime Administration Marine Highway Grant Program

20.816	United States Maritime Marine Highway Grants

Port Infrastructure Development Program

20.823	Port Infrastructure Development Program

Appalachian Development Highway System

23.003	Appalachian Development Highway System

DEPARTMENT OF COMMERCE

Economic Development

11.300	Investments for Public Works and Economic Development Facilities
11.307	Economic Adjustment Assistance

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Supportive Housing for the Elderly

14.157	Supportive Housing for the Elderly

Supportive Housing for Persons with Disabilities (Section 811)

14.181	Supportive Housing for Persons with Disabilities

Community Development Block Grants Cluster Entitlements/Special Purpose

14.218	Community Development Block Grants/Entitlement Grants
14.225	Community Development Block Grants/Special Purpose Grants/Insular Areas

Community Development Block Grants

14.228	Community Development Block Grants/State’s Program and Non-Entitlement Grants in Hawaii

Home Investment Partnerships Program

14.239	Home Investment Partnerships Program

Neighborhood Stabilization Program

14.256	Neighborhood Stabilization Program (Recovery Act Funded)

Community Development Block Grant Disaster Recovery Grants Cluster

14.269	Hurricane Sandy Community Development Block Grant Disaster Recovery Grants (CDBG-DR)
14.272	National Disaster Resilience Competition (CDBG-NDR)

Public Housing Operating Fund

14.850	Public Housing Operating Fund

HOPE VI Cluster

14.866	Demolition and Revitalization of Severely Distressed Public Housing
14.889	Choice Neighborhoods Implementation Grants

Indian Housing Block Grants

14.867	Indian Housing Block Grants

Native Hawaiian Housing Block Grant

14.873	Native Hawaiian Housing Block Grants

Moving to Work Demonstration Program

14.881	Moving to Work Demonstration Program

ENVIRONMENTAL PROTECTION AGENCY

GGRF NCIF

66.957	Greenhouse Gas Reduction Fund: National Clean Investment Fund

GGRF Solar for All

66. 959	Greenhouse Gas Reduction Fund: Solar for All

GGRF CCIA

66.960	Greenhouse Gas Reduction Fund: Clean Communities Investment Accelerator

DEPARTMENT OF EDUCATION

Impact Aid

84.041 Impact Aid

Education Stabilization Fund

84.425 Education Stabilization Fund

GULF COAST ECOSYSTEM RESTORATION COUNCIL

RESTORE Act Comprehensive Plan Component

87.051 Gulf Coast Ecosystem Restoration Council Comprehensive Plan Component Program

RESTORE Act Oil Spill Impact

87.052 Gulf Coast Ecosystem Restoration Council Oil Spill Impact Program

III. COMPLIANCE REQUIREMENTS

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements All laborers and mechanics employed by contractors or subcontractors to work on construction contracts in excess of $2,000 financed by federal assistance funds must be paid wages not less than those established for the locality of the project (prevailing wage rates) by the Department of Labor (DOL) (40 USC 3141–3147).

Nonfederal entities shall include in their construction contracts subject to the Wage Rate Requirements (which still may be referenced as the Davis-Bacon Act) a provision that the contractor or subcontractor comply with those requirements and the DOL regulations (29 CFR Part 5, Labor Standards Provisions Applicable to Contacts Governing Federally Financed and Assisted Construction). This includes a requirement for the contractor or subcontractor to submit to the nonfederal entity weekly, for each week in which any contract work is performed, a copy of the payroll and a statement of compliance (certified payrolls) (29 CFR sections 5.5 and 5.6; the A-102 Common Rule (section 36(i)(5)); OMB Circular A-110 (2 CFR Part 215, Appendix A, Contract Provisions); 2 CFR Part 176, Subpart C; and 2 CFR section 200.326).

This reporting is often done using Optional Form WH-347, which includes the required statement of compliance (*OMB No. 1235-0008*). The DOL, Employment Standards Administration, maintains a Davis-Bacon and Related Acts web page (https://www.dol.gov/agencies/whd/government-contracts/construction). Optional Form WH-347 and instructions are available on this web page.

Audit Objectives Determine whether the nonfederal entity notified contractors and subcontractors of the requirements to comply with the Wage Rate Requirements and obtained copies of certified payrolls.

Suggested Audit Procedures

Select a sample of construction contracts and subcontracts greater than $2,000 that are covered by the Wage Rate Requirements and perform the following procedures:

a. Verify that the required prevailing wage rate clauses were included in the contract or subcontract.

b. For each week in which work was performed under the contract or subcontract, verify that the contractor or subcontractor submitted the required certified payrolls.

(Note: Auditors are not expected to determine whether prevailing wage rates were paid.)

DEPARTMENT OF TRANSPORTATION

ASSISTANCE LISTING 20.106 AIRPORT IMPROVEMENT PROGRAM, INFRASTRUCTURE INVESTMENTS AND JOBS ACT PROGRAMS, AND COVID-19 AIRPORTS PROGRAMS

I. PROGRAM OBJECTIVES

The objective of the Airport Improvement Program (AIP) is to assist sponsors, owners, or operators of public-use airports in the development of a nationwide system of airports adequate to meet the needs of civil aeronautics.

II. PROGRAM PROCEDURES

States, counties, municipalities, US territories and possessions, and other public agencies, including Indian tribes or Pueblos (sponsors) are eligible for airport development grants if the airport on which the development is required is listed in the National Plan of Integrated Airport Systems (NPIAS). Applications for grants must be submitted to the appropriate Federal Aviation Administration (FAA) Airports Office. Primary airport sponsors must notify FAA by January 31 or another date specified in the *Federal Register* of their intent to apply for funds to which they are entitled under Pub. L. No. 97-248 (49 USC Chapter 31). A reminder is published annually in the *Federal Register*. Other sponsors are encouraged to submit early in the fiscal year and to contact the appropriate FAA Airports Office for any local deadlines. Sponsors must formally accept grant offers no later than September 30 for grant funds appropriated for that fiscal year.

Source of Governing Requirements

This program is authorized by 49 USC Chapter 471.

Availability of Other Program Information

Additional program information is provided in FAA Order 5100.38D, *Airport Improvement Program Handbook* (available at AIP Handbook – Office of Airports (faa.gov)) and FAA Advisory Circulars in the 150/5100 series (available at http://www.faa.gov/airports/resources/advisory_circulars/). The FAA also maintains an Airports *Federal Register* Notices page available at Federal Register Notices (FRNs) for Airport Programs (faa.gov).
Program related questions may be directed to Patricia Dickerson, FAA Airports Financial Assistance Division, at 202-267-9297 (direct) and 202-267-3831 (main) or by e-mail at patricia.a.dickerson@faa.gov. Questions related to the revenue diversion and other compliance requirements may be directed to Olu Okegbenro, FAA Airport Compliance Division at 202-267-3785 (direct) and 202-267-3446 (main) or by e-mail at Olu.Okegbenro@faa.gov.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	N	N	N	Y	N	Y

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   Grants can be made for planning, constructing, improving, or repairing a public-use airport or portions thereof and for acquiring safety or security equipment. Eligible terminal building development is limited to non-revenue-producing public-use areas that are directly related to the movement of passengers and baggage in air carrier and commuter service terminal facilities within the boundaries of the airport. Eligible construction is limited to items of work and to the quantities listed in the grant description and/or special conditions (49 USC 47110).

2. *Activities Unallowed*

   a. In general, federal funds cannot be expended for:

(1) Passenger automobile parking facilities and portions of terminals that are revenue-producing or not directly related to the safe movement of passengers and baggage at the airports, and

(2) Costs incurred before the execution of the grant agreement, unless such costs are for land, necessary costs in formulating a project, or costs covered by a letter of intent. However, an airport designated by the FAA as a primary airport may use passenger entitlement funding made available under 49 USC 47114(c) for costs incurred (1) prior to the execution of the grant agreement; (2) in accordance with the airport layout plan approved by the FAA; and (3) according to all statutory and administrative requirements that would have applied had work on the project not commenced until after the grant agreement had been executed (49 USC 47110(b)(2)(C)).

b. The following are examples of items for which FAA funds cannot be expended (FAA Order 5100.38D, *Airport Improvement Program Handbook*, and FAA Advisory Circulars in the 150/5100 series).

(1) Emergency planning.

(2) Decorative landscaping, sculpture, or art works.

(3) Communication systems except those used for safety/security.

(4) Training facilities, except those included in an otherwise eligible project as an integral part of that project and that are of a relatively minor or incidental cost (i.e., less than 10 percent of the project cost). An example of an exception would be a training room included as part of a new Aircraft Rescue and Firefighting (ARFF) facility. Interactive training systems and “live fire” ARFF training facilities are eligible.

(5) Roads of whatever length, exclusively for the purpose of connecting public parking facilities to an access road.

(6) Roads serving solely industrial or non-aviation-related areas or facilities.

(7) Equipment that is used by air traffic controllers such as Airport surface detection systems (ASDE).

(8) Maintenance/service facilities except for those allowed to service required ARFF equipment.

(9) Office/administrative equipment, including data processing equipment, computers, recorders, etc.

(10) Projects for the determination of latitude, longitude, and elevation except as an incidental part of master planning.

3. *Exception*

For a non-hub airport (one that accounts for less than 0.05 percent of total US passenger boardings), the FAA may approve as allowable costs the expenses of terminal development in a revenue-producing area and construction, repair, and improvement of parking lots (49 USC 47110(d)(2)).

B. Allowable Costs/Cost Principles

Costs charged to federal funds under the AIP program must comply with the cost principles at 2 CFR Part 200, Subpart E, the AIP Handbook – Change 1 and any other requirements or restrictions on the use of federal funding.

F. Equipment and Real Property Management

Under this program, FAA is authorized by 49 USC 47107(c), as amended, to allow recipients to reinvest the proceeds from the disposition of real property acquired with federal awards for noise compatibility or airport development purposes.

G. Matching, Level of Effort, Earmarking

1. Matching

All match funding must be provided in compliance with the requirements of 2 CFR Part 200.306. The grantee's share of project costs on an AIP grant (also known as cost share) is defined in 49 USC 47109 and set forth in the grant award. The nonfederal share varies by airport size and is generally 25 percent for large and medium hub airports and 10 percent for all other airports.

Acceptable match, whether cash or in-kind, must be allowable and eligible. In addition, match must be provided by the recipient; or provided as cash by a third party; or provided as in-kind by a third party; or any combination of cash and in-kind provided by the recipient and/or a third party.

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

L. Reporting

1. Financial Reporting

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

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Applicable

c. *SF-425, Federal Financial Report* – Applicable

d. *FAA Form 5100-127, Operating and Financial Summary (OMB No. 2120-0569)*

Sponsors of commercial service airports are required to submit this report, which captures revenues and expenditures at the airport, including revenue surplus.

e. *FAA Form 5100-126, Financial Government Payment Report (OMB No. 2120-0569)*

This report captures amounts paid and services provided to other units of government. This reporting requirement technically applies to all sponsors of federally assisted airports who accepted grants with assurance no. 26(d)(I)(ii); however, FAA is currently requiring submission only from commercial service airports. Commercial service airports are the airports most likely to generate excess revenue that could be diverted to non-airport uses.

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements The Wage Rate Requirements are applicable to construction work for airport development projects (49 USC 47112).

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

2. Revenue Diversion

Compliance Requirements The basic requirement for use of airport revenues is that all revenues generated by a public airport must be expended for the capital or operating costs of the airport, the local airport system, or other local facilities that are owned or operated by the owner or operator of the airport and are directly and substantially related to the actual air transportation of passengers or property. The limitation on the use of revenue generated by the airport shall not apply if the governing statutes controlling the owner's or operator's financing, that was in effect before September 3, 1982, provided for the use of any revenue from the airport to support not only the airport but also the airport owner's or operator's general debt obligations or other facilities (49 USC 47107(b)). *Policies and Procedures Concerning the Generation and Use of Airport Revenue*, issued February 16, 1999 (64 FR 7695), contains definitions of airport revenue and unlawful revenue diversion; provides examples of airport revenue; and describes permitted and prohibited uses of airport revenue. The policy can be obtained from FAA's Airports *Federal Register* Notices page (Federal Register Notices (FRNs) for Airport Programs (faa.gov)).

Penalties imposed for revenue diversion may be up to three times the amount of the revenues that are used in violation of the requirement (49 USC 46301(a)(3)).

Audit Objectives Determine whether the airport revenues were used for required or permitted purposes.

Suggested Audit Procedures

a. Review the policy for using airport revenue.

b. Perform tests of airport revenue generating activities (e.g., passenger facilities charges, leases, and telephone contracts) to ascertain that all airport-generated revenue is accounted for.

c. Test expenditures of airport revenue to verify that airport revenue is used for permitted purposes.

d. Perform tests of transactions to ascertain that payments from airport revenues to the sponsors, related parties, or other governmental entities are airport-related, properly documented, and are commensurate with the services or products received by the airport.

e. Perform tests to ensure that indirect costs charged to the airport from the sponsor's cost allocation plan were allocated in accordance with the FAA policy on cost allocation.

IV. OTHER INFORMATION

The Federal Aviation Reauthorization Act of 1996, Section 805 (49 USC 47107(l)) requires public agencies that are subject to the Single Audit Act Amendments of 1996 (Act) that have received federal financial assistance for airports to include as part of their single audit a review and opinion of the public agency's funding activities with respect to their airport or local airport revenue system. In the February 16, 1999, *Federal Register* (64 FR 7675), the FAA issued a notice titled *Policy and Procedures Concerning the Use of Airport Revenue*. This notice provides that the opinion required by 49 USC 47107(l) is only required when the Airport Improvement Program is audited as major program under 2 CFR Part 200, Subpart F, and that the auditor reporting requirements of 2 CFR Part 200, Subpart F, satisfy the opinion requirement. However, the notice provides that the AIP may be selected as a major program based upon either the risk-based approach prescribed in 2 CFR section 200.518, or the FAA designating the AIP as a major program under 2 CFR section 200.503(e).

DEPARTMENT OF TRANSPORTATION

ASSISTANCE LISTING 20.205 HIGHWAY PLANNING AND CONSTRUCTION (Federal-Aid Highway Program)

I. PROGRAM OBJECTIVES

The purpose of the Federal-aid Highway Program is to assist the States in providing for construction, preservation, and improvement of highways and bridges on eligible Federal-aid routes, (including the National Highway System (NHS) - an integrated, interconnected transportation system important to Interstate commerce and travel), and for other special purpose programs and projects. This program also provides for the construction and improvement of highways in the District of Columbia, Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands and the U.S. Virgin Islands. This program also provides for construction, improvement and maintenance of transportation facilities within or that provide access to Indian reservations, Indian trust land or other recognized Indian communities. The Infrastructure Investment and Jobs Act (IIJA) also known as the Bipartisan Infrastructure Law (BIL) is a once-in-a-generation investment in infrastructure that will help grow the economy, enhance U.S. competitiveness, create jobs, and build safe, resilient, and equitable transportation future. It was determined that dividing the Highway Planning and Construction Cluster into separate compliance supplements would be more beneficial for auditing purposes. The IIJA includes additional complex requirements that would affect the single audit since each program has unique requirements. BIL provides the basis for the Federal Highway Administration (FHWA) programs and activities through September 30, 2026. It makes an investment of $350 billion in highway programs. This includes the largest dedicated bridge investment since the construction of the Interstate Highway System. New programs under the BIL focus on key infrastructure priorities including rehabilitating bridges in critical need of repair, reducing carbon emissions, increasing system resilience, removing barriers to connecting communities, and improving mobility and access to economic opportunity. BIL also continues to focus the program on safety and performance-based investment and on accelerating project delivery through expedited environmental review and elimination of duplicate processes

II. PROGRAM PROCEDURES

Federal-aid highway funds are generally apportioned by statutory formulas to the States and generally restricted to use on Federal-aid highways (i.e., roads open to the public and not functionally classified as local or rural minor collector roads). Exceptions to the use on Federal-aid highways include (1) planning and research activities; (2) bridge and safety improvements, which may be on any public road; (3) highway safety improvement projects, bicycle and pedestrian projects, transportation alternatives, and recreational trails projects, which may be located along any road or off road; and (4) projects funded under the Federal Lands and Tribal Transportation Program (FLTTP). Some limited categories of funds may be granted directly to other State agencies, tribal governments, or Local Public Agencies (LPAs), such as cities, counties, Metropolitan Planning Organizations (MPOs), and other political subdivisions. Funds

may also be passed through such agencies, but the direct recipient retains overall stewardship responsibility.

Under the program, a State may also advance and incur costs on a project before Federal funds are obligated. An "advance construction" authorization is required and the project must be in compliance with all Federal requirements, except for the actual obligation of Federal funds. Before an expenditure of Federal funds can occur, an obligation of eligible Federal funds must be added to the project. This is referred to as a "conversion". Refer to 23 USC 115.

Projects in urban areas of 50,000 or more population must be based on a transportation planning process, carried out by the MPOs in cooperation with the State and transit operators, and be included in the metropolitan long-range plan and the Transportation Improvement Program for the area. Projects in nonmetropolitan areas of a State must be consistent with the State's transportation plan. All Federal-aid projects must also be included in the approved Statewide Transportation Improvement Program (STIP) developed as part of the required Statewide transportation planning process. FHWA and Federal Transit Administration (FTA) must approve the STIP jointly.

Source of Governing Requirements

The primary sources of program requirements are 23 USC (Highways). Implementing regulations are found in 23 CFR (Highways) and 49 CFR (Transportation). For funds administered by tribal governments under 23 USC 202, the implementing regulation is 25 CFR 170 (Indian Affairs).

Availability of Other Program Information

FHWA program laws, regulations, and other general information can be found at http://www.fhwa.dot.gov/, Bipartisan Infrastructure Law, Legislation, Regulations and Guidance - Resources | Federal Highway Administration (dot.gov).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the Federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N". See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	N	Y	N	N	Y	Y

A. Activities Allowed or Unallowed

While each project approved by FHWA may have individual categories of allowable activities, in general this program's funds may be used for the following:

1. surveying;
2. engineering studies and design;
3. environmental studies;
4. right-of-way acquisition and relocation assistance;
5. capital improvements classified as new construction or reconstruction;
6. improvements for functional, geometric, or safety reasons;
7. 4R projects (restoration, rehabilitation, resurfacing, and reconstruction);
8. preservation;
9. planning; research, development, and technology transfer;
10. intelligent transportation systems projects;
11. roadside beautification;
12. vegetation management;
13. wetland and natural habitat mitigation;
14. traffic management and control improvements;
15. improvements necessary to accommodate other transportation modes;
16. development and establishment of transportation management systems;
17. billboard removal;
18. fringe and corridor parking;
19. car pool and van pool projects;
20. historic preservation and rehabilitation of historic transportation facilities;
21. scenic and historic highway improvements;
22. inspection and evaluation of bridges, tunnels, and other highway assets;
23. asset management;
24. construction of ferry boats, ferry terminal facilities, and approaches to such facilities;
25. highway safety improvement projects;
26. bicycle and pedestrian projects; and

27. workforce development, training, and education.

These funds generally cannot be used for routine highway operational activities, such as police patrols, mowing, snow plowing, or general maintenance. Projects for preventative maintenance are allowable.

Also, certain authorizations (e.g., National Highway Performance Program (NHPP), Surface Transportation Block Grant (STBG) program, or Congestion Mitigation and Air Quality (CMAQ) Improvement program) may be used for improvements to transit. CMAQ funds are for transportation projects and programs in air quality, nonattainment and maintenance areas for ozone, carbon monoxide, and particulate matter, which reduce transportation related emissions, though provision is made for States without air quality issues.

Federal funds can be used for administrative settlement costs incurred in defending contract claim proceedings before arbitration boards or State courts only if approved by FHWA for State-aid projects. If special counsel is used, it must be recommended by the State Attorney or State Department of Transportation (State DOT) legal counsel and approved in advance by FHWA (23 CFR section 140.505).

F. Equipment and Real Property Management

For equipment, States will use State procedures in accordance with 2 CFR 200.313. Subrecipients shall follow such policies and procedures allowed by the State with respect to the use, management and disposal of equipment acquired under a Federal award in accordance with 2 CFR 1201.313. Indian tribes follow existing tribal laws and procedures for use, management, and disposal of equipment, in accordance with 2 CFR 200.313(b).

The State and LPA subrecipients shall charge at a minimum, fair market value for the sale, use, lease, or lease renewal of real property acquired with Federal highway funds. The State or LPA shall use such income for projects eligible under 23 USC. Exceptions may be granted to allow use for social, environmental, or economic purposes (23 USC 156). Tribal governments are not subject to 23 USC 156 and fall under tribal self-governance provisions and 2 CFR Part 200.

A State may use other public land acquisition organizations or private consultants to carry out the State's authorities under 23 CFR section 710.201 in accordance with a written agreement (23 CFR section 710.201(g)).

Replacement of Publicly Owned Real Property

Federal funds may be used to reimburse the costs actually incurred for the functional replacement of publicly owned and publicly used real property provided that FHWA concurs that it is in the public interest. The cost of increases in capacity and other betterments are not eligible except (1) if necessary to replace utilities; (2) to meet legal, regulatory, or similar requirements; or (3) to meet reasonable prevailing standards for the type of facility being replaced (23 CFR section 710.509).

G. Matching, Level of Effort, Earmarking

1. Matching

a. A recipient's matching share for a project may be credited by FHWA-approved toll revenues used to build or improve highways, bridges, and tunnels (23 USC 120(i)).

b. Donations of funds, materials, and services by a person or local government may be credited towards a recipient's matching share. Donated materials and services must meet the eligibility requirements of the project (23 USC 323(c)) and 2 CFR 200.306.

c. The value of land provided by recipients or subrecipients for highway purposes is eligible for a credit towards the non-Federal share of project costs. The value of the donated land shall not include any increase or decrease in value of donated land caused by the project. The value of donated land shall be based on the fair market value of the land, established as of the earlier of (1) the date on which the donation becomes effective, or (2) the date on which equitable title to the land vests in the State. Real property acquired with State funds and required for Federally-assisted projects may be credited toward the non-Federal share of project costs (23 USC 323(b); 23 CFR section 710.507).

d. For Transportation Enhancement (TE) projects, funds from Federal agencies (except U.S. DOT) may be credited toward the non-Federal share of the cost of a project. The value of other non-cash contributions may be credited toward the non-Federal share. The non-Federal share may be calculated on a project, multiple-project, or program-wide basis. The total cost of an individual project may be funded with up to 100 percent Federal funds; however, for a fiscal year, the ratio of Federal funds to non-Federal funds for all TE funded projects must comply with the maximum Federal share provisions in 23 USC 120(b). FHWA guidance on these provisions is available at Guidance - Transportation Enhancements - Environment - FHWA (dot.gov).

e. For projects funded under 23 USC or 49 USC Chapter 53, any Federal funds (except for funds available under 23 USC and 49 USC) may be used to pay the non-Federal share of any transportation project that is within, adjacent to, or provides access to Federal land (23 USC 120(j)).

f. FLTTP funds may be used to pay the non-Federal share of projects which provide access to or within Federal or Indian lands which are funded under 23 USC or 49 USC Chapter 53 (23 USC 120(k)).

g. Any cost in excess of 20 percent of the cost of the replacement or rehabilitation of a bridge not on a Federal-aid highway that is wholly

funded with State and local funds may be used to meet the matching share requirement of projects funded under 23 USC 133 (23 USC 133(f)(3)).

2. Level of Effort – Not Applicable

3. Earmarking – Not Applicable

I. Procurement and Suspension and Debarment

Administration of Contracts for Construction

In general, recipients and subrecipients must award construction contracts on the basis of the lowest responsive bid submitted by a bidder meeting the contracting agency's criteria for responsibility. Competitive bidding is required unless the contracting agency is able to demonstrate to FHWA that some other method is more cost effective or that an emergency exists (23 USC 112(b)(1); 23 CFR sections 635.104 and 635.114). Contracting agencies also may procure construction services through competitive proposals by using design-build contracts (23 USC 112(b)(3); 23 CFR Part 636) or construction manager/general contractor contracts (23 USC 112(b)(4)).

For construction contracts, bidding documents must be advertised for at least three weeks, unless a shorter period is justified in the project files. Recipients may not negotiate with the potential contractors during the time between bid opening and contract award (such negotiations would be noted in the contract files). Awards must be made to the lowest responsible bidder. If the award was made to a bidder other than the low bidder, then the project files must contain justification (23 CFR sections 635.112(b), 635.113, and 635.114).

Administration of Contracts for Engineering and Design-Related Services

In general, State DOTs and LPAs must use qualifications-based selection procedures (Brooks Act) when acting as contracting agencies to procure engineering and design-related services from consultants and sub-consultants for projects using Federal highway funds (23 USC 112(b)(2); 23 CFR Part 172). Requirements applicable to engineering and design-related services contracts include:

a. Contracting agencies (State DOTs and LPAs) must have written policies and procedures for each method of procurement used to procure engineering and design services. State DOT policies and procedures, or recipient LPA policies and procedures, must be approved by FHWA. LPAs that are subrecipients may adopt written policies and procedures prescribed by the awarding State DOT or prepare and maintain their own written policies and procedures approved by the State DOT (23 CFR section 172.5(b)).

b. Contracting agencies (State DOTs and LPAs) are required to accept the indirect cost rates for consultants and sub-consultants that have been established by a cognizant agency in accordance with the Federal Acquisition Regulation (48 CFR Part 31) for one-year applicable accounting periods if such rates are not currently

under dispute. Consultants and sub-consultants providing engineering and design-related services contracts must certify to contracting agencies that costs used to establish indirect cost rates are in compliance with the applicable cost principles contained in the Federal Acquisition Regulation (48 CFR Part 31) by submitting a "Certificate of Final Indirect Costs" (23 USC 112(b)(2)(C); 23 CFR section 172.11(c)(3)).

c. Contracts for a consultant to act in a management support role on behalf of a contracting agency or subrecipient for engineering or design related services must be approved by FHWA before the consultant is hired unless an alternative approval procedure has been approved by FHWA (23 CFR section 172.7(b)(5)).

N. Special Tests and Provisions

1. Wage Rate Requirements

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

2. Quality Assurance Program

Compliance Requirements A State DOT or LPA must have a quality assurance (QA) program, approved by FHWA, for construction projects on the NHS to ensure that materials and workmanship conform to approved plans and specifications. Verification sampling must be performed by qualified testing personnel employed by the State DOT, or by its designated agent, excluding the contractor (23 CFR 637 subpart B). These requirements do not apply to tribal governments.

Audit Objectives Determine whether the recipient or subrecipient are following a QA program approved by FHWA.

Suggested Audit Procedures

a. Obtain an understanding of the recipient's QA program.

b. Verify that the QA program has been approved by FHWA.

c. Review documentation of test results on a sample basis to verify that proper tests are being taken in accordance with the QA program.

d. Verify that verification sampling activities are performed by qualified testing personnel employed by the agency, or by its designated agent, excluding the contractor.

3. Contractor Recoveries

Compliance Requirements When a State recovers funds from highway contractors for project overcharges due to bid-rigging, fraud, or anti-trust violations or otherwise recovers compensatory damages, the State-aid project involved shall be credited with the

State share of such recoveries (Tennessee v. Dole 749 F.2d 331 (6th Cir. 1984); 57 Comp. Gen. 577 (1978); 47 Comp. Gen. 309 (1967)).

Audit Objectives Determine whether the proper credit was made to the State share of a project when recoveries of funds are made.

Suggested Audit Procedures

a. Determine the extent to which the State has recovered overcharges and other compensatory damages on State-aid projects through appropriate interviews and a review of legal, claim, and cash receipt records.

b. Review a sample of cash receipts and verify that appropriate credit is reflected in billings to the Federal government.

4. Value Engineering

Compliance Requirements Recipients are required to establish a value engineering (VE) program and ensure that a VE analysis is performed on all applicable projects. The program should include procedures to approve or reject recommendations and for monitoring to ensure that resulting, approved recommendations are incorporated into the plans, specifications, and estimate. Applicable projects are (a) projects located on the NHS with an estimated total project cost of $50 million or more that utilize Federal highway program funding; (b) bridge projects located on the NHS with an estimated total cost of $40 million or more that utilize Federal highway program funding; and (c) any other projects that the FHWA determines to be appropriate. Projects utilizing the design-build method of construction do not require a VE analysis (23 USC 106(e)(5)). Critical elements of VE programs include identification of a State VE coordinator; establishment of a VE policy, and documented VE procedures, including requirements to identify applicable projects, verify required VE analyses are completed on State DOT and subrecipient projects; and monitor, assess, and report on the performance of the VE program (23 USC 106(e); 23 CFR Part 627). These requirements do not apply to tribal governments.

Audit Objectives Determine whether established VE programs include VE policies and procedures, documented analyses conducted for applicable projects, evaluations of VE recommendations, and incorporation of approved recommendations into the plans, specifications, and estimate for the project.

Suggested Audit Procedures

a. Verify that the State DOT established a VE program in accordance with State requirements.

b. Review a sample of applicable projects to ensure that a VE analysis was conducted, recommendations were evaluated, and approved recommendations were incorporated into the design of the project, and that the results of the

analysis and recommendations implemented were documented in accordance with the established VE program's policies and procedures.

5. Utilities

Compliance Requirements Recipients are required to develop policies and procedures pertaining to the use, accommodation and/or relocation of public and private utility facilities on highway rights-of way using Federal highway funds. Recipients are required to develop, maintain, and obtain FHWA approval of their Utility Accommodation Policy (UAP) (23 CFR section 645.215). Expenses incurred for relocating utility facilities necessitated by highway construction projects using Federal highway program funds are eligible for reimbursement from FHWA provided these costs were incurred in a manner consistent with State laws or FHWA regulations, whichever is more restrictive (23 CFR section 645.103(d)). These requirements do not apply to tribal governments.

Plan, specification and estimate (PS&E) packages for projects using Federal highway program funds must have a utility agreement or statement verifying the appropriate coordination with all utilities on the project occurred prior to FHWA construction authorization. Each agreement or statement should specify that the utility use and occupancy of the right-of-way or any required utility work will be completed prior to the highway construction, or there were conditions specified allowing for the utility work to be coordinated with and completed in coordination with the highway construction schedule (23 CFR section 635.309(b)).

Utility agreements, permits, and supporting documentation define the conditions and provisions for accomplishing and reimbursing utility companies for utility relocation work that was required due to a Federal highway program funded project. The agreements and supporting documentation, and the State requirements they reference, require that:

a. There must be itemized cost estimates for the proposed utility work (23 CFR section 645.113(c));

b. The utility agreement was approved prior to the utility incurring any costs or conducting any work that would be eligible for reimbursement (23 CFR section 645.113(g)(3));

c. Reimbursement of utility costs will occur after the work is completed (23 CFR section 645.107(a));

d. The utility incurred the costs and billings submitted verifying the work was completed in accordance with the utility agreement (23 CFR section 645.113(a-f) and 23 CFR section 645.117); and

e. Billed costs were eligible for reimbursement (23 CFR section 645.117).

Audit Objectives Determine whether the agreements, supporting documentation, and reimbursement for the adjustment and/or relocation of utility facilities on State-aid

highway projects were accomplished in a manner which complies with State laws and FHWA regulations.

Suggested Audit Procedures

a. Verify that the State DOT has a current UAP approved by FHWA.

b. Review a sample of PS&E packages on projects using Federal highway program funds to verify that there is a utility agreement or statement confirming that the appropriate coordination with all utilities on the project has occurred prior to FHWA construction authorization.

c. Review a sample of utility agreements and supporting documentation to verify required supporting material was prepared and that costs reimbursed met the requirements of the agreements.

DEPARTMENT OF TRANSPORTATION

ASSISTANCE LISTING 20.218 MOTOR CARRIER SAFETY ASSISTANCE PROGRAM

ASSISTANCE LISTING 20.237 MOTOR CARRIER SAFETY ASSISTANCE HIGH PRIORITY ACTIVITIES GRANTS AND COOPERATIVE AGREEMENTS

I. PROGRAM OBJECTIVES

The Federal Motor Carrier Safety Assistance (FMCSA) program, Motor Carrier Safety Assistance Program (MCSAP), and High Priority (HP) grant program share the same objectives to support a safe and efficient surface transportation system. They include:

- Making targeted investments to promote safe commercial motor vehicle (CMV) transportation, including the transportation of passengers and hazardous materials;
- Investing in activities likely to generate maximum reductions in the number and severity of CMV crashes and fatalities resulting from such crashes;
- Adopting and enforcing effective motor carrier, CMV, and driver safety regulations and practices consistent with federal requirements; and
- Assessing and improving statewide performance by setting program goals and meeting performance standards, measures, and benchmarks.

While MCSAP and HP grants share the same objectives, some eligible activities and costs differ. Chapters in the MCSAP Comprehensive Policy provide program-specific policy (including cost eligibility) and technical assistance when administering both MCSAP and HP grant programs. Within the HP grant program, the Fixing America's Surface Transportation (FAST) Act established the Innovative Technology Deployment (ITD) program which has goals and objectives that differ from traditional MCSAP activities. However, the ITD program was integrated into HP and MCSAP (for operations and maintenance) to support activities and information technology enhancement that complement and enhance CMV and motor carrier enforcement activities.

II. PROGRAM PROCEDURES

FMCSA developed an electronic commercial vehicle safety plan (CVSP) development tool (called eCVSP) available at eCVSP Login (dot.gov). The eCVSP software application allows a MCSAP lead agency to create an online CVSP and track the progress of CVSP development through to approval. Use of the eCVSP helps ensure that states satisfy the requirements in 49 CFR 350.213, expedites FMCSA's review of the document, facilitates the prompt returning of comments or requests for clarification, and allows the MCSAP lead agency to easily resubmit a revised document.

In accordance with 49 USC 31102(i) and grant/financial management requirements in 2 CFR Part 200, each CVSP receives a fair, equitable and objective review prior to award approval. This review ensures that applicable statutory and regulatory requirements will be met and allowable CVSP projects and activities will succeed. The CVSP review process generally consists of a review in the following areas:

1. *Application Review.* The FMCSA reviews the CVSP and all supplemental attachments (e.g., forms and certifications) for completeness and to ensure that the MCSAP lead agency meets the basic eligibility requirements defined in the Notice of Funding Opportunity (NOFA).

2. *Programmatic Review.* The FMCSA review the CVSP to make sure that the information presented is reasonable and understandable and the activities proposed in the application are measurable, achievable, and consistent with program or legislative requirements.

3. *Financial Review.* The FMCSA evaluates the fiscal integrity and financial capability of a MCSAP lead agency, and reviews the CVSP details, including the budget and budget narrative, and any other documentation to examine costs for proposed project/program activities to determine if are they appear reasonable, necessary, eligible and allowable for award. Note that approval of the CVSP is not a final approval of costs as defined in accordance with 2 CFR Part 200 Subpart E.

4. *Suitability Review.* In accordance with 2 CFR section 200.205 the suitability review is discussed in more detail in the MCSAP Comprehensive Policy. The FMCSA evaluates the CVSP against the performance-based information required in accordance with 49 CFR section 350.213.

Source of Governing Requirements

The MCSAP grant program is authorized by the Fixing America's Surface Transportation Act, Pub. L. No. 114-94, sections 5101(a) and 5101(c) (2015). The MCSAP is governed by 49 USC 31102 and 31104, and by 49 CFR section 350, as applicable.

The HP grant program is authorized by the Fixing America's Surface Transportation Act, Pub. L. No. 114-94, sections 5101(a) and 5101(c) (2015). HP grants are governed by 49 USC 31102(l) and 31104, and by 49 CFR section 350, as applicable.

Availability of Other Program Information

Additional information about the programs may be found on the FMCSA website at https://www.fmcsa.dot.gov/mission/grants. Program policy guidance for the MCSAP and HP programs may be found at https://www.fmcsa.dot.gov/mission/grants/motor-carrier-safety-assistance-program-grant-comprehensive-policy.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	Y	N	Y	Y	N	N

A. Activities Allowed or Unallowed

The primary MCSAP activities eligible for reimbursement include the National Program Elements currently outlined in 49 CFR section 350.203:

1. Driver and Vehicle Inspections
2. Traffic Enforcement
3. Compliance Reviews, Carrier Interventions, Investigations, and New Entrant Safety Audits
4. Public Education and Awareness
5. Data Collection

In addition, 49 CFR section 350.227 lists other activities eligible for reimbursement under the MCSAP. In addition, the FAST Act added other CMV safety activities that are eligible under MCSAP. These include:

a. Border enforcement safety activities (inspections, traffic enforcement, etc.)

b. Performance and Registration Information Systems Management (PRISM)

c. Innovative Technology Deployment (ITD) (operations and maintenance only)

The state must ensure that these activities, if financed through MCSAP funds, will not diminish the effectiveness of the development and implementation of the programs to improve motor carrier, CMV, and driver safety.

These other activities also include:

- Sanitary food transportation inspections performed under 49 USC 5701.
- The following activities, when carried out in conjunction with an appropriate North American Standard (NAS) inspection of a CMV and inspection report.
- Enforcement of CMV size and weight limitations at locations, excluding fixed-weight facilities, such as near steep grades or mountainous terrains, where the weight of a CMV can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States.
- Detection of and enforcement actions taken as a result of criminal activity, including trafficking of human beings, in a CMV or by any occupant, including the operator, of the CMV.

F. Equipment and Real Property Management

1. *Equipment Management Requirements for Subrecipients of States*

Notwithstanding 2 CFR section 200.313, subrecipients of states shall follow such policies and procedures allowed by the state with respect to the use, management and disposal of equipment acquired under a DOT award (2 CFR section 1201.313).

G. Matching, Level of Effort, Earmarking

1. Matching

The FAST Act sets minimum matching requirements for each grant program. Matching means the portion of project costs not paid by federal funds. For example, FMCSA grant programs require that FMCSA reimburse 85 percent of eligible project costs, while the recipient provides the remaining 15 percent share.

After award, recipients must document all expenditures relating to cost sharing or matching in the same manner as those for the federal grant funds. Every item

must be verifiable (i.e., tracked and documented) and any claimed cost share expense can only be counted once. In addition, a cost sharing or matching requirement may not be met by costs borne by another federal grant except as provided by federal statute. The FAST Act allows FMCSA to modify the federal share of a grant program from the standard 85/15 threshold (85 percent federal, 15 percent recipient share). FMCSA may opt to offer 100 percent federal financial assistance for a specific project(s) and/or priorities within a grant program. Other projects funded at 100 percent federal share may be announced in the NOFA as a National Priority and are at the discretion of FMCSA.

The value of third-party in-kind contributions may be accepted as the match. The use of third-party in-kind contributions should be identified in the grant/sub-grant agreement, or amendments thereto, and approved by FMCSA. The use of in-kind contributions may not be made retroactive prior to approval of the work program or an amendment thereto. Recipient (or subrecipients) should be aware that they are responsible for ensuring that the following additional criteria are met:

- The third party performing the work must agree to allow the value of the work to be used as the match;
- The cost of the third party work must not be borne by other federal funds or be used as a match for other federally funded grants/sub-grants;
- The work performed by the third party must be an eligible activity that benefits the federally funded work and must be identified in the work program;
- The third party costs (e.g., salaries, fringe benefits) must be allowable under 2 CFR section 200, Subpart E – Cost Principles;
- The third party work must be performed during the period to which the matching requirement applies; and
- The third party in-kind contributions must be verifiable from the records of the recipient or subrecipient and these records must show how the value placed on third party in kind contributions was derived.

2. Level of Effort

The MCSAP lead agency must maintain a certain level of expenditure, in addition to the required 15 percent matching share of a MCSAP grant. This financial requirement is known as maintenance of effort (MOE) or level of effort. The purpose of the MOE is to ensure that MCSAP lead agencies are committed to maintaining their own state funded CMV safety programs, notwithstanding federal funding.

A MCSAP lead agency must maintain within each federal fiscal year a level of effort that is at least equal to the average of what the MCSAP lead agency spent on MCSAP eligible activities in fiscal year (FY) 2004 and FY 2005. Expenditures of other state agencies, local agencies, or sub-grantees (whether supported by MCSAP grant funds or not), other federal funds, and MCSAP lead agency matching funds are not to be included in the MOE calculation.

A change in the MCSAP lead agency does not negate the MOE requirement because the state funding for these efforts also transitioned to the new state lead agency. The concept of "successor in interest" applies. Thus, no state may have a zero MOE simply because the MCSAP lead agency is different in a current year than it was in FYs 2004 and 2005, and the successor agency must meet the MOE requirements established by the FY 2004 and FY 2005 baseline.

Because non-CMV and CMV traffic enforcement activities without an inspection were not authorized until the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) was enacted in late FY 2005, MCSAP lead agencies are not to include these expenditures in calculating the MOE baseline. MCSAP lead agencies may, however, include documented non-CMV traffic enforcement and other new efforts and initiatives they have implemented since FYs 2004 and 2005 to meet the annual MOE obligation.

The MCSAP lead agency must retain the documentation used to calculate the MOE average for audit purposes. In the absence of records, a reasonable estimate, based upon available information should be submitted to FMCSA for review and approval. MCSAP lead agencies must self-certify (per 49 CFR sections 350.211 and 350.213) that the calculated MOE will be met each fiscal year and reflect their MOE in their CVSP. The state must annually submit its MOE substantiation document to FMCSA to support the actual expenditures during the fiscal year.

3. Earmarking

Not Applicable

H. Period of Performance

The notice of grant award (NGA) contains the grant agreement's period of performance. The NGA period of performance means the time during which the grant recipient may incur obligations to carry out the work authorized under the grant agreement. The FMCSA may establish a shorter, but not longer, grant agreement period of performance than what the statutory availability of funds timeframe allows. All allowable periods of performance are located in 49 USC 31104(f), as amended by the FAST Act.

J. Program Income

Notwithstanding 2 CFR section 200.80, except as otherwise provided in federal statutes, regulations, or the terms and conditions of the federal award, program income also does not include taxes, special assessments, levies, and fines raised by a grantee and subgrantee, and interest earned on any of them. Please see 2 CFR 200.307 (f) 2 CFR 200.77 (period of performance) and 2 CFR 200.407 (prior written approval).

L. Reporting

1. Financial Reporting

The FMCSA will not reimburse recipients from a grant for an amount that is more than the government share of costs incurred as of the date of the voucher. This signifies that recipients are limited in the percentage of costs per voucher, not per grant. For example, states are limited to 85 percent reimbursement under MCSAP. Because FMCSA's reimbursement requirement is incurred by the date of each voucher, the state must meet the matching share requirement, for example 15 percent per voucher.

a. *SF-270, Request for Advance or Reimbursement* – Applicable
b. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* – Not Applicable
c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

DEPARTMENT OF TRANSPORTATION

ASSISTANCE LISTING 20.219 RECREATIONAL TRAILS PROGRAM

I. PROGRAM OBJECTIVES

The Recreational Trails Program (RTP) was formerly part of the Highway Planning and Construction Cluster. For the 2023 Compliance Supplement, it was determined that separating the Highway Planning and Construction Cluster into separate compliance supplements would be more beneficial for auditing purposes.

The Infrastructure Investment and Jobs Act (IIJA) (Public Law 117-58), also known as the Bipartisan Infrastructure Law (BIL) includes additional complex requirements that would affect the single audit since each program has unique requirements. This compliance supplement has been updated to provide more details specific to the RTP. It removes generalized Highway funding explanations and replaces it with specific RTP definitions and requirements. The RTP provides funds to the States to develop and maintain recreational trails and trail-related facilities for both nonmotorized and motorized recreational trail uses.

The program provides funds for all kinds of recreational trail uses, such as pedestrian uses (hiking, running, wheelchair use), bicycling, in-line skating, equestrian use, cross-country skiing, snowmobiling, off-road motorcycling, all-terrain vehicle riding, four-wheel driving, or using other off-road motorized vehicles. Each State develops its own procedures to solicit projects from project sponsors, and to select projects for funding, in response to recreational trail needs within the State.

Many trails provide both a recreational and transportation purpose. RTP funds may be used on any trail which provides recreation. Using RTP funds on a trail project does not make the trail ineligible for other Federal highway funds if the trail also provides a transportation purpose. Any project eligible under the RTP is eligible under the Transportation Alternatives (TA) Set-Aside (23 U.S.C. 133(h)) and under the Surface Transportation Block Grant Program (23 U.S.C. 133(b)(7)). Recreational trails also may be eligible under other Federal surface transportation programs, see Pedestrian and Bicycle Funding Opportunities.

II. PROGRAM PROCEDURES

Federal-aid highway funds are generally apportioned by statutory formulas to the States. For the RTP, funds are apportioned as a set-aside of the TA Set-Aside from the Surface Transportation Block Grant. The funds pass through the State Department of Transportations, but most States administer the RTP through a State natural resource, parks, or grant management agency, see https://www.fhwa.dot.gov/environment/recreational_trails/rtpstate.cfm for contacts.

The BIL continued the RTP as a set-aside under the Transportation Alternatives (TA) Set-Aside. 23 U.S.C. 133(h)(5). Unless the Governor of the State opts out 30 days in advance of an apportionment for any fiscal year, an amount equal to the State's FY 2009 RTP apportionment is

set aside from the State's TA Set-Aside funds for recreational trails projects. (23 U.S.C. 133(h)(5) and (6)(A)). All RTP provisions and requirements continue under 23 U.S.C. 206. See RTP Guidance and Information.

For the RTP set-aside, the Governor designates the State agency or agencies to administer the program (23 U.S.C. 206(c)(1)). This remains the same agency or agencies previously designated by the Governor (for most States, a State resource agency or grant agency, or the State Department of Transportation, unless the Governor designates a new agency (23 U.S.C. 206(c)(1)). If an agency other than the State DOT administers the RTP, then the State should have (or develop) a Stewardship and Oversight Plan between the State DOT and other State agency to outline the roles and responsibilities of each State agency. Under 23 U.S.C. 133(h)(5), if continuing the RTP:

- Each State shall obligate an amount of funds reserved under 23 U.S.C. 133(h) (the TA Set-Aside) equal to the amount of the funds apportioned to the State for FY 2009 under 23 U.S.C. 104(h)(2), as in effect on the day before enactment of MAP-21, for projects relating to recreational trails under 23 U.S.C. 206. (23 U.S.C. 133(h)(5)(A)). See BIL Funding Tables.
- Each State shall return 1 percent of those funds to the Secretary for the administration of RTP. (23 U.S.C. 133(h)(5)(B)).
- Each State shall comply with the provisions of the administration of the RTP under 23 U.S.C. 206, including the use of apportioned funds. (23 U.S.C. 133(h)(5)(C)). Therefore, all RTP provisions and requirements remain unchanged, including the requirement for 40 percent diverse recreational trail use, 30 percent motorized recreation, and 30 percent nonmotorized recreation. (23 U.S.C. 206(d)(3)(A)). (Section 206(d)(3)(B) provides an exemption from this requirement for States with land areas under 3,500,000 acres: Connecticut, Delaware, the District of Columbia, and Rhode Island.)

For a State to be eligible to use funds set aside for the RTP, the State must establish a State recreational trail advisory committee that represents both motorized and nonmotorized recreational trail users, which shall meet not less often than once per fiscal year. If a State does not meet this requirement, it is not eligible to use RTP set-aside funds (23 U.S.C. 206(c)(2)).

Source of Governing Requirements

The primary sources of program requirements are 23 U.S.C. (Highways). Implementing regulations are found in 23 CFR (Highways) and 49 CFR (Transportation). Each State shall comply with the provisions of the administration of the RTP under 23 U.S.C. 206, including the use of apportioned funds. (23 U.S.C. 133(h)(5)(C)).

Availability of Other Program Information

Federal Highway Administration (FHWA) program laws, regulations, and other general information can be found at Legislation, Regulations and Guidance - Resources | Federal Highway Administration (dot.gov) and Federal Highway Administration (dot.gov).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or	Allowable Costs/Cost	Cash Manageme	Eligibility	Equipment and	Matching, Level of	Period Of	Procuremen t and	Program Income	Reporting	Subrecipien t	Special Tests and
Y	Y	N	N	Y	Y	N	Y	N	N	Y	Y

A. Activities Allowed or Unallowed

The RTP provides funds to the States to develop and maintain recreational trails and trail-related facilities for both nonmotorized and motorized recreational trail uses. Funds from this program may be used for: (1) maintenance and restoration of existing trails; (2) development and rehabilitation of trailside and trailhead facilities and trail linkages; (3) purchase and lease of trail construction and maintenance equipment; (4) construction of new trails (with restrictions for new trails on Federal lands); (5) acquisition of easements or property for trails or trail corridors; (6) assessment of trail conditions for accessibility and maintenance; (7) development and dissemination of publications and operation of educational programs to promote safety and environmental protection (as those objectives relate to one or more of the use of recreational trails, supporting non-law enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training); and (8) State administrative costs related to this program. (23 U.S.C. 206(d)(2))

Funds may not be used for: (1) condemnation of any kind of interest in property; (2) construction of recreational trails for motorized use on National Forest System or Bureau of Land Management lands unless designated for uses other than wilderness and consistent with agency management plans; or (3) upgrading, expanding, or otherwise

facilitating motorized use or access to recreational trails predominantly used by nonmotorized recreational trail users and on which, as of May 1, 1991, motorized use was prohibited or had not occurred. 23 U.S.C. 206(g).

F. Equipment and Real Property Management

For equipment, States will use State procedures in accordance with 2 CFR 200.313(b). Subrecipients shall follow such policies and procedures allowed by the State with respect to the use, management and disposal of equipment acquired under a Federal award in accordance with 2 CFR 1201.313.

G. Matching, Level of Effort, Earmarking

1. Matching

a. RTP Federal share and flexible match and donation provisions are authorized under 23 U.S.C. 206(f) and 206(h). Under 23 U.S.C. 206(j), funds made available for any recreational trail or related project funded under 23 U.S.C. 104(b) are to be administered as if made available under the RTP (section 206). Therefore, recreational trail or related projects funded under 23 U.S.C. 104(b) are also subject to the Federal share and flexible match and donation provisions available under 23 U.S.C. 206(f) and 206(h). See RTP Federal Share and Matching Requirements for more information.

b. FEDERAL SHARE

i) IN GENERAL. Subject to the other provisions of this subsection, the Federal share of the cost of a project and the Federal share of the administrative costs of a State under this section shall be determined in accordance with section 23 USC 120(b).

ii) FEDERAL AGENCY PROJECT SPONSOR. Notwithstanding any other provision of law, a Federal agency that sponsors a project under this section may contribute additional Federal funds toward the cost of a project, except that—

(1) the share attributable to the Secretary of Transportation may not exceed the amount determined in accordance with section 23 U.S.C. 120(b) for the cost of a project under this section; and

(2) the share attributable to the Secretary and the Federal agency sponsoring the project may not exceed 95 percent of the cost of a project under this section.

iii) USE OF FUNDS FROM FEDERAL PROGRAMS TO PROVIDE NON-FEDERAL SHARE., Notwithstanding any other provision

of law, the non-Federal share of the cost of the project may include amounts made available by the Federal Government under any Federal program that are—

(1) Expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and

(2) Expended on a project that is eligible for assistance under this section.

iv) USE OF RECREATIONAL TRAILS PROGRAM FUNDS TO MATCH OTHER FEDERAL PROGRAM FUNDS. Notwithstanding any other provision of law, funds made available under this section may be used toward the non-Federal matching share for other Federal program funds that are—

(1) Expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and

(2) Expended on a project that is eligible for assistance under this section.

v) PROGRAMMATIC NON-FEDERAL SHARE. A State may allow adjustments to the non-Federal share of an individual project for a fiscal year under this section if the Federal share of the cost of all projects carried out by the State under the program (excluding projects funded under paragraph (2) or (3)) using funds apportioned to the State for the fiscal year does not exceed the Federal share as determined in accordance with section 120(b).

c. The RTP authorizes donations of funds, materials, services, or new right-of-way that are made within 18 months prior to project authorization (23 USC 206(h)(1)).

2. **Level of Effort**

Not Applicable

3. **Earmarking**

a. The RTP legislation requires that States use 40 percent of their funds apportioned in a fiscal year for diverse recreational trail use, 30 percent for motorized recreation, and 30 percent for nonmotorized recreation. The 40-30-30 requirement applies to the on-the-ground trail projects and to the educational projects, but does not apply to the State administrative costs. The 40-30-30 requirement only applies to Federal funds apportioned through the RTP, not to

funds from other sources. The 40-30-30 requirement affects each State's annual **apportionment**. A State does not need to meet the 40-30-30 minimums in each fiscal year's **obligations**, if some funds remain unobligated. This provision exempts Connecticut, Delaware, the District of Columbia, and Rhode Island from the requirements that they use 30 percent of their funds for motorized use and 30 percent of their funds for nonmotorized use. It does not exempt these States from the 40 percent diverse trail use requirement or from the requirement for both motorized and nonmotorized representation on the State Recreational Trail Advisory Committees. 23 U.S.C. 206(d)(3).

b. RTP Administrative Funds are limited to "costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment made to the State for the fiscal year" (23 U.S.C. 206(d)(2)(H)). The limitation is subject to the amount necessary within a fiscal year, and does not carry over. A State cannot carry over administrative funds from Year 1 because that would increase the administrative funds available in Year 2. RTP funds obligated for administrative costs but not expended within a fiscal year must be deobligated and used for other eligible uses under 23 U.S.C. 206(d)(2)(A) through (F). (23 U.S.C. 133(h)(5)(A)). Administrative costs should only use Program Codes for administrative costs to remain under the 7 percent limit.

c. RTP Educational Funds are limited to the "development and dissemination of publications and operation of educational programs to promote safety and environmental protection, (as those objectives relate to one or more of the uses of recreational trails, supporting non-law enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training), but in an amount not to exceed 5 percent of the apportionment made to the State for the fiscal year" (23 U.S.C. 206(d)(2)(G)). The limitation is subject to the amount necessary within a fiscal year, and does not carry over. RTP funds obligated for educational costs but not expended within a fiscal year must be deobligated and used for other eligible uses under 23 U.S.C. 206(d)(2)(A) through (F). Education costs should only use Program Codes for education costs to remain under the 5 percent limit.

I. Procurement and Suspension and Debarment

1. In general, for RTP projects within a highway right-of-way, States and Local Public Agencies must award construction contracts on the basis of the lowest responsive bid submitted by a bidder meeting the contracting agency's criteria for responsibility. Competitive bidding is required unless the contracting agency is able to demonstrate to FHWA that some other method is more cost effective or that an emergency exists (23 USC 112(b)(1); 23 CFR sections 635.104 and 635.114).

2. For RTP projects not within highway rights-of-way, States must use their State procedures under 2 CFR 200.317 (23 U.S.C. 206(j) and 23 USC 133(i) exclusion), or through the use of qualified youth service or conservation corps (MAP-21 Section 1524).

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section. Under 23 USC 113, wage requirements apply to all projects within the right-of-way of a Federal-aid highway. However, under 23 USC 206(j) and the exclusion under 133(i), recreational trail projects using funds apportioned under 23 USC 104(b) are to be administered as if they were made available to carry out 23 USC 206. (23 USC 206(j)). Therefore, the prevailing rate of wage provisions under 23 USC 113 do not apply to recreational trails projects using funds apportioned under 23 U.S.C. 104(b) that are not located within a highway right-of-way.

DEPARTMENT OF TRANSPORTATION

ASSISTANCE LISTING 20.223 TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT (TIFIA) PROGRAM

I. PROGRAM OBJECTIVES

The objective of the Transportation Infrastructure Finance and Innovation Act (TIFIA) program is to finance surface transportation projects of national or regional significance by filling market gaps and leveraging substantial public (nonfederal) and private co-investment. TIFIA credit assistance is intended to facilitate the financing of projects that would otherwise have been significantly delayed because of funding limitations or difficulties in accessing the capital markets. Federal credit assistance is provided to eligible highways and bridges, transit, rail, intelligent transportation systems, transit-oriented development, rural infrastructure, state infrastructural banks, and intermodal freight projects, including certain projects that provide access to ports.

II. PROGRAM PROCEDURES

Public entities, or private entities with public sponsorship, seeking to finance the design and construction, or reconstruction, of eligible surface transportation projects may apply for TIFIA assistance. The program targets large projects, generally in excess of $50 million. Some exceptions to the minimum cost requirement are (1) transit-oriented development, local, and rural projects, which have minimum project costs of at least $10 million; and (2) intelligent transportation systems, with minimum project costs of at least $15 million. The program offers three types of financial assistance featuring maturities up to 35 years after substantial completion of the project: secured loans, loan guarantees, and standby lines of credit. Projects must have a dedicated revenue source and be consistent with state and local transportation plans.

Source of Governing Requirements

This program is authorized by 23 USC 601 through 609. In addition, 23 USC requirements apply for highway projects, Chapter 53 of 49 USC requirements apply for transit projects, and 49 USC 5333(a) requirements apply for rail projects.

Availability of Other Program Information

Information, including program guidance and application instructions, may be found on the TIFIA website at https://www.transportation.gov/buildamerica/financing/tifia.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have

been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N."

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	N	Y	N	N	N	N	Y

A. Activities Allowed or Unallowed

1. *Activities Allowed*

Highway, transit, passenger rail, certain freight facilities, certain port projects, rural infrastructure projects, transit-oriented development projects, and SIB rural projects funds may receive credit assistance through the TIFIA Program.

- Eligible highway facilities include interstates, state highways, bridges, toll roads, international bridges or tunnels, and any other type of facility eligible for grant assistance under Title 23, the highways title of the US Code (23 USC). This also includes a category specifically permitted under the TIFIA statute (i.e., a project for an international bridge or tunnel for which an international entity authorized under federal or state law is responsible).

- Eligible transit projects include the design and construction of stations, track, and other transit-related infrastructure, purchase of transit vehicles, and any other type of project that is eligible for grant assistance under the transit title of the US Code (Chapter 53 of Title 49 of the US Code), including the installation of positive train control systems. Additionally, intercity bus vehicles and facilities are eligible to receive TIFIA credit assistance.

- Rail projects involving the design and construction of intercity passenger rail facilities or the procurement of intercity passenger rail vehicles are eligible for TIFIA credit assistance.

- Public freight rail facilities, private facilities providing public benefit for highway users by way of direct freight interchange between highway and rail carriers, intermodal freight transfer facilities, projects that provide access to such facilities, and service improvements (including capital investments for intelligent transportation systems) at such facilities, are also eligible for TIFIA credit assistance. In addition, a logical series of such projects with the common objective of improving the flow of goods can be combined.

- Projects located within the boundary of a port terminal are also eligible to receive TIFIA credit assistance, so long as the project is limited to only such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port.

- Eligible projects also include related transportation improvement projects grouped together in order to reach the minimum cost threshold for eligibility, so long as the individual components are eligible and the related projects are secured by a common pledge.

- Rural Project Assistance: The TIFIA statute provides two different forms of assistance to rural infrastructure projects. The Bipartisan Infrastructure Law expanded TIFIA eligibility to include capitalization of rural projects funds within SIBs, and it continued the DOT's ability to offer reduced interest rates to Rural Projects.

B. Costs Allowed or Unallowed

1. *Costs Allowed*

TIFIA credit assistance is available to cover only eligible project costs. A calculation of total eligible project costs is important to determine whether the project meets the eligibility test for minimum project size and whether the credit request does not exceed applicable thresholds of reasonably anticipated eligible project costs as required by statute.

The TIFIA statute, codified at 23 USC sections 601-610, defines eligible project costs as those expenses associated with the following:

a. Development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other pre-construction activities;

b. Construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment. While the acquisition of real property is an eligible cost under TIFIA, such property must be physically or functionally related to the transportation project. For transit projects, the land must be reasonably necessary for the project, including joint development projects and property must be physically or functionally related to the project (49 USC 5302(a)(1)(G); 49 CFR section 80.3).

c. Capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs.

d. For a transit project, costs must also meet the definition of a transit capital project found at 49 USC 5302(a)(1) (23 USC 601 (a)).

2. *Costs Unallowed*

Capitalized interest on TIFIA credit assistance may not be included as an eligible project cost.

Also, TIFIA administrative charges, such as application fees, transaction fees, loan servicing fees, credit monitoring fees, and the charges associated with obtaining the required preliminary rating opinion letter, will not be considered among the eligible project costs. In all cases, eligible project costs should be calculated and presented on a cash basis (that is, as year-of-expenditure dollars) with the year of planned expenditure clearly identified.

H. Period of Performance

The maximum maturity of all TIFIA credit instruments is 35 years after a project's substantial completion.

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements The provisions of the Wage Rate Requirements apply to projects receiving TIFIA assistance (49 USC 5333(a)).

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

2. Administration of Engineering and Design-Related Service Contracts

Compliance Requirements In general, state DOTs and LPAs must use qualifications-based selection procedures (Brooks Act) when acting as contracting agencies to procure engineering and design-related services from consultants and sub-consultants for projects

using federal-aid highway funds (23 USC 112(b)(2); 23 CFR Part 172). Requirements applicable to engineering and design-related services contracts include:

a. Contracting agencies (state DOTs and LPAs) must have written policies and procedures for each method of procurement used to procure engineering and design services. State DOT policies and procedures, or recipient LPA policies and procedures, must be approved by FHWA. LPAs that are subrecipients may adopt written policies and procedures prescribed by the awarding State DOT or prepare and maintain their own written policies and procedures approved by the State DOT (23 CFR section 172.5(c)).

b. Contracting agencies (state DOTs and LPAs) are required to accept the indirect cost rates for consultants and sub-consultants that have been established by a cognizant agency in accordance with the Federal Acquisition Regulation (48 CFR Part 31) for one-year applicable accounting periods if such rates are not currently under dispute. Consultants and sub-consultants providing engineering and design-related services contracts must certify to contracting agencies that costs used to establish indirect cost rates are in compliance with the applicable cost principles contained in the Federal Acquisition Regulation (48 CFR Part 31) by submitting a "Certificate of Final Indirect Costs" (23 USC 112(b)(2)(C); 23 CFR section 172.11).

c. Contracts for a consultant to act in a management support role on behalf of a contracting agency or subrecipient for engineering or design-related services must be approved by FHWA before the consultant is hired unless an alternative approval procedure has been approved by FHWA (23 CFR section 172.7(b)(5)).

Audit Objectives Determine if consultants performing engineering and design-related services for projects using federal-aid highway funding were procured using FHWA-approved, qualifications-based selection procedures.

Suggested Audit Procedures

a. Verify that the State DOT has written policies and procedures (usually in the form of a Consultant Manual) for procurement of engineering and design services and that those procedures have been approved by FHWA. For subrecipients (LPAs), verify that they are using written policies and procedures prescribed by the awarding State DOT or that the subrecipients' written policies and procedures have been approved by the State DOT.

b. Verify that contracting agencies are accepting the appropriate indirect cost rates.

c. Verify that consultants and sub-consultants have submitted to the contracting agency a "Certificate of Final Indirect Costs."

d. Verify that contracts for consultants acting in a management support role have been approved by FHWA or are covered by an FHWA-approved alternate procedure.

IV. OTHER INFORMATION

See the Safe Harbor Status discussion in Part 1 for additional information.

DEPARTMENT OF TRANSPORTATION

ASSISTANCE LISTING 20.224 FEDERAL LANDS ACCESS PROGRAM

I. PROGRAM OBJECTIVES

The Federal Lands Access Program (FLAP) was formerly part of the Highway Planning and Construction Cluster. For the 2023 Compliance Supplement, it was determined that separating the Highway Planning and Construction Cluster in to separate compliance supplements would be more beneficial for auditing purposes. The FLAP was established in 23 U.S.C. 204 under section 1119 of the Moving Ahead for Progress in the 21st Century Act (MAP-21) (Pub. L. 112-141) and continued under the Fixing America's Surface Transportation Act (FAST) (Pub. L. 114-94) and the Infrastructure Investment and Jobs Act (IIJA) also known as the Bipartisan Infrastructure Legislation (BIL) (Pub. L. 117-58). The IIJA includes additional complex requirements that would affect the single audit since each program has unique requirements. This compliance supplement has been updated to provide more details specific to the FLAP. It removes generalized Highway funding explanations and replaces it with specific FLAP definitions and requirements.

The goal of the FLAP is to improve Federal Lands Access Transportation Facilities (FLATFs) located on or adjacent to, or that provide access to Federal land. The FLAP supplements State and local resources for public roads, transit systems, and other transportation facilities, with an emphasis on providing seamless access to Federal high-use recreation sites and Federal economic generators within federally owned lands, as identified by the Secretaries of the appropriate Federal Land Management Agencies (FLMAs). The FLAP is funded by contract authority from the Highway Trust Fund and subject to obligation limitation. Funds are allocated among the States using a statutory formula based on road mileage, number of bridges, land area, and visitation. Projects are selected by a Programming Decisions Committee (PDC) established in each State. The PDC is comprised of a representative of the Federal Highway Administration (FHWA); a representative of the State Department of Transportation; and a representative of any appropriate political subdivision of the State. The PDCs request project applications through calls for projects, the frequency of which is established by the PDCs. Through these calls for projects, the PDCs develop multi-year program of projects in consultation with each applicable Federal agency.

The FLAP is designed to provide flexibility for a wide range of transportation projects in the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico. The FLAP complements the Federal Lands Transportation Program (FLTP) in 23 U.S.C. 203. It recognizes the importance of safe access to and within Federal lands. Receipt of Access Program funding by a State and local facility owners and operators does not affect the overall responsibility for construction, maintenance, and operations of the facilities. That responsibility continues to lie on the owner or operator of the facility. The Access Program is administered by the Office of Federal Lands Highway (FLH), FHWA.

II. PROGRAM PROCEDURES

Funds made available under the FLAP shall be used on FLATFs per 23 U.S.C. 101. A FLATF is defined as "a public highway, road, bridge, trail, or transit system that is located on, is adjacent to, or provides access to Federal lands, for which title or maintenance responsibility is vested in a State, county, town, township, tribal, municipal, or local government". Eligible activities are cited below under Compliance Requirements.

Under 23 U.S.C. 201(c), FLAP projects are included in the FLH Transportation Improvement Program (TIP) and Statewide Transportation Improvement Program (STIP) as part of the required statewide transportation planning process.

Source of Governing Requirements

The primary sources of program requirements are 23 USC (Highways). Implementing regulations are found in 23 CFR (Highways) addressing a range of requirements. Each State shall comply with the provisions of the administration of the FLAP under 23 USC 201, 23 USC 204, and 23 USC 120 (where applicable) as codified under Public Law 112-141, Public Law 114-94, and Public Law 117–58.

Availability of Other Program Information

Program specific information can be found at: https://highways.dot.gov/federal-lands/programs-access**.**

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	N	Y	N	N	Y	Y

A. Activities Allowed or Unallowed

Activities allowed under FLAP are listed under 23 U.S.C. 204(a)(1) and include:

1. Transportation planning, research, engineering, preventive maintenance, rehabilitation, restoration, context-sensitive solutions, construction, and reconstruction of FLATFs located on or adjacent to, or that provide access to, Federal lands; and–

    i. adjacent vehicular parking areas, including interpretive panels in or adjacent to those areas;
    ii. acquisition of necessary scenic easements and scenic or historic sites;
    iii. provisions for pedestrians and bicycles;
    iv. environmental mitigation in or adjacent to Federal land to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity;
    v. construction and reconstruction of roadside rest areas, including sanitary and water facilities;
    vi. contextual wayfinding markers;
    vii. landscaping;
    viii. cooperative mitigation of visual blight, including screening or removal; and
    ix. other appropriate public road facilities, as determined by the Secretary;

2. Operation and maintenance of transit facilities; and

3. Any transportation project eligible for assistance under title 23, U.S.C., that is within or adjacent to, or that provides access to, Federal land.

Administrative fees are not eligible activities under FLAP as direct costs. If the state has an approved indirect cost allocation plan (ICAP), they can bill allowable administrative costs as an indirect charge.

FLTTP funds may be used for work on projects that provide access to or within federal or tribal lands (23 USC 201 through 202 and 25 CFR Part 170).

Regarding (2) above, "operation and maintenance of transit facilities" includes the operation of all components of a transit system, including the acquisition of public transportation vehicles. This operation and maintenance eligibility applies solely to transit facilities.

The eligibility under (3) above includes transit capital projects eligible under chapter 53 of title 49, U.S.C., that are also eligible under title 23 and that are within or adjacent to, or that provide access to, Federal lands open to the public.

F. Equipment and Real Property Management

For equipment, States will use State procedures in accordance with 2 CFR 200.313. Subrecipients shall follow such policies and procedures allowed by the State with respect to the use, management and disposal of equipment acquired under a Federal award in accordance with 2 CFR 1201.313.

The state and LPA subrecipients shall charge at a minimum, fair market value for the sale, use, lease, or lease renewal of real property acquired with federal highway funds. The state or LPA shall use such income for projects eligible under 23 USC. Exceptions may be granted to allow use for social, environmental, or economic purposes (23 USC 156). Tribal governments are not subject to 23 USC 156 and fall under tribal self-governance provisions and 2 CFR Part 200.

A state may use other public land acquisition organizations or private consultants to carry out the state's authorities under 23 CFR section 710.201(b) in accordance with a written agreement (23 CFR section 710.201(h)).

Federal funds may be used to reimburse the reasonable costs actually incurred for the functional replacement of publicly owned and publicly used real property provided that FHWA concurs that it is in the public interest. The cost of increases in capacity and other betterments are not eligible except (1) if necessary, to replace utilities; (2) to meet legal, regulatory, or similar requirements; or (3) to meet reasonable prevailing standards for the type of facility being replaced (23 CFR section 710.509).

G. Matching, Level of Effort, Earmarking

1. Matching

Under MAP-21 and the FAST Act, FLAP required that the Federal share payable shall be in accordance with 23 U.S.C. 120. However, this changed under IIJA where the FLAP Federal share shall be "up to 100 percent" (23 U.S.C. 201(b)(7)(B)). That is, Federal funds shall be used for up to 100 percent of the total eligible cost of a project carried out under the FLAP. Therefore, depending on how the FLAP project was programmed by the PDC, it may either fall under

the original Federal share requirements or follow the revised Federal share under IIJA. The FLAP project agreement will show the programmed Federal share for the project.

If a project follows the IIJA Federal share requirements outlined in 23 U.S.C. 201(b)(7)(B) then the Federal share of the cost of a project carried out under the Federal lands access program shall be up to 100 percent.

If a project follows the Federal share requirements outline in 23 USC 120 then, the sliding scale provision may apply for States with higher percentages of Federal lands. In accordance with 23 U.S.C.120(c)(1), a list of specific activities, predominantly safety activities, are identified that can be funded at 100 percent Federal share and therefore do not require a non-Federal match. (Please note that 23 U.S.C.120(c)(1) discusses a 10 percent limitation on those safety projects that apply to funds apportioned in accordance with 23 U.S.C.104, but this limitation does not apply under the FLAP.) The PDCs may elect to leverage this funding flexibility on certain safety projects described in 23 U.S.C. 120(c)(1). Funds authorized for the Tribal Transportation Program (TTP) and the FLTP may be used to pay the non-Federal share of any project funded under title 23 or chapter 53 of title 49, United States Code, that provides access to or within Federal land or tribal land. The decision to use FLTP or TTP funds as a match resides with the FLMAs or Tribes. However, FLAP funds may NOT be used as such a match. Other Federal funds not authorized under titles 23 or 49 may also be used to pay the non-Federal share of any transportation project funded under title 23 or chapter 53 of title 49 that is within, adjacent to, or provides access to Federal land. "Soft-matches" or "in-kind matches" (e.g., donations of funds, materials, services, right-of-way acquisition, utility relocation) may be permitted from the project sponsor. A tapered match may be appropriate, where FHWA is doing the preliminary engineering and contract administration. The match requirements and commitments should be documented in the project agreement.

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

I. Procurement and Suspension and Debarment

1. In general, recipients and subrecipients must award construction contracts on the basis of the lowest responsive bid submitted by a bidder meeting the contracting agency’s criteria for responsibility. Competitive bidding is required unless the contracting agency is able to demonstrate to FHWA that some other method is more cost effective or that an emergency exists (23 USC 112(b)(1); 23 CFR sections 635.104 and 635.114). Contracting agencies also may procure

construction services through competitive proposals by using design-build contracts (23 USC 112(b)(3); 23 CFR Part 636) or construction manager/general contractor contracts (23 USC 112(b)(4)). Under IIJA, additional innovative acquisition methods were made available under 23 U.S.C. 201 (f).

2. For construction contracts, bidding documents must be advertised for at least three weeks, unless a shorter period is justified in the project files. Recipients may not negotiate with the potential contractors during the time between bid opening and contract award (such negotiations would be noted in the contract files). Awards must be made to the lowest responsible bidder. If the award was made to a bidder other than the low bidder, then the project files must contain justification (23 CFR sections 635.112(b), 635.113, and 635.114).

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements: The Wage Rate Requirements are applicable to construction work on projects using FLAP funds.

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section

DEPARTMENT OF TRANSPORTATION

ASSISTANCE LISTING 20.319 HIGH-SPEED RAIL CORRIDORS AND INTERCITY PASSENGER RAIL SERVICE – CAPITAL ASSISTANCE GRANTS

I. PROGRAM OBJECTIVES

The High-Speed Intercity Passenger Rail (HSIPR) program is intended to develop and expand high-speed and intercity passenger rail service in the United States. The objectives of this program are twofold. In the long term, the program aims to build an efficient, high-speed passenger rail network connecting major population centers that are 100 to 600 miles apart. In the near term, the program will begin to lay the foundation for this high-speed passenger rail network by investing in intercity passenger rail infrastructure, equipment, and intermodal connections.

II. PROGRAM PROCEDURES

The HSIPR program is funded both through annual appropriations and the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. No. 111-5, 123 Stat. 208), under the title "Capital Assistance for High-Speed Rail Corridors and Intercity Passenger Rail Service." Funding under the HSIPR program is advanced along four funding tracks in order to both aid in the near-term economic recovery efforts intended under ARRA and to establish the path to realize a fully developed national high-speed intercity passenger rail network. Track 1 – Projects will fund "ready-to-go" construction projects and the completion of project-level environmental and preliminary engineering documents necessary to prepare projects for construction. Track 2 – programs will fund sets of inter-related projects that constitute the entirety or a distinct phase (or geographic section) of a long-range service development plan. Track 3 – Planning is aimed at helping establish a "pipeline" of future high-speed rail/intercity passenger rail projects and service development programs by advancing planning activities for applicants at an earlier stage of the development process. Track 4 – Fiscal Year (FY) 2009/FY 2008 Appropriations Projects provide an alternative for projects that would otherwise fit under Track 1.

Depending on the specific funding track applied for, states (including the District of Columbia), groups of states, interstate compacts, public agencies established by one or more states and having responsibility for providing high-speed rail service or intercity passenger rail service, and Amtrak are eligible for HSIPR program grants. Applicants must provide documents that demonstrate the status of all agreements with relevant stakeholders involved in the particular construction investment, including interstate partners, host railroads, right-of-way owners, and the contract railroad operator providing service.

Source of Governing Requirements

The HSIPR program consolidates the following recently authorized and closely related programs:

1. High-Speed Rail Corridor Development program (49 USC 26106),

2. Intercity Passenger Rail Service Corridor Capital Assistance program (49 USC Chapter 244),

3. Congestion Grants program (49 USC 24105),

4. Fiscal Year 2009 Capital Assistance to States – Intercity Passenger Rail Service program (Pub. L. No. 111-8 (123 Stat. 934)), and

5. Fiscal Year 2008 Capital Assistance to States – Intercity Passenger Rail Service program (Pub. L. No. 110-161 (121 Stat. 2393)).

The funding appropriated under ARRA is for the programs authorized in 49 USC 26106, 49 USC Chapter 244, and 49 USC 24105, while the funding provided from the FY 2008 and FY 2009 appropriations acts is governed under provisions unique to those two pieces of legislation. The Notice of Funding Availability for High-Speed Intercity Passenger Rail ("HSIPR") program (Program Notice), June 23, 2009, *Federal Register*, 74 FR 29900, describes the interim program guidance applicable to the program.

Availability of Other Program Information

Additional information about the HSIPR program is available on the Federal Railroad Administration (FRA) website at http://www.fra.dot.gov/Page/P0140. Included on the FRA website are two documents mandated under ARRA: The High-Speed Rail Strategic Plan and interim program guidance. The strategic plan outlines the initial vision for the program; the interim guidance builds upon the strategic plan by detailing the application requirements and procedures for obtaining funding under the program.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	N	Y	Y	N	Y	Y	Y

A. Activities Allowed or Unallowed

1. *Activities Allowed*

ARRA (Tracks 1 and 2)

a. Activities funded under Track 1 must be eligible under the Intercity Passenger Rail Service Corridor Capital Assistance program (49 USC chapter 244) or the Congestion Grants program (49 USC 24105) and include:

(1) Acquiring, constructing, improving, or inspecting equipment, track and track structures, or a facility for use in or for the primary benefit of intercity passenger rail service, including high-speed rail; expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, inspecting, environmental studies, and acquiring rights-of-way); payments for the capital portions of rail trackage rights agreements; highway-rail grade crossing improvements related to intercity passenger rail service; mitigating environmental impacts; communication and signalization improvements; and relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

(2) Rehabilitating, remanufacturing, or overhauling rail rolling stock and facilities used primarily in intercity passenger rail service; and

(3) Projects to provide access to intercity passenger rail service rolling stock for nonmotorized transportation, including bicycles and recreational equipment, and to provide storage capacity in intercity passenger trains for such transportation, equipment, and other luggage, to ensure passenger safety (see Section 3.5.1 of the Program Notice (74 FR 29910)).

b. Activities funded under Track 2 must be eligible under the High-Speed Rail Corridor Development program (49 USC 26106) or the Intercity Passenger Rail Service Corridor Capital Assistance program (49 USC chapter 244), and include:

(1) Activities 1 through 3 listed above under Track 1; and

(2) Acquiring, constructing, improving, or inspecting equipment, track and track structures, or a facility for use in or for the primary benefit of high-speed rail service; expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, environmental studies, and acquiring rights-of-way); payments for the capital portions of rail trackage rights agreements; highway-rail grade crossing improvements related to high-speed rail service; mitigating environmental impacts; communication and signalization improvements; and relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing (see Section 3.5.2 of the Program Notice (74 FR 29910)).

2. *Activities Allowed*

FYs 2009 and 2008 appropriations acts (tracks 3 and 4).

a. Activities funded under Track 3 must be eligible under the provisions of the FY 2009 and FY 2008 Capital Assistance to States – Intercity Passenger Rail Service programs (Pub. L. No. 111-8 and Pub. L. No. 110-161, respectively), and include planning studies that—

(1) Lead to the completion of a service development plan to support future applications for projects under Track 2;

(2) Identify and compare the costs, benefits, and impacts of a range of transportation alternatives, including high-speed rail and/or intercity passenger rail, as a means of providing decision makers with the information necessary to implement appropriate transportation solutions;

(3) Support the preparation of environmental documents that are prerequisite to the fulfillment of "service" NEPA studies; and

(4) Consist of operational analyses and simulations, and projections of future service requirements, leading to systematic and rational priority lists of projects that could be eligible for funding under the Intercity Passenger Rail Service Corridor Capital Assistance program (49 USC chapter 244) or the Congestion Grants program

(49 USC 24105), and could ultimately contribute to service development plans (see Section 3.5.2 of the Program Notice (74 FR 29911)).

b. Activities funded under Track 4 must be eligible under the provisions of the FY 2009 and FY 2008 Capital Assistance to States – Intercity Passenger Rail Service programs (Pub. L. No.111-8 and Pub. L. No.110-161, respectively), and include

(1) Acquiring, constructing, or improving equipment, track and track structures, or a facility for use in or for the primary benefit of intercity passenger rail service, including high-speed rail service;

(2) Expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, environmental studies, and acquiring rights-of-way);

(3) Highway rail grade crossing improvements related to intercity passenger rail service;

(4) Mitigating environmental impacts;

(5) Communication and signalization improvements; and

(6) Rehabilitating, remanufacturing, or overhauling rail rolling stock and facilities used primarily in intercity passenger rail service (see Section 3.5.2 of the Program Notice (74 FR 29911)).

3. *Activities Unallowed*

In no case are federal funds awarded under the HSIPR program eligible to be used for rail operating expenses associated with the operation of intercity passenger rail service or for first-dollar liability costs for insurance related to the provision of intercity passenger rail service (49 USC 24404; June 23, 2009, *Federal Register* (74 FR 29916)).

H. Period of Performance

Funding for grants under ARRA must be expended by September 30, 2017 (ARRA, 123 Stat. 208; June 23, 2009, *Federal Register* (74 FR 29916)).

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements Two provisions related to the Wage Rate Requirements are included in ARRA. The first requires that funded projects comply with the requirements of 40 USC 3141–3144, 3146, and 3147. The second provides that 49 USC 24405 shall also apply to the funded projects. The first provision mandates compliance with the Wage Rate Requirements generally. The second provision also mandates compliance the Wage Rate Requirements through 49 USC 24405(c), which provides that the secretary of transportation shall require as a condition of making any grant that uses rights-of-way owned by a railroad that the applicant agree to comply with the standards of 49 USC 24312 with respect to the project in the same manner that Amtrak is required to comply with those standards for construction work financed under an agreement made under 49 USC 24308(a). The 49 USC 24312 provides that Amtrak shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed under an agreement made under 49 USC 24308 will be paid wages not less than those prevailing on similar construction in the locality, as determined by the secretary of labor under 40 USC 3141–3144, 3146, and 3147 and that wages in a collective bargaining agreement negotiated under the Railway Labor Act are deemed to comply with 40 USC 3141–3144, 3146, and 3147. The 49 USC 24308 authorizes Amtrak to enter into agreements with rail carriers or regional transportation authorities to use facilities of and have services provided by the carrier or authority under terms on which the parties agree.

FRA has concluded that the two Wage Rate Requirements can be reconciled in a manner that allows the HSIPR program to be implemented in a way that is both reasonable and consistent with current practices. For projects that use or propose to use rights-of-way owned by a railroad, the specific provisions of 49 USC 24405(c) apply and recipients are required to comply with the standards of 49 USC 24312 (prevailing wages) in the same manner that Amtrak is required to comply with those standards for construction projects

it might undertake. Wages specified in a collective bargaining agreement negotiated under the Railway Labor Act would be deemed to comply with Wage Rate Requirements for these projects. For projects that do not propose to use rights-of-way owned by a railroad, normal Wage Rate Requirements apply and there would be no specific exemption for wages arrived at through a collective bargaining agreement negotiated under the Railway Labor Act. Wage rates on these projects would have to meet the secretary of labor's prevailing wage standards as described above (see June 23, 2009, *Federal Register* (74 FR 29927)).

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

DEPARTMENT OF TRANSPORTATION

ASSISTANCE LISTING 20.326 FEDERAL-STATE PARTNERSHIP FOR INTERCITY PASSENGER RAIL

I. PROGRAM OBJECTIVES

Our nation's rail network is a critical component of the U.S. transportation system and economy. The Federal-State Partnership (FSP) Program provides a Federal funding opportunity to improve American passenger rail assets to expand or establish new intercity passenger rail service, including privately operated intercity passenger rail service if an eligible applicant is involved, reduce the state of good repair backlog, improve performance, and enhance rail safety. Eligible applications may involve railroad infrastructure, equipment, or facility assets such as track, ballast, switches and interlockings, bridges, communication and signal systems, power systems, highway-rail grade crossings, stations, passenger cars, locomotives, maintenance-of-way equipment, and yards, terminal areas, and maintenance shops.

II. PROGRAM PROCEDURES

The FSP Program will be implemented, as appropriate and consistent with law, in alignment with Sections 11103 and 11302 of the *Fixing America's Surface Transportation Act* (FAST Act) (2015), Public Law 114-94, 49 US Code 24911 and the *Infrastructure and Investment Jobs Act* (IIJA Act), Public Law 117-58, which are to invest efficiently and equitably, promote the competitiveness of the U.S. economy, improve job opportunities by focusing on high labor standards, strengthen infrastructure resilience to all hazards including climate change, and to effectively coordinate with State, local, Tribal, and territorial government partners.

Federal Railroad Administration (FRA) will make awards for projects through grant agreements and/or cooperative agreements. Grant agreements are used when FRA does not expect to have substantial Federal involvement in carrying out the funded activity. Cooperative agreements allow for substantial Federal involvement in carrying out the agreed upon investment, including technical assistance, review of interim work products, and increased program oversight. The term ‘‘grant’’ is used throughout this document and is intended to reference funding awarded through a grant agreement or a cooperative agreement. Funds will be made available to grantees on a reimbursable basis. Applicants must certify that their expenditures are allowable, allocable, reasonable, and necessary to the approved project before seeking reimbursement from FRA. Additionally, the grantee is expected to expend matching funds at the required percentage concurrent with Federal funds throughout the life of the project. See an example of standard terms and conditions for FRA grant awards at: *https://www.fra.dot.gov/eLib/Details/L19057*. The standard terms and conditions are subject to revision.

Source of Governing Requirements

Sections 11103 and 11302 of the Fixing America's Surface Transportation Act (FAST Act) (2015), Public Law 114-94, 49 US Code 24911

Infrastructure and Investment Jobs Act (IIJA), Public Law 117-58

The 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards applies to this program, as supplemented by the terms and conditions of the annual grant agreements.

Availability of Other Program Information

Additional information concerning this Program is available at *https://railroads.dot.gov/federal-state-partnership-intercity-passenger*

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	Y	Y	N	N	N	N

A. Activities Allowed or Unallowed

1. Activities Allowed Under IIJA

The following capital projects, including acquisition of real property interests, are eligible for funding under the Federal-State Partnership for Intercity Passenger Rail Program as authorized under Sec. 22307 of the Infrastructure Investment and Jobs Act (IIJA) Pub. L. 117-58 (Nov. 15, 2021) and codified at 49 USC 24911(c):

a. A project to replace, rehabilitate, or repair infrastructure, equipment, or a facility used for providing intercity passenger rail service to bring assets into a state of good repair.

b. A project to improve intercity passenger rail service performance, including reduce trip times, increased train frequencies, higher operating speeds, improved reliability, expanded capacity, reduced congestion, electrification, and other improvements, as determined by the Secretary of Transportation.

c. A project to expand or establish new intercity passenger rail service.

d. A group of related projects described in paragraphs (a) through (c).

e. The planning, environmental review, and design of an eligible project described in paragraphs (a) through (d).

2. Activities Allowed Under FAST Act

The following rail projects within the United States to replace or rehabilitate qualified railroad assets and improve intercity passenger rail performance are eligible for funding under the Federal-State Partnership for State of Good Repair Program as authorized under Sec. 11302 of the Fixing America's Surface Transportation (FAST Act) Act, Pub. L. No. 114-94 (Dec. 4, 2015) and codified at 49 USC 24911(c):

a. Capital projects to replace existing assets in-kind;

b. Capital projects to replace existing assets with assets that increase capacity or provide a higher level of service;

c. Capital projects to ensure that service can be maintained while existing assets are brought to a State of Good Repair; and

d. Capital projects to bring existing assets into a State of Good Repair.

G. Matching, Level of Effort, Earmarking

1. Matching

Under 49 USC 24911(f) the Federal share of total costs for FSP Program projects shall not exceed 80 percent. The estimated total cost of a project must be based on the best available information, including engineering studies, studies of economic feasibility, and environmental analyses. Additionally, in preparing estimates of total project costs, applicants may use FRA's cost estimate guidance, ''Capital Cost Estimating: Guidance for Project Sponsors,'' which is available at: *https://www.fra.dot.gov/Page/P0926*.

The minimum 20 percent non-Federal share may be comprised of public sector funding (*e.g.,* state, or local) or private sector funding. FRA will not consider any Federal financial assistance or any non-Federal funds already expended (or otherwise encumbered) prior to the award period of performance start date toward the matching requirement, unless compliant with 2 CFR part 200 (i.e., approved pre-agreement costs). In-kind contributions, including the donation of services, materials, and equipment, may be credited as a project cost, in a uniform manner consistent with 2 CFR 200.306. If Amtrak is an applicant, Amtrak may use its ticket and other non-Federal revenues generated from its operations and other sources to satisfy the non-Federal share requirements. Applicants must identify the source(s) of their matching and must clearly and distinctly reflect these funds as part of the total project cost.

Specific to awards made for projects located on the Northeast Corridor, and notwithstanding the requirements of 49 USC 24911(f), Amtrak may use amounts made available under the heading "Northeast Corridor Grants to the National Railroad Passenger Corporation" in Title VIII of Division J of the IIJA as non-Federal share for Northeast Corridor projects selected for award under 49 USC 24911 after the date of enactment of the IIJA (Nov. 15, 2021).

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

H. Period of Performance

The Period of Performance for FSP awards is listed in Section 4 on the Agreement cover sheet of selected projects. In this Agreement, "Period of Performance" is used as defined at 2 CFR 200.1

DEPARTMENT OF TRANSPORTATION

ASSISTANCE LISTING 20.327 RAILROAD CROSSING ELIMINATION

I. PROGRAM OBJECTIVES

The purpose of the Railroad Crossing Elimination (RCE) Program is to fund highway-rail or pathway-rail grade crossing improvement projects that focus on improving the safety and mobility of people and goods. The RCE Program provides a federal funding opportunity to improve American rail infrastructure, to enhance rail safety, improve the health and safety of communities, eliminate highway-rail and pathway-rail grade crossings that are frequently blocked by trains, and reduce the impacts that freight movement and railroad operations may have on underserved communities. Discretionary grant awards, funded through the RCE Program, will support projects that improve safety, economic strength and global competitiveness, equity, and climate and sustainability, consistent with the U.S. Department of Transportation's (DOT) strategic goals.

II. PROGRAM PROCEDURES

The RCE Program will be implemented, as appropriate and consistent with law, in alignment with the priorities in Executive Order 14052, *Implementation of the Infrastructure Investments and Jobs Act* (86 FR 64355), which are to invest efficiently and equitably, promote the competitiveness of the U.S. economy, improve job opportunities by focusing on high labor standards, strengthen infrastructure resilience to all hazards including climate change, and to effectively coordinate with State, local, Tribal, and territorial government partners.

Federal Railroad Administration (FRA) will make awards for projects through grant agreements and/or cooperative agreements. Grant agreements are used when FRA does not expect to have substantial Federal involvement in carrying out the funded activity. Cooperative agreements allow for substantial Federal involvement in carrying out the agreed upon investment, including technical assistance, review of interim work products, and increased program oversight. The term ''grant'' is used throughout this document and is intended to reference funding awarded through a grant agreement or a cooperative agreement. Funds will be made available to grantees on a reimbursable basis. Applicants must certify that their expenditures are allowable, allocable, reasonable, and necessary to the approved project before seeking reimbursement from FRA. Additionally, the grantee is expected to expend matching funds at the required percentage concurrent with Federal funds throughout the life of the project. See an example of standard terms and conditions for FRA grant awards at: *https://www.fra.dot.gov/eLib/Details/L19057*. The standard terms and conditions are subject to revision.

Source of Governing Requirements

Section 22305 of the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117–58, November 15, 2021), codified at 49 U.S.C. 22909, authorizes the RCE Program. The RCE Program is funded through the advanced appropriation in Division J of IIJA.

The 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards applies to this program, as supplemented by the terms and conditions of the annual grant agreements.

Availability of Other Program Information

Additional information concerning this Program is available at Railroad Crossing Elimination Grant Program | FRA (dot.gov)

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	Y	N	Y	N	N	N	N

A. Activities Allowed or Unallowed

The following Highway-Rail or Pathway-Rail Grade Crossing Improvement Projects that focus on improving the safety and mobility of people and goods are eligible for funding under 49 U.S.C. 22909(d).

1. Grade separation or closure, including through the use of a bridge, embankment, tunnel, or combination thereof;

2. Track relocation;

3. The improvement or installation of protective devices, signals, signs, or other measures the improve safety, provided that such activities are related to a separation or relocation project described in paragraph (1) or (2);

4. Other means to improve the safety and mobility of people and goods at highway-rail grade crossings (including technological solutions);

5. A group of related projects described in paragraphs (1) through (4) that would collectively improve the mobility of people and goods; or

6. The planning, environmental review, and design of an eligible project described in paragraphs (1) through (5).

G. Matching, Level of Effort, Earmarking

1. Matching

The Federal share of total costs for RCE Program projects shall not exceed 80 percent. The estimated total cost of a project must be based on the best available information, including engineering studies, studies of economic feasibility, and environmental analyses. Additionally, in preparing estimates of total project costs, applicants may use FRA's cost estimate guidance, ''Capital Cost Estimating: Guidance for Project Sponsors,'' which is available at: *https://www.fra.dot.gov/Page/P0926*.

The minimum 20 percent non-Federal share may be comprised of public sector funding (*e.g.*, state, or local) or private sector funding. FRA will not consider any Federal financial assistance or any non-Federal funds already expended (or otherwise encumbered) prior to the award period of performance start date toward the matching requirement, unless compliant with 2 CFR part 200 (i.e., approved pre-agreement costs). In-kind contributions, including the donation of services, materials, and equipment, may be credited as a project cost, in a uniform manner consistent with 2 CFR 200.306. In addition, applicants may count costs incurred for Preliminary Engineering associated with Highway-Rail Grade Crossing and Pathway-Rail Grade Crossing Improvement Projects as part of the total project costs. Such costs are eligible as non-Federal share or for reimbursement, even if they were incurred before project selection for award, consistent with 49 U.S.C. 22909(g). Such costs must have been incurred no earlier than November 15, 2021 and must be otherwise compliant with 2 CFR part 200 and the requirements of this RCE Program.

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

DEPARTMENT OF TRANSPORTATION

ASSISTANCE LISTING 20.500 FEDERAL TRANSIT – CAPITAL INVESTMENT GRANTS

ASSISTANCE LISTING 20.507 FEDERAL TRANSIT – FORMULA GRANTS

ASSISTANCE LISTING 20.525 STATE OF GOOD REPAIR GRANTS PROGRAM

ASSISTANCE LISTING 20.526 BUSES AND BUS FACILITIES FORMULA, COMPETITIVE, AND LOW OR NO EMISSIONS PROGRAMS

I. PROGRAM OBJECTIVES

Fixed Guideway Capital Investment Grants (Section 5309)

The objective of the Fixed Guideway Capital Investment Grants program (5309 program) is to provide funds for construction of new or extended fixed guideway systems, corridor-based bus rapid transit systems, and core capacity improvement projects that increase capacity by at least 10 percent in existing fixed guideway corridors that are at capacity today or will be in ten years. In addition, the Pilot Program for Transit-Oriented Development (TOD) Planning provides funding for corridor-level comprehensive planning and site-specific planning activities conducted in conjunction with new fixed guideway or core capacity improvement projects. The Expedited Project Delivery (EPD) Pilot Program aims to expedite funding of new fixed guideway capital projects, small starts projects, or core capacity improvement projects and to encourage innovative partnerships and funding mechanisms.

Urbanized Area Formula Program (Section 5307)

The objective of the Urbanized Area Formula Program (5307 program) is to assist in financing the planning, acquisition, construction, preventive maintenance, and improvement of facilities and equipment in public transportation services. Operating expenses are also eligible under the 5307 program in urbanized areas with populations of less than 200,000 and, under some limited exceptions, to some urbanized areas with population of 200,000 and above.

State of Good Repair Grants Program (Section 5337)

The objective of the State of Good Repair Grants program (5337 program) is to provide financial assistance for replacement, maintenance, and rehabilitation projects for existing fixed guideway (including rail, bus rapid transit, and passenger ferries) and high intensity motorbus (buses operating in high-occupancy vehicle (HOV) lanes) systems to maintain public transportation systems in a state of good repair so that they operate safely, efficiently, reliably, and sustainably and offer balanced transportation choices that help to improve mobility, reduce congestion, and encourage economic development. The 5337(f) Competitive Grants for Rail Vehicle Replacement is a set-aside discretionary grant program to assist in funding the replacement of rail rolling stock.

Buses & Bus Facilities Program (Section 5339)

The Buses and Bus Facilities Program, contains three subprograms, the Buses and Bus Facilities Formula Program (5339(a)), the Buses and Bus Facilities Competitive Program (5339(b)), and the Low or No Emissions Grant Program (5339(c)). The objective of the Buses and Bus Facilities Formula program (5339 (a)) is to provide financial assistance to states and transit agencies through a statutory formula to replace, rehabilitate and purchase buses and related equipment and to construct bus-related facilities. The Buses and Bus Facilities Competitive Grant Program (5339(b)) provides funding to states and transit agencies through a competitive process to replace, rehabilitate and purchase buses and related equipment and to construct bus-related facilities. The Low or No Emissions Grant Program (5339(c)) provides funding to states and transit agencies through a competitive process for the purchase or lease of zero-emission and low-emission transit buses as well as acquisition, construction, and leasing of required supporting facilities.

II. PROGRAM PROCEDURES

Federal transit law under Chapter 53 of Title 49, US Code, authorizes the Urbanized Area Formula program (49 USC 5307), the Capital Investment Grants program (49 USC 5309), the Grants for Buses and Bus Facilities program (49 USC 5339, including the Grants for Buses and Bus Facilities formula program (5339(a)), the competitive buses and bus facilities program (5339(b)), and the Low or No Emission Grants program (5339(c))), the State of Good Repair Grants program (49 USC 5337) and the Competitive Grants for Rail Vehicle Replacement Program (49 USC 5337(f); Bipartisan Infrastructure Law Pub. L. No. 117-58 §30016). The pilot program for TOD Planning is authorized by Section 20005(b) of the Moving Ahead for Progress in the 21st Century Act (MAP–21; Pub. L. No. 112–141, July 6, 2012). The EPD Pilot Program is authorized by Section 3005(b) of the Fixing America's Surface Transportation Act (FAST Act; Pub. L. No. 114-94, December 4, 2015).
Grants are awarded to public agencies on approval of applications for specific programs or projects submitted to the Federal Transit Administration (FTA). FTA monitors the progress of those projects through on-site inspections, telephone contacts, correspondence, quarterly or annual progress and financial status reports, and, where applicable, Triennial Reviews.

FTA is required to perform reviews and evaluations of 49 USC 5307 grant activities at least every three years. The most recent FTA Triennial Review Workshop Workbook provides guidance to FTA staff and recipients on the conduct of triennial reviews and is available at FY24 Comprehensive Review Contractor's Manual | FTA (dot.gov) . These reviews are conducted with specific reference to compliance with statutory and administrative requirements and consistency of program activities with (1) the approved program of projects and (2) the planning process required under 49 USC 5303. Copies of these triennial reviews are available from the regional offices. Regional office addresses and telephone numbers are available on the FTA website listed below.

Source of Governing Requirements

The programs in this cluster are authorized by 49 USC 5307, 5309, 5337, and 5339, as well as Section 20005(b) of MAP-21 and Section 3005(b) of FAST and the Bipartisan Infrastructure Law Section 30016 (Public Law 117-58 also known as the Infrastructure Investment and Jobs Act) authorizes the Competitive Rail Vehicle Replacement Grant Program (49 U.S.C. 5337(f)). Program regulations are at 49 CFR parts 601 through 665.

Availability of Other Program Information

Additional information is available on the FTA website at Grant Programs | FTA (dot.gov)

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	N	Y	Y	N	N	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. Generally, under all programs, unless otherwise specified below, capital activities, as defined in 49 USC 5302(3), are eligible activities, including

preventive maintenance and certain expenses related to crime prevention and security (49 USC 5307(a), 5309(b), 5337(b), and 5339(a)).

b. Under the 5307 program, operating assistance is eligible for all urbanized areas under 200,000 in population, and certain urbanized areas with a population greater than 200,000 in population under limited exceptions are eligible, as well as planning expenses are eligible for all urbanized areas (49 USC 5307(a)(2)). Additional flexibility for reimbursing operating expenses for all 5307 recipients has been extended in response to the COVID-19 public health emergency. FTA allowed all recipients of 5307 formula funds to use apportioned funds for operating expenses related to the emergency, beginning January 20, 2020, regardless of the size of the transit system or urbanized area. Additional detail and Frequently Asked Questions available at:

- FTA Formula Funding Under Emergency Relief Program https://www.transit.dot.gov/frequently-asked-questions-fta-grantees-regarding-coronavirus-disease-2019-covid-19

- CARES, CRRSAA & Emergency Relief Funding Requirements https://www.transit.dot.gov/frequently-asked-questions-fta-grantees-regarding-coronavirus-disease-2019-covid-19#CARESER

c. Under the 5307 program, human resources and workforce development activities, including training, and training provided at the National Transit Institute or through a state-contracted training provider (49 USC 5314 (b) and (c)).

d. Under the 5337 program, the only capital projects authorized are projects that develop and implement a transit asset management plan and projects that maintain, rehabilitate, and replace transit assets for high intensity fixed guideway and motorbus systems in a state of good repair (49 USC 5337(b)).

e. Under the 5339 program, the only capital projects authorized are bus, bus facilities, and bus-related equipment projects (49 USC 5339(a)).

f. Under the 5339 program, workforce development (49 USC 5314(b)).

g. Under the 5309 program, for projects awarded before October 1, 2012, the only capital projects authorized are those for

(1) bus and bus facilities;

(2) new fixed guideways, including Small Starts;

(3) fixed guideway modernization; or

(4) corridor improvements (49 USC 5309(b)(1) through (b)(4)).

h. Under the 5309 program, for projects awarded on or after October 1, 2012, the only capital projects authorized are those for

(1) new or extended fixed guideway capital projects;

(2) corridor-based bus rapid transit projects; or

(3) core capacity improvement projects (49 USC 5309(b)).

i. Under the Pilot Program for TOD Planning, only corridor-level comprehensive planning and site-specific planning associated with a new fixed guideway or core capacity improvement transit capital project as defined in federal public transportation law (49 USC 5309(a)) is allowable (Section 20005(b) of MAP-21).

j. Under the EPD Pilot Program, only new or extended fixed guideway capital projects, small start projects, or core capacity improvement projects are eligible for funding that use a public-private partnership and will be operated and maintained by employees of an existing public transportation provider (Section 3005(b) of the FAST Act).

2. *Activities Unallowed*

a. Under the 5309 and 5337 programs, the following:

(1) Mobility management;

(2) Operating expenses; and

(3) Alternatives analysis, including planning (49 USC 5309(b) and 5337).

b. Under the 5307 program, operating assistance in areas over 200,000, unless under certain limited exceptions (49 USC 5307 (a)(2)).

c. Under the 5339 program, preventive maintenance, and rail-related activities (49 USC 5339).

H. Period of Performance

OMB Uniform Guidance section 200.343(b) requires nonfederal entities to liquidate all obligations incurred under the federal award not later than 90 calendar days after the end date of the period of performance as specified in the terms and conditions of the federal award unless the federal awarding agency or pass-through entity authorizes an extension.

FTA Circular 5010.1E describes Period of Performance as “the time during which the recipient or subrecipient may incur new obligations to carry out the scope of work

authorized under the Grant or Cooperative Agreement. FTA, or the pass-through entity, must include the start and end dates of the period of performance in the Grant or Cooperative Agreement, regardless of whether pre-award authority has been exercised. The start date is the Federal Award Date of an Award (5010.1E(I)(5)(a)(111)).”

Typically, for traditional programs an award for preventative maintenance or operating activities is not meant to be an open, ongoing award. These awards should contain no more than three apportionment fiscal years of funding. The award may be amended multiple times to account for the three fiscal years of funding allocated to the recipient. Any request may only be for the immediately preceding year and/or current year activities.

For CARES Act, CRRSAA, and formula (5307 and 5311) programs under Emergency Relief, all expenses must be incurred on or after January 20, 2020. Grants for operating assistance and preventive maintenance using CARES Act or CRRSAA funds may cover a period of time that corresponds to the expected spend-down rate of the funds, and the agency may establish the end of the period of performance of the grant accordingly.

I. Procurement and Suspension and Debarment

Recipients must use qualifications-based selection procedures (Brooks Act or an equivalent qualifications-based requirement of a state) when acting as contracting agencies to procure engineering and design-related services for construction of a transit project (49 USC 5325(b)(1)).

DEPARTMENT OF TRANSPORTATION

ASSISTANCE LISTING 20.509 FORMULA GRANTS FOR RURAL AREAS AND TRIBAL TRANSIT PROGRAM

I. PROGRAM OBJECTIVES

The objectives of the Formula Grants for Rural Areas (Section 5311) program are to initiate, improve, or continue public transportation service in rural areas by providing financial assistance for operating, planning, administrative expenses, and the acquisition, construction, and improvement of facilities and equipment. In addition, Section 5311(f) specifically supports the connection between rural areas and the larger regional or national system of intercity bus service. The Rural Transit Assistance Program (RTAP), Section 5311(b)(3), provides additional funding for training, technical assistance, research, and related support services to support rural transit service.

II. PROGRAM PROCEDURES

A. State Agencies

The Federal Transit Administration (FTA) annually publishes formula apportionments to the states in a *Federal Register* notice published within 10 days after the Department of Transportation (DOT) Appropriations Act is signed into law. The governor of each state designates a state agency to administer the program. The state is responsible for fair distribution of the funds in the state, including Indian reservations. The state may also provide transit service directly or through contracts with private operators. The state describes its procedures for administering the program in a state management plan. The state applies to FTA for approval of a program of projects, usually annually, and reports annually to FTA on financial status and revisions to the program of projects. The state agency may be the recipient on behalf of Indian tribes that are subrecipients, but federally recognized tribes may also elect to apply to FTA as a direct recipient. FTA monitors compliance with federal requirements through administrative "State Management Reviews," generally every three years.

B. Appalachian Development Public Transportation Assistance Program

The Appalachian Development Public Transportation Assistance Program is a formula program under the Section 5311 program that provides additional funding to support public transportation in the Appalachian region. There are 13 eligible states that receive an allocation under this provision. Recipients may use these funds for any purpose that is eligible under Section 5311.

C. Tribal Transit Program

The Tribal Transit Program (TTP) under the 5311 program includes both formula and competitive components. Federally recognized Tribes are eligible direct recipients and apply directly to FTA. Under the competitive program, funds are made available annually on a competitive basis through a Notice of Funding Opportunity (NOFO). Recipients of TTP funds may use these funds for any purpose that is eligible under Section 5311.

D. Subrecipients

Except for the TTP, the state selects subrecipients and monitors their compliance with federal requirements. FTA does not directly monitor the subrecipients but checks the state's procedures for monitoring subrecipients during the State Management Review. The state may impose program criteria in addition to those imposed by the FTA and may require additional reports from subrecipients. These state requirements are included in the State Management Plan.

Source of Governing Requirements

This program is authorized by 49 USC 5311. Program regulations are in 49 CFR parts 601 through 665. Note that certain exceptions or dollar thresholds in these rules may exclude many rural transit activities. In referring to the program, FTA uses the term "rural" to include all areas under 50,000 population not designated as urban areas by the US Bureau of the Census.

Availability of Other Program Information

Information about the program may be found on the FTA website at http://www.fta.dot.gov/. Program Guidance and Application Instructions are contained in FTA Circulars, which may be found on the website.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/ Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	Y	N	N	Y	N	N	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. Local transportation service (transit service available to the public) in a rural area (49 USC 5311(d)).

   b. Support of intercity bus transportation (49 USC 5311(f)).

   c. Coordination of public transportation assisted under this section with transportation service assisted by other United States government sources is permitted and encouraged (49 USC 5311(b)).

   d. Planning, operating, and capital projects (49 USC 4911(b)(1)).

   e. Job access and reverse commute projects, and the acquisition of public transportation services, including service agreements with private providers of public transportation (49 USC 5311(b)(1)).

   f. RTAP funds may be used to provide training, technical assistance, research and related support services for providers of rural public transit and related services (49 USC 5311(b)(3)).

DEPARTMENT OF TRANSPORTATION

ASSISTANCE LISTING 20.513 ENHANCED MOBILITY OF SENIORS AND INDVIDUALS WITH DISABILITIES

ASSISTANCE LISTING 20.516 JOB ACCESS AND REVERSE COMMUTE PROGRAM

ASSISTANCE LISTING 20.521 NEW FREEDOM PROGRAM

I. PROGRAM OBJECTIVES

Enhanced Mobility of Seniors and Individuals with Disabilities (5310 Program)

The objective of the 5310 formula and discretionary program is to enhance mobility for seniors and persons with disabilities by providing funds for programs that serve the special needs of transit-dependent populations beyond traditional public transportation services and Americans with Disabilities Act (ADA) complementary paratransit services.

Job Access and Reverse Commute (JARC) Program

The objectives of the JARC program are to improve access to transportation services to employment and employment-related activities for welfare recipients and eligible low-income individuals and to transport residents of urbanized areas and nonurbanized areas to suburban employment opportunities. Under this program, FTA provides financial assistance for transportation services planned, designed, and carried out to meet the transportation needs of welfare recipients and eligible low-income individuals, and of reverse commuters regardless of income.

New Freedom Program

The New Freedom program aims to provide additional tools to overcome barriers facing Americans with disabilities seeking integration into the work force and full participation in society. Lack of adequate transportation is a primary barrier to work for individuals with disabilities. The New Freedom program seeks to reduce barriers to transportation services and expand the transportation mobility options available to people with disabilities beyond the requirements of the ADA.

II. PROGRAM PROCEDURES

The Moving Ahead for Progress in the 21st Century Act (MAP-21) (Pub. L. No. 112-141) combined the Capital Assistance program for Elderly Persons and Persons with Disabilities (Assistance Listing 20.513) and the New Freedom program (Assistance Listing 20.521) into the 5310 program.

Effective with the passage of MAP-21 (October 1, 2012), the JARC, and New Freedom programs were repealed and no additional grants were awarded. Section 3006(b) of the Fixing

America's Surface Transportation (FAST) Act (Pub. L. No. 114-94) (49 USC 5310 note) created a discretionary component to the previously formula-only 5310 program. This pilot program for innovative coordinated access and mobility provides funding for efforts that improve the coordination of transportation services and nonemergency medical transportation for the transportation disadvantaged. Funding is intended for organizations that focus on coordinated transportation solutions.

FTA annually publishes formula apportionments in a *Federal Register* notice published within ten days after the Department of Transportation (DOT) Appropriations Act is signed into law. In the case of the 5310 program, the governor of each state designates a state agency to administer the program. In addition, the governor of each state is required to designate a state agency to administer the program for urbanized areas with a population between 50,000 and 199,999 and nonurbanized areas. The governor must also designate a designated recipient to administer the program for urbanized areas with a population of 200,000 or more. In the case of the JARC and New Freedom programs, the governor (1) designated a state agency to administer the program in nonurbanized areas and in urbanized areas with populations between 50,000 and 199,999; and (2) in consultation with responsible local officials and public transportation providers, designated a recipient to administer the program for the large, urbanized area(s). The state agencies and designated recipients (large, urbanized areas) are responsible for fair distribution of the funds. State agencies or their designated recipients must describe their procedures for administering the program in a state management plan (SMP), or, for those JARC and New Freedom designated recipients serving large, urbanized areas, a program management plan (PMP).

State agencies and designated recipients apply to FTA for approval of a program of projects, usually annually, and report annually to FTA on financial status and revisions to their program of projects. Federal transit law requires that projects selected for funding under the 5310, JARC, and New Freedom programs be included in a locally developed, coordinated public transit-human services transportation plan, and that the plan be developed through a process that includes seniors and individuals with disabilities, as well as representatives of public, private, and nonprofit transportation and human services providers and members of the general public.

FTA monitors compliance with federal requirements through administrative "State Management Reviews," in which a state agency is generally reviewed every three years. Designated recipients who also receive FTA financial assistance under the Urbanized Area Formula program (Assistance Listing 20.507) are also subject to an FTA "Triennial Review."

Subrecipients

State agencies and designated recipients select subrecipients and monitor their compliance with federal requirements. FTA does not directly monitor the subrecipients but checks the state agency and designated recipient's procedures for monitoring during the State Management Review and Triennial Review. The state agency and designated recipient may impose program criteria in addition to those imposed by FTA and may require additional reports from subrecipients. These state and designated recipient's requirements are included in the SMP or PMP.

Source of Governing Requirements

The 5310 formula program is authorized by 49 USC 5310, the pilot program for innovative coordinated access and mobility is authorized by Section 3006(b) of the FAST Act (49 USC 5310 note), the JARC program was authorized by 49 USC 5316, and the New Freedom program was authorized by 49 USC 5317. Program regulations are in 49 CFR parts 601 through 665.

Availability of Other Program Information

Additional information about the programs may be found on the FTA website at https://www.transit.dot.gov/funding/grants/grant-programs. Program guidance for the JARC, New Freedom, and 5310 programs are contained in FTA Circulars 9050.1, 9045.1, and 9070.1, respectively. Current FTA circulars can be found at https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/final-circulars.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	Y	N	N	Y	N	N	Y	N

A. Activities Allowed or Unallowed

1. Under the 5310 program:

   a. For awards prior to October 1, 2012, funds are available only for capital expenses (and associated administrative, planning, and technical assistance) to support the provision of transportation services to meet the special needs of elderly individuals and individuals with disabilities. Operating expenses are not allowed.

   b. For awards on or after October 1, 2012, funds are available for operating and capital expenses for transportation services that address the needs of seniors and individuals with disabilities (49 USC 5310(b)(1)).

   c. For awards on or after December 27, 2020, under the Coronavirus Response and Relief Supplemental Appropriations Act 2021 (CRRSAA) or FY 2021 and prior appropriations, funds must be used for operating expenses unless the recipient has certified that it has not furloughed any employees. Funds can be used for either operating or capital expenses if the recipient has certified that it has not furloughed any employees.

2. Under the JARC program, funds may be used for capital, planning, and operating expenses (and associated administrative, planning, and technical assistance) that support access to jobs and reverse commute projects (49 USC 5316(b)).

3. "Access to jobs" projects are defined as projects relating to the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment, including:

   a. Transportation projects to finance planning, capital, and operating costs of providing access to jobs under Chapter 53 of 49 USC;

   b. Promoting public transportation by low-income workers, including the use of public transportation by workers with nontraditional work schedules;

   c. Promoting the use of transit vouchers for welfare recipients and eligible low-income individuals; and

   d. Promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986, as amended (49 USC 5316(a)(1)).

4. "Reverse commute" projects are defined as public transportation projects designed to transport residents of urbanized areas and other-than-urbanized areas to suburban employment opportunities, including any projects to:

a. Subsidize the costs associated with adding reverse commute bus, train, carpool, van routes, or service from urbanized areas and other-than-urbanized areas to suburban workplaces;

b. Subsidize the purchase or lease by a nonprofit organization or public agency of a van or bus dedicated to shuttling employees from their residences to a suburban workplace; or

c. Otherwise facilitate the provision of public transportation services to suburban employment opportunities (49 USC 5316(a)(4)).

5. Under the New Freedom program, funds are available for capital and operating expenses (and associated administrative, planning, and technical assistance) that support new public transportation services beyond those required by the ADA and new public transportation alternatives beyond those required by the ADA designed to assist individuals with disabilities with accessing transportation services, including transportation to and from jobs and employment support services (49 USC 5317(b)(1)).

DEPARTMENT OF TRANSPORTATION

ASSISTANCE LISTING 20.527 PUBLIC TRANSPORTATION EMERGENCY RELIEF PROGRAM

I. PROGRAM OBJECTIVES

The objective of the Public Transportation Emergency Relief Program (49 USC 5324) is to assist public transit operators affected by a declared emergency or a major disaster in preparing for, responding to, recovering from, and reducing vulnerabilities to emergencies and major disasters.

II. PROGRAM PROCEDURES

The Public Transportation Emergency Relief Program provides operating assistance and capital funding to aid recipients and subrecipients in restoring public transportation service, and in repairing and reconstructing public transportation assets to a state of good repair as expeditiously as possible following an emergency declared by a governor or major disaster declared by the president under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Grants are awarded to public agencies on approval of applications for specific projects submitted to the Federal Transit Administration (FTA), US Department of Transportation. FTA monitors the progress of those projects through on-site inspections, telephone contacts, correspondence, and quarterly progress, and financial status reports.

FTA determines the terms and conditions applicable to recipients of Emergency Relief funds and publishes the applicable requirements in the *Federal Register* at the time of the allocation of funds. In general, recipients of Emergency Relief are required to comply with the program requirements of 49 USC 5307, including an evaluation of grant activities at least every three years by FTA. The most recent FTA Triennial Review Workshop Workbook provides guidance to FTA staff and recipients on the conduct of triennial reviews and is available at https://www.transit.dot.gov/funding/grantee-resources/triennial-reviews/triennial-reviews. These reviews are conducted with specific reference to compliance with statutory and administrative requirements and consistency of program activities with (1) the approved program of projects and (2) the planning process required under 49 USC 5303. Copies of these triennial reviews are available from the regional offices. Regional office addresses and telephone numbers are available on the FTA website listed below.

Grants for emergency operations, emergency protective measures, emergency repairs, permanent repairs and resiliency projects are made under 49 USC 5324. Grants to address an emergency also can be made using 49 USC 5307 or 49 USC 5311 funds.

Source of Governing Requirements

The Public Transportation Emergency Relief Program is authorized by 49 USC 5324. Program regulations are at 49 CFR Part 602. Applicable program requirements associated with the federal

transit programs are at 49 CFR parts 601 through 665.

Availability of Other Program Information

Additional information is available on the FTA website at http://www.fta.dot.gov/emergencyrelief.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	Y	N	N	Y	N	N	Y	N

A. Activities Allowed or Unallowed

FY20/FY21 Special Circumstance: COVID-19 Response and Recovery

The following additional eligibilities were extended to unobligated funding in the Urbanized Area Formula (49 USC 5307) and Formula Grants for Rural Areas (49 USC 5311) programs for emergency expenses as authorized by 49 USC 5324.

a. Administrative leave for transit agency employees who were idled due to the coronavirus pandemic.

b. Operating costs for meal delivery and similar non-transit uses of federally assisted vehicles.

c. Eligible expenses are reimbursable at up to 100 percent federal share, at the option of the recipient, for all recipients of eligible FTA formula funds, regardless of Urbanized Area or fleet size, if included in a grant obligated before the following dates:
   1. January 21, 2022, for operating expenses;
   2. May 11, 2023, for capital expenses.

Additional detail and Frequently Asked Questions available at:

1. FTA Formula Funding Under Emergency Relief Program
   https://www.transit.dot.gov/frequently-asked-questions-fta-grantees-regarding-coronavirus-disease-2019-covid-19
2. CARES, CRRSAA & ER Funding Requirements
   Frequently Asked Questions from FTA Grantees Regarding Coronavirus Disease 2019 (COVID-19) | FTA (dot.gov)

1. *Activities Allowed Under 5324*

   a. Capital activities, as defined in 49 USC 5302(3), to protect, repair, reconstruct, or replace equipment and facilities of a public transportation system operating in the United States or on an Indian reservation that the secretary of transportation determines are in danger of suffering serious damage, or has suffered serious damage, as a result of an emergency (49 USC 5324(b)).

   b. Eligible operating costs of public transportation equipment and facilities in an area directly affected by an emergency, relating to:

      (1) Evacuation services;

      (2) Rescue operations;

      (3) Temporary public transportation service; or

      (4) Reestablishing, expanding, or relocating public transportation route service before, during, or after an emergency (49 USC 5324(a)(1)).

2. *Activities Not Allowed*

   a. Heavy maintenance, defined as work that would usually be done by a public transit agency to repair damage normally expected from seasonal or occasional events; or those that can reasonably be accommodated by a transit system's routine maintenance, emergency, or contingency program, and does not rise to the level of serious damage.

b. Project costs for which the recipient has received funding from another source, including but not limited to insurance proceeds and FTA and other federal grants.

c. Except for FTA-approved resilience projects, projects that change the function of the original infrastructure.

d. Reimbursement of lost revenue due to disruptions caused by an emergency or major disaster.

e. Project costs associated with replacement or replenishment of damaged or lost material that is not the property of the affected applicant and not incorporated into a public transportation system, such as stockpiled materials or items awaiting installation.

DEPARTMENT OF TRANSPORTATION

ASSISTANCE LISTING 20.532 PASSENGER FERRY GRANT PROGRAM, ELECTRIC OR LOW-EMITTING FERRY PILOT PROGRAM, AND FERRY SERVICE FOR RURAL COMMUNITIES PROGRAM

I. PROGRAM OBJECTIVES

This program is comprised of several subprograms as follows:

Passenger Ferry Grant Program (49 U.S.C. 5307(h))

The objective of the Passenger Ferry Grant Program is to assist in financing of capital projects for the purchase, construction, replacement, or rehabilitation of ferries, terminals, and related facilities and equipment.

The Electric and Low-Emitting Ferry Pilot Program (IIJA§71102)

The objective of the Electric and Low-Emitting Ferry Pilot Program is to assist in financing of capital projects for the purchase of electric or low-emitting ferry vessels that reduce emissions by using alternative fuels or on-board energy storage systems and related charging infrastructure to reduce emissions or produce zero onboard emissions under normal operation.

The Ferry Service for Rural Communities Program (IIJA§71103)

The objective of the Ferry Service for Rural Communities Program is to assist in financing of capital, operating and planning assistance to ensure basic essential ferry service is provided to rural areas.

II. PROGRAM PROCEDURES

Federal transit law under Chapter 53 of Title 49, US Code, authorizes the Passenger Ferry Grant program (49 USC 5307(h), the Electric or Low-Emitting Ferry Pilot Program (IIJA§71102) and the Ferry Service for Rural Communities (IIJA§71103).

Grants are awarded to public agencies on approval of applications for specific programs or projects submitted to the Federal Transit Administration (FTA). FTA monitors the progress of those projects through on-site inspections, telephone contacts, correspondence, quarterly or annual progress and financial status reports, and, where applicable, Triennial Reviews.

Source of Governing Requirements

The Passenger Ferry Grant Program is authorized by 49 U.S.C. Section 5307(h).

The Electric or Low-Emitting Ferry Pilot Program is authorized by Division J of the Bipartisan

Infrastructure Law (enacted as the Infrastructure Investment and Jobs Act, Pub. L. 117-58).

The Ferry Service for Rural Communities is authorized by Division J of the Bipartisan Infrastructure Law (enacted as the Infrastructure Investment and Jobs Act, Pub. L. 117-58).

Availability of Other Program Information

Additional information is available on the FTA website at Grant Programs | FTA (dot.gov)

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	**Y**	**Y**	**N**	**Y**	**N**	**Y**	**Y**	**N**	**N**	**Y**	**N**

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. Under the Passenger Ferry Program (5307(h)): Capital activities, as defined in 49 U.S.C. 5307(h) provides competitive funding for projects

that support passenger ferry systems in urbanized areas, such as ferry vessels, terminals, and related infrastructure.

b. Under the Electric or Low-Emitting Ferry Pilot Program (IIJA § 71102): Capital activities, as defined in Division J of the Bipartisan Infrastructure Law for the purchase of electric or low-emitting ferry vessels that reduce emissions by using alternative fuels or on-board energy storage systems and related charging infrastructure to reduce emissions or produce zero onboard emissions under normal operation.

c. Under the Rural Ferry Program (IIJA§71103): Capital, operating, and planning activities, as defined in 49 U.S.C. 5311, for rural ferry service that operated a regular schedule anytime during the five-year period ending March 1, 2020.

2. *Activities Unallowed*

a. Under the Passenger Ferry Grant and Electric or Low-Emitting Ferry Pilot Program: Any project under the Passenger Ferry or Low-Emitting Ferry programs that does not include the purchase, construction, replacement, or rehabilitation of ferries, terminals, related infrastructure, or related equipment is not eligible.

H. Period of Performance

FTA Circular 5010.1E describes Period of Performance as "the time during which the recipient or subrecipient may incur new obligations to carry out the scope of work authorized under the Grant or Cooperative Agreement. FTA, or the pass-through entity, must include the start and end dates of the period of performance in the Grant or Cooperative Agreement, regardless of whether pre-award authority has been exercised. The start date is the Federal Award Date of an Award (5010.1E(I)(5)(a)(111))."

I. Procurement and Suspension and Debarment

Recipients must use qualifications-based selection procedures (Brooks Act or an equivalent qualifications-based requirement of a state) when acting as contracting agencies to procure engineering and design-related services for construction of a transit project (49 USC 5325(b)(1)).

DEPARTMENT OF TRANSPORTATION

ASSISTANCE LISTING 20.533 ALL STATIONS ACCESSIBILITY PROGRAM

I. PROGRAM OBJECTIVES

The objective of the All Stations Accessibility Program (ASAP) is to assist in financing capital and planning projects to upgrade the accessibility of legacy rail fixed guideway public transportation systems for people with disabilities, including those who use wheelchairs, by increasing the number of existing stations or facilities for passenger use that meet or exceed the new construction standards of Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.).

II. PROGRAM PROCEDURES

Division J of the Bipartisan Infrastructure Law (enacted as the Infrastructure Investment and Jobs Act, Pub. L. 117-58) established the All Stations Accessibility Program (ASAP). Grants are awarded to public agencies on approval of applications for specific projects submitted to the Federal Transit Administration (FTA). FTA monitors the progress of those projects through on-site inspections, telephone contacts, correspondence, quarterly or annual progress and financial status reports, and, where applicable, triennial reviews.

Source of Governing Requirements

The All Stations Accessibility Program is authorized by Division J of the Bipartisan Infrastructure Law (enacted as the Infrastructure Investment and Jobs Act, Pub. L. 117-58).

Availability of Other Program Information

Additional information is available on the FTA website at Grant Programs | FTA (dot.gov)

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not

being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	N	Y	Y	N	N	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. Capital activities, as defined in Division J of the Bipartisan Infrastructure Law to repair, improve, modify, retrofit, or relocate infrastructure of stations or facilities for passenger use. Eligible costs are limited to project costs associated with the accessibility improvements. Capital projects are limited to those that, upon completion, will meet or exceed the standards for new construction under Title II of the Americans with Disabilities Act of 1990 (42 USC 12131 et seq.), as incorporated into Appendix A of 49 CFR part 37.

   b. Planning activities, as defined in Division J of the Bipartisan Infrastructure Law to develop or modify a plan for pursuing public transportation accessibility projects, assessments of accessibility, or assessments of planned modifications to stations or facilities for passenger use projects, or programs of projects in an eligible area.

2. *Activities Unallowed*

   a. Capital activities that are not associated with the accessibility improvement of a public transportation station or facility that was already constructed or where construction began prior to January 25, 1992, or for commuter rail stations already constructed or where construction began prior to October 7,1991, that were not identified as key stations and remain not accessible to or usable by persons with disabilities, including wheelchair users.

   Preventative maintenance or repair activities for elements of existing accessible stations or passenger facilities that are otherwise subject to the

ongoing maintenance requirements under 49 CFR 37.161(a) are not eligible.

b. Operating assistance is not eligible.

c. Bus-related activities are not eligible.

d. All rolling stock and vehicle procurement activities are ineligible.

H. Period of Performance

FTA Circular 5010.1E describes Period of Performance as "the time during which the recipient or subrecipient may incur new obligations to carry out the scope of work authorized under the Grant or Cooperative Agreement. FTA, or the pass-through entity, must include the start and end dates of the period of performance in the Grant or Cooperative Agreement, regardless of whether pre-award authority has been exercised. The start date is the Federal Award Date of an Award (5010.1E(I)(5)(a)(111))."

I. Procurement and Suspension and Debarment

Recipients must use qualifications-based selection procedures (Brooks Act or an equivalent qualifications-based requirement of a state) when acting as contracting agencies to procure engineering and design-related services for construction of a transit project (49 USC 5325(b)(1)).

DEPARTMENT OF TRANSPORTATION

ASSISTANCE LISTING 20.534 COMMUNITY PROJECT FUNDING CONGRESSIONALLY DIRECTED SPENDING

I. PROGRAM OBJECTIVES

Community Project Funding, also known as Congressionally Directed Spending, is made available to assist in financing Transit Infrastructure Grant projects for the purposes and amounts specified by Congress in accordance with Public Transportation Law (Chapter 53 of Title 49 of the United States Code).

II. PROGRAM PROCEDURES

Community Project Funding (CPF) is appropriated and allocated from the General Fund for Transit Infrastructure Grants on an annual basis and at the discretion of Congress. The total funding amounts are specified in the Consolidated Appropriations Act corresponding with each fiscal year, if applicable, and the list of projects are found in the accompanying Joint Explanatory Statement (JES).

Grants for Community Project Funding projects are awarded through Federal Transit Administration's (FTA's) Transit Award Management System, FTA's electronic grant award system, after consultation with FTA's Regional offices. FTA monitors the progress of projects through on-site inspections, telephone contacts, correspondence, quarterly or annual progress and financial status reports, and, where applicable, Triennial Reviews. FTA is required to perform reviews and evaluations in accordance with 49 USC 5307(f)(2) at least every three years. 49 USC §5338 provides the statutory basis for FTA's oversight responsibilities and the funding available to undertake oversight activities. In addition, 49 USC §5338 authorizes FTA to provide technical assistance to correct deficiencies found during oversight reviews and to promote overall recipient compliance. The most recent FTA Triennial Review Workshop Workbook (https://www.transit.dot.gov/regulations-and-programs/safety/fy24-comprehensive-review-contractors-manual) provides guidance to FTA staff and recipients on the conduct of triennial reviews. These reviews are conducted with specific reference to compliance with statutory and administrative requirements and consistency of program activities with (1) the approved program of projects and (2) the planning process required under 49 USC 5303. Copies of these triennial reviews are available from the regional offices. Regional office addresses and telephone numbers are available on the FTA website listed below.

Source of Governing Requirements

Community Projects are carried out in accordance with Public Transportation Law (Chapter 53 of Title 49 of the United States Code). The total funding amounts are specified in the Consolidated Appropriations Act corresponding with each fiscal year, if applicable, and the list of projects are found in the accompanying Joint Explanatory Statement (JES). FTA's program webpage includes a link to the Joint Explanatory Statement for each fiscal year:

https://www.transit.dot.gov/grant-programs/community-project-fundingcongressionally-directed-spending. The table below also provides a link to the Joint Explanatory Statement for each fiscal year and corresponding page number for the community projects assigned to FTA.

Fiscal Year	Page Number
Consolidated Appropriations Act, 2024, Joint Explanatory Statement	S1952 to S1965
Consolidated Appropriations Act, 2023, Joint Explanatory Statement	S9394 to S9405
Consolidated Appropriations Act, 2022, Joint Explanatory Statement	H3080 to H3087

Availability of Other Program Information

Additional information is available on the FTA website at https://www.transit.dot.gov/grant-programs/community-project-fundingcongressionally-directed-spending.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	N	Y	Y	N	N	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

a. 'Community Projects' are carried out in accordance with Public Transportation Law (Chapter 53 of Title 49 of the United States Code) (https://uscode.house.gov/view.xhtml?path=/prelim@title49/subtitle3/chapter53&edition=prelim.

U.S. Congress designates the list of potential projects in the Consolidated . Appropriations Act corresponding with each fiscal year, if applicable. (See chart above in 'Source of Governing Requirements' section.)

For the specified projects, activities that are eligible under FTA's authorizing statutes in Federal law (Chapter 53 of Title 49, United States Code) are eligible for reimbursement.

2. *Activities Unallowed*

a. Projects must align with Congress' original project description and initiatives specified in the allocation.

Any activity ineligible under Chapter 53 of Title 49 of the United States Code, as well as any activity not included as part of the specified project.

H. Period of Performance

FTA Circular 5010.1F (https://www.transit.dot.gov/regulations-and-programs/fta-circulars/award-management-requirements-circular) describes Period of Performance as "the time during which the recipient or subrecipient may incur new obligations to carry out the scope of work authorized under the Grant or Cooperative Agreement. FTA, or the pass-through entity, must include the start and end dates of the period of performance in the Grant or Cooperative Agreement, regardless of whether pre-award authority has been exercised. The start date is the Federal Award Date of an Award.

I. Procurement and Suspension and Debarment

Recipients must use qualifications-based selection procedures (Brooks Act or an equivalent qualifications-based requirement of a state) when acting as contracting agencies to procure engineering and design-related services for construction of a transit project (49 USC 5325(b)(1)).

DEPARTMENT OF TRANSPORTATION

ASSISTANCE LISTING 20.600 STATE AND COMMUNITY HIGHWAY SAFETY

ASSISTANCE LISTING 20.616 NATIONAL PRIORITY SAFETY PROGRAMS

I. PROGRAM OBJECTIVES

The objective of the highway traffic safety grant programs is to provide a coordinated national highway safety program to reduce traffic crashes, deaths, injuries, and property damage.

II. PROGRAM PROCEDURES

The Highway Safety Act of 1966 established a formula grant program for states to save lives and prevent injuries due to road traffic crashes. The Bipartisan Infrastructure Law (BIL), (Pub. L. No. 117-58), amended the National Highway Traffic Safety Administration's (NHTSA's) highway safety grant program (23 USC 402) and the National Priority Safety program grants (23 USC 405). Section 402 and 405 funding is apportioned to State and Territorial Highway Safety Offices using statutory apportionment formulas and requirements, and are based on 1) an approved Triennial Highway Safety Plan that details problem identification, public participation and engagement, performance measures, countermeasure strategies for programming funds and 2) an approved Annual Grant Application that details planned projects using identified countermeasure strategies for programming funds to help reduce crashes, injuries and fatalities resulting from motor vehicle crashes. State Highway Safety Offices submit their Triennial Highway Safety Plan covering State and Community highway safety activities to their respective NHTSA regional offices by July 1 every three years. Annual Grant Applications are submitted to the respective NHTSA regional offices by August 1 of each year.

The areas covered by the National Priority programs are Occupant Protection, State Traffic Safety Information System Improvements, Impaired Driving Countermeasures, Distracted Driving, Motorcyclist Safety, Nonmotorized Safety, Preventing Roadside Deaths, and Driver and Officer Safety Education. Qualifying eligibility criteria is outlined in statute and regulation, and varies for each program.

Source of Governing Requirements

Programs are authorized under 23 USC Chapter 4 (Highway Safety), Pub. L. No. 109-59, Fixing America's Surface Transportation (FAST) Act, Pub. L. No. 114-94, and the Bipartisan Infrastructure Law, Pub. L. No. 117-58. Implementing regulations are in 23 CFR Part 1300.

Availability of Other Program Information

NHTSA maintains a website that provides program laws, regulations, and other general information (http://www.nhtsa.dot.gov). Program procedures have been published in the Federal Register Vol. 83, No. 17 (Assistance Listings 20.600 and 200.616).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	Y	N	N	Y	Y	N

A. Activities Allowed or Unallowed

Funds must be expended as specified in the grantee's highway safety plan.

1. *Activities allowed or allowed with specific conditions*

   a. Purchase of the following types of equipment is subject to compliance with any applicable standards and performance specifications and inclusion on the applicable Conforming Products List (CPL) established by NHTSA, the Research and Innovative Technology Administration (RITA), the American College of Surgeons, or by other nationally recognized standard-setting agencies or by state standards and performance specifications, as long as they are at least as stringent as applicable national standards and performance specifications:

      (1) Police traffic enforcement, speed-measuring devices, such as Radars, Lidars, and Across the Road devices. (A comprehensive list of such devices can be found online at

https://www.theiacp.org/resources/document/iacp-radarlidar-testing);

(2) Alcohol testing devices and costs for re-certification of such devices;

b. Travel for out-of-state individuals benefiting the host state's highway safety program.

c. For State and Community Highway Safety (Assistance Listing 20.600) funds, supplementing demonstration projects implemented under Section 403 (23 USC 402(g)(2)).

d. Cooperating with neighboring states for highway safety purposes that benefit all participating states (23 USC 402(c)).

e. Advertising space.

2. *Activities Unallowed*

a. Highway construction, maintenance or design, construction or reconstruction of permanent facilities, highway safety appurtenances, office furnishings and fixtures, and purchase of land.

b. Truck scales, traffic signal preemption systems, and the impaired driving funds under National Priority Safety programs (Assistance Listing 20.616) speed measuring devices.

c. Research costs, expenses to defray activities of federal agencies, alcoholic beverages for consumption purposes or techniques for determining driver impairment, entertainment costs, and commercial drivers' compliance requirements.

d. No federal funds may be used for any activity specifically designed to urge or influence a state or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any state or local legislative body. Such activities include both direct and indirect (e.g., grassroots) lobbying activities, with one exception. This does not preclude a state official whose salary is supported with NHTSA funds to engage in direct contact with state or local legislative officials, in accordance with customary state practice, even if it urges legislative officials to favor or oppose the adoption of a specific pending legislative proposal (23 CFR Part 1300, Appendix A).

B. Allowable Costs/Cost Principles

Costs charged to federal funds under sections 402, 405, and 1906 must comply with the cost principles in 2 CFR Part 200.

G. Matching, Level of Effort, Earmarking

1. Matching

a. States receiving State and Community Highway Safety grants (Section 402) are required to contribute at least 20 percent, or the applicable sliding scale rate, as stated in the grant award, of the total cost of the program. States are required to pay at least 50 percent, or the applicable sliding scale rate, as stated in the grant award, of the costs for planning and administration (Indian nations and territories are 100 percent federally funded) (23 USC 120(b) and 402(d); 23 CFR section 1200.13(a)), 23 CFR 1300.13(a) (Assistance Listing 20.600).

b. States receiving grants National Priority Safety programs are required to contribute at least 20 percent of the total cost of the program (territories and Indian nations are 100 percent federally funded) (23 USC 402(d); 23 CFR section 1200.20(f)), 23 CFR section 1300.20(f) (Assistance Listing 20.616).

c. Additional matching requirements may be specified in the grantee's highway safety plan to limit the maximum federal share of an ambulance, helicopter, AED, or aircraft to 25 percent.

2. Level of Effort

2.1 Level of Effort – *Maintenance of Effort*

Not Applicable.

2.2 Level of Effort – *Supplement Not Supplant*

Not Applicable

3. Earmarking

a. At least 40 percent of federal funds apportioned to a state under State and Community Highway Safety (Assistance Listing 20.600) for any fiscal year shall be expended by or for the political subdivisions of the state in carrying out local highway safety programs (23 USC 402(b)(1)(C); 23 CFR Part 1300 Appendix C).

b. The federal costs for planning and administration under State and Community Highway Safety (Assistance Listing 20.600) shall not exceed 18 percent of the funds received by the state. The federal costs for planning and administration under State and Community Highway Safety (Assistance Listing 20.600) shall not exceed 5 percent of the funds received by the Indian nations (23 CFR section 1300). In accordance with 23 USC 120(i), the federal share payable for projects in the US Virgin

Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be 100 percent (23 CFR 1300.13(a)).

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

M. Subrecipient Monitoring

NHTSA Regional Offices monitor the states' highway safety offices, and the state offices monitor their subrecipients. The Regional Offices routinely conduct on-site monitoring and reviews that involve oversight of the highway safety office activities and their oversight of the subrecipients.

DEPARTMENT OF TRANSPORTATION

ASSISTANCE LISTING 20.708 NATURAL GAS DISTRIBUTION INFRASTRUCTURE SAFETY AND MODERNIZATION GRANT PROGRAM

I. PROGRAM OBJECTIVES

The Infrastructure Investment and Jobs Act (IIJA) provides funding for Pipeline And Hazardous Materials Safety Administration's (PHMSA) Natural Gas Distribution Infrastructure Safety and Modernization (NGDISM) Grant Program. NGDISM grant program funds are available for municipalities or community-owned utilities (not including for-profit entities) to repair, rehabilitate, or replace natural gas distribution pipeline system or portions thereof, or to acquire equipment to reduce incidents and fatalities and avoid economic losses.

The program seeks to reduce the risk profile of the existing pipeline systems including pipe prone to leakage, the potential of pipeline project creating jobs, the potential for benefitting disadvantaged rural and urban communities, and to realize positive economic impact or growth.

II. PROGRAM PROCEDURES

On November 15, 2021 the President signed the Bipartisan Infrastructure Law which is the most significant investment in our nation's infrastructure in more than half a century. This includes the Pipeline and Hazardous Materials Safety Administrations (PHMSA) first ever Natural Gas Distribution Infrastructure Safety and Modernization (NGDISM) grant program. The legislation designated $200 million a year in grant funding with a total of $1 billion in grant funding over the next five years.

The grant funding is to be made available to a municipality or community owned utility (not including for-profit entities) to repair, rehabilitate, or replace its natural gas distribution pipeline systems or portions thereof or to acquire equipment to (1) reduce incidents and fatalities and (2) to avoid economic losses.

Source of Governing Requirements

The program was authorized by IIJA (Pub. L. 117-58), Statute 1443.

Availability of Other Program Information

PHMSA maintains a website with current program information: Natural Gas Distribution Infrastructure Safety and Modernization Grants | PHMSA (dot.gov)

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2,

"Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	N	N	Y	N	Y	N	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

PHMSA's NGDISM grants will provide funding to municipality- or community-owned utilities (Not including for-profit entities) to repair, rehabilitate, or replace their natural gas distribution pipeline system or portions thereof, or to acquire equipment needed to (a) reduce incidents and fatalities and (b) avoid economic losses. Activities allowed will be specified in the grant agreement.

Examples of allowable projects: purchase of leak detection equipment, installation of new pipelines or repair and replace leak-prone pipelines.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement –Not Applicable*

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* –Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable.

3. Special Reporting

Not Applicable.

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L of the 2023 for audit guidance.

DEPARTMENT OF TRANSPORTATION

ASSISTANCE LISTING 20.816 UNITED STATES MARINE HIGHWAY PROGRAM

I. PROGRAM OBJECTIVES

The Secretary, in accordance with 46 U.S.C. 55601, established a marine highway transportation grant program to implement projects or components of projects that provide a coordinated and capable alternative to landside transportation or that promote marine highway transportation. Through the development and promotion of Marine Highway Transportation, the United States Marine Highway Program (USMHP) assists in funding eligible grant projects to relieve landside congestion, reduce air emissions, and generate other public benefits by increasing the efficiency of the surface transportation system.

II. PROGRAM PROCEDURES

The Marine Highway Program Office (Program Office) follows a two-step approach when supporting investment opportunities for marine highway transportation services. The first step is the designation of a Marine Highway Route by the Secretary. The Department accepts Marine Highway Route Designation requests at any time from Route Sponsors. Once a route is designated, the second step is to apply for USMHP grant funding. USMHP funding is provided to successful public and private sector applicants as funds are appropriated by Congress.

The USMHP is funded by annual appropriations. The applicable Notice of Funding Opportunity (NOFO) for USMHP, available at Grants.gov, describes the specific eligibility and programmatic requirements applicable to the program for that fiscal year. Grants are awarded to eligible applicants on approval of applications submitted to the Maritime Administration (MARAD). These projects can be either capital or planning projects. MARAD will make awards for projects through grant agreements. MARAD monitors the progress of those projects through on-site inspections, virtual meetings, correspondence, and quarterly progress and financial status reports.

Source of Governing Requirements

This program is codified at 46 USC Chapter 55601. Implementing regulations are found in 46 CFR Part 393; however, these regulations have not yet been updated to incorporate changes made to the USMHP in the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Pub. L. 117-263, December 23, 2022) [Page 136 STAT. 3074].

Availability of Other Program Information

Additional program information is provided at the following webpage:
https://www.maritime.dot.gov/grants/marine-highways/marine-highway

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	N	Y	N	Y	N	Y

A. Activities Allowed or Unallowed

1. *Activities Allowed*

The 46 USC §55601(d)(1) authorizes the U.S. Department of Transportation to make grants to implement Projects or components of Projects that:

a) provide a coordinated and capable alternative to landside transportation; mitigate or relieve landside congestion; promote Marine Highway Transportation; or use vessels documented under 46 U.S.C. chapter 121; and

b) develop, expand, or promote Marine Highway Transportation or shipper use of Marine Highway Transportation.

References: Section 3521 [Page 136 STAT. 3075] of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Pub. L. 117-263, December 23, 2022).

2. *Activities Unallowed*

Activities prior to FY 2023 funding, see Section 3521 [Page 136 STAT. 3077] of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Pub. L. 117-263, December 23, 2022).

a. Prior to December 23, 2023, when the NDAA for FY2023 was enacted, USMHP grant funds could not be used for:

i. an operating subsidy
ii. Market-related studies; and
iii. improvements to Federally owned facilities.

b. After enactment of the NDAA for FY2023, the USMHP statute, 46 USC §55601(d)(8), was changed to state that, in general, federal funds cannot be expended for:

i. improvements to port or land-based infrastructure, including equipment, outside the United States.
ii. raising sunken vessels, constructing buildings or other physical facilities, or acquire land, unless the Secretary determines that such activities are necessary to carry out the Marine Highway Transportation Project for which such assistance is provided, and
iii. improvements to Federally owned facilities.

B. Allowable Costs/Cost Principles

Costs charged to federal funds under the USMHP must comply with the cost principles administered pursuant to the "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards" found at 2 CFR Part 200, as adopted by the Department at 2 CFR Part 1201. Additionally, all applicable federal laws and regulations will apply to projects that receive Marine Highway Grants and any other requirements or restrictions on the use of federal funding.

L. Reporting

1. Financial Reporting

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

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* -Not Applicable.

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

Wage Rate Requirements

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section for audit guidance.

DEPARTMENT OF TRANSPORTATION

ASSISTANCE LISTING 20.823 PORT INFRASTRUCTURE DEVELOPMENT PROGRAM

I. PROGRAM OBJECTIVE

The Port Infrastructure Development Program (PIDP) is appropriated funding both through annual appropriations acts and Division J of the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117-58, November 15, 2021) for the program codified at 46 USC 54301. IIJA designated $450 million a year in PIDP grant funding for fiscal years 2022-2026, for a total of $2.25 billion in grant funding available. Each statute, including the annual National Defense Authorization Acts, may include unique provisions that govern each round of PIDP funding.

The objective of the PIDP is to make grants to eligible applicants to assist in funding eligible projects for the purpose of improving the safety, efficiency, or reliability of the movement of goods through ports and intermodal connections to ports.

II. PROGRAM PROCEDURES

Generally, public entities, and private entities jointly with an eligible public entity, may apply for available funding under the PIDP for eligible projects that are within the boundary of a port, or outside the boundary of a port and directly related to port operations or to an intermodal connection to a port. Since fiscal year 2021, a certain amount of appropriated funding is reserved for small projects at small ports, as defined in 46 USC 54301.

The applicable Notice of Funding Opportunity (NOFO) for PIDP, available at Grants.gov, describes the specific eligibility and programmatic requirements applicable to the program for that fiscal year. Grants are awarded to eligible applicants on approval of applications submitted to the Maritime Administration (MARAD). These projects can be either capital or planning projects. MARAD will make awards for projects through grant agreements. MARAD monitors the progress of those projects through on-site inspections, virtual meetings, correspondence, and quarterly progress and financial status reports.

Source of Governing Requirements

The program is codified at 46 USC 54301.

Funding is authorized through the annual National Defense Authorization Acts and appropriated through the annual appropriations acts and Division J of the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117-58, 135 Stat. 429, November 15, 2021), which may include unique provisions that govern the use of funding.

Availability of Other Program Information

Additional program information is provided at the following webpage:

https://www.maritime.dot.gov/ports/port-infrastructure-development-program

Specific eligibility and programmatic requirements are found in the relevant NOFO for each fiscal year of PIDP funding, which can be found at Grants.gov.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N."

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	N	N	Y	N	Y	Y	Y

A. Activities Allowed or Unallowed

1. *Activities allowed under FY 2019 funding,* (The Consolidated Appropriations Act, 2019 (Pub. L. 116-6, February 15, 2019, 133 Stat. 13) and the PIDP program statute at 46 USC 50302 (now codified at 46 USC 54301)).
   a. Activities funded under FY 2019 PIDP should improve the safety, efficiency, or reliability of the movement of goods into, out of, around, or within a port, as well as the unloading and loading of cargo at a coastal

seaport including phytosanitary facilities. Examples of potential projects include, but are not limited to:

(1) Highway or rail infrastructure that develops or extends intermodal connectivity, intermodal facilities, marine terminal equipment, wharf construction or redevelopment, vessel alternative fueling access and distribution, fuel efficient cargo handling equipment, freight intelligent transportation systems, digital infrastructure systems, and berth dredging incidental to construction.

2. *Activities unallowed under FY 2019 funding*

a. This program will not fund vessel construction, (The Consolidated Appropriations Act, 2019 (Pub. L. 116-6, February 15, 2019, 133 Stat. 13) and the PIDP statute at 46 USC 50302 (now codified at 46 USC 54301)).

3. *Activities allowed under FY 2020 & FY 2021 funding, (*The Further Consolidated Appropriations Act, 2020 (Pub. L. 116-94, 133 Stat. 2534); The Consolidated Appropriations Act, 2021 (Pub. L. 116-260, December 27, 2020, 134 Stat. 1182); and the PIDP program statute at 46 USC 50302 (now codified at 46 USC 54301)).

a. Activities funded under FY 2020 PIDP must be located either within the boundary of a port, or outside the boundary of a port and directly related to port operations or to an intermodal connection to a port. Eligible projects are limited to:

(1) Port gate improvements;
(2) road improvements both within and connecting to the port;
(3) rail improvements both within and connecting to the port;
(4) berth improvements (including but not limited to docks, wharves, piers, and dredging incidental to the improvement project);
(5) fixed landside improvements in support of cargo operations (such as silos, elevators, conveyors, container terminals, Ro/Ro structures including parking garages for intermodal freight transfer, warehouses including refrigerated facilities, lay down areas, transit sheds, and other such facilities);
(6) utilities necessary for safe operations (including but not limited to lighting, stormwater, and other such improvements that are incidental to a larger infrastructure project); or
(7) a combination of activities described above.
(8) Environmental mitigation measures, freight intelligent transportation systems, and digital infrastructure systems if those components support one of the eligible project types listed above.
(9) Development phase activities (including planning, feasibility analysis, revenue forecasting, environmental review, permitting, and preliminary engineering and design work) that support these capital projects are also eligible.

4. *Activities unallowed under FY 2020 & FY 2021 funding, (*The Further Consolidated Appropriations Act, 2020 (Pub. L. 116-94, 133 Stat. 2534); The Consolidated Appropriations Act, 2021 (Pub. L. 116-260, December 27, 2020, 134 Stat. 1182); and the PIDP program statute at 46 USC 50302 (now codified at 46 USC 54301)).
   a. This program will not fund construction, reconstruction, reconditioning, or purchase of a vessel, nor any project within a small shipyard (as defined in 46 U.S. Code § 54101).
   b. Activities, including channel improvements or harbor deepening, that are part of a Federal channel, authorized, as of the date of the application for assistance, to be carried out by the U. S. Army Corps of Engineers.

5. *Activities allowed under FY 2022 funding, (*The Consolidated Appropriations Act, 2022 (Pub. L. 117-103, 136 Stat. 49); IIJA, and Section 3513 of the National Defense Authorization Act for Fiscal Year 2022 (Pub. L. 117-81, December 27, 2021)).
   a. Activities funded under FY 2022 PIDP shall be located either within the boundary of a port, or outside the boundary of a port and directly related to port operations or an intermodal connection to a port. Grants may be made for capital projects that will be used to improve the safety, efficiency, or reliability of:
      (1) the loading and unloading of goods at the port, such as for marine terminal equipment;
      (2) the movement of goods into, out of, around, or within a port, such as for highway or rail infrastructure, intermodal facilities, freight intelligent transportation systems, and digital infrastructure systems;
      (3) operational improvements, including projects to improve port resilience; or
      (4) environmental and emissions mitigation measures, including projects for—
         (a) port electrification or electrification master planning;
         (b) harbor craft or equipment replacements or retrofits;
         (c) development of port or terminal microgrids;
         (d) provision of idling reduction infrastructure;
         (e) purchase of cargo handling equipment and related infrastructure;
         (f) worker training to support electrification technology;
         (g) installation of port bunkering facilities from ocean-going vessels for fuels;

(h) electric vehicle charging or hydrogen refueling infrastructure for drayage and medium or heavy-duty trucks and locomotives that service the port and related grid upgrades; or

(i) other related port activities, including charging infrastructure, electric rubber tired gantry cranes, and anti-idling technologies.

(5) Emission mitigation measures that provide for the use of shore power for vessels to which sections 3507 and 3508 of Title 46 apply.

(6) Development phase activities (such as planning, feasibility analysis, revenue forecasting, environmental review, permitting, and preliminary engineering and design work), in addition to port planning activities such as development of master plans, electrification master planning, and planning to address a port's ability to withstand probable occurrence or recurrence of an emergency or major disaster.

6. *Activities unallowed under FY 2022 funding, (The Consolidated Appropriations Act, 2022 (Pub. L. 117-103, 136 Stat. 49); IIJA, and Section 3513 of the National Defense Authorization Act for Fiscal Year 2022 (Pub. L. 117-81, December 27, 2021)).*

a. This program will not fund construction, reconstruction, reconditioning, or purchase of a vessel, unless the Secretary determines such vessel is necessary for a project under environment and emissions mitigation measures, and is not already receiving assistance under 46 USC Chapter 537.
b. Any project within a small shipyard (as defined in 46 USC 54101).
c. Improvements to Federally owned facilities.
d. The purchase or installation of fully automated cargo handling equipment or the installation of terminal infrastructure that is designed for fully automated cargo handling equipment, if the Secretary determines such equipment would result in a net loss of good jobs or reduction in the quality of jobs within the port or port terminal.
e. Activities, including channel improvements or harbor deepening, that are part of a Federal channel, authorized, as of the date of the application for assistance, to be carried out by the U. S. Army Corps of Engineers.
f. PIDP funds may not be used to support or oppose union organizing.

7. *Activities allowed under FY 2023, (*The Consolidated Appropriations Act, 2023 (Pub. L. 117-328, December 29, 2022, 136 Stat. 4459); IIJA; and section 3522 of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Pub. L. 117-263, December 23, 2022)).

a. Activities funded under FY 2023 PIDP are the same as FY 2022 PIDP, except FY 2023 PIDP can also fund:
(1) projects to provide shore power at a port that services: both passenger vessels described in section 3507(k) of title 46, United States Code; and vessels that move goods or freight.

8. *Activities unallowed under FY 2023 funding, (*The Consolidated Appropriations Act, 2023 (Pub. L. 117-328, December 29, 2022, 136 Stat. 4459); IIJA; and section 3522 of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Pub. L. 117-263, December 23, 2022)).
a. The same activities as described in FY 2022 PIDP.

9. *Activities allowed under FY 2024, (*The Consolidated Appropriations Act, 2024 (Pub. L. 118-42, 138 Stat. 25); IIJA, and section 3511 of the National Defense Authorization Act for Fiscal Year 2024 (Pub. L. 118-31, December 22, 2023)).
a. Activities funded under FY 2024 PIDP are the same as FY 2023 PIDP.

10. *Activities unallowed under FY 2024 funding,* (The Consolidated Appropriations Act, 2024 (Pub. L. 118-42, 138 Stat. 25); IIJA, and section 3511 of the National Defense Authorization Act for Fiscal Year 2024 (Pub. L. 118-31, December 22, 2023)).
a. The same activities as described in FY 2023 PIDP.

B. Allowable Costs/Cost Principles

Costs charged to federal funds under PIDP must comply with the cost principles administered pursuant to the "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards" found at 2 CFR Part 200, as adopted by the Department at 2 CFR Part 1201.

L. Reporting

1. Financial Reporting

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

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* -Not Applicable.

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting
Not Applicable

3. Special Reporting
Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act
See Part 3.L for audit guidance.

N. Special Tests and Provisions

Wage Rate Requirements.

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section for audit guidance. Wage Rate Requirements (also known as the Davis-Bacon Act). 46 USC 54301(a)(10)(C).

DEPARTMENT OF TRANSPORTATION

ASSISTANCE LISTING 23.003 APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM

I. PROGRAM OBJECTIVES

The Appalachian Development Highway System (ADHS) is a system of designated corridors and roadways within the 13 States that make up the Appalachian Region. The ADHS Program is aimed at timely completion of the designated ADHS. The ADHS was created by the Appalachian Regional Development Act of 1965. Its purpose is to provide a highway system which, in conjunction with the Interstate System and other Federal-aid highways in the Appalachian region, will open up an area with a developmental potential where commerce and communication have been inhibited by lack of adequate access. The Secretary of Transportation may assist in the construction of an Appalachian development highway system and local access roads serving the Appalachian region. [40 U.S.C. 14501(a)] Such funds are authorized to be appropriated for projects involving construction of, and improvements to, corridors of the ADHS. [P.L. 102-240 §1069(y)] The ADHS program is administered by the Federal Highway Administration (FHWA) in coordination with the Appalachian Regional Commission.

II. PROGRAM PROCEDURES

Prior to fiscal year (FY) 2013, the ADHS was a cost-to-complete program (i.e., funding was provided over time to complete the approved initial construction/upgrading of the system) authorized by Section 201 of the Appalachian Regional Development Act of 1965. The Moving Ahead for Progress in the 21st Century Act (MAP-21) (Pub. L. No. 112-141) did not provide dedicated funding for the ADHS but did make ADHS activities eligible under the National Highway Performance Program (NHPP) and Surface Transportation Block Grant program (STBG). The Fixing America's Surface Transportation (FAST) Act (Pub. L. No. 114-94) provided States through FY 2050 the authority to select a Federal share of up to 100 percent for the cost of constructing highways and local access roads (LAR) on the ADHS. In 2021, Title VIII of division J of the Infrastructure Investment and Jobs Act (Bipartisan Infrastructure Law), Public Law (Pub. L.) 117-58, appropriated $250,000,000 per year over a 5-year period for completion of the ADHS. The Appalachian Regional Commission (ARC) has programmatic oversight responsibilities, which include approval of the location and scope of work for the corridors, State-generated estimates of the cost to complete the ADHS, and approval of the LAR projects. The FHWA has project-level oversight responsibilities for the ADHS program including LAR. If the location, scope, and character of proposed ADHS projects are in agreement with the latest approved cost-to-complete estimate and all State requirements have been satisfied, FHWA authorizes the work with the ADHS, STBG, and/or NHPP funds. FHWA provides oversight for the design and construction of the ADHS (23 U.S.C. 106(g)(5)(B)).

Source of Governing Requirements

The primary source of program requirements for highway construction projects is 23 U.S.C.

(Highways). Implementing regulations are found in 23 CFR (Highways) and 49 CFR (Transportation). The ADHS program requirements are found in 40 U.S.C. section 14501.

Availability of Other Program Information

FHWA program laws, regulations, and other general information can be found at http://www.fhwa.dot.gov, Bipartisan Infrastructure Law, Legislation, Regulations and Guidance - Resources | Federal Highway Administration (dot.gov). Information specifically on the ADHS program may be found at https://www.fhwa.dot.gov/specialfunding/adhs/.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the Federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N". See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	N	Y	N	N	Y	Y

A. Activities Allowed or Unallowed

ADHS funds may be used only for work included in the ADHS cost to complete estimate approved by the ARC. The approved cost to complete estimate may be found on the ARC website at Appalachian Development Highway System - Appalachian Regional Commission (arc.gov). In addition, improvements for local access roads serving the Appalachian region may also be approved by the ARC.

F. Equipment and Real Property Management

For equipment, States will use State procedures in accordance with 2 CFR 200.313.

The State and subrecipients shall charge at a minimum, fair market value for the sale, use, lease, or lease renewal of real property acquired with Federal funds.

Replacement of Publicly Owned Real Property

Federal funds may be used to reimburse the reasonable costs actually incurred for the functional replacement of publicly owned and publicly used real property provided that FHWA concurs that it is in the public interest. The cost of increases in capacity and other betterments are not eligible except (1) if necessary to replace utilities; (2) to meet legal, regulatory, or similar requirements; or (3) to meet reasonable prevailing standards for the type of facility being replaced (23 CFR section 710.509).

G. Matching, Level of Effort, Earmarking

1. **Matching** – Starting in fiscal year 2012, At the discretion of the State, Federal share may be up to 100% through FY 2050. Pub. L. 112–141, div. A, title I, §1528, July 6, 2012, 126 Stat. 582 , as amended by Pub. L. 114–94, div. A, title I, §1435, Dec. 4, 2015, 129 Stat. 1430 provided that funds remaining available authorized in 2012 or a prior fiscal year for the ADHS, and any apportioned funds obligated for this purpose available after that time for the "cost of constructing highways and access roads on the Appalachian development highway system under section 14501 of title 40, United States Code" may be obligated at 100%. In addition, specific apportionment provisions since 2019 for funding for the ADHS have included apportionment specific provisions authorizing 100%.

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

3. **Earmarking** – Not Applicable

I. Procurement and Suspension and Debarment

Administration of Contracts for Construction

In general, recipients and subrecipients must award construction contracts on the basis of the lowest responsive bid submitted by a bidder meeting the contracting agency’s criteria for responsibility. Competitive bidding is required unless the contracting agency is able to demonstrate that some other method is more cost effective or that an emergency exists.

For construction contracts, bidding documents must be advertised for at least three weeks, unless a shorter period is justified in the project files. Recipients may not negotiate with the potential contractors during the time between bid opening and contract award. Awards must be made to the lowest responsible bidder. If the award was made to a bidder other than the low bidder, then the project files must contain justification.

M. Subrecipient Monitoring

In addition to the compliance requirements in Part 3, Section M, State DOTs are required to determine whether subrecipients have sufficient accounting controls to properly manage such Federal-aid funds (23 USC 106(g)(4)(A)).

N. Special Tests and Provisions

1. Wage Rate Requirements

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

2. Quality Assurance Program

Compliance Requirements A State DOT or subrecipients must have a quality assurance (QA) program, approved by FHWA, for construction projects on the National Highway System (NHS) to ensure that materials and workmanship conform to approved plans and specifications. Verification sampling must be performed by qualified testing personnel employed by the State DOT, or by its designated agent, excluding the contractor (23 CFR sections 637.201, 637.205, 637.207, and 637.209).

Audit Objectives Determine whether the recipient or subrecipient are following a QA program approved by FHWA.

Suggested Audit Procedures

a. Obtain an understanding of the recipient's QA program.

b. Verify that the QA program has been approved by FHWA.

c. Review documentation of test results on a sample basis to verify that proper tests are being taken in accordance with the QA program.

d. Verify that verification sampling activities are performed by qualified testing personnel employed by the agency, or by its designated agent, excluding the contractor.

3. Contractor Recoveries

Compliance Requirements When a State recovers funds from highway contractors for project overcharges due to bid-rigging, fraud, or anti-trust violations or otherwise recovers compensatory damages, the State-aid project involved shall be credited with the State share of such recoveries (Tennessee v. Dole 749 F.2d 331 (6th Cir. 1984); 57 Comp. Gen. 577 (1978); 47 Comp. Gen. 309 (1967)).

Audit Objectives Determine whether the proper credit was made to the State share of a project when recoveries of funds are made.

Suggested Audit Procedures

a. Determine the extent to which the state has recovered overcharges and other compensatory damages on Federal-aid projects through appropriate interviews and a review of legal, claim, and cash receipt records.

b. Review a sample of cash receipts and verify that appropriate credit is reflected in billings to the federal government.

4. Value Engineering

Compliance Requirements Recipients are required to establish a value engineering (VE) program and ensure that a VE analysis is performed on all applicable highway construction projects. The program should include procedures to approve or reject recommendations and for monitoring to ensure that resulting, approved recommendations are incorporated into the plans, specifications, and estimate. Applicable projects are (a) projects located on the NHS with an estimated total project cost of $50 million or more that utilize federal highway program funding; (b) bridge projects located on the NHS with an estimated total cost of $40 million or more that utilize federal highway program funding; and (c) any other projects that the FHWA determines to be appropriate. Projects utilizing the design-build method of construction do not require a VE analysis (23 USC 106(e)(5)). Critical elements of VE programs include identification of a State VE coordinator; establishment of a VE policy, and documented VE procedures, including requirements to identify applicable projects, verify required VE analyses are completed on State DOT and subrecipient projects; and monitor, assess, and report on the performance of the VE program (23 USC 106(e); 23 CFR Part 627).

Audit Objectives Determine whether established VE programs include VE policies and procedures, documented analyses conducted for applicable projects, evaluations of VE recommendations, and incorporation of approved recommendations into the plans, specifications, and estimate for the project.

Suggested Audit Procedures

a. Verify that the State DOT established a VE program in accordance with state requirements.

b. Review a sample of applicable projects to ensure that a VE analysis was conducted, recommendations were evaluated, and approved recommendations were incorporated into the design of the project, and that the results of the analysis and recommendations implemented were documented in accordance with the established VE program’s policies and procedures.

5. Utilities

Compliance Requirements Recipients are required to develop policies and procedures pertaining to the use, accommodation and/or relocation of public and private utility

facilities on highway rights-of way. Recipients are required to develop, maintain, and obtain FHWA approval of their Utility Accommodation Policy (UAP) (23 CFR section 645.215). Expenses incurred for relocating utility facilities necessitated by highway construction projects using federal highway program funds are eligible for reimbursement from FHWA provided these costs were incurred in a manner consistent with state laws or FHWA regulations, whichever is more restrictive (23 CFR section 645.103(d)).

Plan, specification and estimate (PS&E) packages for projects must have a utility agreement or statement verifying the appropriate coordination with all utilities on the project occurred prior to FHWA construction authorization. Each agreement or statement should specify that the utility use and occupancy of the right-of-way or any required utility work will be completed prior to the highway construction, or there were conditions specified allowing for the utility work to be coordinated with and completed in coordination with the highway construction schedule (23 CFR section 635.309(b)).

Utility agreements, permits, and supporting documentation define the conditions and provisions for accomplishing and reimbursing utility companies for utility relocation work that was required due to a federal highway program funded project. The agreements and supporting documentation, and the state requirements they reference, require that:

a. There must be itemized cost estimates for the proposed utility work (23 CFR section 645.113(c));

b. The utility agreement was approved prior to the utility incurring any costs or conducting any work that would be eligible for reimbursement (23 CFR section 645.113(g)(3));

c. Reimbursement of utility costs will occur after the work is completed (23 CFR section 645.107(a));

d. The utility incurred the costs and billings submitted verifying the work was completed in accordance with the utility agreement (23 CFR section 645.113(a-f) and 23 CFR section 645.117); and

e. Billed costs were eligible for reimbursement (23 CFR section 645.117).

Audit Objectives Determine whether the agreements, supporting documentation, and reimbursement for the adjustment and/or relocation of utility facilities on state-aid highway projects were accomplished in a manner which complies with state laws and FHWA regulations.

Suggested Audit Procedures

a. Verify that the State DOT has a current UAP approved by FHWA.

b. Review a sample of PS&E packages on projects using federal highway program funds to verify that there is a utility agreement or statement

confirming that the appropriate coordination with all utilities on the project has occurred prior to FHWA construction authorization.

c. Review a sample of utility agreements and supporting documentation to verify required supporting material was prepared and that costs reimbursed met the requirements of the agreements.

DEPARTMENT OF THE TREASURY

ASSISTANCE LISTING 21.011 CAPITAL MAGNET FUND

I. PROGRAM OBJECTIVES

The Capital Magnet Fund (CMF) is administered by the Community Development Financial Institutions Fund (CDFI Fund). Through the CMF, the CDFI Fund provides financial assistance (FA) grants to Community Development Financial Institutions (CDFIs) and to qualified Nonprofit Organizations that have the development or management of affordable housing as one of their principal purposes. Capital Magnet Fund Applicants must be (1) a certified CDFI; or (2) a non-profit organization operating with a principal purpose of developing or managing affordable housing solutions.

II. PROGRAM PROCEDURES

A. Overview

CMF is a competitive grant program established to "attract private capital for and increase investment in (1) the development, preservation, rehabilitation, or purchase of affordable housing for primarily extremely low-, very low-, and low-income families; and (2) economic development activities, or community service facilities, such as day care centers, workforce development centers, and health care clinics, which in conjunction with affordable housing activities implement a concerted strategy to stabilize or revitalize a low-income area or underserved rural area."

B. Subprograms/Program Elements

CMF provides Awards through a competitive application, evaluation, and selection process. After selection, each CMF Award Recipient enters into an Assistance Agreement, which includes Performance Goals and other Terms and Conditions.

Source of Governing Requirements

CMF was established through the Housing and Economic Recovery Act of 2008 Pub. L. No 110-289 (July 30, 2008), (12 USC 4569); codified at 12 CFR Part 1807.

Availability of Other Program Information

Additional information on the CMF is available on the CDFI Fund website at https://www.cdfifund.gov/programs-training/programs/cmf. A template of the Assistance Agreement is available on the CDFI Fund website at:https://www.cdfifund.gov/programs-training/programs/cmf/closing-disbursement-step.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program and the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See Part 1, "Safe Harbor Status" for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	N	N	Y	N	N	Y	N	Y	Y	N	N

A. Activities Allowed or Unallowed

Section 3.2 of the terms and conditions in the Assistance Agreement prescribes the specific authorized activities for CMF award Recipients. A link to the Assistance Agreement can be found under the "Closing and Disbursement " section on the CMF website. (*see also* 12 CFR sections 1807.300 and 1807.301).

1. *Activities Allowed*

   a. Capitalize Loan Loss Reserves (Housing and/or Economic Development)
   b. Capitalize a Revolving Loan Fund (Housing and/or Economic Development)
   c. Capitalize an Affordable Housing Fund (Housing only)
   d. Capitalize a fund to support Economic Development Activities (Economic Development only)
   e. Make Risk-Sharing Loans (Housing and/or Economic Development)
   f. Provide Loan Guarantees (Housing and/or Economic Development)

E. Eligibility

1. Eligibility for Individuals

Not Applicable

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

The CMF Assistance Agreement identifies a Service Area, or the geographic area approved by the CDFI Fund, in which the Recipient must use the CMF Award. The states listed in Schedule 1 of the Assistance Agreement comprise the allowable geographic areas for the location of Affordable Housing and/or Community Service Facilities/physical structures resulting from the Recipient's Affordable Housing Activities and/or Economic Development Activities.

3. Eligibility for Subrecipients

The Recipient shall not distribute the CMF Award to any Affiliate or Subsidiary, or distribute the CMF Award in any manner that would create a Subrecipient relationship (as defined in the Uniform Administrative Requirements), without the CDFI Fund's prior written consent.

H. Period of Performance

The CMF Period of Performance begins with the Announcement Date and continues until the end of the Affordability Period of the last Project funded by the Recipient under the CMF Assistance Agreement, when all the conditions in Section 9.11 of the CMF assistance agreement have been met, or such other time established by the CDFI Fund in writing.

The Period of Performance consists of an Investment Period and an Affordability Period. The Investment Period begins with the Effective Date in the Assistance Agreement and ends no earlier than the fifth-year anniversary of the Effective Date, or such other period as may be established in writing by the CDFI Fund. The authoritative requirement for the period of performance is codified in 12 CFR 1807.902.

The following is critical information:

1. Commitment Date(s): The Recipient shall have Committed for Use all of its CMF Award by no later than the applicable date(s) set forth in Schedule 1 of the Assistance Agreement.

2. Initial Disbursement Date: No later than three (3) years after the Effective Date of the assistance agreement, the Recipient shall make an initial disbursement of its CMF Award to at least one Affordable Housing or Economic Development Activity Project.

3. Project Completion Date: Within five (5) years of the Effective Date of the Assistance Agreement, unless otherwise determined in writing by the CDFI Fund, the Recipient shall achieve Project Completion with respect to all Projects financed/supported by its entire CMF Award.

J. Program Income

The authorized uses, restrictions and requirements for Program Income reinvestment are described under Sections 3.8 and 3.9 of the Assistance Agreement. The CMF Program Income follows the addition method for calculating Program Income. Principal and equity repayments of the CMF Award earned during the Investment Period must be reinvested by the Recipient. Program Income generated from earned interest on the CMF Award must be used by the Recipient solely to further the objectives of its mission. Program Income that is returned and made available to the Recipient due to the CMF Award becoming unrestricted from Loan Loss Reserves or Loan Guarantees shall be deemed to be Program Income earned in the form of principal and equity repayments of the CMF Award.

Program Income requirements and/or timeframes differ between award years, starting with the 2017 award year, and every award year thereafter, Program Income is set out in Schedule 1 of the Assistance Agreement in Section 3.8(a) or (b) as applicable. Generally, however, if the Recipient ends a fiscal year with a principal and equity repayment Program Income balance of $100,000 or greater, Program Income reinvestment requirements are triggered.

The following is critical information:

1. The Recipient must have committed any amount in excess of the $100,000 threshold within 12 months of the end of the Recipient's fiscal year in which the $100,000 balance was achieved; and

2. The Recipient must have completed any projects supported with Program Income within 36 months from the time the Program Income was committed to the Project.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

a. **Report Title**: Performance Progress Report (PPR)
OMB PRA Number: 1559-0054
Authoritative Requirements: The authoritative requirement for submission of the PPR is codified in 12 CFR 1807.902
Reporting period/submission date/s: Reports are due three (3) months after the Recipient's Period of Performance End Date.
Link to report and report instructions: Reports are submitted electronically in AMIS. Auditors will not be able to directly access AMIS and should request copies of Performance Reports from the Recipient.

Recipients may request to revise a previously submitted report without it having an impact on their compliance status. The request should indicate the reason(s) for the revision(s) and the proposed changes. Revision requests should be submitted in a service request through the Recipients AMIS account. Once the PPR has been unlocked for revisions the Recipient has five (5) business days to make any necessary corrections and resubmit the report. Auditors can review the "Approval History" at the bottom of the PPR in AMIS to determine the report approval status.

Previous versions of PPR's can be found in the Recipients AMIS account.

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

1) Total Amount Committed to Date

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

DEPARTMENT OF THE TREASURY

ASSISTANCE LISTING 21.012 NATIVE INITIATIVES PROGRAM

I. PROGRAM OBJECTIVES

The purpose of the Native Initiatives Program also referred to as the Native American Community Development Financial Institutions Assistance Program (NACA Program) is to promote economic revitalization and community development through financial and technical assistance to Native Community Development Financial Institutions (CDFIs) serving Native American, Alaska Native, or Native Hawaiian populations or Native American areas defined as Federally-designated reservations, Hawaiian homelands, Alaska Native Villages and U.S. Census Bureau-designated Tribal Statistical Areas (collectively, ‘‘Native Communities’’).

II. PROGRAM PROCEDURES

A. Overview

The NACA Program is administered by the Community Development Financial Institutions Fund (CDFI Fund), Department of the Treasury. Through the NACA Program, the CDFI Fund provides two types of monetary awards to CDFIs—Financial assistance (FA) awards and Technical assistance (TA) awards. In order to be eligible to apply for assistance, entities must meet, or propose to meet, specific CDFI eligibility criteria (12 CFR sections 1805.200 and 1805.201). CDFIs include entities such as banks, credit unions, depository institution holding companies, loan funds, and venture capital funds, among others.

An organization must be a certified CDFI as of the date of the Notice of Funds Availability (NOFA). At least 50% of the organization’s activities must serve Native Communities in order to be eligible to apply for a FA award through the NACA Program. Organizations that are Emerging CDFIs or Sponsoring Entities may only apply for a TA award through the NACA Program. Additionally, Certified CDFIs serving Native Communities may also apply for TA awards.

Through the NACA Program, FA awards are made to CDFIs serving Native communities. These competitive awards are made in the form of loans, grants, equity investments, deposits, and credit union shares. By multiplying the impact of federal investment, Native CDFIs are able to pursue a variety of goals, from small business creation to affordable housing development, as well as other community development pursuits. Eligible CDFIs that qualify for and apply for a Base-FA Award may also apply for any of the following supplemental programs: Healthy Food Financing Initiative-FA (HFFI-FA), Disability Funds-FA (DF-FA), and Persistent Poverty Counties-FA (PPC-FA). Only Applicants that receive a Base-FA Award may receive a supplemental Award.

Healthy Food Financing Initiative-FA (HFFI-FA) awards are also offered for Native CDFIs that are interested in expanding their healthy food financing activities.

The NACA Program also provides TA awards to certified CDFIs, emerging Native CDFIs, and Sponsoring Entities serving Native Communities. These competitive awards are made in the form of grants. Recipients may use TA awards to increase their capacity to serve their communities and/or to create, or become Certified CDFIs.

B. Subprograms/Program Elements

The CDFI Fund provides FA and TA awards through the NACA Program to help certified and emerging Native CDFIs sustain and expand their services, and build their technical capacity. FA and TA awards are provided through an annual competitive nationwide evaluation and selection process as referenced in the NOFA. The latest version of the NACA Program NOFA can be found on the CDFI Fund website at: https://www.cdfifund.gov/programs-training/programs/native-initiatives/apply-step.

After selection, each NACA Program award Recipient enters into an Assistance Agreement, which includes Performance Goals and Measures (PG&Ms) and other terms and conditions. A template of the Assistance Agreement can be found on the CDFI Fund website at https://www.cdfifund.gov/sites/cdfi/files/2022-01/FY2021_CDFIProgram_NACAProgram_FA_Assistance_Agreement_Template.pdf

Source of Governing Requirements

The NACA Program is authorized by the Community Development Banking and Financial Institutions Act of 1994 (Section 101 of Pub. L. No. 103-325, 108 Stat 2164, September 23, 1994.). The NACA Program implementing regulations are codified at 12 CFR Part 1805.

Note: All capitalized terms used herein but not defined have such definitions as specified in the CDFI Program's Interim Rule, NOFA, or applicable Assistance Agreement.

Availability of Other Program Information

Additional information on the NACA Program is available on the CDFI Fund website at https://www.cdfifund.gov/programs-training/programs/native-initiatives. A template of the Assistance Agreement is available on the CDFI Fund website

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a

direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	N	N	N	N	Y	N	N

A. Activities Allowed or Unallowed

Section 3.7 of the terms and conditions in the Assistance Agreement prescribes the specific authorized activities of FA awards for each NACA Program award Recipient (12 CFR sections 1805.301 and 1805.302).

1. *Activities Allowed*

   a. Financial Assistance- The Recipient must use the Financial Assistance (including Base-FA, HFFI-FA, Disability Funds -FA (DF-FA), and Persistent Poverty Counties-FA (PPC-FA) to support its activities in the following areas:

      (1) Financial Products (provided, however, HFFI-FA may not be used to fund loan purchases, loan refinancing, or any type of financing for prepared food outlets).

      (2) Financial Services (Regulated Institutions only; HFFI-FA may not be used to provide Financial Services).

      (3) Development Services.

      (4) Loan Loss Reserves.

      (5) Capital Reserves (Regulated Institutions only; DF-FA may not be used for Capital Reserves).

(6) Direct Administrative Expenses.

b. Technical Assistance - The Recipient must use the Technical Assistance to support activities in the following areas:

(1) Compensation (Personal Services);

(2) Compensation (Fringe);

(3) Training and Education;

(4) Travel;

(5) Professional Services;

(6) Equipment;

(7) Supplies; and

(8) Incorporation costs (Sponsoring Entities only).

2. *Activities Unallowed*

a. NACA Program Award Recipients may not distribute assistance to an affiliate or subsidiary without the prior consent of the CDFI Fund (12 CFR section 1805.302(b)).

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. **Performance Reporting**

a. **Report Title**: Performance Progress Report (PPR)
OMB PRA Number: 1559-0050
Authoritative Requirements: The authoritative requirement for submission of the PPR is codified in 12 CFR 1807.902
Reporting period/submission date/s: Reports are due three (3) months after the Recipient's Period of Performance End Date.

Link to report and report instructions: Reports are submitted electronically in the Recipient Award Management Information System (AMIS) account. Auditors will not be able to directly access AMIS and should request copies of Performance Reports from the Recipient.

Recipients may request to revise a previously submitted report without it having an impact on their compliance status. The request should indicate the reason(s) for the revision(s) and the proposed changes. Revision requests should be submitted in a service request through the Recipients AMIS account. Once the PPR has been unlocked for revisions the Recipient has five (5) business days to make any necessary corrections and resubmit the report. Auditors can review the "Approval History" at the bottom of the PPR in AMIS to determine the report approval status. Previous versions of PPR's can be found in the Recipients AMIS account.

Key Line Item(s) -- The following line items contain critical information

1) Performance Goals and Measures (PG&M)

b. **Report Title**: Uses of Award Report (UOA)
OMB PRA Number: OMB Control Number 1559-0050
Authoritative Requirements: The authoritative requirement for submission of the UOA is codified in 12 CFR 1805.803
Reporting period/submission date/s: Recipients submit the UOA in the AMIS database once a year, three (3) months after the Recipients Period of Performance End Date.

Link to Report and Report Instructions: Reports are submitted electronically in the Recipient's AMIS account. Auditors will not be able to directly access AMIS and should request copies of the UOA reports from the Recipient. Auditors will not be able to directly access AMIS and should request copies of Performance Reports from the Recipient.

Recipients may request to revise a previously submitted report without it having an impact on their compliance status. The request should indicate the reason(s) for the revision(s) and the proposed changes. Revision requests should be submitted in a service request through the Recipients AMIS account. Once the UOA has been unlocked for revisions the Recipient has five (5) business days to make any necessary corrections and resubmit the report. Auditors can review the "Approval History" at the bottom of the UOA in AMIS to determine the report approval status. The Auditor will review the most recent version of the report available in AMIS.

Previous versions of the UOA can be found in the Recipients AMIS account.

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

1) Advances of FA Funds held in interest-bearing accounts

2) Amount of interest

3) Interest earned in excess of $500.

4) Category of Activity - Total Dollar Amount

c. **Report Title**: CDFI Program Awardee and New Market Tax Credit (NMTC) Allocatee Annual Report
OMB PRA Number: OMB Control Number 1559-0027
Authoritative Requirements: The authoritative requirement for submission of the PPR is codified in 12 CFR 1805.803
Reporting period/submission date/s: Reports are due 180 days after the Recipient's Period of Performance End Date.

Link to report and report instructions: Reports are submitted electronically in AMIS. Instructions to complete the report can be found on the CDFI Funds web-site Information about AMIS Compliance and Performance Reporting page under the Compliance Resources and Reporting webpage in the New Markets Tax Credit (NMTC Program) Allocatee (CDE) Transaction Level Report Data Point Guidance for AMIS starting on page 34. Auditors will not be able to directly access AMIS and should request copies of the reports from the Recipient.

Recipients may request to revise a previously submitted report without it having an impact on their compliance status. The request should indicate the reason(s) for the revision(s) and the proposed changes. Revision requests should be submitted in a service request through the Recipients AMIS account. Once the Transaction Level Report (TLR) has been unlocked for revisions the Recipient has five (5) business days to make any necessary corrections and resubmit the report. Auditors can review the "Approval History" at the bottom of the TLR in AMIS to determine the report approval status.

Previous versions of TLRs can be found in the Recipient's AMIS account.

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

1) Column C - TLR Submission Year

2) Column D - Date Originated

3) Column E - Original Loan/Investment Amount

4) Column I - Interest Rate

5) Column K - Points

6) Column L - Origination Fees

7) Column O - Term

8) Column AH - Annual Gross Revenue from Business Operations at Time of Loan/Investment Origination

9) Column AP - Total Project Cost

Key Line Items for the Consumer Loan/Investment Report (CLR) - The following line items contain critical information:

1) Column B – Fiscal

2) Column H – Low-Income Targeted Population (LITP) Amount

3) Column I – LITP Number

4) Column J – Other Targeted Population (OTP) Amount

5) Column K – OTP Number

6) Column L – OTP Amount Native American

7) Column M – OTP Number Native American

8) Column N – OTP Amount Native Alaskan

9) Column O – OTP Number Native Alaskan

10) Column P – OTP Amount African American

11) Column Q – OTP Number African American

12) Column R – OTP Amount Native Hawaiian

13) Column S – OTP Number Native Hawaiian

14) Column T – OTP Amount Other Pacific Islander

15) Column U – OTP Number Other Pacific Islander

16) Column V – OTP Amount Filipino

17) Column W – OTP Number Filipino

18) Column X – OTP Amount Vietnamese

19) Column Y – OTP Number Vietnamese

20) Column Z – OTP Amount Persons with Disabilities

21) Column AA – OTP Number Persons with Disabilities

22) Column AB – OTP Amount Hispanic

23) Column AC – OTP Number Hispanic

24) Column AD – OTP Amount Other Approved OTP

25) Column AE – OTP Number Other Approved OTP

26) Column AF – Investment Area (IA) Amount

27) Column AG – IA Number

d. **Report Title**: Annual Certification and Data Collection Report Form - Transaction Level Report (TLR)
OMB PRA Number: OMB Control Number 1559-0046
Authoritative Requirements: The authoritative requirement for submission of the PPR is codified in 12 CFR 1805.803
Reporting period/submission date/s: Reports are due 180 days after the Recipient's Period of Performance End Date.

Link to report and report instructions: Reports are submitted electronically in AMIS. Instructions to complete the report can be found on the CDFI Certification Application & Data Collection Reporting Revision webpage in the CDFI/NACA/RRP Transaction Level Report (TLR) Data Point Collection Guide, starting at page 59. Auditors will not be able to directly access AMIS and should request copies of the reports from the Recipient.

Recipients may request to revise a previously submitted report without it having an impact on their compliance status. The request should indicate the reason(s) for the revision(s) and the proposed changes. Revision requests should be submitted in a service request through the Recipients AMIS account. Once the TLR has been unlocked for revisions the Recipient has five (5) business days to make any necessary corrections

and resubmit the report. Auditors can review the "Approval History" at the bottom of the TLR in AMIS to determine the report approval status.

Previous versions of TLRs can be found in the Recipient's AMIS account

Key Line Items – The following line items contain critical information for the Loan Purchases TLR:

1) TLR Loan Purchase Submission Year

2) Purchase Date

3) Loan Amount

4) Loan Interest Rate

5) Total $ Paid

6) Total # Loans

7) Business Loans Amount

8) Business Loans Count

9) Consumer Loans Amount

10) Consumer Loans Count

11) Commercial Real Estate Loans Amount

12) Commercial Real Estate Loans Count

13) Home Improvement & Purchase Loans Amount

14) Home Improvement & Purchase Loans Count

15) Residential Real Estate Loans Amount.

16) Residential Real Estate Loans Count

17) Climate Loans Amount

18) Climate Loans Count

19) Other/Unknown Loans Amount

20) Other/Unknown Loans Count

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

IV. OTHER INFORMATION

Recipients that received assistance in the form of a loan are required to submit both performance and financial reports for the Period of Performance designated in the Assistance Agreement. However, this does not relieve the borrower of the requirement to file financial reports on these loans or otherwise comply with program requirements until the loan is repaid to the CDFI Fund.

DEPARTMENT OF THE TREASURY

ASSISTANCE LISTING 21.016 EQUITABLE SHARING PROGRAM

I. PROGRAM OBJECTIVES

The purpose of the Equitable Sharing Program (Program) is to foster greater law enforcement cooperation among state, local, tribal, and federal law enforcement agencies. State and local law enforcement agencies can request federally forfeited funds or tangible assets through the Program based on their qualitative and quantitative contributions to an investigation resulting in federal forfeiture. Equitably shared funds must be used by law enforcement agencies for law enforcement purposes only.

II. PROGRAM PROCEDURES

A. Overview

The Program is managed by the Treasury Executive Office for Asset Forfeiture (TEOAF), which reports to the Department of the Treasury's Office of Terrorism and Financial Intelligence (TFI). TEOAF manages the Treasury Forfeiture Fund, which is the receipt account for non-tax federal forfeitures made by Treasury and Department of Homeland Security law enforcement agencies. State, local, or tribal law enforcement agencies that assist in federal investigations resulting in forfeiture may seek a portion of the federally forfeited funds in an amount commensurate with their efforts resulting in the forfeiture.

A law enforcement agency seeking a share of federally forfeited funds must meet eligibility requirement of being a law enforcement agency, must file an annual Equitable Sharing Agreement and Certification (ESAC) form, and must be in compliance with program requirements at the time of payment. The payment must bear a reasonable relationship to the level of the recipient agency's participation in the total law enforcement effort resulting in the forfeiture.

Shared funds may be used for a variety of law enforcement purposes, including but not limited to training, equipment, accounting services, joint law enforcement/public safety operations, drug, gang and other prevention or awareness programs.

Equitable sharing funds are considered federal financial assistance as defined in 2 Code of Federal Regulations (CFR) section 200.40. Equitable sharing payments are classified as "Direct Payment for Specified Use" in the System for Award Management.

Source of Governing Requirements

The Equitable Sharing Program is authorized by 31 USC Section 9705(a)(1)(G) and (b)(4); 18 USC Section 981(e)(2); 19 USC Section 1616a(c); and 21 USC Section 881(e)(1)(A) and (e)(3). The specific program requirements are implemented by guidelines, set forth in the *Joint*

Department of Justice/Department of Treasury Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies (Guide) (March 2024). Also, periodically, updates to policies impacting the Treasury Equitable Sharing program may be included in public notices issued by DOJ called "DOJ Wires," which are available on the Department of Justice's public facing equitable sharing website, linked here: https://www.justice.gov/criminal-mlars/equitable-sharing-program.

Availability of Other Program Information

Equitable Sharing resources are located here: https://home.treasury.gov/policy-issues/terrorism-and-illicit-finance/asset-forfeiture/equitable-sharing
The *Guide* is available here: https://home.treasury.gov/system/files/246/2024-Justice-Treasury-Joint-EQS-Guide-final-equitable-sharing.pdf
Additional information is also available at the Department of Justice website at https://www.justice.gov/criminal-mlars/equitable-sharing-program.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	N	Y	N	Y	N	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. *Financial Assistance*- Shared funds may be used for permissible law enforcement expenses that supplement law enforcement resources, such as for law enforcement operations, investigations, and equipment; training and education; public safety and detention facilities. Auditors should refer to Section V.A through V.B of the *Guide* which sets forth examples of the authorized activities and uses of shared funds. The ESAC form, and *Guide* in general, sets forth the general terms and conditions for a recipient of shared funds.

   b. Transfer of Tangible Assets- Section I.C of the *Guide*, at FN 2, explains that per a 2023 policy change, tangible and real property are no longer shared with or transferred to state or local law enforcement agencies. This includes but is not limited to vehicles, vessels, computers, electronic equipment, and real property.

B. Allowable Costs/Cost Principles

As a direct payment for specified use, these funds are considered federal financial assistance and are subject to only the following sections of the *Code of Federal Regulations*, Title 2, Subtitle A, Chapter II, Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ("2 CFR"): Subpart A – Acronyms and Definitions; Subpart B – General Provisions (excluding Sections 200.111 to 200.113); Subpart D – Post Federal Award Requirements (only sections 200.303 – Internal Controls and 200.331 to 333 – Subrecipient Monitoring in the limited case of where a cash transfer is permitted); and Subpart F – Audit Requirements.

All other provisions of 2 CFR, including 2 CFR sections 200.400 to 200.476, are inapplicable to the Program. Although 2 CFR sections 200.400 to 200.476 are not applicable, the *Guide*, sections V.B.1 and 2 detail allowable and unallowable uses of federal equitable sharing funds. Note that there may be specific exceptions for use of shared funds, so the *Guide* should be consulted for details. The *Guide's* policies on the use and administration of equitable sharing funds may also be updated at any time by DOJ or Treasury as noted above. .

F. Equipment and Real Property Management

Tangible assets may not be transferred to state and local agencies. This includes but is not limited to vehicles, vessels, computers, electronic equipment, and real property. Property purchased with equitable sharing funds is subject to inventory control, log maintenance, and disposal requirements as specified in the *Guide, Section VI.A.6, Bookkeeping Procedures and Internal Controls*.

G. Matching, Level of Effort, Earmarking

1. Matching

Not applicable

2. Level of Effort

2.1 Level of Effort – *Maintenance of Effort*

Not Applicable.

2.2 Level of Effort – *Supplement not Supplant*

Equitably shared funds must be used to increase or supplement the resources of the receiving state, local, or tribal law enforcement agency. Shared funds shall not be used to replace or supplant the agency's appropriated resources. See *Guide,* sections I.C and V.A1.

3. Earmarking

Not Applicable.

I. Procurement and Suspension and Debarment

1. *Procurement* – Although 2 CFR sections 200.317 to 200.327 are not applicable, the *Guide,* Sections VI.A.1 and 3, require agencies to follow their jurisdiction's procurement policies.

2. *Suspension and Debarment* – 2 CFR sections 180.200 to 225 are applicable. See *Guide,* Section VI.A.12.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Report Title: Equitable Sharing Agreement and Certification (ESAC) Form
OMB PRA Number: OMB#1123-0011
Report Authority: *Guide*, Section VII, Equitable Sharing Agreement (in the ESAC)
Reporting period/submission date/s: The ESAC must be signed and electronically submitted annually within two months of the end of the recipient agency's fiscal year.
Link to report and report instructions: The recipients access and file their ESACs through the DOJ Asset Forfeiture Systems eShare Portal, which is accessed here: Login: Asset Forfeiture Programs. Limited access is granted to this portal. However, auditors may access the ESAC by obtaining copies from the recipient agency.

Agencies report on the ESAC the amount of funds received and how funds were expended in general categories such as equipment and training. The "Treasury Funds" Column contains information for this program.

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

1. Line 1 Beginning of Equitable Sharing Fund Balance
2. Line 2 Equitable Sharing Funds Received
3. Line 6 Total Equitable Sharing Funds Received
4. Line 7 Equitable Sharing Funds Spent
5. Line 8 Ending Equitable Sharing Funds Balance
6. Summary of Shared Funds Spent:
    a. Line a Law Enforcement Operations and Equipment
    b. Line b Training and Education
    c. Line c Law Enforcement, Public Safety and Detention Facilities
    d. Line d Law Enforcement Equipment
    e. Line e Joint Law Enforcement/Public Safety Equipment and Operations
    f. Line f Contracts for services
    g. Line g Law Enforcement Travel and Per Diem
    h. Line h Law enforcement awards and memorials law enforcement awards and memorials
    i. Line i Drug gang and other education or awareness programs
    j. Line j Matching grants
    k. Line k Transfers to other participating law enforcement agencies
    l. Line l Support of Community-Based programs
    m. Line m Non-Categorized Expenses
    n. Line n Salaries

This form is expected to be updated in early 2025, and the new Key Line Items will be:

1. Line 1 Beginning of Equitable Sharing Fund Balance
2. Line 2 Equitable Sharing Funds Received
3. Line 5 Total of lines -14 above
4. Line 6 Total of lines a-m below

5. Line 8 Ending Equitable Sharing Funds Balance
6. Summary of Shared Funds Spent:
    a. Line a Law Enforcement Operations and Equipment
    b. Line b Training and Education
    c. Line c Law Enforcement, Public Safety and Detention Facilities
    d. Line d Law Enforcement Equipment
    e. Line e Joint Law Enforcement/Public Safety Equipment and Operations
    f. Line f Contracts for services
    g. Line g Law Enforcement Travel and Per Diem
    h. Line h Law enforcement awards and memorials
    i. Line i Drug gang and other education or awareness programs
    j. Line j Law Enforcement Initiatives that Further Investigations
    k. Line k Overtime
    l. Line l Salaries
    m. Line m Non-Categorized Expenditures

Agencies may continue to use the current form until the new form is approved by OPM.

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

IV. OTHER INFORMATION

The DOJ also manages its own Equitable Sharing Program under Assistance Listing 16.922. Funds from each program must be maintained and managed separately.

DEPARTMENT OF THE TREASURY

ASSISTANCE LISTING 21.020 COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS PROGRAM

I. PROGRAM OBJECTIVES

The purpose of the Community Development Financial Institutions Program (CDFI Program) is to use federal resources to invest in, and build the capacity of, Community Development Financial Institutions (CDFIs) to help them serve low-income and underserved people and communities that lack access to affordable financial products and services.

II. PROGRAM PROCEDURES

A. Overview

The CDFI Program is administered by the Community Development Financial Institutions Fund (CDFI Fund), Department of the Treasury. Through the CDFI Program, the CDFI Fund provides two types of monetary awards to CDFIs—Financial Assistance (FA) Awards and Technical Assistance (TA) Awards. In order to be eligible to apply for assistance, entities must meet, or propose to meet, specific CDFI eligibility criteria (12 CFR sections 1805.200 and 1805.201). CDFIs include, among others, entities such as banks, credit unions, depository institution holding companies, loan funds, and venture capital funds. An organization must be a Certified CDFI when the Notice of Funds Availability (NOFA) is released in order to be eligible to apply for a FA Award through the CDFI Program. Eligible CDFIs that qualify for and apply for a Base-FA Award may also apply for any of the following supplemental programs: Healthy Food Financing Initiative-FA (HFFI-FA), Disability Funds-FA (DF-FA), and Persistent Poverty Counties-FA (PPC-FA). Only Applicants that receive a Base-FA Award may receive a supplemental Award.

Organizations that are Emerging CDFIs or Sponsoring Entities may only apply for TA Awards. Additionally, Certified CDFIs meeting the Small and Emerging CDFI Assistance (SECA) requirements set forth in the NOFA may also apply for TA Awards.

B. Subprograms/Program Elements

The CDFI Fund provides FA and TA Awards to help certified and emerging CDFIs sustain and expand their services and build their technical capacity. FA and TA Awards are provided through a yearly competitive nationwide evaluation and selection process as referenced in the NOFA. The latest version of the CDFI Program Notice of Funding

Availability can be found on the CDFI Fund website at: https://www.cdfifund.gov/programs-training/programs/cdfi-program/apply-step.

After selection, each CDFI Program Award Recipient enters into an Assistance Agreement, which includes Performance Goals and other terms and conditions. A template of the Assistance Agreement can be found on the CDFI Fund website at https://www.cdfifund.gov/sites/cdfi/files/2022-01/FY2021_CDFIProgram_NACAProgram_FA_Assistance_Agreement_Template.pdf

Source of Governing Requirements

The CDFI Program is authorized by the Community Development Banking and Financial Institutions Act of 1994 (Section 101 of Pub. L. No. 103-325, 108 Stat 2164 September 23, 1994), The CDFI Program implementation regulations are codified at 12 CFR Part 1805. Capitalized terms used herein but not defined have such definitions as specified in the NOFA or Applicable Agreement

Availability of Other Program Information

Additional information on the CDFI Program is available on the CDFI Fund website at https://www.cdfifund.gov. The link to the template for the Assistance Agreement can be found under Section II. Program Procedures, Section B.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	N	N	N	Y	N	N

A. Activities Allowed or Unallowed

Section 3.7 of the terms and conditions in the Assistance Agreement prescribes the specific authorized activities of FA awards for each CDFI Program award Recipient (12 CFR sections 1805.301 and 1805.302).

1. Activities Allowed

a. Financial Assistance- The Recipient must use the Financial Assistance (including Base-FA, Healthy Food Financing Initiative (HFFI-FA), Disability Funds (DF-FA), and Persistent Poverty Counties (PPC-FA) to support its activities in the following areas:

(1) Financial Products (provided, however, HFFI-FA may not be used to fund loan purchases, loan refinancing, or any type of financing for prepared food outlets).

(2) Financial Services (Regulated Institutions only; HFFI-FA may not be used to provide Financial Services).

(3) Development Services.

(4) Loan Loss Reserves.

(5) Capital Reserves (Regulated Institutions only; DF-FA may not be used for Capital Reserves).

(6) Direct Administrative Expenses.

(7) Financial Products (provided, however, HFFI-FA may not be used to fund loan purchases, loan refinancing, or any type of financing for prepared food outlets).

b. Technical Assistance: The Recipient must use the Technical Assistance to support activities in the following areas:

(1) Compensation (Personal Services);

(2) Compensation (Fringe);

(3) Training and Education;

(4) Travel;

(5) Professional Services;

(6) Equipment;

(7) Supplies; and

(8) Incorporation costs (Sponsoring Entities only).

c. CFDI Program Award Recipients may not distribute assistance to an affiliate or subsidiary without the prior consent of the CDFI Fund (12 CFR section 1805.302(b)).

G. Matching, Level of Effort, Earmarking

1. Matching

a. *Financial Assistance* – Each CDFI Program Award Recipient must match FA provided with an amount that is at least comparable in (1) form (e.g., grant, loan, deposit, and Equity Investment) to the type of FA provided by the CDFI Fund, and (2) value, on a dollar-for-dollar basis, to the FA provided by the CDFI Fund, unless waived by Congress in the appropriation for the program. Typically, Matching Funds are waived for Small and Emerging CDFI Assistance (SECA) FA Applicants and HFFI-FA Applicants. Such match must come from sources other than the federal government and must consist of nonfederal funds. The applicable time frame for meeting the match is set forth in the NOFA published in the *Federal Register* for each funding round. The most recent NOFAs can be retrieved from the CDFI Fund's website at https://www.cdfifund.gov/programs-training/programs/cdfi-program/apply-step 2.

The amount of FA disbursed by the CDFI Fund to a CDFI Program Award Recipient will not exceed the amount of match that the CDFI Program Award Recipient has in hand as codified in 12 CFR sections 1805.500. Matching Funds are In-Hand when the Applicant receives payment for the Matching Funds from the Matching Funds source (e.g., grant, loan, deposit, and Equity Investment).

b. *Technical Assistance* – There is no match requirement for TA Awards under the CDFI Program as codified in 12 CFR section 1805.303(d).

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

a. **Report Title**: Performance Progress Report (PPR)
OMB PRA Number: 1559-0050
Authoritative Requirements: The authoritative requirement for submission of the PPR is codified in 12 CFR 1807.902
Reporting period/submission date/s: Reports are due three (3) months after the Recipient's Period of Performance End Date.
Link to report and report instructions: Reports are submitted electronically in the Recipient Award Management Information System (AMIS) account. Auditors will not be able to directly access AMIS and should request copies of Performance Reports from the Recipient.

Recipients may request to revise a previously submitted report without it having an impact on their compliance status. The request should indicate the reason(s) for the revision(s) and the proposed changes. Revision requests should be submitted in a service request through the Recipients AMIS account. Once the PPR has been unlocked for revisions the Recipient has five (5) business days to make any necessary corrections and resubmit the report. Auditors can review the "Approval History" at the bottom of the PPR in AMIS to determine the report approval status. Previous versions of PPR's can be found in the Recipients AMIS account.

Key Line Item(s) -- The following line items contain critical information

1) Performance Goals and Measures (PG&M)

b. **Report Title**: Uses of Award Report (UOA)
OMB PRA Number: OMB Control Number 1559-0050
Authoritative Requirements: The authoritative requirement for submission of the UOA is codified in 12 CFR 1805.803
Reporting period/submission date/s: Recipients submit the UOA in the AMIS database once a year, three (3) months after the Recipients Period of Performance End Date.

Link to Report and Report Instructions: Reports are submitted electronically in the Recipient's AMIS account. Auditors will not be able to directly access AMIS and should request copies of the UOA reports from the Recipient.

Recipients may request to revise a previously submitted report without it having an impact on their compliance status. The request should indicate the reason(s) for the revision(s) and the proposed changes. Revision requests should be submitted in a service request through the Recipients AMIS account. Once the UOA has been unlocked for revisions the Recipient has five (5) business days to make any necessary corrections and resubmit the report. Auditors can review the "Approval History" at the bottom of the UOA in AMIS to determine the report approval status. The Auditor will review the most recent version of the report available in AMIS.

Previous versions of the UOA can be found in the Recipients AMIS account.

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

1) Advances of FA Funds held in interest-bearing accounts

2) Amount of interest

3) Interest earned in excess of $500.

4) Category of Activity - Total Dollar Amount

c. **Report Title**: CDFI Program Awardee and New Market Tax Credit (NMTC) Allocatee Annual Report
OMB PRA Number: OMB Control Number 1559-0027
Authoritative Requirements: The authoritative requirement for submission of the PPR is codified in 12 CFR 1805.803
Reporting period/submission date/s: Reports are due 180 days after the Recipient's Period of Performance End Date.

Link to report and report instructions: Reports are submitted electronically in AMIS. Instructions to complete the report can be found on the CDFI Funds web-site under the Compliance Resources and Reporting webpage. Instructions to complete the report can be found in the New Markets Tax Credit (NMTC Program) Allocatee (CDE) Transaction Level Report Data Point Guidance for AMIS starting on page 34.

Recipients may request to revise a previously submitted report without it having an impact on their compliance status. The request should indicate

the reason(s) for the revision(s) and the proposed changes. Revision requests should be submitted in a service request through the Recipients AMIS account. Once the TLR has been unlocked for revisions the Recipient has five (5) business days to make any necessary corrections and resubmit the report. Auditors can review the "Approval History" at the bottom of the TLR in AMIS to determine the report approval status. Previous versions of TLRs can be found in the Recipient's AMIS account.

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

1) Column C - TLR Submission Year

2) Column D - Date Originated

3) Column E - Original Loan/Investment Amount

4) Column I - Interest Rate

5) Column K – Points

6) Column L - Origination Fees.

7) Column O - Term

8) Column AH - Annual Gross Revenue from Business Operations at Time of Loan/Investment Origination

9) Column AP – Total Project Cost

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

1) Column E – Total Originated Amount

2) Column F – Total Originated Number

3) Column B – Fiscal Year

4) Column H – Low Income Targeted Population (LITP) Amount–.

5) Column I – LITP Number

6) Column J – Other Targeted Population (OTP) Amount

7) Column K – OTP Number

8) Column L – OTP Amount Native American

9) Column M – OTP Number Native American

10) Column N – OTP Amount Native

11) Column O – OTP Number Native Alaskan

12) Column P – OTP Amount African American

13) Column Q – OTP Number African American

14) Column R – OTP Amount Native Hawaiian

15) Column S – OTP Number Native Hawaiian

16) Column T – OTP Amount Other Pacific Islander

17) Column U – OTP Number Other Pacific Islander

18) Column V – OTP Amount Filipino

19) Column W – OTP Number Filipino

20) Column X – OTP Amount Vietnamese

21) Column Y – OTP Number Vietnamese

22) Column Z – OTP Amount Persons with Disabilities

23) Column AA – OTP Number Persons with Disabilities

24) Column AB – OTP Amount Hispanic

25) Column AC – OTP Number Hispanic

26) Column AD – OTP Amount Other Approved OTP

27) Column AE – OTP Number Other Approved OTP

28) Column AF – Investment Area (IA) Amount

29) Column AG – IA Number

d. **Report Title**: Annual Certification and Data Collection Report Form - Transaction Level Report (TLR)
OMB PRA Number: OMB Control Number 1559-0046
Authoritative Requirements: The authoritative requirement for submission of the PPR is codified in 12 CFR 1805.803
Reporting period/submission date/s: Reports are due 180 days after the Recipient's Period of Performance End Date.
Link to report and report instructions: Reports are submitted electronically in AMIS. Instructions to complete the report can be found at CDFI/NACA/RRP Transaction Level Report (TLR) Data Point Collection Guide, starting at page 59.

Recipients may request to revise a previously submitted report without it having an impact on their compliance status. The request should indicate the reason(s) for the revision(s) and the proposed changes. Revision requests should be submitted in a service request through the Recipients AMIS account. Once the TLR has been unlocked for revisions the Recipient has five (5) business days to make any necessary corrections and resubmit the report. Auditors can review the "Approval History" at the bottom of the TLR in AMIS to determine the report approval status. Previous versions of TLRs can be found in the Recipient's AMIS account

Key Line Items – The following line items contain critical information for the Loan Purchases TLR:

1) TLR Loan Purchase Submission Year

2) Purchase Date

3) Loan Amount

4) Loan Interest Rate

5) Total $ Paid

6) Total # Loans

7) Business Loans Amount Business Loans Count

8) Consumer Loans Amount

9) Consumer Loans Count

10) Commercial Real Estate Loans Amount

11) Commercial Real Estate Loans Count

12) Residential Real Estate Loans

13) Residential Real Estate Loans Count

14) Mortgage Loans Amount.

15) Mortgage Loans Count.

16) Climate Loans Amount

17) Climate Loans Count-

18) Other/Unknown Loans Amount

19) Other/Unknown Loans Count

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

IV. OTHER INFORMATION

Recipients that received assistance in the form of a loan are required to submit both performance and financial reports for the Period of Performance designated in the Assistance Agreement. However, this does not relieve the borrower of the requirement to file financial reports on these loans or otherwise comply with program requirements until the loan is repaid to the CDFI Fund.

DEPARTMENT OF THE TREASURY

ASSISTANCE LISTING 21.023 EMERGENCY RENTAL ASSISTANCE PROGRAM

I. PROGRAM OBJECTIVES

Two laws authorized funding for Emergency Rental Assistance. The authorizations include some different legal requirements. Therefore, this Compliance Supplement addresses the requirements as "ERA 1" and "ERA 2." ERA 1 was authorized by Division N, Title V, Section 501 of the Consolidated Appropriations Act, 2021 (the Act), Pub. L. No. 116-260 (December 27, 2020), codified at 15 USC 9058a. ERA 2 was authorized by Title III, Subtitle B, Section 3201 of the American Rescue Plan Act (ARPA), 2021, Pub. L. No. 117-2 (March 11, 2021), codified at 15 USC 9058c. Both ERA 1 and ERA 2 funding is defined as "other financial assistance" in the Uniform Guidance and both ERA 1 and ERA 2 are administered by the Department of the Treasury (Treasury) as direct payments for specified use.

The purpose of ERA is to provide direct payments to eligible grantees to assist eligible households with financial assistance and to provide housing stability services and, in the case of ERA 2 as applicable, to cover the costs for other affordable rental housing and eviction prevention activities. ERA grantees may provide assistance directly to eligible landlords and utility providers on behalf of an eligible household or directly to an eligible household (See 15 USC 9058a(c)(2)(C)(i) and FAQ 12 for more detail on landlords and utility provider participation in the program). Financial assistance for eligible households may include payment of rent, rental arrears, utilities and home energy costs, utilities and home energy costs arrears, and other expenses related to housing. ERA grantees may also use funds to provide housing stability services as authorized by the respective statutes.

II. PROGRAM PROCEDURES

A. Overview

ERA 1 provided $25 billion for Treasury to make payments to States (defined to include the District of Columbia), US territories (Puerto Rico, US Virgin Islands, Guam, Northern Mariana Islands, and American Samoa), Indian tribes or their tribally designated housing entities, as applicable, the Department of Hawaiian Home Lands, and certain local governments with more than 200,000 residents. These entities are collectively referred to as "eligible grantees" or "ERA 1 grantees." ERA 1 award funds may be used to provide financial assistance and housing stability services to eligible households. All ERA 1 grantees that submitted the requested documentation to Treasury and executed a financial assistance agreement received their total ERA 1 award funds in one payment. The period of performance for the initial allocation of ERA1 awards and reallocated funds expired on September 30, 2022, and December 29, 2022, respectively. Therefore, grantees' fiscal year 2025 financial reporting should not include any expenditures for audit for their ERA 1 award.

ERA 2 provided $21.55 billion for Treasury to make payments to States (defined to include the District of Columbia), US Territories (Puerto Rico, US Virgin Islands, Guam, Northern Mariana Islands, and American Samoa), and local governments with more than 200,000 residents. These entities are collectively referred to as "eligible grantees" or "ERA 2 grantees." ERA 2 award funds may be used to assist eligible households with financial assistance and to provide housing stability services and, as applicable, to cover the costs for other affordable rental housing and eviction prevention activities.

Pursuant to 15 USC 9058c(c)(1), Treasury made initial payments of 40 percent of an eligible grantee's total award amount to each grantee under ERA 2 that submitted the required documentation and executed the financial assistance agreement. Through February 2022, Treasury made payments of the remaining 60 percent of ERA 2 grantees' award funds after they certified that at least 75 percent of the initial ERA 2 payment had been obligated pursuant to 15 USC 9058c(c)(2). Beginning in February 2022, Treasury altered its ERA 2 payment tranche policy to allow grantees to receive the remainder of their ERA 2 award funds in two payments (half of the remaining balance, followed by the remaining balance), subject to potential reductions resulting from the implementation of a statutory reallocation requirement with each tranche payment only made after grantees certified that they have obligated at least 75 percent of the funds already disbursed pursuant to 15 USC 9058c(c)(2). [The period of performance for ERA2 awards ends on September 30, 2025.]

Additional information on statutory differences between ERA 1 and ERA 2 are described in the Emergency Rental Assistance Frequently Asked Questions (FAQs) posted at: https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/emergency-rental-assistance-program/faqs.

15 USC 9058a(b)(1)(A) directs Treasury to use US Census Bureau data for the most recent year for which data is available for population calculations for determining the populations of state and local governments. Funds are distributed via a per capita formula allocation detailed on Treasury.gov that considers the minimum allocation of $200 million for states and the District of Columbia. Allocation amounts can be found via the following link: https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/emergency-rental-assistance-program/allocations-and-payments.

Source of Governing Requirements

Emergency Rental Assistance ("ERA 1"), Division N, Title V, Section 501 of the Consolidated appropriations Act, 2021 codified as 15 USC9058a.

Emergency Rental Assistance ("ERA 2"), Title III, Subtitle B, Section 3201 of the American Rescue Plan Act, 2021,) codified as 15 USC 9058c.

Section 15011 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. No. 116-136), codified by 15 USC 9058a, as amended by Title VIII, Section 801(b) of

the Consolidated Appropriations Act, 2021 at 15 USC 9058c, on December 27, 2020.

Treasury's Frequently Asked Questions (FAQs) and related guidance available on Treasury.gov, including important version changes over time that can be found on the ERA website.

Availability of Other Program Information

General information for ERA is available on Treasury's website at *https://www.treasury.gov/ERA*. Information includes the following documents:

ERA 1 authorizing statute: *https://www.govinfo.gov/content/pkg/PLAW-116publ260/pdf/PLAW-116publ260.pdf* (See pages 889 - 899)

This document details information that is contained in the authorizing statute including funds appropriated for ERA 1.

ERA 2 authorizing statute: *https://www.govinfo.gov/content/pkg/PLAW-117publ2/pdf/PLAW-117publ2.pdf* (See pages 52 - 56)

This document details information that is contained in the authorizing statute including funds appropriated for ERA 2.

15 USC 9058a(g)(1) regarding ERA 1 reporting: *https://www.govinfo.gov/content/pkg/PLAW-116publ136/pdf/PLAW-116publ136.pdf* (See pages 260 - 262)

This document provides information on grantee reporting the use of funds.

ERA 2 Award Terms template: *https://home.treasury.gov/system/files/136/ERA2_Grantee_Award_Terms_572021.pdf* (See pages 1 - 5)

This document provides award terms as a condition to the receipt of payment from Treasury for ERA 2.

Treasury's ERA Frequently Asked Questions (FAQs) and guidance are available at: *https://home.treasury.gov/system/files/136/ERA-FAQs03052024.pdf* (See pages 1-23)

Treasury released FAQs as guidance regarding ERA 1 and ERA 2 except where differences are specifically noted.

Treasury's ERA 2 Reallocation guidance: *https://home.treasury.gov/system/files/136/ERA2-Reallocation-Guidance-March-30-2022.pdf* (See pages 1 - 6)

The ERA 2 statute requires Treasury to identify funds for reallocation from amounts allocated to eligible Grantees, but not yet paid out to them.

ERA Compliance and Reporting guidance: *https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/emergency-rental-assistance-program/reporting* (See web page)

Treasury instituted a webpage that provides information and guidance on quarterly reporting and compliance.

Guidance from the Treasury Office of Inspector General (OIG) related to the reporting of ERA fraud, waste, and abuse and any future monitoring of funds requirements (where applicable): *https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/emergency-rental-assistance-program/fraud* (See web page)

Treasury OIG provided guidance to grantees on what to do if they suspect fraud, waste, and abuse.

ERA Promising Practices guidance: *https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/emergency-rental-assistance-program/promising-practices* (See web page)

This webpage describes examples of promising practices for ERA that identify program strategies that promise to speed up program implementation, more efficiently deliver program benefits, enhance program integrity, and improve tenant and landlord access to programs.

ERA Program and Service Design guidance: *https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/emergency-rental-assistance-program/service-design*

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	Y	Y	N	N	Y	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

B. Allowable Costs / Cost Principles

The cost principles in 2 CFR Part 200, Subpart E (Cost Principles) except for 2 CFR 200.418 and 2 CFR 200.419 apply to ERA 2. Thus, if a grantee made ineligible payments with ERA1 funds, the grantee may remove the ineligible payment from ERA1 and may pursue allowable recharacterization for eligible payments made from ERA2 funds during the ERA1 period of performance. Repayment to Treasury may not be required. See ERA1 Closeout Resource Footnote 3.

E. Eligibility

1. Eligibility for Individuals

To ensure eligibility requirements are met, household eligibility should be tested to focus on whether grantees established and adhered to reasonable policies for evaluating household applications within Treasury's framework providing for the use of self-attestation, categorical eligibility, and fact-specific proxies in qualifying circumstances. Specific eligibility requirement can be found in ERA FAQ 1.at: *https://home.treasury.gov/system/files/136/ERA-FAQs03052024.pdf*.

This approach to eligibility was implemented in accordance with 15 USC 9058a, for ERA 1 in 15 USC 9058a(c)(2)(C)(ii) concerning documentation of payments to households, 15 USC 9058a(f)(2)(A) and (B) concerning signature requirements for applications and documentation required for tenants, 15 USC 9058a(k)(1) concerning area median income determinations, and 15 USC 9058a(k)(3)(A)(I) and (II) concerning eligible household determinations and attestation requirements. This treatment is further explained in the ERA FAQs; 15 USC 9058a; and Treasury, Department of Justice, and Department of Housing and Urban Development's joint letter issued August 27, 2021 that can be accessed at: *https://home.treasury.gov/system/files/136/Eviction-Moratorium-Joint-Letter.pdf*.

To the extent that a grantee has established and consistently followed its own reasonable procedures for implementing an eligibility determination process, consistent with Treasury's guidance, it is not Treasury's expectation that grantees should seek additional documentation from a beneficiary after the initial determination of eligibility has been completed, including for those determined to be eligible using self-attestation, categorical eligibility, or fact-specific proxies in qualifying circumstances. Testing of individual household eligibility-related documentation should be limited to material already collected by the grantee during application as much as possible to avoid imposing undue burden on households that remain at risk of housing instability.

Treasury guidance related to determining where an applicant lives and the amount that they owe can be found in FAQ 5 at: *https://home.treasury.gov/system/files/136/ERA-FAQs03052024.pdf*. Grantees must obtain, if available, a current lease, signed by the applicant and the landlord or sublessor, that identifies the unit where the applicant resides and establishes the rental payment amount. If a household does not have a signed lease, documentation of residence may include evidence of paying utilities for the residential unit, an attestation by a landlord who can be identified as the verified owner or management agent of the unit, or other reasonable documentation as determined by the grantee. In the absence of a signed lease, evidence of the amount of a rental payment may include bank statements, check stubs, or other documentation that reasonably establishes a pattern of paying rent, a written attestation by a landlord who can be verified as the legitimate owner or management agent of the unit, or other reasonable documentation as defined by the grantee in its policies and procedures.

Additional Treasury guidance related to income determination can be found in FAQ 4 and related guidance at: https://home.treasury.gov/system/files/136/ERA-FAQs03052024.pdf. ERA 2 builds on the eligibility criteria in ERA 1 and permits additional flexibilities.

The ERA FAQs document the full eligibility considerations for grantees to extend emergency assistance to vulnerable populations without imposing undue documentation burdens. As described, given the challenges presented by the COVID-19 pandemic, grantees may be flexible as to the particular form of documentation they require, including by permitting photocopies or digital photographs of documents, e-mails, or attestations from employers, landlords, caseworkers, or others with knowledge of the household's circumstances. Grantees must require all applications for assistance to include an attestation from the applicant household that all information included is correct and complete. In all cases, grantees must document their policies and procedures for determining household eligibility to include policies and procedures for determining the prioritization of households in compliance with the statute and maintain records of their determinations.

Grantees may rely on a written attestation without further documentation of household income from the applicant under three approaches.:

a. Self-attestation Alone – In order to provide assistance rapidly during the public health emergency related to COVID-19, the grantee may rely on a self-attestation of household income, financial hardship, and/or risk of homelessness and housing instability without further verification if the applicant confirms in their application or other document that they are unable to provide documentation, provided the other requirements detailed in Treasury guidance are satisfied. If an applicant is able to provide satisfactory evidence of residence but is unable to present adequate documentation of the amount of the rental obligation, grantees may accept a written attestation from the applicant to support the payment of assistance up to a monthly maximum of 100 percent of the greater of the Fair Market Rent or the Small Area Fair Market Rent for the area in which the applicant resides, as most recently determined by HUD and made available at: *https://www.huduser.gov/portal/datasets/fmr.html.* In accordance with FAQ# 1, grantees must specify in their policies and procedures under what circumstances they will accept written attestations from the applicant without further documentation to determine any aspect of eligibility or the amount of assistance, and in such cases, grantees must have in place reasonable validation or fraud-prevention procedures to prevent abuse;

b. Categorical Eligibility – If an applicant household has been verified as a low-income family as defined in Section 3(b) of the United States Housing Act of 1937 (42 USC 1437a(b)) (for ERA 2) in connection with another local, state, or federal government assistance program, grantees are permitted to rely on a determination letter from the government agency that verified the applicant's household income or status as a low-income family, provided that the determination for such program was made on or after January 1, 2020; and/or

c. Fact-specific proxy – A grantee may rely on a written attestation from the applicant household as to household income if the grantee also uses any reasonable fact-specific proxy for household income, such as reliance on data regarding average incomes in the household's geographic area. Grantees also have discretion to provide waivers or exceptions to this documentation requirement to accommodate disabilities, extenuating circumstances related to the pandemic, or a lack of technological access. In these cases, the grantee is still responsible for making the required determination regarding the applicant's household income and documenting that determination.

Grantees have discretion to provide waivers or exceptions to certain documentation requirements to accommodate disabilities, extenuating

circumstances related to the pandemic, or a lack of technological access. In these cases, the grantee is still responsible for making the required determination regarding the applicant's household income and documenting that determination. Pursuant to 15 USC 9058a(k)(3)(B), and the factors regarding the allowability of costs in the Uniform Guidance, when providing ERA 1 assistance, the grantee must review the household's income and sources of assistance to confirm that the ERA 1 assistance does not duplicate any other assistance, including federal, state, or local assistance provided for the same costs. Grantees may rely on an attestation from the applicant regarding non-duplication with other government assistance, and the duplication requirement does not apply to ERA 2; however, to maximize program efficacy, Treasury encourages grantees to minimize the provision of duplicative assistance.

Treasury strongly encourages grantees to rely on the self-certification of applicants with regard to whether their financial hardship meet statutory eligibility requirements. Similarly, with respect to determining whether one or more individuals within the household can demonstrate a risk of experiencing homelessness or housing instability, Treasury indicates that a grantee may rely on a past due utility or rent notice or eviction notice, evidence of unsafe or unhealthy living conditions (which may include overcrowding) or any other evidence of risk, as determined by the grantee. Treasury clearly indicates that a grantee may rely on an applicant's self-certification identifying the applicable risk factor or factors, without further documentation, if other documentation is not immediately available.

Beginning October 1, 2022, grantees that have obligated 75 percent of their ERA2 awards, including funds received through reallocation, may choose to use up to 25 percent of their ERA2 award for, "other affordable rental housing and eviction prevention purposes, as defined by the Secretary, serving very low-income families." Treasury released guidance for these additional uses at FAQ 46 in July 2022. See page 20 of *https://home.treasury.gov/system/files/136/ERA-FAQs03052024.pdf*.

In summary, eviction prevention purposes are those previously defined as housing stability uses. For affordable housing, the eligible uses include operation or development of affordable housing that utilizes another federal grant program for affordable housing development and has a 20-year affordability covenant.

2. Eligibility for Groups of Individuals or Area of Service Delivery

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort

Not Applicable

3. Earmarking

Under ERA 2, a grantee may use up to 15 percent of the total award amount for direct and indirect administrative costs and 10 percent of the total award amount for housing stability services. See FAQ 29 at: *https://home.treasury.gov/system/files/136/ERA-FAQs03052024.pdf*.

ERA Funds Reallocation

Pursuant to 15 USC 9058c(e), Treasury has the authority to reallocate ERA 2 award funds that have not yet been disbursed to a grantee. Treasury's ERA 2 reallocation guidance on Treasury.gov and previewed here describes the voluntary reallocation process through which a grantee may request that Treasury reallocate its ERA 2 award funds to other ERA 2 grantees in the same state or to Treasury's general pool of reallocated funds. Grantees' eligibility for reallocated funds can be verified by their expenditure reports demonstrating they have met the statutory requirement that at least 50 percent of the total funds allocated to a grantee have been obligated to be eligible for reallocated funds. The grantees are also required to certify that they meet this obligation requirement on the form they submit to Treasury to request the reallocated funds. Unlike with ERA1, Treasury did not recapture any ERA2 funds paid out to a grantee; only undisbursed ERA2 funds were subject to reallocation. Guidance for ERA 2 reallocation can be found on this site at *https://home.treasury.gov/system/files/136/ERA2-Reallocation-Guidance-March-30-2022.pdf* (See pages 1 - 6).

Updated information regarding ERA 2 reallocation was posted as an update to Reallocation Guidance in March 2022. Treasury does not plan on conducting any additional "involuntary" reallocations for ERA2.

H. Period of Performance

Under 15 USC 9058c(g), the period of performance for ERA 2 awards begins on the date that Treasury and the grantee executed the ERA 2 Award Terms and ends on September 30, 2025. All award funds not obligated or expended by the end of the period of performance date for ERA 2 awards must be returned to Treasury as part of the award closeout process pursuant to the Uniform Guidance closeout requirements, including amounts distributed through redirection and reallocation.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

Note: *ERA recipients do not submit SF-425 Reports. They provide a subset of the data collected via the SF-425 in the ERA2 Compliance Report in the Federal Financial Reporting section of the report via Treasury's portal.*

2. Performance Reporting

a. Title of Report: ERA Compliance Report
PRA Number: 1505-0270 (ERA 2)
Reporting Cycle: Quarterly
Authoritative Requirement: 15 USC 9058c; 2 CFR 200.328 (Financial report); and 2 CFR 200.329 (Performance report)
Blank Copy of the Report:
https://home.treasury.gov/system/files/136/ERA2-Portal-Users-Guide.pdf
(see figures 3-7 for screenshots of user guide)
Report Instructions: *https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/emergency-rental-assistance-program/reporting*

Report Corrections: ERA2 recipients that submit a report prior to the due date may recall a previously submitted report, make any edits, and resubmit the report by the due date. In addition, when authorized by Treasury staff, ERA2 recipients may revise submitted reports for the current quarter to address issues identified by Treasury's initial data quality/consistency validations. After the revision period ends, the submitted report is final within Treasury's reporting portal. Where the ERA2 recipient identifies an issue for revision after the revision period, recipients are required to ensure the revised information is incorporated into the next quarterly report.

Key Line Items-

Administrative Costs Ratio- Quantifiable Objective Criteria: Total obligations and/or expenditures for administrative costs does not exceed the relevant threshold of total allocation (15% for ERA 2 across the prime and all subrecipients), and the amounts reported for administrative costs are accurate. (See ERA Reporting Guidance, Appendix 7, Applicable

Limitations on Administrative Expenses, page 54 and for ERA2 see ERA 2 Reporting Guidance, Appendix 7, Applicable Limitations on Administrative Expenses, page 43)

1. *Housing Stability Services Ratio*- Quantifiable Objective Criteria: Total obligations and/or expenditures for housing stability services is not greater than 10% of the total amount allocated (see ERA2 Reporting Guidance, Appendix 7, Applicable Limitations on Administrative Expenses, page 43). Examples of these services can be found in FAQ 23 on page 12 of the March 5, 2024 FAQs located at: *https://home.treasury.gov/system/files/136/ERA-FAQs03052024.pdf*.

2. *System for Prioritizing Assistance*- Quantifiable Objective Criteria: The number of households with less than 50% Area Median Income (AMI) receiving financial assistance is greater than the number of households with greater than 50% AMI receiving assistance (For ERA1 see ERA Reporting Guidance, Section E, Number of Unique Participant Households at Certain Income Levels, page 29 and for ERA2 see ERA2 Reporting Guidance, Section E, *Cumulative Number of Unique Participant Households at Certain Income Levels*, page 23)

   Participant Households at Certain Income Levels Eligibility- Quantifiable Objective Criteria: The total households receiving assistance is not greater than the sum of Area Median Income (AMI) banded eligible households with a 5 to 10% margin of error to avoid false positives for medium to large recipients. Treasury is aware of some limited temporary income data availability and reporting lag due to waterfall distribution models required within the statutory design framework and related administrative processing delays, as well as the use of fact-based proxies or assistance based on participation in other programs. Does not apply to tribal recipients exempt from income reporting according to Treasury guidance and policy (For ERA1 see ERA Reporting Guidance, Section E, *Number of Unique Participant Households at Certain Income Levels*, page 29 and for ERA2 see ERA2 Reporting Guidance, Section E, *Cumulative Number of Unique Participant Households at Certain Income Levels*, page 23)

3. Special Reporting

Not applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

Although reporting on subaward information is applicable to ERA grantees pursuant to the award term set forth in Appendix A to 2 CFR Part 170, which is incorporated by reference in the ERA2 Award Terms, ERA grantees' compliance with these reporting requirements is not subject to audit.

M. Subrecipient Monitoring

See Part 3, Section M, “Subrecipient Monitoring” for a general description of the compliance requirements, the related audit objectives, and suggested audit procedures.

DEPARTMENT OF THE TREASURY

ASSISTANCE LISTING 21.025 SMALL DOLLAR LOAN PROGRAM

I. PROGRAM OBJECTIVES

The purpose of the Community Development Financial Institutions Fund's (CDFI Fund's) Small Dollar Loan Program (SDL Program) is to use federal resources to help Certified CDFIs expand consumer access to mainstream financial institutions and provide alternatives to high-cost small dollar loans. The program was also created to help unbanked and underbanked populations build credit, and access affordable capital.

II. PROGRAM PROCEDURES

A. Overview

To provide grants for Loan Loss Reserves to enable: (1) a Certified Community Development Financial Institution (CDFI) or any partnership between a Certified CDFI and federally insured depository institution with a primary mission to serve targeted Investment Areas, to establish a loan-loss reserve (LLR) fund in order to defray the costs of a small dollar loan program established or maintained by such institution; and (2) to provide grants for technical assistance (TA) to a Certified CDFI or any partnership between or among Certified CDFIs, to establish and maintain small dollar loan programs. SDL Program grants cannot be used to provide direct loans to consumers. This program is intended to provide an alternative to high-cost small dollar loans as well as help unbanked and underbanked populations build credit, access affordable capital, and allow greater access to the mainstream financial system.

B. Subprograms/Program Elements

Through the SDL Program, the CDFI Fund provides (1) LLR Awards to enable CDFIs to establish a loan loss reserve to cover losses on small dollar loans from - new or existing small dollar loan programs; and (2) TA Awards to support technology, staffing, and other eligible activities to enable a Certified CDFI to establish and maintain a small dollar loan program. LLR and TA Awards are provided through a competitive nationwide evaluation and selection process. After being selected for an Award, each SDL Program Award Recipient enters into an Assistance Agreement, which includes Performance Goals and Measures and other terms and conditions.

Source of Governing Requirements

The SDL Program is authorized by Title XII— Improving Access to Mainstream Financial Institutions Act of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010

(Pub. L. 111– 203), which amended the Riegle Community Development Banking and Financial Institutions Act of 1994 Pub. L. No. 103-325 (September 23, 1994).

Note: All capitalized terms used herein but not defined have such definitions as specified in the CDFI Program's Interim Rule, NOFA, or applicable Assistance Agreement.

Availability of Other Program Information

Additional closing and disbursement information on the SDL Program is available on the CDFI Fund website at: https://www.cdfifund.gov/programs-training/programs/sdlp.

A template of the FY 2024 SDL Program Assistance Agreement is available on the CDFI Fund website at: SDL_Program_Assistance_Agreement_FY_2024.pdf (cdfifund.gov).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	N	N	N	N	Y	N	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. Technical Assistance – TA Awards may be used for technology, staff support, and other eligible activities to enable a Certified CDFI to establish or maintain a small dollar loan program. Section 3.2 of the terms and conditions in the Assistance Agreement prescribes the specific authorized activities of the TA Award amounts for each SDL Program Award Recipient.

   b. Loan Loss Reserve – LLR grants may be used to establish a LLR fund in order to cover the losses on small dollar loans associated with starting a new small dollar loan program or expanding an existing small dollar loan program. Section 3.2 of the terms and conditions in the Assistance Agreement prescribes the specific authorized activities for the LLR Award for each SDL Program Award Recipient.

2. *Activities Unallowed*

   a. An SDL Program Award Recipient may not distribute assistance to an Affiliate or Subsidiary without the prior consent of the CDFI Fund. Additional guidance on restrictions on the use of SDL Program funds can be found in Section 3.8 of the SDL Program Assistance Agreement.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

a. **Report Title**: Performance Progress Report (PPR)
OMB PRA Number: 1559-0050
Authoritative Requirements: The authoritative requirement for submission of the PPR is codified in 12 CFR 1807.902
Reporting period/submission date/s: Reports are due three (3) months after the Recipient's Period of Performance End Date.
Link to report and report instructions: Reports are submitted electronically in the Recipient Award Management Information System

(AMIS) account. Auditors will not be able to directly access AMIS and should request copies of Performance Reports from the Recipient.

Recipients may request to revise a previously submitted report without it having an impact on their compliance status. The request should indicate the reason(s) for the revision(s) and the proposed changes. Revision requests should be submitted in a service request through the Recipients AMIS account. Once the PPR has been unlocked for revisions the Recipient has five (5) business days to make any necessary corrections and resubmit the report. Auditors can review the "Approval History" at the bottom of the PPR in AMIS to determine the report approval status. Previous versions of PPR's can be found in the Recipients AMIS account.

Key Line Item(s) -- The following line items contain critical information

Performance Goals and Measures (PG&M)

b. **Report Title**: Uses of Award Report (UOA)
OMB PRA Number: OMB Control Number 1559-0050
Authoritative Requirements: The authoritative requirement for submission of the UOA is codified in 12 CFR 1805.803
Reporting period/submission date/s: Recipients submit the UOA in the AMIS database once a year, three (3) months after the Recipients Period of Performance End Date.
Link to Report and Report Instructions: Reports are submitted electronically in the Recipient's AMIS account. Auditors will not be able to directly access AMIS and should request copies of the UOA reports from the Recipient.

Recipients may request to revise a previously submitted report without it having an impact on their compliance status. The request should indicate the reason(s) for the revision(s) and the proposed changes. Revision requests should be submitted in a service request through the Recipients AMIS account. Once the UOA has been unlocked for revisions the Recipient has five (5) business days to make any necessary corrections and resubmit the report. Auditors can review the "Approval History" at the bottom of the UOA in AMIS to determine the report approval status. The Auditor will review the most recent version of the report available in AMIS.

Previous versions of the UOA can be found in the Recipients AMIS account.

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

1) Advances of FA Funds held in interest-bearing accounts

2) Amount of interest

3) Interest earned in excess of $500.

4) Category of Activity - Total Dollar Amount

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

DEPARTMENT OF THE TREASURY

ASSISTANCE LISTING 21.026 HOMEOWNER ASSISTANCE FUND PROGRAM

I. PROGRAM OBJECTIVES

The Homeowner Assistance Fund (HAF) program provides $9.961 billion for the U.S. Department of the Treasury ("Treasury") to make payments to states (defined to include the District of Columbia, Puerto Rico, US Virgin Islands, Guam, Northern Mariana Islands, and American Samoa), Indian tribes or their tribally designated housing entities, and the Department of Hawaiian Home Lands (collectively the "eligible entities" or "HAF Participants") to mitigate financial hardships associated with the coronavirus pandemic, including for the purpose of preventing homeowner mortgage delinquencies, defaults, foreclosures, loss of utilities or home energy services, and displacements of homeowners experiencing financial hardship after January 21, 2020, through qualified expenses related to mortgages and housing.

II. PROGRAM PROCEDURES

A. Overview

Section 3206 of the American Rescue Plan Act of 2021 (the "Act"), Pub. L. No. 117-2 (March 11, 2021), codified as 15 USC 9058d, established the HAF program and provides $9.961 billion for Treasury to make payments to the eligible entities to provide the assistance to homeowners for qualified expenses related to mortgages and housing as described in 15 USC 9058d(c)(1) and Treasury's HAF Guidance.

Pursuant to 15 USC 9058d(c)(2), at least 60 percent of the HAF participants' award funds must be used to provide assistance with mortgage payments, homeowner's insurance, utility payments, and other qualified expenses related to mortgages and housing to eligible homeowners within a certain target income. The law requires HAF participants to prioritize the remaining award funds to provide assistance to "socially disadvantaged individuals" (see also the section on "Targeting" in the HAF Guidance).

15 USC 9058d(d) prescribes that the HAF funding must be allocated as follows:

1. $30 million for the US Virgin Islands, Guam, Northern Mariana Islands, and American Samoa (US territories);

2. $498 million for the Department of Hawaiian Home Lands (DHHL) and Indian tribes or their tribally designated housing entities; and

3. the remainder for the 50 states, the District of Columbia, and Puerto Rico. Each state, the District of Columbia, and Puerto Rico will receive a minimum payment of $50 million. Amounts that will be paid to states, the

District of Columbia, and Puerto Rico are based on homeowner need as it relates to unemployment and mortgage delinquencies or mortgage foreclosures in those jurisdictions.

Amounts paid to US territories are based on share of population, and amounts paid to tribal entities are based on a formula under 15 USC 9058d(f)(2).

Source of Governing Requirements

Section 3206 of the American Rescue Plan Act of 2021, codified at 15 USC 9058d.

As implemented by Treasury's HAF guidance available on Treasury.gov, including important version changes over time that can be found on the site.

Availability of Other Program Information

General information for the HAF program is available through the program website at *https://www.treasury.gov/HAF*. Information includes the following documents:

HAF Guidance

Provides guidance on HAF program purpose, definitions, Notice of Request for HAF payments, qualified expenses, homeowner eligibility, HAF plans, and reporting and monitoring as required under section 15 USC 9058d.

HAF Reporting Frequently Asked Questions (FAQs)

Provided answers to frequently asked questions on HAF reports.

HAF Quarterly Report User Guide

The User Guide contains detailed guidance and instructions for HAF participants in using Treasury's Portal for submitting the HAF Quarterly Report.

HAF Annual Report User Guide

Provides guidance on using Treasury's Portal to submit the required HAF Annual Report.

HAF Guidance on Participant Compliance and Reporting Responsibilities

Provides detail on HAF participants' compliance and reporting responsibilities under the HAF program, and should be read in concert with the HAF Financial Assistance Agreement the HAF authorizing statute (See pages 60-63), and the HAF Guidance.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	Y	N	N	N	Y	Y	N

A. Activities Allowed or Unallowed

HAF participants may use their HAF award funds for qualified expenses related to mortgages and housing, including for the purpose of preventing homeowner mortgage delinquencies, homeowner mortgage defaults, homeowner mortgage foreclosures, homeowner loss of utilities or home energy services, and displacements of homeowners experiencing financial hardship after January 21, 2020. Please see pages 5 to 8 of the HAF Guidance for the full list of qualified expenses.

B. Allowable Cost / Cost Principles

HAF funds are considered "other financial assistance" and are administered by Treasury as direct payments for specified use.

1. Allowable Costs under the HAF program include the following:

    a. mortgage payment assistance;

b. financial assistance to allow a homeowner to reinstate a mortgage or to pay other housing-related costs related to a period of forbearance, delinquency, or default;

c. mortgage principal reduction, including with respect to a second mortgage provided by a nonprofit or government entity;

d. facilitating mortgage interest rate reductions;

e. payment assistance for: (a) homeowner's utilities, including electric, gas, home energy, water, and wastewater; (b) homeowner's internet service, including broadband internet access service, as defined in 47 CFR 8.1(b) (or any successor regulation); (c) homeowner's insurance, flood insurance, and mortgage insurance; (d) homeowner's association fees or liens, condominium association fees, or common charges, and similar costs payable under a unit occupancy agreement by a resident member/shareholder in a cooperative housing development; and (e) down payment assistance loans provided by nonprofit or government entities;

f. payment assistance for delinquent property taxes to prevent homeowner tax foreclosures;

g. measures to prevent homeowner displacement, such as home repairs to maintain the habitability of a home or assistance to enable households to receive clear title to their properties;

h. reimbursement of funds expended by a state, local government, or applicable tribal entity during the period beginning on January 21, 2020, and ending on the date that the first funds are disbursed by the HAF participant under the HAF, for a qualified expense (other than any qualified expense paid directly or indirectly by another federal funding source, or any qualified expenses described in clauses (6), (7), (8), or (10) of this definition);

i. payment of lot rent for a manufactured home, where such payment would promote housing stability and prevent the default of the resident of the manufactured home;

j. reimbursement of funds expended by a state, local government, or entity described in clause (3) or (4) of the definition above of "eligible entity" during the period beginning on the date the participant received its initial HAF payment and ending on the date the participant received the balance of funds requested in the participant's HAF plan for a qualified expense consistent with the participant's approved HAF Plan (other than any qualified expense paid directly or indirectly by another federal funding source);

k. payment assistance or principal reduction for Property Assessed Clean Energy (PACE) loans, where such expenditures would promote housing stability and prevent foreclosures or homeowner displacement.

Please see the HAF Guidance on the HAF program page on Treasury.gov for the latest guidance regarding the eligible uses of HAF funds.

E. Eligibility

1. Eligibility for Individuals

HAF participants were expected to establish and adhere to reasonable policies and procedures for evaluating homeowners' applications in accordance with the HAF Guidance which permits HAF participants to reasonably rely on self-attestation.

Testing of individual homeowner eligibility-related documentation can be limited to material already collected by the HAF participant in the application as much as possible to avoid imposing undue burden on homeowners that are experiencing financial hardships.

The HAF Guidance documents the full eligibility considerations for HAF participants to extend financial assistance to vulnerable populations without imposing undue documentation burdens. HAF participants must require all applications for assistance to include an attestation from the applicant homeowner that all information included is correct and complete. In addition, HAF participants are expected to have policies and procedures to determine homeowner eligibility in the following two criteria:

Financial Hardship**:** HAF participants may rely on homeowners' attestations that they experienced financial hardship after January 21, 2020 (including a hardship that began before January 21, 2020 but continued after that date). The attestation must describe the nature of the financial hardship (for example, job loss, reduction in income, or increased costs due to healthcare or the need to care for a family member).

Income Determination**:** HAF participants may take one of two approaches to income verification: (1) the homeowner may provide a written attestation as to household income together with supporting documentation such as paystubs, W2s or other wage statements, IRS Form 1099s, tax filings, depository institution statements demonstrating regular income, or an attestation from an employer; or (2) the homeowner may provide a written attestation as to household income and the HAF participant may use a reasonable fact-specific proxy for household income, such as reliance on data regarding average incomes in the household's geographic area. To be eligible for HAF assistance, the homeowner must have income equal to or less than 150 percent of the area median income (AMI) or 100 percent of the median income for the United States, whichever is greater. When

determining area median income with respect to Tribal citizens, Tribal governments and TDHEs may rely on the methodology authorized by HUD for the Indian Housing Block Grant Program as it pertains to households residing in an Indian area comprising multiple counties (see HUD Office of Native American Programs, Program Guidance No. 2021-01, June 22, 2021).

For additional information, please see Treasury's HAF Guidance at: *https://home.treasury.gov/system/files/136/HAF-Guidance.pdf* (See pages 5 - 6).

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort

Not Applicable

3. Earmarking

a. Counseling or educational efforts by housing counseling agencies approved by HUD, tribal government (including such efforts by in-house housing counselors who are HUD certified or tribally approved), or legal services, targeted to households eligible to be served with funding from the HAF related to foreclosure prevention or displacement, in an aggregate amount up to 5 percent of the funding from the HAF received by the HAF participant.

b. Planning, community engagement, needs assessment, and administrative expenses related to the HAF participant's disbursement of HAF funds for qualified expenses, in an aggregate amount not to exceed 15 percent of the funding from the HAF received by the HAF participant. If the HAF participant has only received the initial 10% of its allocation, no more than 50% of the initial payment is permitted to be used for the expenses mentioned here.

c. Participants are providing not less than 60% of funds to homeowners with income less than 100% AMI or 100% of U.S. median income.

d. Participants target homeowners that are classified as Socially Disadvantaged Individuals (SDI) and 100 percent AMI or less.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not applicable

d. *Other*: Quarterly Report (PRA 1505-0269))- Quarterly

Authoritative Requirement: 2 CFR 200.328
Report Instructions:
https://home.treasury.gov/system/files/136/HAF_QuarterlyReportUserGuide.pdf.

Note: HAF Participants, except for Tribal governments with a HAF award that is less than $5 Million and the Department of Hawaiian Home Lands, are required to submit a Quarterly Report each quarter. For Tribal governments with a HAF award that is less than $5 Million and the Department of Hawaiian Home Lands, a Quarterly Report is submitted once-a-year.

Report Corrections: The Office of Recovery Program's (ORP) reporting portal has built-in functionality to reopen a report and allow HAF participants to make edits after the reporting deadline. However, it is ORP's policy that HAF participants may only make revisions if authorized by Treasury staff for a period of up to 60 days after the reporting deadline. After the revision period ends, the report is final. A resubmitted report becomes a HAF participant's final report within ORP's reporting portal. HAF participants can generate PDFs of this reports at any time.

Key Line Items –

1. *Administrative Expenses*- Quantifiable Objective Criteria: Obligations and expenditures do not exceed 15% for admin expenses in the Budget Reporting section, as noted on page 4 of the HAF Guidance (See item #10).

2. *Services, Counseling & Education*- Quantifiable Objective Criteria: Obligations and expenditures do not exceed 5% for legal services, counseling, and education in the Budget Reporting section, as noted on page 4 of the HAF Guidance.

2. Performance Reporting

Title of Report: *Annual Performance Report*
PRA Number: 1505-0269
Reporting Cycle: Annual
Authoritative Requirement:
home.treasury.gov/system/files/136/HAF_AnnualReportUserGuide.pdf
Blank Copy of the Report (see pages 7-20 for screen shots of blank pages of the report):
https://home.treasury.gov/system/files/136/HAF_AnnualReportUserGuide.pdf

Report Instructions:
https://home.treasury.gov/system/files/136/HAF_AnnualReportUserGuide.pdf

Report Corrections: The Office of Recovery Program's (ORP) reporting portal has built-in functionality to reopen a report and allow HAF participants to make edits after the reporting deadline. However, it is ORP's policy that recipients may only make revisions if authorized by Treasury staff for a period of up to 60 days after the reporting deadline. After the revision period ends, the report is final. A resubmitted report becomes a HAF participant's final report within ORP's reporting portal. HAF participants can generate PDFs of this reports at any time.

Key Line Item(s)

1. *Socially Disadvantaged Individuals*- Quantifiable Objective Criteria: Participants are providing not less than 60% of funds to homeowners with income less than 100% AMI or 100% of U.S. median income. This key line item can be found in question 8 of the Programmatic Information section of the report.

2. *Area Median Income*- Quantifiable Objective Criteria: Participants target homeowners that are classified as SDI and 100 percent AMI or less. This key line item can be found in question 7 of the Programmatic Information section of the report on page 6 of the HAF Guidance.

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

Although reporting on subaward information is applicable to HAF participants pursuant to the award term set forth in Appendix A to 2 CFR Part 170, which is incorporated by reference in the HAF Financial Assistance Agreement, HAF participants' compliance with these reporting requirements is not subject to audit.

DEPARTMENT OF THE TREASURY

ASSISTANCE LISTING 21.027 CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

This Compliance Supplement section is broken down into two sections. The first section below is relevant to audits of the Coronavirus State and Local Fiscal Recovery Funds performed under subpart F, Audit Requirements, of the Uniform Guidance. The second section (beginning on page 4-21.027-17) describes an alternative audit approach for certain eligible recipients.

SECTION 1 – Audits Performed Under the Uniform Guidance

I. PROGRAM OBJECTIVES

Note: Per Part IV, "Other Information," certain Coronavirus State and Local Fiscal Recovery Funds (SLFRF) recipients are provided with an option to have an alternative compliance examination engagement in lieu of a Single Audit or a Program-Specific Audit.

The purpose of the SLFRF program is to provide direct payments to states (defined to include all 50 states and the District of Columbia), US territories (defined to include Puerto Rico, US Virgin Islands, Guam, Northern Mariana Islands, and American Samoa), Tribal governments, metropolitan cities, counties, and (through states) non-entitlement units of local government (NEUs) (collectively the "eligible entities") to:

1. Respond to the public health emergency with respect to Coronavirus Disease 2019 (COVID-19) or its negative economic impacts, including by providing assistance to households, small businesses, nonprofits, and impacted industries, such as tourism, travel, and hospitality;

2. Respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the recipient that perform essential work or by providing grants to eligible employers that have eligible workers who are performing essential work;

3. Provide government services, to the extent of the reduction in revenue of the eligible entities due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year of the eligible entities prior to the emergency;

4. Make necessary investments in water, sewer, or broadband infrastructure;

5. Provide emergency relief from natural disasters or the negative economic impacts of natural disasters including temporary housing, food assistance, financial assistance for lost wages, and other immediate needs. Please see pages 4 - 8 of the Overview of the 2023 Interim Final Rule (SLFRF Overview of the 2023 IFR) for a list of such eligible uses;

6. Use funds for Surface Transportation projects under certain programs administered by the U.S. Department of Transportation. Please see pages 9 - 15 of the SLFRF Overview of the 2023 IFR for a list of such eligible uses; and

7. Use funds for projects eligible under the programs established in Title I of the Housing and Community Development Act of 1974 ("Title I projects"), subject to certain requirements and limitations. Please see pages 16 - 19 of the SLFRF Overview of the 2023 IFR for a list of such eligible uses.

II. PROGRAM PROCEDURES

A. Overview

Sections 602 and 603 of the Social Security Act (the "Act"), as added by section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (Mar. 11, 2021), codified at 42 USC sections 802 and 803, and as amended by the Consolidated Appropriations Act, 2023 ("2023 CAA"), Pub. L. No. 117-328 (Dec. 29, 2022), authorized the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Fund, respectively (referred to collectively as the "Coronavirus State and Local Fiscal Recovery Funds" or "SLFRF"). SLFRF is administered by the U.S. Department of the Treasury ("Treasury") and provides assistance in the form of direct payments for specified use. SLFRF provides $350 billion for payments to eligible entities.

The total allocations to the eligible entities under SLFRF are as follows:

(1) $195.3 billion reserved for making payments to the 50 states and the District of Columbia;

(2) $4.5 billion reserved for making payments to the US territories;

(3) $20 billion reserved for making payments to Tribal governments;

(4) $45.57 billion reserved for making payments to metropolitan cities;

(5) $65.1 billion reserved for making payments to counties; and

(6) $19.53 billion reserved for making payments to NEUs.

Amounts paid to eligible states and local governments were based on 2019 population data from the US Census Bureau as well as latest available data from the Bureau of Labor Statistics at the time of the issuance of Treasury's 2021 Interim Final Rule on May 17, 2021. Treasury made a determination to allocate payments to Tribal governments based on enrollment reported to the Bureau of Indian Affairs and employment data, as well as consultation with Tribal leaders.

Prior to receipt of award funds, all eligible entities are required to execute a Financial Assistance Agreement, which includes the Award Terms and Conditions that recipients

must comply with in carrying out the objectives of their award, as well as the certification required at 42 USC 802(d)(1). Tribal and local governments are not required to provide such certification as a condition of receiving an award under SLFRF. Eligible entities are required to use their award funds as set forth at 42 USC sections 802(c) and 803(c) and the SLFRF regulations set forth at 31 CFR Part 35, Subpart A, to meet pandemic response needs and rebuild a strong, more equitable economy as the country recovers. Source of Governing Requirements

Federal Criteria	Description
Statutes	Sections 602 and 603 of the Social Security Act as added by section 9901 of the American Rescue Plan Act of 2021 (Pub. L. 117-2), codified at 42 U.S.C. 802 and 803, as amended by section 40909 of the Infrastructure Investment and Jobs Act (Pub. L. 117-58), as further amended by section 102 of Division LL of the Consolidated Appropriations Act, 2023 (P. Law 117-328).
Regulations	See 31 CFR Part 35, Subpart A and the supplementary information in the 2021 Interim Final Rule, the 2022 Final Rule, the 2023 Interim Final Rule, and the Obligation Interim Final Rule.
Certain Other Guidance	Coronavirus State and Local Fiscal Recovery Funds Frequently Asked Questions
	Statement Regarding Compliance with the Coronavirus State and Local Fiscal Recovery Funds 2021 Interim Final Rule and 2022 Final Rule ("the Statement"), which clarifies the transition from compliance with the Interim Final Rule to compliance with the Final Rule. Recipients must comply with the 2022 Final Rule beginning on April 1, 2022, when the 2022 Final Rule took effect. Prior to April 1, 2022, recipients may take actions and use funds in a manner consistent with the 2022 Final Rule, and Treasury will not take action to enforce the 2021 Interim Final Rule if a use of funds is consistent with the terms of the 2022 Final Rule, regardless of when the SLFRF funds were used. Please see pages 3-4 of the Statement for specific guidance. For example, a recipient is not required to prepare or submit a written justification as required under the 2022 Final Rule for capital expenditures under the public health-negative economic impact eligible use category if the recipient (i) has taken significant steps toward obligating SLFRF funds for that project prior to January 6, 2022, or (ii) has obligated funds for such project prior to April 1, 2022.

Availability of Other Program Information

Additional information on the requirements for SLFRF is available through the program webpage on Treasury's website at *https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds*.

SLFRF's Compliance and Reporting Guidance can be found at *https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds/recipient-compliance-and-reporting-responsibilities*.

The Compliance and Reporting Guidance provides additional detail and clarification for each recipient's compliance and reporting responsibilities and should be read in concert with the Award Terms and Conditions (Please refer to: *https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-fund/request-funding*), the authorizing statutes, the 2021 Interim Final Rule, the 2022 Final Rule, the 2023 Interim Final Rule, the Obligation Interim Final Rule, the SLFRF FAQs, and other regulatory and statutory requirements.

The SLFRF FAQs are available on the program webpage on Treasury's website at *https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds*. This document addresses questions regarding the eligible uses established under the 2022 Final Rule; the 2023 Interim Final Rule; and the Obligation Interim Final Rule. Treasury intends to update this document periodically in response to new questions received from stakeholders.

SLFRF and CPF Supplementary Broadband Guidance is available on Treasury's website at *https://home.treasury.gov/system/files/136/SLFRF-and-CPF-Supplementary-Broadband-Guidance.pdf*.

The Statement Regarding Compliance with the Coronavirus State and Local Fiscal Recovery Funds 2021 Interim Final Rule and 2022 Final Rule can be found at *https://home.treasury.gov/system/files/136/SLFRF-Compliance-Statement.pdf*.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not

being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	Y	Y	N	Y	Y	N

A. Activities Allowed or Unallowed

Recipients may use SLFRF payments for any eligible expenses subject to the restrictions set forth in sections 602 and 603 of the Social Security Act as added by section 9901 of the American Rescue Plan Act of 2021, codified at 42 USC sections 802 and 803, and as amended by the 2023 CAA. Recipients may also use payments subject to the restrictions set forth in the 2021 Interim Final Rule (i.e., Auditors should note that if a recipient obligated funds in accordance with the 2021 Interim Final Rule, then the expenditures follow the requirements of the 2021 Interim Final Rule), 2022 Final Rule, 2023 Interim Final Rule, and Obligation Interim Final Rule at 31 CFR Part 35, and SLFRF FAQs available at *https://home.treasury.gov/system/files/136/SLFRF-Final-Rule-FAQ.pdf.*

1. *Activities Allowed* – In general, recipients may use payments from SLFRF for one or more of the purposes described below. For full details on eligible uses, see 31 CFR 35.6, 2021 Interim Final Rule (and the Statement Regarding Compliance with the Coronavirus State and Local Fiscal Recovery Funds 2021 Interim Final Rule and 2022 Final Rule, referenced above), 2022 Final Rule, 2023 Interim Final Rule, Obligation IFR, and SLFRF FAQs:

   a. **Respond to the public health and negative economic impacts of the pandemic,** by supporting the health of communities, and helping households, small businesses, non-profits, impacted industries, and the public sector recover from economic impacts of the pandemic.

   b. **Replace lost public sector revenue** to provide government services; recipients may use this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic. Note: Recipients can use SLFRF funds under the revenue loss eligible use category for any service traditionally provided by a government regardless of how the recipient previously budgeted, with documentation that sufficiently supports their funding determinations. This may include

services currently or previously provided by the recipient, an expansion of existing services, or new services or programs.

c. **Provide premium pay for essential workers**, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors. The SLFRF statute and the 2022 final rule provide that recipients can use SLFRF funds to provide premium pay to eligible workers performing essential work during the COVID-19 public health emergency. The Public Health Emergency and National Emergency declarations terminated effective April 10, 2023. Therefore, recipients may not use SLFRF funds to provide premium pay to essential workers for work performed after April 10, 2023. Recipients may continue to make payments retroactively for premium pay for work performed between the start of the pandemic and April 10, 2023. The obligation to provide such premium pay must not have been incurred by the recipient prior to March 3, 2021.

d. **Invest in water, sewer, and broadband infrastructure**, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

e. **Provide emergency relief from natural disasters or the negative economic impacts of natural disasters** including temporary emergency housing, food assistance, financial assistance for lost wages, and other immediate needs. Please see pages 4 - 8 of the Overview of the 2023 Interim Final Rule ("SLFRF Overview of the 2023 IFR") for a complete list of eligible uses.

f. **Fund projects eligible under certain programs administered by the U.S. Department of Transportation** ("Surface Transportation projects") through three pathways. Please see pages 9 - 15 of the SLFRF Overview of the 2023 IFR for a full list of programs; and

g. **Fund projects eligible under the programs established in Title I of the Housing and Community Development Act of 1974** ("Title I projects"), subject to certain requirements and limitations. Please see pages 16 - 19 of the SLFRF Overview of the 2023 IFR for a list of eligible Title I projects.

2. *Activities Unallowed* – The following costs are ineligible uses, restrictions, or limitations. For full details on the general restricted uses, see 31 CFR Part 35, Subpart A, the Overview of the 2022 Final Rule (page 41), and the Overview of the 2023 Interim Final Rule.

a. Offset a reduction in net tax revenue (applicable to states and territories)

b. Deposits into pension funds (applicable to all recipients except Tribes)

c. Debt service or replenishing financial reserves (e.g., "rainy day funds") (applicable to all recipients)

d. Satisfaction of settlements and judgments (applicable to all recipients)

e. Programs, services, or capital expenditures that include a term or condition that undermines efforts to stop the spread of COVID-19 (applicable to all recipients)

Under the 2022 Final Rule, recipients can elect a one-time "standard allowance" of $10 million (not to exceed the recipient's award amount) to spend on the "provision of government services" during the period of performance. Alternatively, recipients can calculate lost revenue for the years 2020, 2021, 2022, and 2023 based on the formula provided in the 2022 Final Rule to determine the amount of SLFRF funds that can be used for the "provision of government services." In calculating revenue loss, recipients can choose whether to use calendar or fiscal year dates but must be consistent throughout the period of performance. If calculating revenue loss, recipients must provide auditors with evidence supporting their revenue loss calculation. As discussed in SLFRF FAQ 13.14, Treasury has determined that there are no subawards under this eligible use category. The definition of subrecipient in the Uniform Guidance provides that a subaward is provided for the purpose of "carrying out" a portion of a federal award. Recipients' use of revenue loss funds does not give rise to subrecipient relationships. Also, while there is no federal program or purpose to carry out in the same way that there is for the other SLFRF expenditure categories, these funds retain their federal character and recipients remain subject to laws and regulations applicable to Federal financial assistance programs. Please see the discussion in SLFRF FAQ 13.15 for additional information on which requirements of the Uniform Guidance apply to funds expended under the revenue loss eligible use category. Please see FAQ 17.15 for additional information about the revenue loss eligible use category.

The dollar amount of the revenue loss determines the limit for the amount of SLFRF funds that can be used to "provide government services" (which is one of seven eligible uses of SLFRF funds). For Schedule of Expenditures of Federal Awards (SEFA) reporting purposes, the aggregate expenditures for all seven eligible use categories are reported on the SEFA and not just the result of the revenue loss calculation or standard allowance. See the IV, "Other Information" section below for guidance on the related Schedule of Expenditures of Federal Award reporting.

B. Allowable Costs/Cost Principles

SLFRF is considered "other financial assistance" and is administered as direct payments for specified use.

The auditor is not expected to determine whether the recipient exceeded the maximum limits for specified eligible use categories. Treasury will evaluate that the recipient was within the limits for the eligible use categories through reviewing the recipient's reporting, which is subject to audit.

For the Surface Transportation projects eligible use category, recipients using SLFRF funds for projects eligible for Urbanized Formula Grants (ALN: 20.507), Fixed Guideway Capital Investment Grants (ALN: 20.500), Formula Grants for Rural Areas (ALN: 20.509), State of Good Repair Grants (ALN: 20.525), or Grants for Buses and Bus Facilities (ALN: 20.526) may not use SLFRF funds for operating expenses of these projects. Operating expenses are those costs necessary to operate and manage a public transportation system, including costs such as driver salaries, the cost of fuel, and the cost of equipment and supplies having a useful life of less than one year. Operating expenses do not include preventive maintenance activities. The limitation on operating expenses does not apply to other Surface Transportation projects or to other uses of SLFRF funds, including under the revenue loss eligible use category.

The 2 CFR Part 200, Subpart E is applicable to expenditures under SLFRF unless stated otherwise. SLFRF FAQ 13.15 outlines that, given the purpose and very broad scope of eligible uses of the revenue replacement funds, only a subset of the requirements in 2 CFR Part 200, Subpart E apply to recipients' use of such funds, as follows:

- 2 CFR 200.400(a) - (c), and (e) Policy guide;
- 200.403(a), (c), (d), (g), and (h) Factors affecting allowability of costs; and
- 200.404(e) Reasonable costs.

Per the SLFRF and CPF Supplementary Broadband Guidance (II.A.6.), Pages 2 – 3, internet service provider (ISP) subrecipients that receive fixed amount subawards are not required to comply with Subpart E Cost Principles of the Uniform Guidance. See *https://home.treasury.gov/system/files/136/SLFRF-and-CPF-Supplementary-Broadband-Guidance.pdf*. Please see the SLFRF and CPF Supplementary Broadband Guidance for further explanation on what constitutes a "fixed amount award" for broadband infrastructure projects under SLFRF and CPF.

The Uniform Guidance permits agencies to provide an exception from the cost principles in the case of fixed amount subawards. Treasury has provided that recipients may issue fixed amount subawards for broadband infrastructure projects without further Treasury approval regardless of whether the value of the subaward exceeds $250,000 and those recipients are not required to apply the cost principles of the Uniform Guidance to ISPs receiving such fixed amount subawards. Please see the SLFRF and CPF Supplementary Broadband Guidance for further explanation on what constitutes a "fixed amount award" for broadband infrastructure projects under SLFRF and CPF.

G. Matching, Level of Effort, Earmarking

1. Matching

Generally, SLFRF recipients may use funds available under the revenue loss eligible use category to satisfy non-federal matching requirements. Funds under

any other eligible use category, except as discussed below, may not be used to satisfy non-federal matching requirements.

Funds available under the revenue loss eligible use category (sections 602(c)(1)(C) and 603(c)(1)(C) of the Social Security Act) generally may be used to meet the non-federal cost-share or matching requirements of other federal programs. However, note that SLFRF funds may not be used as the non-federal share for purposes of a state's Medicaid and Children's Health Insurance Programs (CHIP) because the Office of Management and Budget has approved a waiver as requested by the Centers for Medicare & Medicaid Services pursuant to 2 CFR 200.102 of the Uniform Guidance and related regulations.

If a recipient seeks to use SLFRF funds to satisfy match or cost-share requirements for a federal grant program, it should first confirm with the relevant awarding agency that no waiver has been granted for that program, that no other circumstances enumerated under 2 CFR 200.306(b) would limit the use of SLFRF funds to meet the match or cost-share requirement, and that there is no other statutory or regulatory impediment to using the SLFRF funds for the match or cost-share requirement. SLFRF funds beyond those that are available under the revenue loss eligible use category may not be used to meet the non-federal match or cost-share requirements of other federal programs, other than as specifically provided for by statute. As an example, the Infrastructure Investment and Jobs Act provides that SLFRF funds may be used to meet the non-federal match requirements of authorized Bureau of Reclamation projects and certain broadband deployment projects. Recipients should consult the 2022 Final Rule for further details if they seek to utilize SLFRF funds as a match for these projects.

Under the Surface Transportation projects eligible use category, recipients may use SLFRF funds to satisfy non-federal share requirements for certain programs under Pathway Three. Under the Title I projects eligible use category, recipients may use SLFRF funds to satisfy the non-federal share requirements of a federal financial assistance program in support of activities that would be eligible under the Community Development Block Grant (ALN: 14.218), and Indian Community Development Block Grant (ALN: 14.862).

Per the 2023 IFR, recipients may use SLFRF funds to provide emergency relief from natural disasters with a Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) (Stafford Act) declaration under the emergency relief from natural disasters eligible use category. If a recipient uses SLFRF funds to cover Stafford Act disaster losses under the emergency relief from natural disasters eligible use category, the Stafford Act's prohibition on duplication of benefits applies. However, emergency relief from natural disasters eligible use category does not permit recipients to use SLFRF funds for non-federal matching requirements for FEMA programs.

2. Level of Effort

2.1 Maintenance of Effort

Not Applicable

2.2 Supplement Not Supplant

Under the Surface Transportation projects and Title I projects eligible use categories, recipients must supplement, and not supplant, other federal, state, territorial, Tribal, and local government funds (as applicable) otherwise available for such uses. Recipients may not: 1) de-obligate funds and replace those previously obligated amounts with SLFRF funds under this eligible use category or 2) use SLFRF to replace federal or non-federal funds identified in a federal commitment, such as an award agreement. This supplement, not supplant requirement does not apply to the eligible use categories described in the 2022 final rule or the emergency relief from natural disasters eligible use category. See the Overview of the 2023 Interim Final Rule for more information.

3. Earmarking

Recipients may use payments from SLFRF to replace lost public sector revenue to provide government services. Recipients may use this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic.

Under the 2022 Final Rule, recipients can elect a one-time "standard allowance" of $10 million (not to exceed the recipient's award amount) to spend on the "provision of government services" during the period of performance. Alternatively, recipients can calculate lost revenue for the years 2020, 2021, 2022, and 2023 based on the formula provided in the 2022 Final Rule to determine the amount of SLFRF funds that can be used for the "provision of government services."

In calculating revenue loss, recipients can choose whether to use calendar or fiscal year dates but must be consistent throughout the period of performance. If calculating revenue loss, recipients must provide auditors with evidence supporting their revenue loss calculation.

Under the Surface Transportation projects and Title I projects eligible use categories, the total amount of SLFRF funds that a recipient may use for Surface Transportation projects and Title I projects, taken together, cannot exceed the greater of $10 million and 30% of a recipient's SLFRF allocation. However, the auditor is not expected to determine whether the recipient exceeded the maximum limits for specified eligible use categories. Treasury will evaluate that the

recipient was within the limits for the eligible use categories through reviewing the recipient's reporting, which is subject to audit.

H. Period of Performance

The SLFRF Award Terms and Conditions provide that the period of performance for each award begins on the date the Award Terms and Conditions were entered into and ends on December 31, 2026. For eligible use categories described in the 2022 Final Rule, recipients may only use funds to cover costs incurred during the period beginning on March 3, 2021 and ending on December 31, 2024, pursuant to the 2022 Final Rule at 31 CFR section 35.5(a). A cost is considered incurred if a recipient has incurred an obligation with respect to such cost. Recipients must obligate program funds by December 31, 2024 and liquidate all obligations under the award no later than December 31, 2026, which is the end of the period of performance. No new obligations or costs may be incurred during the period beginning January 1, 2025 and ending on December 31, 2026. During this two-year period from January 1, 2025, through December 31, 2026, recipients are only permitted to expend funds to satisfy obligations incurred by December 31, 2024.

For eligible use categories described in the 2023 Interim Final Rule, recipients may use SLFRF funds for the three new eligible uses for costs incurred beginning December 29, 2022. Consistent with the existing eligible uses, recipients must obligate SLFRF funds for the new eligible uses by December 31, 2024.

Recipients must expend SLFRF funds obligated to provide emergency relief from natural disasters by December 31, 2026. Recipients must expend SLFRF funds obligated for Surface Transportation projects and Title I projects by September 30, 2026. Costs for projects described in the 2023 Interim Final Rule that are obligated by the recipient prior to December 29, 2022 are not eligible under these three eligible use categories.

An ‘‘obligation’’ continues to include an order placed for property and services and entry into contracts, subawards, and similar transactions that require payment. However, under the revised definition provided in the Obligation Interim Final Rule, a recipient is also considered to have incurred an obligation by December 31, 2024, with respect to a requirement under federal law or regulation or a provision of the SLFRF award terms and conditions to which the recipient becomes subject as a result of receiving or expending SLFRF funds. Additionally, as clarified in Treasury's guidance in Section 17: Obligation of the SLFRF FAQs, Treasury considers an interagency agreement to constitute a "transaction requiring payment" similar to a contract or subaward and therefore an obligation for purposes of the SLFRF rule, if it meets the conditions discussed in FAQ 17.6. Furthermore, as discussed in FAQ 17.7, Treasury will consider a recipient to have incurred an obligation with respect to personnel costs for an employee through December 31, 2026, to the extent the employee is serving in a position that was established and filled prior to December 31, 2024. Section 17 of the SLFRF FAQs also provides further discussion and clarification of how recipients may comply with the obligation deadline.

I. Procurement and Suspension and Debarment

Recipients may use award funds to enter into contracts to procure goods and services necessary to implement one or more of the eligible purposes outlined in 42 USC sections 802(c) and 803(c) and Treasury's 2021 Interim Final Rule, 2022 Final Rule, and 2023 Interim Final Rule. As such, except as noted in the next paragraph, recipients are expected to have procurement policies and procedures in place that comply with the procurement standards outlined in the Uniform Guidance.

In July 2022, Treasury released SLFRF FAQ 13.15, which explains that only a subset of the requirements in Subparts D and E of the Uniform Guidance apply to recipients' use of award funds under the revenue loss eligible use category. The requirements of 2 CFR sections 200.318 through 200.327 are not included in the list of requirements applicable to such funds.

Recipients may also refer to section 13 of the SLFRF FAQs, which includes FAQs related to procurement.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

2. Performance Reporting

Title of Report: Project and Expenditure Report
PRA Number: 1505-0271
Reporting Cycle: Quarterly and Annual; for more details see section B.1-B.2 in the SLFRF Compliance and Reporting Guidance (pages 20-22).

Authoritative Requirement: 2 CFR 200.328 and 31 CFR section 35.4(c) Reporting and requests for other information

Recipient Compliance and Reporting responsibilities can be found at: *https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds/recipient-compliance-and-reporting-responsibilities*.-

Report Instructions are located at: Reporting guidance is on pages 17 through 51 of *https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf*.

Report Corrections: Recipients will have an opportunity to reopen and provide edits to their submitted Project and Expenditure Reports any time before the reporting deadline. Recipients will then be required to re-certify and submit the report again to properly reflect any edits made. After the reporting deadline, unless prompted by Treasury staff, recipients will not be able to edit their submitted report, any changes or revisions will need to be reflected in the next Project and Expenditure report.

The Office of Capital Access (OCA) reporting portal has built-in functionality to reopen a report and allow recipients to make edits after the reporting deadline. However, it is OCA's policy that recipients may only make revisions if authorized by Treasury staff for a period of up to 60 days after the reporting deadline. After the revision period ends, the report is final. A resubmitted report becomes a recipient's final report within OCA's reporting portal. Recipients can generate PDFs of reports at any time.

Key Line Item(s)- The following line items contain critical information:

1. *Obligations and Expenditures*- Quantifiable Objective Criteria: Reported obligations and expenditures. (See page 22 of the Compliance and Reporting Guidance at the above link.)
   a. Current period obligation

   b. Cumulative obligation

   c. Current period expenditure

   d. Cumulative expenditure

   Revenue loss calculation validation – Note-Recipients may elect a "standard allowance" of up to $10 million to spend on government services through the period of performance instead of using the full formula specified in the final rule. The standard allowance is available to all recipients. See pages 35-36 for when recipients may modify their revenue loss election. Quantifiable Objective Criteria: Recipient's application of the revenue loss calculation is accurate if they did not elect the standard allowance. Specific information regarding the revenue loss formula can be found in paragraph (d)(2) of 31 CFR § 35.6.

2. *Expenditure Estimates* - Quantifiable Objective Criteria: If the recipient has submitted to Treasury the required explanation of how an estimate was determined if the recipient has reported an obligation involving (1) estimated personnel expenditures in 2025 and 2026; (2) estimated expenditures to cover contract change orders and contingencies in 2025

and 2026; or (3) estimated expenses to cover relevant legal and administrative requirements of SLFRF in 2025, 2026, and award closeout, the recipient has the required reasonable justification for how the estimate was determined in its grant file, as discussed on pages 22-24 and 40 of the Compliance and Reporting Guidance at the above link.

3. *Capital Expenditures* - Quantifiable Objective Criteria: The recipient has the required written justification in their grant file if the total of the capital expenditures costs for a project within the public health and negative economic impact eligible use category described in the 2022 Final Rule is greater than or equal to $1 million and less than $10 million; or, the recipient submitted the required justification to Treasury if (1) a project has total capital expenditures costs greater than $10 million for capital expenditures enumerated by Treasury in the 2022 Final Rule; or (2) the total of a project's capital expenditures costs is greater than $1 million for capital expenditures not enumerated by Treasury in the 2022 Final Rule. The recipient has submitted the required written justification to Treasury if the total of the capital expenditure costs for a project that is a mitigation activity within the emergency relief from natural disasters eligible use category described in the 2023 Interim Final Rule is greater than $1 million. Note: Capital expenditures paid for using revenue replacement funds are not subject to this requirement. Tribal governments are not required to complete the written justification. (See 31 CFR section 35.6(b)(4))

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act (FFATA)

Not Applicable

a. Treasury received approval from the Office of Management and Budget (OMB) to increase the subaward reporting threshold outlined in 2 CFR Part 170 from $30,000 to $50,000 for CSLFRF.

b. Although reporting on subaward information is applicable to SLFRF recipients pursuant to the award term set forth in Appendix A to 2 CFR Part 170, which is incorporated by reference in the SLFRF Financial Assistance Agreement, SLFRF recipients' compliance with FFATA reporting requirements is not subject to audit.

M. Subrecipient Monitoring

See Part 3, Section M, "Subrecipient Monitoring" for a general description of the compliance requirements, the related audit objectives, and suggested audit procedures. Note that subrecipient monitoring is not required for entities deemed to be beneficiaries. Because NEUs are considered by Treasury to be direct recipients of SLFRF (and not subrecipients or beneficiaries), states have no subrecipient monitoring responsibilities related to the funds distributed to NEUs. Treasury has also provided additional information on activities it considers to be part of subrecipient monitoring in SLFRF FAQ 17.10.

Subrecipient monitoring is required by pass-through entities for all SLFRF funded projects. For broadband infrastructure investment projects, auditors should refer to Treasury's SLFRF and CPF Supplementary Broadband Guidance for special applicability considerations of the following 2 CFR Part 200 requirements to ISP subrecipients implementing broadband projects:

- Program income
- Cost principles, procurement practices and fixed amount subawards
- Ownership of infrastructure
- Audit and monitoring requirements

The subrecipient or beneficiary designation is an important distinction as funding provided to beneficiaries is not subject to audit pursuant to the Single Audit Act and 2 CFR Part 200, Subpart F, but funding provided to subrecipients is subject to those audit requirements. For example, when recipients of SLFRF provide award funds to entities to respond to the negative economic impacts of COVID-19 as end users, and not for the purpose of carrying out program requirements, the entities receiving such funding are beneficiaries of SLFRF. Alternatively, when recipients of SLFRF provide award funds to an entity to carry out a program on behalf of the SLFRF recipient, the entities receiving such funding are subrecipients.

Recipients may permit for-profit subrecipients to submit a consolidated audit that reflects their SLFRF expenditures across subawards and programs.

Also, as discussed in SLFRF FAQ 13.14, Treasury has determined that there are no subawards under the revenue loss eligible use category because a recipients' use of revenue loss funds does not give rise to subrecipient relationships given that there is no federal program or purpose to carry out in the case of the revenue loss portion of the award. Therefore, subrecipient monitoring is not applicable to Expenditure Category 6 "Revenue Replacement." However, projects undertaken via revenue loss do not lose their federal character. FAQ 13.15 specifies which requirements of the Uniform Guidance apply to revenue loss funds.

As discussed above in Part III, Section H, Treasury considers an interagency agreement to constitute a "transaction requiring payment" similar to a contract or subaward and

therefore an obligation for purposes of the SLFRF rule, if the agreement satisfies certain conditions. If a recipient previously entered into an agreement with a unit of its government and reported that arrangement as a subaward, then the recipient may maintain that treatment or revise its reporting to reflect an interagency agreement, as long as the requirements of FAQ 17.6 are met. If the recipient is reporting the arrangement as a subaward, the subrecipient monitoring and other requirements applicable to subawards at 2 CFR Part 200 continue to apply.

IV. OTHER INFORMATION

Please refer to the section entitled "Source of the Governing Requirements" above.
Schedule of Expenditures of Federal Awards (SEFA)

As noted above in Activities Allowed or Unallowed, the dollar amount of the revenue loss determines the limit for the amount of SLFRF funds that can be used to "provide government services" (which is one of seven eligible uses of SLFRF funds). For SEFA reporting purposes, the aggregate expenditures for all seven eligible use categories are reported on the SEFA and not the result of the revenue loss calculation or standard allowance.

Additionally, because NEUs are considered direct recipients under SLFRF, NEUs that do not elect or are not eligible for the alternative compliance examination engagement discussed below are required to report their award expenditures on the SEFA and data collection form as direct awards. Further, States must not report award funds that were required to be distributed to the NEUs on State SEFAs or data collection forms.

SECTION 2: Engagements Performed Under the Alternative Approach

I. ALTERNATIVE APPROACH OBJECTIVES

Treasury recognizes that many recipients of SLFRF may newly be required to complete a single audit or a program-specific audit pursuant to the Single Audit Act and its implementing regulations, 2 CFR Part 200, Subpart F, due to their receipt of an SLFRF award which may lead to them exceeding the $750,000 audit threshold in section 200.501(a) of the Uniform Guidance (or, once the 2024 revisions to 2 CFR Part 200, Subpart F become effective, $1million for fiscal years beginning on or after October 1, 2024). This may be because the recipient has not received direct federal financial assistance before, or the other federal financial assistance they expended did not exceed the audit threshold set forth at 2 CFR 200.501(a). This section describes an alternative approach for SLFRF recipients permitted by OMB that would otherwise not be required to undergo an audit pursuant to 2 CFR Part 200, Subpart F, if it was not for the expenditures of SLFRF funds directly awarded by Treasury as further described in the Part 8, Appendix VII – Other Audit Advisories and as detailed below. However, an SLFRF recipient may still elect to undergo a single audit or a program-specific audit under 2 CFR Part 200, Subpart F.

A. Alternative Compliance Examination Engagement

The alternative approach to a single audit or program-specific audit under 2 CFR Part 200, Subpart F, permits eligible recipients to engage a practitioner to perform a compliance examination engagement in accordance with the Government Accountability Office (GAO) *Government Auditing Standards*. The GAO *Government Auditing Standards* direct practitioners to conduct these engagements in accordance with the American Institute of Certified Public Accountants (AICPA) Statements on Standards for Attestation Engagements. The AICPA attestation standards are codified in the AT-C section of the AICPA's *Professional Standards* and AT-C section 315, Compliance Attestation, which is the standard to be followed. This engagement, which results in an opinion on compliance, is to be directed at the compliance requirements described below in D. Compliance Requirements.

This alternative is intended to reduce the burden of a full single audit or program-specific audit on eligible recipients and practitioners, as well as uphold Treasury's responsibility to be a good steward of federal funds. This balance of burden reduction and Treasury responsibility to be a good steward is achieved in several ways as follows:

1. A financial statement audit is not required for those eligible recipients that expend award funds from other Federal programs.

2. A compliance examination engagement simplifies the engagement for both recipients and practitioners.

3. A formal schedule of expenditures of federal awards is not required as the practitioner opines directly on compliance for a single program.

4. The requirements for internal control in 2 CFR 200.514(c) are not relevant to the engagement, although AT-C 315, paragraph .15, still requires the practitioner to obtain an understanding of relevant portions of internal control over compliance sufficient to plan the engagement and to assess control risk for compliance with specified requirements.

5. The engagement still involves testing of the compliance requirements described below and results in a related examination opinion which is similar to the compliance opinion provided under 2 CFR Part 200, Subpart F.

6. The engagement reporting is simplified as compared to the audit report required by 2 CFR Part 200, Subpart F. One compliance examination opinion is issued (versus up to 3 reports for a single audit or program-specific audit) and the reporting allows for reporting findings that are noted in a similar manner to how they are reported for audits under 2 CFR Part 200, Subpart F.

The following subsections of this section align with normal OMB Compliance Supplement presentation for a Federal program; however, practitioners performing the alternative compliance examination engagement should use this "Other Information" section as a standalone document. Practitioners should not use Part 3 of the OMB *Compliance Supplement* or the full Part 4 section of the SLFRF Program Compliance Supplement (designated for audits of the program performed under 2 CFR Part 200, Subpart F) when testing compliance. Instead, the examination objectives and suggested examination procedures below should be used on their own.

B. Recipient Eligibility

Recipient eligibility to use this alternative approach is as follows: SLFRF recipients that expend $750,000 or more (or $1 million or more for fiscal years beginning on or after October 1, 2024—see subsection I above) during the recipient's fiscal year in federal awards and which meet **both** criteria listed below have the option to follow the alternative SLFRF compliance examination engagement:

1. The recipient's total SLFRF award received directly from Treasury or received (through states) as an NEU is at or below $10 million; and

2. Other federal award funds the recipient expended (not including their direct SLFRF award funds) are less than $750,000 (or $1 million for fiscal years beginning on or after October 1, 2024—see subsection I above) during the recipient's fiscal year.

C. Program Objectives

SLFRF provides direct payments to states (defined to include the District of Columbia), US territories (defined to include Puerto Rico, US Virgin Islands, Guam, Northern Mariana Islands, and American Samoa), Tribal governments, metropolitan cities, counties, and (through states) NEUs (collectively the "eligible entities") to:

1. Respond to the public health emergency with respect to COVID-19 or its negative economic impacts, including by providing assistance to households, small businesses, nonprofits, and impacted industries, such as tourism, travel, and hospitality;

2. Respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the recipient that perform essential work or by providing grants to eligible employers that have eligible workers who are performing essential work;

3. Provide government services, to the extent of the reduction in revenue of the eligible entities due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year of the eligible entities prior to the emergency;

4. Make necessary investments in water, sewer, or broadband infrastructure;

5. Provide emergency relief from natural disasters or the negative economic impacts of natural disasters including temporary emergency housing, food assistance, financial assistance for lost wages, and other immediate needs. Please see pages 4 - 8 of the Overview of the 2023 Interim Final Rule (SLFRF Overview of the 2023 IFR) for a complete list of eligible uses;

6. Use funds for projects eligible under 26 programs administered by the U.S. Department of Transportation ("Surface Transportation projects"). Please see pages 9 - 15 of the SLFRF Overview of the 2023 IFR for a full list of programs; and

7. Use funds for projects eligible under Title I of the Housing and Community Development Act of 1974 ("Title I projects"). Please see pages 16 - 19 of the SLFRF Overview of the 2023 IFR for a list of eligible Title I projects.

II. PROGRAM PROCEDURES

A. Overview

Sections 602 and 603 of the Social Security Act (the "Act"), as added by section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (Mar. 11, 2021), codified at 42 USC 802 and 803, and as amended by the Consolidated Appropriations Act, 2023 ("2023

CAA"), Pub. L. No. 117-328 (Dec. 29, 2022), authorized the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Fund, respectively (referred to collectively as the "Coronavirus State and Local Fiscal Recovery Funds" or "SLFRF"). SLFRF is administered by the U.S. Department of the Treasury (Treasury) and provides assistance in the form of direct payments for specified uses. SLFRF provides $350 billion for payments to eligible entities.

The total allocations to the eligible entities under SLFRF are as follows:

1. $195.3 billion reserved for making payments to the 50 states and the District of Columbia;

2. $4.5 billion reserved for making payments to the US territories;

3. $20 billion reserved for making payments to tribal governments;

4. $45.57 billion reserved for making payments to metropolitan cities;

5. $65.1 billion reserved for making payments to counties; and

6. $19.53 billion reserved for making payments to states for distribution to NEUs.

Amounts paid to eligible states and local governments were based on 2019 population data from the US Census Bureau as well as latest available data from the Bureau of Labor Statistics at the time of the issuance of Treasury's 2021 Interim Final Rule on May 17, 2021. Treasury made a determination to allocate payments to Tribal governments based on enrollment reported to the Bureau of Indian Affairs and employment data, as well as consultation with Tribal leaders.

Prior to receipt of award funds, all eligible entities are required to execute a Financial Assistance Agreement, which includes the Award Terms and Conditions that recipients must comply with in carrying out the objectives of their award, as well as the certification required by 42 USC 802(d)(1). Tribal and local governments are not required to provide such certification as a condition of receiving an award under SLFRF. Eligible entities are required to use their award funds as set forth in 42 USC sections 802(c) and 803(c) and the SLFRF regulations set forth at 31 CFR Part 35, Subpart A, to meet pandemic response needs and rebuild a strong, more equitable economy as the country recovers.

Source of Governing Requirements

Federal Criteria	Description
Statutes	Sections 602 and 603 of the Social Security Act as added by section 9901 of the American Rescue Plan Act of 2021 (Pub. L. 117-2), codified at 42 U.S.C. 802 and 803, as amended by section 40909 of the Infrastructure Investment and Jobs Act (Pub. L. 117-58), as further amended by section 102 of Division LL of the Consolidated Appropriations Act, 2023 (P. Law 117-328).
Regulations	See 31 CFR Part 35, Subpart A and the supplementary information in the 2021 Interim Final Rule, the 2022 Final Rule, the 2023 Interim Final Rule, and the Obligation Interim Final Rule.
Certain Other Guidance	Coronavirus State and Local Fiscal Recovery Funds Frequently Asked Questions
	Statement Regarding Compliance with the Coronavirus State and Local Fiscal Recovery Funds 2021 Interim Final Rule and 2022 Final Rule ("the Statement"), which clarifies the transition from compliance with the Interim Final Rule to compliance with the Final Rule. Recipients must comply with the 2022 Final Rule beginning on April 1, 2022, when the 2022 Final Rule took effect. Prior to April 1, 2022, recipients may take actions and use funds in a manner consistent with the 2022 Final Rule, and Treasury will not take action to enforce the 2021 Interim Final Rule if a use of funds is consistent with the terms of the 2022 Final Rule, regardless of when the SLFRF funds were used. Please see pages 3-4 of the Statement for specific guidance. For example, a recipient is not required to prepare or submit a written justification as required under the 2022 Final Rule for capital expenditures under the public health-negative economic impact eligible use category if the recipient (i) has taken significant steps toward obligating SLFRF funds for that project prior to January 6, 2022, or (ii) has obligated funds for such project prior to April 1, 2022.

Availability of Other Program Information

Additional information on the requirements for SLFRF is available through the program webpage on Treasury's website at: *Coronavirus State and Local Fiscal Recovery Funds | US Department of the Treasury*.
SLFRF's Compliance and Reporting Guidance can be found at: Recipient Compliance and Reporting Responsibilities | US Department of the Treasury.

The Compliance and Reporting Guidance provides additional detail and clarification for each recipient's compliance and reporting responsibilities and should be read in concert with the Award Terms and Conditions. (Please refer to: *https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-fund/request-funding*), the authorizing statutes, the 2021 Interim Final Rule, the 2022 Final Rule, the 2023 Interim Final Rule, the Obligation Interim Final Rule, the SLFRF FAQs, and other regulatory and statutory requirements.

SLFRF FAQs are available on the program webpage on Treasury's website at: *https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds*.

This document addresses questions regarding the eligible uses established under the 2022 Final Rule; the 2023 Interim Final Rule; and the Obligation Interim Final Rule. Treasury intends to update this document periodically in response to new questions received from stakeholders.

SLFRF and CPF Supplementary Broadband Guidance is available on Treasury's website at: *https://home.treasury.gov/system/files/136/SLFRF-and-CPF-Supplementary-Broadband-Guidance.pdf*.

Statement Regarding Compliance with the Coronavirus State and Local Fiscal Recovery Funds 2021 Interim Final Rule and 2022 Final Rule can be found at: *https://home.treasury.gov/system/files/136/SLFRF-Compliance-Statement.pdf*.

III. COMPLIANCE REQUIREMENTS

Preconditions for the Compliance Examination Engagement- ACEEs should be performed consistent with, and in addition to GAO's *Government Auditing Standards*, AT-C 205, Examination Engagements, and AT-C 315, Compliance Attestation. As a precondition to this compliance examination engagement, the practitioner should determine that:

1. management can provide evidence to the practitioner that it meets the recipient eligibility criteria for the alternative compliance examination engagement as outlined in Section A, "Recipient Eligibility";

2. management accepts responsibility for the entity's compliance with the compliance requirements below and the entity's internal control over compliance; and

3. management evaluates the entity's compliance with the compliance requirements in this section.

Compliance Requirements Relevant to the Compliance Examination Engagement-
The requirements noted with a "Y" in the "Matrix of Compliance Requirements" below are subject to the compliance examination engagement.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/ Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	N	N	N	N	N	N	N

A. Activities Allowed or Unallowed

Examination Objective: Determine whether the recipients used SLFRF funds for ineligible uses. For full details on the general restricted uses, see SLFRF Final Rule Overview (page 41) and Overview of the 2023 Interim Final Rule (pages 11, 13, and 19). Recipients may use SLFRF payments for any eligible expenses subject to the restrictions set forth in sections 602 and 603 of the Social Security Act as added by section 9901 of the American Rescue Plan Act of 2021, as codified by 42 USC sections 802 and 803, and as amended by the 2023 CAA. Recipients may also use payments subject to the restrictions set forth in the 2021 Interim Final Rule, 2022 Final Rule, 2023 Interim Final Rule, and Obligation Interim Final Rule at 31 CFR Part 35, and SLFRF FAQs available at *https://home.treasury.gov/system/files/136/SLFRF-Final-Rule-FAQ.pdf*.

1. *Activities Allowed* – Suggested Examination Procedures

   a. Obtain an understanding of the design of relevant portions of internal control over compliance regarding unallowable activities by performing some or all of the following:

      (1) Inquiries of appropriate management, supervisory, and staff personnel

      (2) Inspection of the entity's relevant documents

      (3) Observation of the entity's activities and operations

b. Review a sample of SLFRF expenditures to determine if recipients used SLFRF funds for ineligible uses. For full details of eligible uses, see 31 CFR Part 35, Subpart A and the SLFRF FAQs.

2. *Activities Unallowed* – The following activities are ineligible uses, restrictions, or limitations. For full details on the general restricted uses, see 31 CFR Part 35, Subpart A, the Overview of the 2022 Final Rule, and the Overview of the 2023 Interim Final Rule (page 41).:

a. Offset a reduction in net tax revenue (applicable to states and territories)

b. Deposits into pension funds (applicable to all recipients except Tribes)

c. Debt service or replenishing financial reserves (e.g., "rainy day funds") (applicable to all recipients)

d. Satisfaction of settlements and judgments (applicable to all recipients)

e. Programs, services, or capital expenditures that include a term or condition that undermines efforts to stop the spread of COVID-19 (applicable to all recipients)

B. Allowable Cost/Cost Principles

Compliance Requirement – Recipients that are eligible for the alternative compliance examination engagement may elect the standard allowance for revenue loss, pursuant to which they could use the entirety of their allocation for the provision of government services. Recipients are required to comply with 2 CFR 200.404(e) regarding reasonable costs, and, as such, are required to not deviate from their established practices and policies regarding the incurrence of costs.

SLFRF FAQ 13.15 outlines that given the purpose and very broad scope of eligible uses of the revenue replacement funds, only a subset of the requirements in 2 CFR part 200, Subpart E apply to recipients' use of such funds, as follows:

- 2 CFR 200.400(a) - (c), and (e) Policy guide;
- 200.403(a), (c), (d), (g), and (h) Factors affecting allowability of costs; and
- 200.404(e) Reasonable costs.

Examination Objective – Determine whether the recipient significantly deviated from its established practices and policies regarding the incurrence of costs.

1. Suggested Examination Procedures

a. Obtain an understanding of the design of relevant portions of internal control over compliance and established practices and policies regarding the incurrence of costs by performing some or all of the following:

(1) Inquiries of appropriate management, supervisory, and staff personnel
(2) Inspection of the entity's relevant documents

(3) Observation of the entity's activities and operations

b. Test a sample of SLFRF expenditures to determine that the recipient treated costs consistently with its established practices and policies.

IV. OTHER INFORMATION

COMPLIANCE EXAMINATION ENGAGEMENT SUBMISSION INSTRUCTIONS

As described in the GAO *Government Auditing Standards*, and elaborated upon in AICPA standards, the practitioner issues the following reporting in the alternative compliance examination engagement:

- Practitioner's Examination Report prepared in accordance with AT-C 315 and *Government Auditing Standards*.

- Schedule of Findings and Responses (if applicable) that includes findings required to be reported under *Government Auditing Standards*.

The submission deadlines for the alternative compliance examination engagement (ACEE) are the same as those for single audits and program specific audits due in accordance with 2 CFR Part 200, Subpart F. Therefore, the results of the alternative compliance examination engagement must be submitted by the auditee within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period. The repository of the ACEE is expected to eventually be the Federal Audit Clearinghouse at www.fac.gov. However, at the time of this Supplement's issuance, the FAC is unable to accept the ACEE submissions.

Auditees are required to follow the most up-to-date version of the State and Local Fiscal Recovery Funds (SLFRF) Project and Expenditure Report User Guide for step-by-step instructions on how to submit an ACEE using Treasury's Portal into SalesForce. The Reporting User Guides can be at: https://home.treasury.gov/system/files/136/july-2024-PE-Report-User-Guide.pdf - please refer to Section IV entitled "Alternative Compliance Examination Engagement (ACEE)."

DEPARTMENT OF THE TREASURY

ASSISTANCE LISTING 21.029 CORONAVIRUS CAPITAL PROJECTS FUND

I. PROGRAM OBJECTIVES

Note: The Capital Projects Fund (CPF) permitted Tribal governments to leverage a consortium to accomplish the objectives of the CPF program. A consortium is an association of two or more Tribal governments pooling CPF resources together. Subject to agreement and/or delegation of authority, Tribal governments may receive money directly from Treasury and then provide funds to a consortium or a consortium may receive funds directly from Treasury and then provide the funds to Tribes. The distribution of CPF funds should be included as expenditures in the Schedules of Expenditures of Federal Awards (SEFA) of CPF recipients.

The purpose of the CPF is to provide grants to states (defined to include the 50 states, the District of Columbia and Puerto Rico), U.S. territories and freely associated states (United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau), and Tribal governments, to carry out critical capital projects directly enabling work, education, and health monitoring, including remote options, in response to the public health emergency with respect to the Coronavirus Disease (COVID-19).

II. PROGRAM PROCEDURES

A. Overview

Section 604 of the Social Security Act, as added by section 9901 of the American Rescue Plan Act of 2021 (the "Act"), Pub. L. No. 117-2 (Mar. 11, 2021), codified at 42 U.S.C. section 804, authorized the $10 billion Coronavirus Capital Projects Fund ("CPF"). The CPF is administered by the U.S. Department of the Treasury ("Treasury") and provides assistance in the form of grants.

Recipients may use CPF funds to carry out capital projects that (1) directly enable work, education, and health monitoring; (2) address a need that results from or was exacerbated by the COVID-19 public health emergency; and (3) address a critical need of unserved or underserved populations. Examples include:

- Investments in broadband infrastructure in eligible areas that meet certain speed requirements.
- Investments in digital connectivity technologies, such as devices, public computer facilities, and public Wi-Fi infrastructure that facilitate Internet access.
- Construction or renovation of multi-purpose community facilities that jointly enable work, education, and health monitoring.

- Other capital projects that meet the program requirements.

Under Section 42 U.S.C. section 804(b)(1)(A), each of the states (including the District of Columbia and Puerto Rico) is allocated a fixed amount of $100 million, totaling $5.2 billion. States may also receive a portion of the remaining $4.6 billion, to be allocated in accordance with the requirements set forth in 42 U.S.C. section 804(b)(2)(A):

- 50 percent ($2.3 billion) of such amount shall be allocated among the states based on the proportion that the population of each state bears to the population of all states;
- 25 percent ($1.15 billion) of such amount shall be allocated among the states based on the proportion that the number of individuals living in rural areas in each state bears to the number of individuals living in rural areas in all states; and
- 25 percent ($1.15 billion) of such amount shall be allocated among the states based on the proportion that the number of individuals with a household income that is below 150 percent of the poverty line applicable to a family of the size involved in each state bears to the number of such individuals in all states.

42 U.S.C. section 804(b)(1)(B) directs the secretary to pay a total of $100 million divided in equal shares among United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau. 42 U.S.C. section 804 (b)(1)(C) directs the secretary to pay a total of $100 million divided in equal shares to Tribal governments and the State of Hawaii for the exclusive use of the Department of Hawaiian Home Lands and the Native Hawaiian Education Programs. Using the statutory formulas found in 42 U.S.C. sections 804(b)(1) and (2) , Treasury calculated and published the allocation for each eligible entity along with the specific calculation methodologies used for all eligible entities (see "Allocation Information" at *https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/capital-projects-fund*. State allocations vary. Each U.S. territory and freely associated state is allocated $14,285,714. Each Tribal government is allocated $167,504. Allocations associated with Tribal governments that did not apply for a CPF grant were reallocated to Tribes with approved CPF grants; the reallocated amount is $21,820.36 per Tribal government. .

Source of Governing Requirements

The CPF is authorized by section 604 of the Social Security Act as added by section 9901 of the American Rescue Plan Act of 2021, codified at 42 U.S.C. 804; and is implemented by Treasury's Guidance for States and Freely Associated States and Treasury's Guidance for Tribal Governments (together, Treasury's Guidance), link provided below.

Auditors should refer to the 42 U.S.C. section 804, Treasury's Guidance, FAQs, Capital Projects Fund Compliance and Reporting Guidance, Grant Agreements, and approved Grant Plans, and Program Plans. Treasury's Guidance and the FAQs can be accessed on the Treasury website via

the links provided below. The Grant Agreements and approved Grant Plans and Program Plans can be obtained from grant recipients.

Availability of Other Program Information

1. Treasury's Guidance for States, Territories and Freely Associated States can be found at *https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf*. This guidance provides states, territories and freely associated states a summary of project eligibility and terms and conditions, as well as information about the process for applying for a grant under the CPF program.

    - Project eligibility is described starting on page 3.
    - An explanation of "directly enable work, education and healthcare" starting on page 7.
    - Eligible and ineligible costs starting on page 11. Please consult with FAQ's in conjunction with this document.
    - Period of Performance starting on page 12.
    - Certain other requirements are discussed starting on page 18.
    - FAQ #2.9 marks a change from the previously published guidance. It can be found at *https://home.treasury.gov/system/files/136/Coronavirus-Capital-Projects-Fund-FAQs_FINAL.pdf*

2. Treasury's Guidance for Tribal Governments can be found at *https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-Tribal-Governments.pdf*. This guidance provides Tribal Governments a summary of project eligibility and terms and conditions, as well as information about the process for applying for a grant under the CPF program.

    - Project eligibility is described starting on page 3.
    - An explanation of "directly enable work, education, and healthcare" starts on page 7.
    - Eligible and ineligible costs can be found beginning on page 10. FAQ's in conjunction with this document.
    - Other requirements discussed on page 16.
    - FAQ #2.9 marks a change from previously published guidance. It can be found at *https://home.treasury.gov/system/files/136/Coronavirus-Capital-Projects-Fund-FAQs_FINAL.pdf*

3. FAQs about the CPF are outlined on the program webpage on Treasury's website at *Coronavirus Capital Projects Fund FAQs (treasury.gov)*.

   FAQs are considered to be guidance for the CPF program. FAQs generally clarify or supplement existing guidance, but may also modify existing guidance. New FAQs may be published in the future, and will include the date of publication.

4. Treasury's Compliance and Reporting Guidance for States, Territories, and Freely Associated States (State Reporting Guidance) can be found at https://home.treasury.gov/system/files/136/Revised-CPF-State-Guidance.pdf

   This guidance provides additional detail and clarification about reporting and compliance responsibilities for States, territories, and freely associated states under the CPF Program.

   Treasury's Compliance and Reporting Guidance for Tribal Governments (Tribal Reporting Guidance) can be found at *https://home.treasury.gov/system/files/136/CPF-Tribal-Reporting-Guidance.pdf*.

   This guidance provides additional detail and clarification about compliance and reporting for Tribal Governments under the CPF Program.

5. SLFRF and CPF Supplementary Broadband Guidance, dated May 17, 2023 can be found at *https://home.treasury.gov/system/files/136/SLFRF-and-CPF-Supplementary-Broadband-Guidance.pdf*.

   Treasury issued this guidance regarding the application of the Uniform Guidance to broadband infrastructure projects. This guidance applies to broadband infrastructure contracts and subawards funded by SLFRF and CPF for states, territories, freely associated states, and local governments, including those entered into prior to the release of this guidance.

   For purposes of this guidance, the term "ISP" includes subrecipients and contractors installing broadband infrastructure using SLFRF and CPF funds and is not limited to entities that provide retail Internet access service.

6. SLFRF and CPF Supplementary Broadband Guidance for Tribal Governments, dated January 31, 2024 can be found at *https://home.treasury.gov/system/files/136/RevisedBroadbandGuidanceforTribes-FINAL.pdf.*

   Treasury issued this guidance regarding the application of the Uniform Guidance to broadband infrastructure projects. This guidance applies to broadband infrastructure contracts and subawards funded by SLFRF and CPF for Tribal governments, including those entered into prior to the release of this guidance.

For purposes of this guidance, the term "ISP" includes subrecipients and contractors installing broadband infrastructure using SLFRF and CPF funds and is not limited to entities that provide retail Internet access service.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	Y	N	Y	N	Y	Y	N

The Compliance Requirements apply to both recipient types: (1) states, territories, and freely associated states and (2) Tribal governments unless otherwise noted.

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. States, territories, and freely associated states and their subrecipients:

      CPF is designed to provide funding for states, territories and freely associated states' capital projects that meet all three criteria below:

      (1) directly enable work, education, and health monitoring,

(2) designed to address a critical need that resulted from or was made apparent or exacerbated by the COVID-19 public health emergency, and

(3) designed to address a critical need of the community.

b. Presumptively eligible projects that are subject to Treasury's review and approval include:

(1) Broadband infrastructure projects designed to deliver service that meets or exceeds symmetrical download and upload speeds of 100 Mbps.

(2) Digital connectivity technology projects that involve the purchase and/or installation of devices and equipment to facilitate broadband internet access, where affordability has been identified by the Recipient as a barrier to broadband adoption and use.

(3) Multi-purpose community facilities that are designed to jointly and directly enable work, education, and health monitoring.

c. If the recipient proposes a different use of funds, projects may be approved by Treasury on a case-by-case basis provided they meet the enumerated criteria above, these criteria are described in detail in the Capital Projects Fund Guidance for States, Territories and Freely Associated States (https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf; (*see* I.C.(c) entitled Case-by-Case Review on page 8).

d. States, territories, and freely associated states may only use CPF funds for costs associated with recipients' Program Plans that have been approved by Treasury, or for eligible program administrative costs.

e. Tribal Governments:

(1) An eligible Tribal government may apply individually, jointly with other Tribes, or through an organization, consortium, or similar entity. A designation letter, signed by the Tribal government's duly authorized Tribal official, must be received by Treasury if anyone other than the Tribal government is submitting the CPF application.

f. An approved CPF application must meet all three criteria below:

(1) directly enable work, education, and health monitoring,

(2) designed to address a critical need that resulted from or was made

apparent or exacerbated by the COVID-19 public health emergency, and

(3) designed to address a critical need of the community.

g. Presumptively eligible projects that are subject to Treasury's review and approval include:

(1) Broadband infrastructure projects designed to deliver service that meets or exceeds symmetrical download and upload speeds of 100 Mbps.

(2) Digital connectivity technology projects that involve the purchase and/or installation of devices and equipment to facilitate broadband internet access, where affordability has been identified by the Recipient as a barrier to broadband adoption and use.

(3) Multi-purpose community facilities that are designed to jointly and directly enable work, education, and health monitoring.

h. Projects may additionally be approved by Treasury on a case-by-case basis provided they meet the enumerated criteria above. These criteria are described in detail in the Capital Projects Fund Guidance for Tribal Governments.

i. Tribal recipients may only use CPF funds for costs associated with applications that have been approved by Treasury, or for eligible program administrative costs. Auditors should refer to the approved application when testing the compliance requirements.

j. Tribal governments may only use award funds for program administrative costs and costs to carry out the projects described in the recipient's approved application subject to the Capital Projects Fund Guidance for Tribal Governments.

CPF recipients are not permitted to use CPF awards to pay for operating expenses, even if those operating expenses are associated with CPF-funded capital infrastructure. However, recipients *may* use CPF award funds for ancillary costs necessary to operationalize and put the CPF-funded capital assets to full use. For example, this could include expenses associated with initial staff training on the use of a new CPF-funded capital asset, but it could not include operating expenses associated with running a regularly scheduled training program.

2. *Activities Unallowed*

a. Activities that may not be funded by the CPF include but are not limited to**:**

(1) General infrastructure projects, such as highways, bridges, transit systems, and ports, are not eligible under the CPF program.

(2) General construction and improvement of hospitals and traditional schools are not presumed to be eligible, although, there may be opportunities for such projects to receive funding under the CPF program if they meet the project eligibility criteria. Such projects will be reviewed on a case-by-case basis.

b. The following costs are not eligible**,** unless otherwise permitted by Treasury:

(1) Acquisition of spectrum licenses;

(2) Operating and maintenance expenses (other than program administrative costs associated with grant administration, subject to limitations stated in Compliance Requirement G);

(3) Short-term operating leases;

(4) Payment of interest or principal on outstanding debt instruments, or other debt service costs incurred prior to March 15, 2021;

(5) Fees or issuance costs associated with the issuance of new debt;

(6) Satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring plan in a judicial, administrative, or regulatory proceeding;

(7) To support or oppose collective bargaining. This does not affect the ability to use funds to comply with 41 CFR Part 60-14.

B. Allowable Cost/Cost Principles

Treasury does not intend for the Uniform Guidance definition of "capital assets" to limit eligible investments under the CPF program. For purposes of the CPF program, "Capital Project" or "Project" means the construction, purchase, and installation of, and/or improvements to capital assets where the costs of such assets are capitalized or depreciated, including ancillary costs necessary to put the capital asset to use as further described in the Treasury's guidance and FAQs. This definition may be found in Section IV of Treasury's State Guidance and Tribal Guidance.

Infrastructure Projects

Infrastructure projects funded solely with CPF award funds are not subject to the Buy America Preference requirements set forth in section 70914 of the Build America, Buy America Act included in the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58. CPF grant recipients may use CPF award funds to match other federal funds to the extent that such matches are explicitly permitted by statute. For example, CPF funds may be used to meet the matching requirements for the Infrastructure Investment and Jobs Act (IIJA) Division F, Title I, Sec. 60102 (h)(3)(B)(iii)(I)(dd). If using CPF award funds to meet matching requirements, CPF recipients should ensure that the program or project is an acceptable use of funds for the other federal funding stream. CPF grant funding may not be used for costs that will be reimbursed by the other federal or state funding stream; CPF funds must be used only for complementary purposes.

The Uniform Guidance permits agencies to provide an exception from the cost principles in the case of fixed amount subawards. Per the SLFRF and CPF Supplementary Broadband Guidance (II.A.6.), Pages 2 – 3, Treasury, has provided that recipients may issue fixed amount subawards for broadband infrastructure projects without further Treasury approval regardless of whether the value of the subaward exceeds $250,000 and that recipients are not required to apply the cost principles of the Uniform Guidance to ISPs receiving such fixed amount subawards. Please see the SLFRF and CPF Supplementary Broadband Guidance for further explanation on what constitutes a “fixed amount award” for broadband infrastructure projects under SLFRF and CPF.

For all non-broadband infrastructure projects, please use the definition of “fixed amount award” in Section 200.1 of the Uniform Guidance.

Pre-Award Costs

Recipients are permitted to use CPF grant award funds for pre-award costs incurred after March 15, 2021, but before their Grant Agreement is executed, but only if they provided reasonable assurance to Treasury that the costs were incurred pursuant to the negotiation of and in anticipation of the Capital Projects Fund award and are necessary for the efficient and timely performance of the project. Such costs are allowable only to the extent they would have been allowable if incurred after the date of the Capital Projects Fund award and only with the written approval from Treasury. For the avoidance of doubt, unless otherwise provided, Treasury’s approval of the recipient’s applicable Program Plan (or, for Tribal Government only, the recipient’s application or grant plan) shall constitute written approval of pre-award costs that are identified in such Program Plan (or Tribal Government application or grant plan). Additional information regarding pre-award costs may be found at State, Territory, and Freely Associated States Guidance page 10, Tribal Guidance page 10, FAQ #1.4, FAQ 4.10, and on page 12 of the State Reporting Guidance.

Additional information regarding period of performance, in general, can be found at State, Territory, and Freely Associated States Guidance page 12, Tribal Guidance page 12, FAQ #1.4, FAQ #2.4, and FAQ #3.7.

C. Cash Management

1. *State and U.S. Territory Recipients* - Treasury has assessed that as of calendar year 2022, all state and U.S. territory recipients are subject to Part B of the Cash Management Improvement Act. Additional guidance can be found on page 15 of the State Reporting Guidance. Please note that this assessment may change in accordance with the requirements of 31 CFR 205.

2. *Tribal Recipients*- Treasury has made the determination that if a Tribal recipient fully disburses award funds before the end of the period of performance, the timing and number of advance payments made by Treasury are as close as is administratively feasible to the actual disbursements by a Tribal recipient and are therefore in compliance with 2 CFR 200.305(b)(1). Please see FAQ 3.7. Guidance related to Tribal government interest tracking and retention requirements may be found at FAQ 3.8 and 3.9.

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort

Not Applicable

3. Earmarking

Grant administration costs are limited to $25,000 or 5 percent of the grant award, whichever is greater (unless Treasury has authorized a greater amount; *see* page 3 of the Reporting Guidance).

See page 10 and 11 of the Guidance for the Coronavirus Capital Projects Fund for States, Territories & Freely Associated States located at the following link: *https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf*

See page 10 and 11 of the Guidance for the Coronavirus Capital Projects Fund for Tribal Governments located at the following link: *https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-Tribal-Governments.pdf*

I. Procurement and Suspension and Debarment

1. *Procurement*

Infrastructure projects funded solely with CPF award funds are not subject to the Buy America Preference requirements set forth in section 70914 of the Build

America, Buy America Act included in the Infrastructure Investment and Jobs Act, codified at 42 USC section 804.

a. The Uniform Guidance permits agencies to provide an exception from the procurement requirements in the case of fixed amount subawards. Per the SLFRF and CPF Supplementary Broadband Guidance (II.A.6.), Pages 2 – 3, Treasury has provided that recipients may issue fixed amount subawards for broadband infrastructure projects without further Treasury approval regardless of whether the value of the subaward exceeds $250,000 and that recipients are not required to apply the procurement requirements of the Uniform Guidance to ISPs receiving such fixed amount subawards. Please see the SLFRF and CPF Supplementary Broadband Guidance for further explanation on what constitutes a "fixed amount award" for broadband infrastructure projects under SLFRF and CPF.

   For all non-broadband infrastructure projects, please use the definition of "fixed amount award" in Section 200.1 of the Uniform Guidance.

2. *Suspension and Debarment*

   See Part 3, Section I, "Procurement and Suspension and Debarment" for a general description of the compliance requirements, the related audit objectives, and suggested audit procedures.

L. Reporting

NOTE: The FFATA Sub-award Reporting System (FSRS), was inaccessible to CPF recipients due to a technical configuration problem until August 2023. The configuration problem has been corrected and CPF recipients now have access to the FSRS system to fulfill their reporting requirements.

Treasury requested that recipients complete their FSRS reports by no later than June 30, 2024. Treasury recognizes that technical difficulties beyond the control of CPF recipients prevented them from timely reporting their subaward and executive compensation information. Since the problem can be attributed to a third-party oversight, Treasury staff recommends that auditors take the above into consideration when conducting their single audits.

The following are the applicable reporting requirements for States, Territories, and Freely Associated States CPF recipients.

1. **Financial Reporting**

   a. *SF-270, Request for Advance or Reimbursement* –Applicable, submitted via Treasury's reporting portal.

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. SF-425, Federal Financial Report – Not Applicable. Note: Quarterly and Annual Obligations and Expenditure Reports (described below) are required in lieu of SF-425.

2. Performance Reporting

The following applies to States, Territories, and Freely Associated States. The most current listing of Project and Expenditure Report reporting requirements may be found on pages 4 – 10 of the State Reporting Guidance *https://home.treasury.gov/system/files/136/Revised-CPF-State-Guidance.pdf*

a. ***Project and Expenditure Report for States, Territories & Freely Associated States***
PRA Number: 1505-0277
Reporting Cycle: Quarterly
Authoritative Requirement: States, Territories & Freely Associated States: *https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf*

Report Instructions: Coronavirus Capital Projects Funds Compliance and Reporting Guidance for States, Territories, and Freely Associated States can be found on pages 11 to 13 of the Guidance accessed via the following link https://home.treasury.gov/system/files/136/Revised-CPF-State-Guidance.pdf

Report Corrections: OCA's reporting portal has built-in functionality to reopen a report and allow recipients to make edits after the reporting deadline. However, it is OCA's policy that recipients may only make revisions at Treasury's discretion and only if authorized by Treasury staff for a period of up to 60 days after the reporting deadline. After the revision period ends, the report is final. A resubmitted report becomes a recipient's final report within OCA's reporting portal. Recipients can generate PDFs of this report at any time.

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

1. Obligations and Expenditures

a. Quantifiable Objective Criteria: Subrecipient Reimbursement Documentation of reported obligations and expenditures do not exceed total award amount. (See pages 12 and 13 of the Reporting Guidance)

(1) Current period obligation

(2) Cumulative obligation

(3) Current period expenditure

(4) Cumulative expenditure

2. *Administrative Expenses*

a. Quantifiable Objective Criteria: Recipient Reimbursement Documentation for Administrative Expenses as reported, which does not exceed 5% of the total award or $25,000, whichever is greater (unless Treasury has authorized a greater amount; *see* page 3 of the Reporting Guidance)

(1) Current period obligation

(2) Cumulative obligation

(3) Current period expenditure

(4) Cumulative expenditure

3. *Broadband Infrastructure Projects:* Miles of Fiber Purchased using CPF/Reported (As Applicable)

a. Quantifiable Objective Criteria: Subrecipient Reimbursement Documentation for Miles of Fiber Purchased with CPF funds as Reported for Broadband Infrastructure Projects is within 10% difference or less from the total number reported. (See page 7 of the Reporting Guidance)

4. *Digital Connectivity Technology Projects*: Total Number of Devices Purchased using CPF/Reported (As Applicable)

a. Quantifiable Objective Criteria: Subrecipient Reimbursement Documentation Supporting the Number of Devices Purchased with CPF Funding as Reported for Digital Connectivity Technology Projects is within 10% difference or less from the total number reported. (See page 8 of the Reporting Guidance)

5. *Multi-Purpose Community Facility Projects*: Square Footage funded by CPF/Reported (As Applicable)

a. Quantifiable Objective Criteria: Subrecipient Reimbursement Documentation Supporting the Square Footage Reported for Multi-Purpose Community Facility Projects is within 10% difference or less from the total number reported. (See page 8 of the Reporting Guidance)

The following are the applicable reporting requirements for Tribal Governments.

b. ***Obligations and Expenditure Report for Tribal Governments***

PRA Number: 1505-0277
Reporting Cycle: Annual
Authoritative Requirement: Tribal Governments: *https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-Tribal-Governments.pdf*

Report Instructions: Coronavirus Capital Projects Funds Compliance and Reporting Guidance for Tribal Governments can be found on pages 3 to 7 of the Guidance accessed via the following link *https://home.treasury.gov/system/files/136/CPF-Tribal-Reporting-Guidance.pdf*

Report Corrections: ORP's reporting portal has built-in functionality to reopen a report and allow recipients to make edits after the reporting deadline. However, it is ORP's policy that recipients may only make revisions if authorized by Treasury staff for a period of up to 60 days after the reporting deadline. After the revision period ends, the report is final. A resubmitted report becomes a recipient's final report within ORP's reporting portal. Recipients can generate PDFs of this report at any time.

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

1. Obligations and Expenditures

a. Quantifiable Objective Criteria: Reimbursement Documentation of reported obligations and expenditures do not exceed total award amount. (See page 4 of the Reporting Guidance)

1. Current period obligation

2. Cumulative obligation

3. Current period expenditure

4. Cumulative expenditure

2. Administrative Expenses

a. Quantifiable Objective Criteria: Reimbursement Documentation for Administrative Expenses as reported, which does not exceed $25,000. (See page 3 of the Reporting Guidance)

1. Current period obligation

2. Cumulative obligation

3. Current period expenditure

4. Cumulative expenditure

3. *Broadband Infrastructure Projects:* Miles of Fiber Purchased using CPF/Reported (As Applicable)

a. Quantifiable Objective Criteria: Reimbursement Documentation for Miles of Fiber Purchased with CPF funds as Reported for Broadband Infrastructure Projects is within 10% difference or less from the total number reported. (See page 5 of the Reporting Guidance)

4. *Digital Connectivity Technology Projects*: Total Number of Devices Purchased using CPF/Reported (As Applicable)

a. Quantifiable Objective Criteria: Reimbursement Documentation Supporting the Number of Devices Purchased with CPF Funding as Reported for Digital Connectivity Technology Projects is within 10% difference or less from the total number reported. (See page 6 of the Reporting Guidance)

5. *Purchasing Devices Projects*: Total Number of Devices Purchased using CPF/Report (As Applicable)

a. Quantifiable Objective Criteria: Reimbursement Documentation Supporting the Number of Devices Purchased with CPF Funding as Reported for Purchasing Devices Projects is within 10% difference or less from the total number reported. (See pages 6 - 7 of the Reporting Guidance)

6. *Multi-Purpose Community Facility Projects*: Square Footage funded by CPF/Reported (As Applicable)

a. Quantifiable Objective Criteria: Reimbursement Documentation Supporting the Square Footage Reported for Multi-Purpose Community Facility Projects is within 10% difference or less from the total number reported. (See pages 7 and 8 of the Reporting Guidance)

3. Special Reporting

Not Applicable.

4. Special Reporting for Federal Funding Accountability and Transparency Act

Applicable. See Part 3.L for audit guidance.

M. Subrecipient Monitoring

Recipients are required to monitor subrecipients; however, auditors should refer to Treasury's SLFRF and CPF Supplementary Broadband Guidance for special applicability considerations of the following 2 CFR 200 requirements to ISP subrecipients implementing broadband projects:

- Program income;
- Cost principles, procurement practices and fixed amount subawards;
- Ownership of Infrastructure; and
- Audit and monitoring requirements.

DEPARTMENT OF THE TREASURY

ASSISTANCE LISTING 21.032 LOCAL ASSISTANCE AND TRIBAL CONSISTENCY FUND

I. PROGRAM OBJECTIVES

Section 605 of the Social Security Act (the Act), as added by section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (March 11, 2021) and codified by 42 U.S.C. 805, established the Local Assistance and Tribal Consistency Fund (LATCF). As originally enacted, the LATCF provides $2 billion in total funding for payment by Treasury to eligible revenue sharing counties and eligible Tribal governments across fiscal years 2022 and 2023 for revenue enhancement. Section 103 of Division LL of the Consolidated Appropriations Act, 2023, amended section 605 of the Act and made additional funding available for payment by Treasury to eligible revenue sharing consolidated governments across fiscal years 2023 and 2024. Treasury determined the allocation for eligible revenue sharing consolidated governments to be approximately $10.5 million in total.

42 U.S.C. 805(c) provides that "an eligible revenue sharing county, an eligible Tribal government, or an eligible revenue sharing consolidated government may use funds provided under a payment made under this section for any governmental purpose other than a lobbying activity" (collectively "recipients".)

II. PROGRAM PROCEDURES

A. Overview

The LATCF reserves $250 million to allocate and pay to eligible Tribal governments for each of the fiscal years 2022 and 2023 and reserves $750 million to allocate and pay to eligible revenue sharing counties for each of the fiscal years 2022 and 2023. In addition, Treasury is authorized to allocate and pay approximately $5.26 million to eligible revenue sharing consolidated governments for each of the fiscal years 2023 and 2024 for a total of approximately $10.5 million.

Under this program, recipients have broad discretion on uses of funds, similar to the ways in which they may use funds generated from their own revenue sources.
All funds are available to recipients until expended or returned to Treasury.

B. Eligible Use of Funds

The LATCF provides flexible support for eligible revenue sharing counties, eligible Tribal governments, and eligible revenue sharing consolidated governments to meet their jurisdictions' needs. Specifically, the statute provides that recipients may use funds for any governmental purpose other than a lobbying activity.

Programs, services, and capital expenditures that are traditionally undertaken by a government are considered to fulfill a "governmental purpose." For Tribal governments,

investing in activities undertaken by Tribal enterprises, such as operating or capital expenditures for businesses that are owned or controlled by a Tribal government, are considered a governmental purpose. Recipients should refer to pages 3 and 4 of Treasury document *Guidance for the Local Assistance and Tribal Consistency Fund* (LATCF Guidance) for more information on eligible and ineligible uses.

Source of Governing Requirements

Section 605 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, codified at 42 U.S.C. 805, and as amended by section 103 of Division LL of the Consolidated Appropriations Act, 2023.

Availability of Other Program Information

A. Treasury released LATCF guidance which can be found at *https://home.treasury.gov/system/files/136/Local-Assistance-Tribal-Consistency-Fund-Guidance_202302.pdf (See pages 1 - 10)* The guidance document provides detailed information on LATCF.

B. Treasury published *Local Assistance and Tribal Consistency Fund Allocations to Eligible Tribal Governments*, which includes the methodology used to calculate allocation amounts to eligible Tribal governments, and can be found at *https://home.treasury.gov/system/files/136/605-LATCF-Allocation-Methodology-Summary.pdf (See pages 1 - 6)*

C. Treasury published *Allocations to Eligible Revenue Sharing Counties and Eligible Revenue Sharing Consolidated Governments*, which includes a summary of the methodology used to calculate allocation amounts to eligible revenue sharing counties and eligible revenue sharing consolidated governments, which can be found at *https://home.treasury.gov/system/files/136/LATCF-Eligibility-Allocation-Methodology-County-Consolidated-Governments_202302.pdf. (See pages 1 - 9)*

D. Treasury released *Reporting Guidance for the Local Assistance and Tribal Consistency Fund* (LATCF reporting guidance), which can be found at *https://home.treasury.gov/system/files/136/Local-Assistance-Tribal-Consistency-Fund-Reporting-Guidance_202302.pdf (See pages 1 - 10)*

Each recipient is responsible for submitting an annual Obligation and Expenditure report to Treasury. The reporting guidance details the reporting requirements for governments that receive LATCF funding including:

- Section I concerns the annual reporting requirements.
- Section II discusses required certifications.
- Section III discusses other information related to reporting, including compliance and record keeping.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	N	N	N	N	Y	N	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. Recipients may use LATCF funds for any governmental purpose other than a lobbying activity.

   b. As a general matter, LATCF recipients may treat these funds in a similar manner to how they treat funds generated from their own local revenue. Programs, services, and capital expenditures that are traditionally undertaken by a government are considered to fulfill a "governmental purpose." For eligible Tribal governments, investing in activities undertaken by Tribal enterprises, such as operating or capital expenditures for businesses that are owned or controlled by a Tribal government, are considered a governmental purpose.

   c. A non-exhaustive list of example activities that fulfill a governmental purpose include, but are not limited to:

(1) Provision of health services, educational services, court services, police, fire, emergency medical, and other public safety services, utilities or sanitation services, and direct assistance to households (including cash assistance);

(2) Capital expenditures on core facilities and equipment, including in housing and community development (e.g., schools, hospitals, childcare facilities, and parks and recreation facilities), public safety facilities and equipment (e.g., police vehicles), and government administration buildings;

(3) Infrastructure investments, including roads, bridges, water and sewer systems, utility systems, airports, public transit, and technology infrastructure;

(4) Long-term economic development activities, including affordable housing development, workforce development and other programs to strengthen local communities undergoing economic transitions;

(5) General government operations, such as general government administration, personnel costs, administrative facilities, record keeping, tax assessments, or election administration; and

(6) Meeting another federal program's non-federal match or cost-sharing requirements, unless barred by statute or other applicable law (as outlined on page 5 in LATCF guidance.

d. Recipients also may use funds to cover costs of administering the LATCF program, including costs of consultants to support effective management and oversight as well as compliance with legal, regulatory, and other requirements.

2. *Activities Unallowed*

a. LATCF recipients may not use federal funds to directly or indirectly pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy, or appropriation. Amounts that are used in violation of the lobbying restriction set forth in this guidance may be subject to recoupment.

B. Allowable Cost/Cost Principles

Given the LATCF's purpose as a general revenue enhancement program and the broad eligible uses of LATCF funds, Treasury has determined that funds available under the

LATCF program constitute revenue sharing. 2 CFR part 200 Subpart E does not apply to LATCF. Per the LATCF guidance (*https://home.treasury.gov/system/files/136/Local-Assistance-Tribal-Consistency-Fund-Guidance_202302.pdf)* this program is only subject to the following provisions in 2 CFR Part 200 (the Uniform Guidance):

- 2 CFR Subpart A (Acronyms);
- 2 CFR 200.100-110 (certain General Provisions);
- 2 CFR 200.203 (public notice of Federal financial assistance programs);
- 2 CFR 200.303 (internal controls); and
- Single Audit Act and its implementing regulations at 2 CFR Part 200 Subpart F.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

2. Performance Reporting

Obligation and Expenditure Report
PRA Number: 1505-0276
Reporting Cycle: Annual
Authoritative Requirement: Section 605 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021) (42 USC 805) and as amended by section 103 of Division LL of the Consolidated Appropriations Act, 2023

Blank Copy of the Report: Reporting Guidance for the Local Assistance and Tribal Consistency Fund *(https://home.treasury.gov/system/files/136/Local-Assistance-Tribal-Consistency-Fund-Reporting-Guidance_202302.pdf)* .
(See pages 5 - 6).

Report Instructions: *(See pages 1 – 11.)*

Report Corrections: Office of Recovery Programs' (ORP) reporting portal has built-in functionality to reopen a report and allow recipients to make edits after the reporting deadline. However, it is ORP's policy that recipients may only make revisions if authorized by Treasury staff for a period of up to 60 days after the reporting deadline. After the revision period ends, the report is final. A resubmitted

report becomes a recipient's final report within ORP's reporting portal. Recipients can generate PDFs of this report at any time.

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

1. *Quantifiable Objective Criteria:* Aggregate recipient-reported obligations and expenditures by governmental purpose reporting category matches the recipient's financial statements with no more than a 10 percent difference from the total amount reported (e.g., governmental services, capital expenditures, transportation/water/sewer/technology, other governmental service). (See pages 3 to 6 of the LATCF reporting guidance.)

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

Recipients meeting the applicable thresholds per the Federal Funding Accountability and Transparency Act of 2006 are only required to report on executive total compensation. See Part 3.L for audit guidance.

FEDERAL COMMUNICATIONS COMMISSION

ASSISTANCE LISTING 32.006 COVID-19 TELEHEALTH PROGRAM

I. PROGRAM OBJECTIVES

The coronavirus disease 2019 (COVID-19) Telehealth Program (Program) provides $200 million in funding, appropriated by Congress as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Round 1), to help health care providers provide telehealth services in response to the COVID-19 pandemic. The Federal Communications Commission (Commission) established the Program through a Report and Order released on April 2, 2020, available at https://docs.fcc.gov/public/attachments/FCC-20-44A1.pdf. This Program provides immediate support to eligible health care providers responding to the COVID-19 pandemic by funding the telecommunications services, information services, and devices necessary to provide telehealth services until the Program's funds have been expended or the COVID-19 pandemic has ended. However, demand for the program significantly exceeded available funding. To build on the success of Round 1 of the Commission's COVID-19 Telehealth Program, in the Consolidated Appropriations Act 2021 (Round 2), Congress appropriated an additional $249.95 million for this Program. Thus, on February 2, 2021, the Commission released a Report and Order (Round 2 Administration Report and Order), available at https://docs.fcc.gov/public/attachments/FCC-21-24A1.pdf, expanding the administrative responsibilities of the Universal Service Administrative Company (USAC) to administer the Program with financial oversight delegated to the Commission's Office of the Managing Director (OMD) to work in coordination with the Wireline Competition Bureau (WCB). Subsequently, on March 30, 2021, the Commission released a Report and Order (Round 2 Report and Order) https://docs.fcc.gov/public/attachments/FCC-21-39A1.pdf establishing requirements, processes, and procedures for Round 2 of Program funding. Further, on April 12, 2023, the Commission released a Public Notice, available at https://docs.fcc.gov/public/attachments/DA-23-316A1.pdf, announcing that the pandemic emergency period for the Telehealth Program ended on April 10, 2023, due to the enactment of House Joint Resolution 7. Pursuant to the CARES Act, eligible telehealth expenses must have been paid for and received on or between March 13, 2020, through April 10, 2023, the end of the emergency period.

For more details regarding the Program, please visit the Commission's public website at https://www.fcc.gov/covid-19-telehealth-program.

II. PROGRAM PROCEDURES

A. Application Requirements

Eligible health care providers must submit the "COVID-19 Telehealth Program Application and Request for Funding" application through an online application portal. In conjunction with completing an application, applicants are required to complete four steps.

First, applicants are required to request and receive an eligibility determination from USAC. Requirements are as follows:

1. *Round 1 Funding* – Applicants are required to request and receive an eligibility determination for each health care provider site included in their application by filing an FCC Form 460, Eligibility and Registration Form, with USAC.

2. *Round 2 Funding* **–** Applicants are required to request and receive an eligibility determination from USAC for only the lead health care provider site by filing an FCC Form 460, Eligibility and Registration Form. Health care provider sites that USAC has already deemed eligible to participate in the Commission's existing Rural Health Care Program or in Round 1 of the Program may rely on that eligibility determination for Round 2 of the Program. Applicants must certify to the eligibility of all other health care provider sites that received eligible funded services or connected devices on their Round 2 Request for Reimbursement Form.

Second, as entities doing business before the Commission, applicants are also required to obtain an FCC Registration Number (FRN) in the Commission Registration System (CORES). Third, applicants are required to register with the federal System for Award Management (SAM) to be able to receive Program payments if awarded funding. Fourth, entities seeking funding through Round 1 or Round 2 of the Program were required to submit an application. Applicants submitting applications prior to May 2, 2020, were instructed to download a fillable PDF application form and email the completed form and supporting documentation to the Commission. Effective May 2, 2020, applicants were required to apply through the COVID-19 Telehealth Program Application Portal.

B. Application Evaluation Process

For Round 1 funding, WCB, in consultation with the FCC's Connect2Health Task Force, reviewed the Program applications, as outlined in the Commission's Report and Order, selected participants, and made funding awards on a rolling basis to eligible applicants based on the estimated costs of the eligible services and connected devices they intended to purchase with Program funds. Awards were made until the funding was exhausted, which occurred on July 8, 2020.

For Round 2 funding, the Commission adopted application evaluation metrics. For Round 2, to ensure equitable nationwide distribution of Program funding, the Commission adopted requirements to ensure that at least two applications with lead health care providers from every state, territory, and the District of Columbia received Program funding across both rounds of the Program if such applications exist.

To distribute more funding to applicants, the Commission established a $1 million cap per applicant for each round. The final Round 2 funding commitments were announced on January 26, 2022.

Source of Governing Requirements

Round 1 Funding:

Round 1 is governed under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136, 134 Stat. 28, 15 U.S.C. §9001 (note) (2020). This bill is available at H.R.748 - 116th Congress (2019-2020): CARES Act | Congress.gov | Library of Congress.

Pursuant to the CARES Act, the Commission adopted provisions for the Program in Report and Order: *Promoting Telehealth for Low-Income Consumers; COVID-19 Telehealth Program,* WC Docket nos. 18-213, 20-89, and Report and Order, 35 FCC Rcd 3366, 3375-84, paras. 15–36 (2020). The second section of the Report and Order implements the Connected Care Pilot Program, which is a Universal Service Fund-supported program and is separate from the Program. The Round 1 Report and Order is available at https://docs.fcc.gov/public/attachments/FCC-20-44A1.pdf.

Round 2 Funding:

Round 2 is governed under the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, Division N-Additional Coronavirus Response and Relief, Title IX-Broadband Internet Access Service, section 903 "FCC COVID-19 Telehealth Program," 47 U.S.C.A. §254 (note) (2020). The bill is available at https://www.congress.gov/bill/116th-congress/house-bill/133/text.

On March 30, 2021, the Commission adopted a Report and Order and Order on Reconsideration that established the requirements and necessary procedures for the Commission to award the additional Round 2 funds appropriated under the Consolidated Appropriations Act, 2021 (*COVID-19 Telehealth Program, Promoting Telehealth for Low-Income Consumers*), WC Docket nos. 20-89, 18-213, Report and Order, FCC 21-39, available at https://docs.fcc.gov/public/attachments/FCC-21-39A1.pdf.

As a direct payment for specified use, these funds are considered federal financial assistance and are subject to only the following sections of the Code of Federal Regulations, Title II, Chapter II, Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ("2 CFR"): Subpart A- Acronyms and Definitions; Subpart B, General provisions; subparts C–D (specifically 2 CFR section 200.203 – Requirement to provide public notice of federal financial assistance programs 2 CFR section 200.303 Internal controls; 2 CFR sections 200.331-333 Subrecipient Monitoring and Management; and Subpart F, Audit Requirements. The remaining sections of subparts C, D, and E do not apply to this Program. Code of Federal Regulations is available at CFR - Title 2 (2021): Grants and Agreements | ECFR.gov |Code of Federal Regulations.

Availability of Other Program Information

Program information, including a Frequently Asked Questions (FAQ) page is available at https://www.fcc.gov/covid-19-telehealth-program

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	N	Y	Y	N	Y	N	Y

A. Activities Allowed or Unallowed

1. *Activities Allowed*

Telehealth telecommunications or information services/connected devices that use broadband Internet access service-enabled technologies or telecommunications to deliver remote medical, diagnostic, patient-centered, and treatment-related services directly to patients.

a. **Round 1 Funding** – Consistent with the Report and Order (FCC 20-44), funding recipients can seek reimbursementfor eligible telecommunications and information services and connected devices that were not included in the COVID-19 Telehealth Program Application and Request for Funding application, as well as seek reimbursement for different quantities than were included in the application. Existing services that were not purchased in response to COVID-19 are ineligible for funding. However, if existing services were upgraded to respond to COVID-19, the costs of the upgrade may be considered for funding. Detailed information on eligible services and devices for Round 1 and 2 is available at the above FAQ websites. See

additional information about grant period below under Section H.

b. **Round 2 Funding** – In addition to the Activities Allowed in Round 1, consistent with the Report and Order (FCC 21-39), applicants may apply to receive retroactive funding for eligible services and devices purchased on or after March 13, 2020, so long as they did not receive Round 1 funding for those eligible services and devices. The COVID-19 Telehealth Program may reimburse only for eligible telehealth expenses incurred by health care providers from March 13, 2020, through April 10, 2023, the end of the emergency period.

2. *Activities Unallowed*

Participants cannot receive duplicate funding from any source (private, state, or federal) for the exact same services or devices eligible for support under the Program.

Participants cannot be a vendor or service provider of the eligible services and/or connected devices for which they receive Program reimbursement.

Program funding cannot be used to purchase, rent, lease, or otherwise obtain any communications equipment or service identified and published on the Covered List. See the Covered List posted online at https://www.fcc.gov/supplychain/coveredlist. (Pursuant to section 2(a) of the Secure and Trusted Communications Networks Act of 2019 (Secure Networks Act), and section 1.50002 of the Commission's rules, the Federal Communications Commission's Public Safety and Homeland Security Bureau (Bureau) publishes a list of communications equipment and services (Covered List) that are deemed to pose an unacceptable risk to the national security of the United States or the security and safety of United States persons.)

B. Allowable Costs/Cost Principles

See Eligibility of Services and Connected Devices section of the Round 1 FAQs at https://www.fcc.gov/covid-19-telehealth-program-invoice-frequently-asked-questions and Appendix B – Eligible Services List for COVID-19 Telehealth Program (Round 2) at https://docs.fcc.gov/public/attachments/FCC-21-39A1.pdf. The Round 2 list is also posted online, in the FAQs at https://www.fcc.gov/covid-19-telehealth-program-invoices-reimbursements. For more details regarding the Program, please visit the Commission's public website at https://www.fcc.gov/covid-19-telehealth-program

1. Telecommunications, information services, broadband connectivity services, and connected devices costs necessary to provide telehealth services to patients in response to COVID-19. Connected device costs for which funding is requested must be integral to patient care. Devices mentioned below in example list have been deemed to be integral to patient care.

2. The Program will only fund devices (e.g., pulse oximetry, blood pressure monitoring devices) that are themselves connected.

3. Program funds can be used to treat patients/patient groups at a health care facility or remotely to free up resources and reduce a health care professional's unnecessary exposure to COVID-19.

   Examples of services and connected devices that program applicants are eligible to seek funding for include but are not limited to:

   - *Telecommunications Services*: Voice services for health care providers or their patients.

   - *Information Services*: Internet connectivity services for health care providers or their patients; remote patient monitoring platforms and services; patient reported outcome platforms; store and forward services, such as asynchronous transfer of patient images and data for interpretation by a physician; platforms and services to provide synchronous video consultation.

   - *Internet Connected Devices/Equipment*: Tablets, smart phones, or connected devices to receive connected care services at home or telehealth at a provider site (e.g., broadband enabled blood pressure monitors; pulse-ox) for patient or health care provider use; telemedicine kiosks/carts for health care provider site. Connected devices that are Bluetooth or Wi-Fi enabled are eligible.

4. Round 1 and Round 2 funding will not be provided for ineligible services including, personnel, administrative, construction, marketing, maintenance, technical support, separate costs for warranties and protection, and training activities/costs. Ineligible activities include IT services/costs for the development of new websites, systems, and platforms.

5. The Program will also not fund unconnected devices (e.g., devices that patients can use at home and then share the results with their medical professional manually), accessories, or non-telehealth items (e.g., office furniture and supplies, security systems, back-up power equipment, incidental expenses/indirect costs, smart watches, and fitness trackers).

H. Period of Performance

For Round 1 funding, the period of performance is as follows:

1. For eligible items, purchased on or after March 13, 2020, and by December 31, 2020, eligible health care providers may apply to receive reimbursement through the Program.

For monthly recurring services (e.g., internet service), funding recipients seeking reimbursement for eligible recurring services may apply their funding commitment towards six months of eligible recurring services as long as those services are implemented on or after March 13, 2020, and by December 31, 2020. Eligible upfront or prepaid costs/licenses with an annual term (e.g., bundled telehealth services, telehealth platforms, telehealth services, and telehealth platform/service user fees, access charges, or subscriptions) are eligible for a full year of support. Existing services that were not purchased in response to COVID-19 are ineligible for funding. However, if existing services were upgraded to respond to COVID-19, the costs of the upgrade may be considered for funding.

For Round 2 funding, the period of performance is set out at ¶59-60 of the Round 2 Report and Order, 36 FCC Rcd 4171 at page 22, as follows:

1. For eligible services and devices, applicants may apply to receive retroactive funding on eligible items purchased on or after March 13, 2020, so long as they did not receive Round 1 funding for those eligible services and devices. Existing services that were not purchased in response to COVID-19 are ineligible for funding. However, if existing services were upgraded to respond to COVID-19, the costs of the upgrade may be considered for funding.

2. For monthly recurring services, applicants may receive Program funding for up to 12 months of eligible recurring services, and annual license agreements (only one one-year term will be funded) including retroactive funding for services and devices purchased on or after March 13, 2020.

3. The deadline for purchasing services was October 31, 2022. The deadline was extended to February 28, 2023, for awardees in Puerto Rico, Florida, South Carolina, and North Carolina due to Hurricanes Fiona and Ian. All equipment supported by the Program is required to have been delivered by, and all recurring services are required to have been received by, the end of the emergency period on April 10, 2023. The deadline to submit invoices and requests for reimbursement is October 31, 2023. https://www.fcc.gov/document/wcb-extends-deadlines-covid-19-telehealth-program-round-2

I. Procurement and Suspension and Debarment

1. *Procurement*

Because the Program is a federal subsidy, Program funding may not be used to purchase, rent, lease, or otherwise obtain any communications equipment or service identified and published on the Covered List. See the Covered List posted online at https://www.fcc.gov/supplychain/coveredlist.

2. *Suspension and Debarment*

Entities that seek to be funding recipients in the Program are required to first register in SAM.gov before they can receive Program payments and should not be able to register if suspended or debarred from receiving federal funds. Pursuant to 47 CFR section 54.8, the Commission's suspension and debarment rules, which are currently applicable to the USF program, apply to COVID-19 Telehealth program funding recipients. The Commission shall suspend and debar a person (any individual, group of individuals, corporation, partnership, association, unit of government or legal entity, however organized) convicted of criminal violations or held civilly liable for certain acts arising out of activities associated with or related to the E-rate, High Cost, Rural Health Care, and Lifeline programs. See 47 CFR sections 54.8(c), (d), and (g). Associated activities include the receipt of funds or discounted services through one or more of the USF support mechanisms, or consulting with, assisting, or advising applicants or service providers regarding one or more of the USF support mechanisms. See 47 CFR section 54.8(a)(1).

Section 54.8(d) states:

Unless otherwise ordered, *any persons suspended or debarred shall be excluded from activities associated with or related to* the schools and libraries support mechanism (E-rate), the high-cost support mechanism, the rural health care support mechanism, and the low-income support mechanism (Lifeline). Suspension and debarment of a person other than an individual constitutes suspension and debarment of all divisions and/or other organizational elements from participation in the program for the suspension and debarment period, unless the notice of suspension and proposed debarment is limited by its terms to one or more specifically identified individuals, divisions, or other organizational elements or to specific types of transactions. 47 CFR section 54.8(d).

L. Reporting

1. Financial Reporting

a. *SF-270*, Request for Advance or Reimbursement - Not Applicable.

b. *SF-271*, Outlay Report and Request for Reimbursement for Construction Program -Not Applicable.

c. *SF-425*, Federal Financial Report -Not Applicable.

d. *Other-Applicable*. Completed program request for reimbursement forms (due no later than October 31, 2023) submitted to the FCC, including supporting invoice documents, serve as Financial Reports from the awardees. (Per the Consolidated Appropriations Act, 2021, §903(e), Round 2 is exempt from the Paperwork Reduction Act (PRA).)

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Eligibility

Compliance Requirements Consistent with the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified at 47 USC section 151 *et seq.*) and the CARES Act, 15 USC section 9001 (note), nonprofit and public eligible health care providers fall within the categories of health care providers in section 254(h)(5)(B) of the 1996 Act, 47 USC section 254, and include:

a. post-secondary educational institutions offering health care instruction, teaching hospitals, and medical schools;

b. community health centers or health centers providing health care to migrants;

c. local health departments or agencies;

d. community mental health centers;

e. not-for-profit hospitals;

f. rural health clinics;

g. skilled nursing facilities; or

h. consortia of health care providers consisting of one or more entities falling into the first seven categories.

Eligible entities include a dedicated ER of a rural, for profit hospital or a part-time eligible entity located in an ineligible facility. For Round 2, the other eligible entities can be located in rural or non-rural area and can operate from a temporary or mobile location.

Audit Objectives Determine whether a funding recipient is an eligible health care provider consistent with the Program's rules and requirements.

Suggested Audit Procedures

a. Verify that the site(s) receiving funded eligible services and equipment has an approved FCC Form 460 in order to confirm an eligible health care provider. https://www.usac.org/wp-content/uploads/rural-health-care/documents/handouts/How-to-Check-for-an-Existing-HCP-Guide.pdf

FEDERAL COMMUNICATIONS COMMISSION

ASSISTANCE LISTING 32.009 EMERGENCY CONNECTIVITY FUND PROGRAM

I. PROGRAM OBJECTIVES

Congress established the Emergency Connectivity Fund (ECF) through section 7402 of the American Rescue Plan Act of 2021 (Act), and appropriated $7.171 billion for the purchase of eligible equipment, advanced telecommunications, and information services for use by students, school staff, and library patrons at locations, that include locations other than at a school or library. In addition, Congress appropriated $1 million for the Inspector General of the Federal Communications Commission (OIG) to conduct oversight of support provided through the ECF. Congress directed the Federal Communications Commission (Commission) to promulgate rules providing for the distribution of funding from the ECF within 60 days from the date of enactment. The Commission adopted rules and established the ECF Program on May 10, 2021. See *Establishing the Emergency Connectivity Fund to Close the Homework Gap*, WC Docket No. 21-93, Report and Order, 36 FCC Rcd 8696 (2021) available at https://docs.fcc.gov/public/attachments/FCC-21-58A1.pdf (Report and Order). Congress also provided that these appropriated funds would remain available until September 30, 2030. The ECF Program provides funding to meet the remote learning needs of students, school staff, and library patrons who would otherwise lack access to connected devices and/or broadband connections sufficient to engage in remote learning during the COVID-19 emergency period. In the Report and Order, the Commission adopted an initial 45-day application filing window to allow eligible schools and libraries to request funding for eligible services and equipment to be received or delivered between July 1, 2021 through June 30, 2022.

The Act also provides that the Commission and the Universal Service Administrative Company (USAC), the permanent administrator of the Universal Service Fund, will administer the regulations adopted pursuant to section 7402. In the Report and Order, the Commission directed USAC to administer the ECF Program under its oversight and pursuant to the terms of the March 19, 2021 Memorandum of Understanding (MOU) between the Commission and USAC.

As a direct payment for specified use, these funds are considered federal financial assistance and are subject to only the certain sections (as noted in the Source of Governing Documents, below) of the Code of Federal Regulations, Title II, Chapter II, Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. For Audit purposes, Nonprofit organizations must refer to Subpart F and other types of organizations may be audited by the Commission or Contractor. Audit information may be requested by the Commission, USAC, or Commission's contractor for program specific audits.

For additional details regarding the ECF Program, please visit https://www.fcc.gov/emergency-connectivity-fund and https://www.emergencyconnectivityfund.org/.

II. PROGRAM PROCEDURES

Consistent with Congressional direction in section 7402, schools, libraries, and consortia of schools and libraries that are eligible for support through the E-Rate Program are eligible to request and receive support through the ECF Program. However, eligible schools and libraries do not have to be participants in the E-Rate Program to participate in the ECF Program. In its Report and Order, the Commission determined that the ECF Program would leverage many of the existing forms, including the E-Rate application form (i.e., FCC Form 471 – Description of Services Ordered and Certification Form) and other E-Rate processes to the extent feasible to streamline the process for applying for and receiving support through the ECF Program.
The Commission opened an initial 45-day application filing window for applicants to submit requests for funding (i.e., ECF FCC Form 471 applications) for eligible equipment and services received or delivered between July 1, 2021 and June 30, 2022. The first initial application filing window opened on June 29, 2021 and closed on August 13, 2021. Due to the availability of remaining funds after the close of the initial application filing window, a second ECF Program application filing window opened on September 28, 2021 and closed on October 13, 2021 to allow schools and libraries to apply for funding to address remaining unmet connectivity needs of their students, school staff, and library patrons. During the second application filing window, applicants could submit requests for funding to purchase eligible equipment and services to be received or delivered between July 1, 2021 and June 30, 2022. On February 22, 2022, the Wireline Competition Bureau (Bureau) extended the June 30, 2022 service delivery date to June 30, 2023 for the first and second ECF filing window funding requests for equipment, non-recurring services, and recurring services and modified 47 CFR section 54.1711(e) accordingly. See *Establishing Emergency Connectivity Fund to Close the Homework Gap*, WC Docket No. 21-93, Order, DA 22-176 (rel. Feb. 22, 2022), available at https://docs.fcc.gov/public/attachments/DA-22-176A1.pdf.

On March 23, 2022, the Bureau announced that a third application filing window would open on April 28, 2022 and close on May 13, 2022. During this 15-day filing window, eligible schools and libraries could request funding for eligible equipment and up to 12 months of recurring services to be received or delivered between July 1, 2022 and December 31, 2023. In addition, December 31, 2023 was established as the service delivery date for all ECF third window funding requests for equipment, non-recurring services, and recurring services. See *Wireline Competition Bureau Announces Third Application Filing Window for the Emergency Connectivity Fund Program*, WC Docket No. 21-93, Public Notice, DA 22-309 (rel. Mar. 23, 2022), available at https://docs.fcc.gov/public/attachments/DA-22-309A1.pdf. On May 12, 2023, the Bureau extended the service delivery date for all third ECF filing window funding requests and certain first and second ECF filing window funding requests to June 30, 2024. See *Establishing Emergency Connectivity Fund to Close the Homework Gap*, WC Docket No. 21-93, Order, DA 23-405 (rel. May 12, 2023), available at https://docs.fcc.gov/public/attachments/DA-23-405A1.pdf.

The COVID-19 public health emergency expired at the end of the day on May 11, 2023, and therefore ECF funding is only available for purchases of eligible equipment and services completed by June 30, 2024, the sunset date for the program. See *Wireline Competition Bureau and Office of Managing Director Provide Guidance on Emergency Connectivity Fund Program*

Upon Termination of Emergency Period, WC Docket No. 21-93, Public Notice, DA 23-406 (rel. May 12, 2023), available at https://docs.fcc.gov/public/attachments/DA-23-406A1.pdf.

USAC reviews the timely filed ECF FCC Form 471 applications and makes recommendations for issuing commitments for the funding requests. The Commission reviews and approves the recommended funding decisions, and USAC then issues the funding commitment decision letters to the applicants and service providers. The Commission records the commitments and obligates funds in the Commission's financial system. In the event that demand exceeds available funds, the Commission and USAC are prioritizing support based on the applicant's E-Rate Program discount rate for category one services, with a 5 percent bump up for rural schools and libraries. See ECF Program prioritization matrix at 47 CFR section 54.1708(c).

FCC Form 471 Requirements and Certifications

The ECF FCC Form 471 application must be signed by the person authorized to order eligible equipment and/or services for the eligible school, library, or consortium and shall include that person's certification under penalty of perjury. Certifications include:

a. Since the connected devices supported by this Program are intended to be used primarily for educational purposes and by students, school staff, and library patrons, the Commission requires schools and libraries to restrict access to eligible connected devices to only those students, school staff, and library patrons with appropriate credentials.

b. The library applicant must certify that the library or library consortium listed on the FCC Form 471 application is only seeking support for eligible equipment and/or services provided to library patrons who have signed and returned a statement that the library patron would otherwise lack access to equipment or services sufficient to meet the patron's educational needs if not for the use of the equipment or service being provided by the library. To ensure that libraries are providing eligible equipment and services to patrons with unmet needs, before providing a library patron with eligible equipment or services, the library must provide the patron a copy of an eligible use policy, which explains that the equipment or service is intended for library patrons who do not otherwise have access to equipment or services sufficient to meet the patron's educational needs. The library must also obtain a signed statement from the library patron that they would otherwise lack access to the equipment or services sufficient to meet their educational needs if not for the equipment or service provided by the library.

c. The school or school consortium applicant must certify that the school entities listed on the FCC Form 471 application are only seeking support for eligible equipment and/or services provided to students and school staff who would otherwise lack connected devices and/or broadband services sufficient to engage in remote learning. These applicants must describe how and when they collected the information that they use for the estimates provided in their responses on the application section pertaining to the unmet needs of their students.

Applicants that will submit requests for reimbursement for program payments, or service providers that agree to submit requests for reimbursement on behalf of the applicant, must register or renew their account with the System for Award Management (SAM), which is located at https://sam.gov/content/home, in order to receive program disbursements.

Applicants will submit reimbursement requests using the ECF FCC Form 472, Billed Entity Applicant Reimbursement (BEAR) Form, and service providers that agree to invoice on behalf of applicants will submit the ECF FCC Form 474, Service Provider Invoice (SPI) Form. Applicants and service providers are required to include certain certifications on the form to protect the program against waste, fraud, and abuse. Applicants and service providers are also required to submit vendor invoices detailing the items purchased, along with their reimbursement requests. Invoices must support the amounts requested in the application form and reimbursement request. The Commission authorizes the disbursement of funds by the United States Department of Treasury after approving the proposed payments.

FCC Forms 472/474 Requirements and Certifications

Both applicants and service providers, who agree to invoice on the applicant's behalf, may submit requests for reimbursement. The applicant must indicate that its service provider will submit the requests for reimbursement in its application and provide evidence that shows that the service provider has agreed to the arrangement.

Applicants who have entered into contractual arrangements or are otherwise legally obligated to purchase eligible equipment and services from their service provider, can submit requests for reimbursement before they have paid their service provider(s) for the requested equipment and services. The equipment or services must have been received before the applicant may submit requests for reimbursement. Applicants must also pay their service provider within 30 days after receipt of funds and will be required to certify compliance and provide verification of payment to the service provider.

Source of Governing Requirements

The Emergency Connectivity Fund Program was established pursuant to the American Rescue Plan Act of 2021, Pub. L. No. 117-2, 135 Stat. 109-110, Sec. 7402(c), 47 USC section 254 Note. The bill is available at H.R.1319 - 117th Congress (2021): American Rescue Plan Act | Congress.gov | Library of Congress.

Pursuant to the American Rescue Plan Act, the Commission adopted rules for the ECF Program in its May 10, 2021 Report and Order: *Establishing Emergency Connectivity Fund to Close the Homework Gap*, WC Docket Nos- 21-58, 21-93 Report and Order, 36 FCC Rcd 8696 (2021). The Report and Order is available at https://docs.fcc.gov/public/attachments/FCC-21-58A1.pdf. The rules for the ECF Program are available at 47 CFR sections 54.1700 *et seq*.

As a direct payment for specified use, these funds are considered federal financial assistance and are subject to only the following sections of the Code of Federal Regulations, Title II, Chapter II, Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ("2 CFR Part 200"): Subpart A, Acronyms and Definitions; Subpart B, General

provisions; Subparts C–D (specifically 2 CFR section 200.203 – Requirement to provide public notice of federal financial assistance programs; and 2 CFR section 200.303 Internal controls and 2 CFR sections 200.331-333 Subrecipient Monitoring and Management); Subpart F, Audit Requirements.

The following remaining 2 CFR Part 200 policy requirements are excluded from coverage under this assistance listing: Subpart C; Subpart D; and Subpart E.

Code of Federal Regulations is available at CFR - Title 2: Grants and Agreements | ECFR.gov |Code of Federal Regulations.

The complete list of ECF FCC Form 471 certifications required on the program application is listed at 47 CFR section 54.1710(a)(1)(i)-(xv).

The complete list of certifications required on the ECF FCC Forms 472 and 474 Request for Reimbursement to be made by applicants and the service providers that agree to submit these forms on the behalf of applicants is listed at 47 CFR section 54.1711(a)(1)(i)-(xii) and (a)(2)(i)-(x).

Availability of Other Program Information

Program information is available at https://www.fcc.gov/emergency-connectivity-fund. See "Frequently Asked Questions" section for details. Additional information, including links to FCC Orders and Public Notices related to the program, is also available at https://www.emergencyconnectivityfund.org/.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	N	Y	N	N	N	N	Y

A. Activities Allowed or Unallowed

See Eligible Services and Equipment section at https://www.fcc.gov/emergency-connectivity-fund and the Eligible Services List for Emergency Connectivity Fund Program at https://www.fcc.gov/sites/default/files/ecf_esl.pdf.

1. *Activities Allowed*

ECF Program-funded devices and services must be used primarily for off-campus educational purposes and by students, school staff, and library patrons with unmet needs. Homework meant to be completed off of school grounds would satisfy the requirement of off-campus use. To ensure that funding is focused on unmet needs, the Commission requires schools, library, and consortia to certify, as part of their funding application, that they are only seeking support for eligible equipment and/or broadband connectivity provided to students, school staff, and library patrons who would otherwise lack access to connected devices and/or broadband connectivity sufficient to engage in remote learning.

Unmet need

To ensure that funding is focused on *unmet need*, the Commission requires schools, library, and consortia to certify, as part of their funding application, that they are only seeking support for eligible equipment and/or broadband provided to students and school staff who would otherwise lack access to connected devices and/or broadband connectivity sufficient to engage in remote learning. The Commission provided schools and libraries with broad discretion to determine their unmet needs and whether the services and devices were sufficient for their students, school staff, and library patrons to fully engage in remote learning.

At the application stage, schools need only provide the best estimates of their unmet need. They may use whatever method they deem appropriate for estimating unmet need and are not required to provide any documentation to support these estimates when they submit their ECF FCC Form 471 application. Here is a link

to see the unmet need questions for schools on the application: https://www.emergencyconnectivityfund.org/ecf-fcc-form-471/entity-information/.

When schools file for requests for reimbursement, however, they should only request reimbursement for eligible equipment and services provided to students or school staff who would otherwise lack broadband services and/or devices sufficient to engage in remote learning. Applicants should be able to provide an explanation of how they determined their estimated and actual unmet needs, and how the equipment/services were distributed and are being used by students, school staff, or library patrons with unmet need. Applicants should also have supporting documentation that is consistent with their explanations, for example, copies of the survey and documentation on the distribution and use of the equipment/services. See FAQs 6.9 and 6.10, available at https://www.fcc.gov/emergency-connectivity-fund-faqs.

For example, if a school requested ECF funding to support the broadband services at the homes of 100 students based on an estimate of those that lacked services, but it determines during the school year that only 90 students have unmet need, the school should only seek reimbursement for the services provided to those 90 students. Schools may also be asked to provide documentation to support actual costs of assigned equipment and/or services after funds have been committed, for example, when they submit their requests for reimbursement to USAC. We note that while only best estimates of unmet need are required at the application stage, if an applicant bases their funding application on an actual, calculated unmet need (rather than an estimate) and requests reimbursement based on that same actual, calculated unmet need, the applicant is not required to perform a new unmet need calculation at the time of submitting the request for reimbursement. The applicant needs to be able to explain how they requested support based on their actual unmet need and not based upon an estimate, and provide supporting documentation (for example, information on the survey that was conducted before the ECF funding application was submitted). See FAQs 6.9, 6.10, and 6.16 available at https://www.fcc.gov/emergency-connectivity-fund-faqs. Please also note that applicants were not required to conduct surveys in order to apply for and receive ECF support, and may have used other methods for calculating their estimated and actual unmet needs. See FAQs 6.1-6.3, 6.6. The Commission also provided flexibility to schools and libraries in determining whether a connected device was adequate for remote learning and allowed ECF applicants to replace inadequate connected devices using ECF funding. See FAQs 6.11 and 6.13.

2. *Activities Unallowed*

Schools and libraries are prohibited from seeking and receiving reimbursement for eligible equipment and services purchased for use solely at the school or library. However, the Commission also permitted ECF funded equipment and mobile services to be used at the school or library if purchased for off-premise use. See 47 CFR section 54.1706(b).

Additionally, for funding requests submitted during the first two application filing windows, items purchased or received prior to July 1, 2021, or after June 30, 2024, are ineligible for ECF support for this funding period (see, e.g., 47 CFR section 54.1711(e), *Establishing the Emergency Connectivity Fund to Close the Homework Gap*, Order, DA 22-176 (rel. Feb. 22, 2022) (extending the service delivery date from June 30, 2022 to June 30, 2023), and *Establishing Emergency Connectivity Fund to Close the Homework Gap*, WC Docket No. 21-93, Order, DA 23-405 (rel. May 12, 2023) (extending the service delivery date for certain first and second ECF application filing window funding requests to June 30, 2024)). For funding requests submitted during the third application filing window, items purchased or received prior to July 1, 2022, or after June 30, 2024, are ineligible for ECF support for this funding period (see, e.g., 47 CFR section 54.1711(e) and *Establishing Emergency Connectivity Fund to Close the Homework Gap*, WC Docket No. 21-93, Order, DA 23-405 (rel. May 12, 2023) (extending the service delivery date to June 30, 2024 for all third application filing window funding requests)).

Schools and libraries are required to provide connected devices to students, school staff, and library patrons who would otherwise lack access to a sufficient connected device. The Commission explained that it was not appropriate to use the limited ECF funding to provide connected devices to students who already had access to an adequate device. See *Establishing Emergency Connectivity Fund to Close the Homework Gap*, WC Docket Nos- 21-58, 21-93 Report and Order, 36 FCC Rcd 8696, para. 80 and n.229. The Report and Order is available at https://docs.fcc.gov/public/attachments/FCC-21-58A1.pdf. In the ECF FAQs, the Commission provided further guidance and explained 1:1 device initiatives were not allowed. FAQ 6.12 is available at https://www.fcc.gov/emergency-connectivity-fund-faqs. As noted in the "Activities Allowed" section, the Commission provided flexibility for replacing devices determined by the school or library to be inadequate for remote learning. See FAQs 6.11 and 6.13.

ECF Program rules require that on the ECF Request for Reimbursement forms - the FCC Form 472 and FCC Form 474 – applicants and service providers certify to the following under penalty of perjury: "No Federal subsidy made available through a program administered by the Commission that provides funds to be used for the capital expenditures necessary for the provision of advanced communications services has been or will be used to purchase, rent, lease, or otherwise obtain, any covered communications equipment or service, or maintain any covered communications equipment or service, or maintain any covered communications equipment or service previously purchased, rented, leased, or otherwise obtained, as required by [section] 54.10."

We reiterate that Subpart E of 2 CFR Part 200 is not applicable to the ECF Program. Furthermore, entities participating in the ECF Program may not seek Emergency Connectivity Fund support or reimbursement for eligible equipment or services that have been purchased with or reimbursed in full from other Federal pandemic-relief funding, targeted state funding, other external sources of targeted

funding or targeted gifts, or eligible for discounts from the schools and libraries universal service support mechanism or other universal service support mechanisms.

B. Allowable Costs/Cost Principles

See Eligible Services and Equipment section at https://www.fcc.gov/emergency-connectivity-fund-faqs and the Eligible Services List for Emergency Connectivity Fund Program at https://www.fcc.gov/sites/default/files/ecf_esl.pdf.
Section 7402(b) provides that the Commission will reimburse 100 percent of the costs associated with the purchase of eligible equipment and/or advanced telecommunications and information services, except that any reimbursement of a school or library for the costs associated with any eligible equipment may not exceed an amount the Commission determines to be reasonable. Section 7402(d)(6) defines eligible equipment to mean: (1) Wi-Fi hotspots, (2) modems, (3) routers, (4) devices that combine a modem and router, and (5) connected devices. Section 7402(d)(11) defines Wi-Fi hotspot as a device that is capable of (A) receiving advanced telecommunications and information services; and (B) sharing such services with another connected device through the use of Wi-Fi. Section 7402(d)(3) defines connected devices as laptop computers, tablet computers, or similar end-user devices that are capable of connecting to advanced telecommunications and information services. Section 7402(d)(1) defines "advanced telecommunications and information services" to mean advanced telecommunications and information services, as such term is used in section 254(h) of the Communications Act of 1934 (47 USC section 254(h)).

1. Eligible Equipment: Wi-Fi hotspots, modems, routers, devices that combine a modem and router, and connected devices (i.e., laptops and tablet computers). Air cards used to connect end-user devices to the Internet through cellular data services are wireless modems and are also eligible for support through the ECF Program.

2. Connected Devices: The Commission defined connected devices as laptop computers and tablet computers that are capable of connecting to advanced telecommunications and information services (47 CFR section 54.1700(c)). It is expected that connected devices will be Wi-Fi enabled and be able to support video conferencing platforms and other software necessary to ensure full participation in remote learning. It is also expected that connected devices will be accessible to and usable by individuals with disabilities. If people with disabilities require connected devices to connect to the Internet, schools and libraries will request such devices to accommodate disabilities, if needed. The Commission also determined that desktop computers and mobile phones, including smart phones, are ineligible for ECF Program support.

3. Advanced Telecommunications and Information Services: The Commission defined advanced telecommunications and information services as services as the term is used in section 254(h) of the Communications Act, 47 USC section 254(h)

(47 CFR section 54.1700(a)). To qualify for funding for the ECF Program, schools and libraries will only be reimbursed for purchasing a commercially available service providing a fixed or mobile broadband Internet access connection for off-campus use by students, school staff, or library patrons.

4. Limited Exception for Network Construction and/or Datacasting: Funding for network construction or self-provisioned networks will be permitted only where no commercially available broadband Internet access services are available that are sufficient to support remote learning for students, school staff, or library patrons. Under those same limited circumstances, funding for customer premises equipment to receive datacasting services will also be available. Applicants must demonstrate that there were no commercially available Internet access service options available sufficient to support remote learning from one or a combination of providers. Applicants must also define the geographic area that was or will be served and assess the estimated number of students, school staff, or library patrons to be served. Applicants must be able to provide clear evidence of how they determined that an existing fixed or mobile network sufficient to support remote learning was or is not available and that for prospective construction, they sought service from existing providers serving the area prior to constructing a new network and that such providers were unable or unwilling to provide services sufficient to meet the remote learning needs of their students, school staff, or library patrons. Applicants will also be required to certify that they sought service from existing providers in the relevant area and that such providers were unable or unwilling to provide broadband Internet access services sufficient to meet their remote learning needs before constructing new networks or requesting funding for datacasting customer premises equipment.

   For networks already constructed or equipment already purchased during the pandemic, applicants must show that services were provided to students, school staff, or library patrons during the funding period supported by the second filing window.

   For future construction, they must show that construction is completed and services provided within one year of a funding commitment decision.

5. Installation, Taxes, and Fees: The Program will cover reasonable costs of the enumerated equipment, connected devices, and services, including installation, activation, and initial configuration costs, taxes, and fees. Installation and configuration costs will only be eligible for support if they are provided by the same vendor that is providing the eligible equipment.

6. Wi-Fi Hotspots on School Buses and Bookmobiles: Schools and libraries are allowed to use Emergency Connectivity Fund Program support to purchase Wi-Fi hotspots for school buses and bookmobiles to provide off-campus broadband services to students, school staff, and library patrons who currently lack sufficient broadband access.

7. Reasonable Amount: The Commission has determined that $400 is a reasonable, maximum support amount for connected devices, which includes install and other fees, but not taxes, which can be paid above the $400 cap. Applicants may request a waiver of the reasonable support amount for connected devices, pursuant to 47 CFR section 54.1718(a)(2) and (b)(2), if the reasonable cost to purchase devices for students, school staff, or patrons with disabilities is higher than $400 and the public interest warrants deviation from the general rule. For Wi-Fi hotspots provided to an individual student, school staff member, or library patron, $250 is the maximum reasonable support amount based on advertised costs for Wi-Fi hotspots. This includes install and other fees, but not taxes, which can be paid above the $250 cap. Applicants may purchase connected devices at higher costs, but the ECF program will only provide reimbursement for the connected devices up to the $400 maximum support amount per connected device. Applicants should have limited their reimbursement requests to the appropriate cap. However, we would not consider it to be an audit finding if the applicant requested reimbursement for more than, for example, $400 per connected device, but the disbursement was capped at the appropriate level.

8. Excluded Products and Services: Funding will not be provided for desktop computers and mobile phones, including smartphones. Funding for more than one connection and connected device per user is also prohibited. Funding will not be provided for devices which are purchased for immediate warehousing and intended for future use, or intended as spares to replace lost and/or damaged items. See also ECF Eligible Services list at https://www.fcc.gov/sites/default/files/ecf_esl.pdf.

   For other types of eligible equipment—namely, modems, routers, and devices that combine modems and routers, and multi-user Wi-Fi hotspots, the Commission delegated authority to the Bureau to provide guidance to USAC for assessing the reasonability of the costs for these applications. USAC will also make the pricing data from the Emergency Connectivity Fund Program publicly available through its Open Data platform (https://www.emergencyconnectivityfund.org/open-data/). The publication of this pricing data will allow applicants to review prices paid by schools and libraries across the country for same and similar eligible equipment and services.

9. Applicants may use consultants to assist with the preparation of their funding applications and reimbursement requests, but any fees associated with such assistance are not eligible for funding under the Program.

F. Equipment/Real Property Management

1. *Equipment and Services*

   Applicants may request ECF Program funding for only eligible equipment and services. Eligible equipment and services funded by the Emergency Connectivity Fund Program are detailed in sections (A) and (B) above.

The Eligible Services List provides guidance on the equipment and services eligible for funding under the Emergency Connectivity Fund Program: https://www.fcc.gov/sites/default/files/ecf_esl.pdf.

Emergency Connectivity Fund Program participants are required to maintain asset and service inventories of the devices and services purchased with ECF Program support.

2. *Equipment and service inventory requirements*

Schools, libraries, and consortia shall keep asset and service inventories, and be prepared to provide such inventories during audits or other investigations, containing the following:

a. For each connected device or other piece of equipment provided to an individual student, school staff member, or library patron, the asset inventory must identify:

(1) The device or equipment type (i.e. laptop, tablet, mobile hotspot, modem, router);

(2) The device or equipment make/model;

(3) The device or equipment serial number;

(4) The full name of the person to whom the device or other piece of equipment was provided; and

(5) The dates the device or other piece of equipment was loaned out and returned to the school or library, or the date the school or library was notified that the device or other piece of equipment was missing, lost, or damaged. See 47 CFR section 54.1715(a)(1).

b. For each connected device or other piece of eligible equipment not provided to an individual student, school staff member, or library patron, but used to provide service to multiple eligible users, the asset inventory must contain:

(1) The device type or equipment type (i.e. laptop, tablet, mobile hotspot, modem, router);

(2) The device or equipment make/model;

(3) The device or equipment serial number;

(4) The name of the school or library employee responsible for that device or equipment; and

(5) The dates the device or equipment was in service. See 47 CFR section 54.1715(a)(2).

c. For services provided to individual students, school staff, or library patrons, the service inventory must contain:

(1) The type of service provided (i.e., DSL, cable, fiber, fixed wireless, satellite, mobile wireless);

(2) The service plan details, including upload and download speeds and monthly data cap;

(3) The full name of the person(s) to whom the service was provided;

(4) The service address (for fixed broadband service only);

(5) The installation date of the service (for fixed broadband service only); and

(6) The last date of service, as applicable (for fixed broadband service only). See 47 CFR section 54.1715(a)(3).

d. For services not provided to an individual student, school staff member, or library patron, but used to provide service to multiple eligible users, the service inventory must contain:

(1) The type of service provided (i.e., DSL, cable, fiber, fixed wireless, satellite, mobile wireless);

(2) The service plan details, including upload and download speeds and monthly data cap;

(3) The name of the school or library employee responsible for the service;

(4) A description of the intended service area;

(5) The service address (for fixed broadband service only);

(6) The installation date of the service (for fixed broadband service only); and

(7) The last date of service, as applicable (for fixed broadband service only). See 47 CFR section 54.1715(a)(4).

Asset and service inventories may be used to show compliance with, among other things, the unmet need, per-user, and per-location requirements; however, they are not the only forms of documentation that may be provided to show compliance with these requirements. Documentation that may be used to show compliance with these requirements may include, for example, parent surveys conducted by schools to determine unmet need and the survey results, as well as anonymized signed statements from parents certifying to the student's need for a connected device or connection.

The FCC has also provided guidance for audits regarding the provision of personally identifiable information (PII) to USAC or Commission staff about individuals (e.g., students, school staff members, or library patrons). (See paragraph 134 of the Report and Order), available at https://docs.fcc.gov/public/attachments/FCC-21-58A1.pdf). In the Report and Order, the FCC stated that anyone that requests program information that could contain PII should protect all audit documentation from unauthorized access and abide by all applicable federal and state privacy laws. If anonymized or deidentified information regarding the students, school staff, and library patrons is not sufficient, auditors may request that the school or library obtain consent of the parents or guardians, for students, and the consent of the school staff member or library patron to have access to this PII or explore other legal options for obtaining PII. See also 47 CFR section 54.1715(c).

e. Records retention. All Emergency Connectivity Fund participants shall retain records related to their participation in the program sufficient to demonstrate compliance with all program rules for at least ten (10) years from the last date of service or delivery of equipment, irrespective of the sunset date of the program. See 47 CFR section 54.1715(b). This includes asset and service inventories described in parts (a) through (d), as well as any other documentation that demonstrates compliance with the rules. In the event that asset or service inventory lists or other documentation are incomplete, auditors may use alternative procedures to test how the applicant is distributing and tracking the ECF-funded equipment and services. For example, schools and libraries may be using a separate asset tracking system or report for tracking their connected devices and to show who currently has or where the equipment is currently located.

f. Prohibition on resale. Eligible equipment and services purchased with Emergency Connectivity Fund support shall not be sold, resold, or transferred in consideration of money or any other thing of value, except as provided in paragraph (g) below. See 47 CFR section 54.1713(a).

g. Disposal of obsolete equipment. Eligible equipment purchased using Emergency Connectivity Fund support shall be considered obsolete if the equipment is at least three years old. Obsolete equipment may be resold or

transferred in consideration of money or any other thing of value, disposed of, donated, or traded, but only by the school or library that requested the eligible equipment. See 47 CFR section 54.1713(b).

3. *Real Property Management*

Not applicable

H. Period of Performance

1. In general, approved eligible equipment and services requested during the first two application filing windows must be received or delivered between July 1, 2021 and June 30, 2023, and must be invoiced by October 30, 2023. On May 12, 2023, the Commission extended the service delivery deadline for certain first and second filing window applicants that received a late-issued FCDL or RFCDL. See *Establishing Emergency Connectivity Fund to Close the Homework Gap*, WC Docket No. 21-93, Order, DA 23-405 (rel. May 12, 2023), available at https://docs.fcc.gov/public/attachments/DA-23-405A1.pdf, for further detail about these extended service delivery deadlines. Approved equipment and up to 12 months of recurring services requested during the third application filing window must be received or delivered between July 1, 2022 and June 30, 2024. See 47 CFR section 54.1711(e).

2. Applicants and service providers are required to submit reimbursement requests and invoices for prospective purchases within 60 days from the date of the funding commitment decision letter; a revised funding commitment decision letter approving a post commitment change or a successful appeal of a previously denied or reduced funding commitment; or service delivery date, whichever is later. See 47 CFR section 54.1711(d) and (e).

3. For recurring services that are invoiced on a monthly or periodic basis, approved applicants may invoice within 60 days after the last date of service instead of invoicing on a monthly basis or other periodic basis. For example, if an approved applicant receives monthly or periodic services through June 30, 2024, they must invoice by no later than August 29, 2024 (i.e., 60 days after the last date of service).

4. For equipment or other non-recurring services that have not been received when the applicant submitted their first or second filing window application, applicants were allowed to use June 30, 2023 as the service delivery date and invoice within 60 days after the date of funding commitment decision letter (FCDL); a revised funding commitment decision letter (RFCDL) approving a post-commitment change or a successful appeal of a previously denied or reduced funding; or the service delivery date, whichever date is later. For equipment and other non-recurring services that have not been received when the applicant submitted their third filing window application, applicants are allowed to use June 30, 2024 as the service delivery date and invoice within 60 days of the date of the FCDL; the date

of the RFCDL approving a post-commitment change or a successful appeal of previously denied or reduced funding; or the service delivery date, whichever date is later. See also 47 CFR section 54.1711(d) and (e).

N. Special Tests and Provisions

1. Restricted Purpose

Compliance Requirements

Per-location and per-user limitations.

Per-location and per-user limitations are imposed to maximize the use of limited funds. An eligible school or library will be reimbursed for no more than one connected device and no more than one Wi-Fi hotspot per student, school staff member, or library patron during the COVID-19 emergency period, and no more than one fixed broadband connection per location. However, unlike the per-location limit for fixed broadband, a similar per-location limitation will not be imposed on Wi-Fi hotspots because Wi-Fi hotspots distributed by schools and libraries may be insufficient for multiple users and many homes with multiple students, school staff, or library patrons may need more than one Wi-Fi hotspot to fully engage in remote learning. For purposes of the per-location limitation each unit in a multi-tenant environment (e.g., apartment buildings) will be considered as a separate location.

Audit Objectives Determine that program funds meet the restricted purpose test.

Suggested Audit Procedures

a. Test a sample of asset and service inventories and other documentation from schools and libraries that support compliance with the per-location and per-user limitations. In the event that the asset or service inventory lists are incomplete, the auditors can use alternate procedures. For example, an auditor can request other asset tracking and management system documentation that may be available for the equipment and services being tested in the audit period, such as a report based on the bar codes that may have been placed on the ECF-funded equipment to have a more complete accounting for the ECF-funded equipment and services during the audit period. For example, libraries did not need to create a separate inventory list, but could use separate tracking and circulation data/ reports to show the ECF-funded equipment and services were received and were used by library patrons with unmet needs as evidenced by the signed library patron statements during the audit period. Other asset tracking and management reports can be used, along with the asset and service inventories, to support compliance with the per-location and per-user limitations during the audit period.

NATIONAL ENDOWMENT FOR THE HUMANITIES

ASSISTANCE LISTING 45.129 PROMOTION OF THE HUMANITIES – FEDERAL/STATE PARTNERSHIP

I. PROGRAM OBJECTIVES

The Federal/State Partnership program provides funding through general operating support grants to humanities councils in the United States and its jurisdictions. The 56 state and jurisdictional humanities councils tailor their grantmaking and programs to the needs, resources, and interests of their state or jurisdiction, while also extending the reach of National Endowment for the Humanities (NEH)-funded projects and further strengthening NEH's connection to local communities throughout the U.S. and its jurisdictions.

II. PROGRAM PROCEDURES

The NEH awards general operating support (GOS) grants to each of the 56 state and jurisdictional humanities councils upon submission and approval of the *Annual Plan* and the *Activities and Outcomes Report.* Generally, each grant has a five-year period of performance, with annual awards in the first three years. Each of the first three years constitutes a funding period. Closeout activities occur in years four and five. The state and jurisdictional humanities councils are expected to obligate most of the funds awarded each year by the end of the funding period.

The GOS grants provide support for the following functional activities: Program Services (e.g., council-conducted projects and public meetings), Fundraising, Subawards, and General Management. Each state and jurisdictional humanities council is required to submit Section B of the *SF-424A: Budget Information – Non-Construction Programs* and a budget justification with their annual GOS application, wherein the Council must list costs projected to be incurred during the respective funding period. The state and jurisdictional humanities councils may subaward funds, referred to as "regrants" in this program, through a competition to local nonprofit organizations, institutions, groups, and individuals.

Source of Governing Requirements

The authorizing statute for this program is 20 USC 956(f).

Availability of Other Program Information

NEH maintains a website (http://www.neh.gov) that provides general information about NEH programs. Five publications titled a) "General Terms and Conditions for General Support Grants to State Humanities Councils | The National Endowment for the Humanities (neh.gov)," b) "Addendum to: General Terms and Conditions for Awards and General Terms and Conditions for General Support Grants for State Humanities Councils | The National Endowment for the Humanities (neh.gov)," c) "Matching Guidelines for General Support Grants to State Humanities

Councils | The National Endowment for the Humanities (neh.gov)," d) "General Terms and Conditions for American Rescue Plan State Humanities Councils Awards | The National Endowment for the Humanities (neh.gov)", and e) General Management Costs for State Humanities Councils | The National Endowment for the Humanities (neh.gov) are specifically applicable to this program.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	N	Y	N	Y	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. Funds may be used to initiate and support programs and research which have substantial scholarly and cultural significance; to ensure that the benefit of programs will also be available to citizens where such programs would otherwise be unavailable due to geographic or economic reasons; and to foster education in and public understanding and appreciation of the humanities (20 USC 956(c)(4), 956(c)(9), and 956(c)(10)). Funds may not be used to support projects that fall outside of the humanities and the humanistic social sciences (as defined in 20 USC 952(a)) (including the

creation or performance of art; creative writing, autobiographies, memoirs and creative nonfiction; and quantitative social science research or policy studies as defined 20 USC 952(b)).

b. The state and jurisdictional humanities councils may subaward funds to organizations (including institutions of higher education and units of state and local governments), groups, or persons that form an association to carry out a project, not-for-profit groups (do not have to be incorporated), or individuals to support programs and research which have substantial scholarly and cultural significance. Subawards may not be made to for-profit organizations (20 USC 956(c)(2), 956(h)(1), and 956(l)).

G. Matching, Level of Effort, Earmarking

1. Matching

Under this program, state and jurisdictional humanities councils are awarded two types of funding: Outright Funds and Federal Matching Funds. The amount of each type of funding is identified in the grant award documents.

a. Outright Funds

State and jurisdictional humanities councils must cost share Outright Funds on a dollar-for-dollar basis. By law, the NEH cannot support more than 50 percent of the costs of a state or jurisdictional humanities council's activity. Expenditures of Outright Funds must be matched by cash contributions to the state or jurisdictional humanities council from any source (including funds from other Federal agencies), program income earned, unreimbursed allowable costs that a subrecipient (regrantee) incurs in carrying out a council-funded project, and the value of in-kind contributions made by third parties. In-kind contributions may be in the form of charges for real property and equipment or the value of goods and services directly benefiting and specifically identifiable to an activity of the state or jurisdictional humanities council (20 USC 956(f)(1)).

For those jurisdictional councils covered by the Economic Development of the Territories Act (the US Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands), the cost-sharing requirement do not apply to the first $200,000 in Outright Funds awarded each funding period. The remainder of the annual outright funding awarded requires dollar-for-dollar cost sharing (48 USC 1469a(d)).

b. Federal Matching Funds

When Federal Matching Funds are offered, each state and jurisdictional humanities council must certify that it or one of its subrecipients (regrantees) have raised the required amount of eligible third-party cash

gifts to support grant activities, if it intends to accept matching funds. The state or jurisdictional council is responsible for determining whether funds received from third-parties qualify as gifts eligible for Federal match. A gift is defined as the voluntary transfer of money (or a noncash contribution that is subsequently converted to cash) from a nonfederal third-party to the state or jurisdictional humanities council or its subrecipient (regrantee) without compensation or consideration of return. Further gift eligibility guidance can be found on the NEH website, "Matching Guidelines for General Support Grants to State Humanities Councils | The National Endowment for the Humanities (neh.gov)". State and jurisdictional humanities councils are not required to accept Federal Matching Fund offers.

The NEH awards Federal Matching Funds to a state or jurisdictional humanities council upon receipt and acceptance of the certification that the entity and/or its subrecipients (regrantees) have raised the required amount of eligible third-party cash gifts. The state or jurisdictional council must submit a *Certification of Gifts/Pledges* to NEH annually by September 15. Before certifying a gift that has been raised and retained by a subrecipient (regrantee), the state or jurisdictional humanities council must determine from documentation provided by the subrecipient (regrantee) that the gift meets the eligibility criteria stipulated in NEH matching guidelines, and that the gift has been transferred by the donor to the subrecipient (regrantee). (20 USC 960(a)(2)(B)).

2. Level of Effort

Not Applicable

3. Earmarking

Federal funds allocated for subawards must be expended according to the NEH approved SF-424A budget justification for the funding period and any amendments as approved by NEH. Transfers can be made from other expenditure activities to subawards, but written permission from the NEH is required to transfer funds from the "subaward" category.

L. Reporting

1. Financial Reporting

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

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Report Title: *Certification of Gifts/Pledges* (OMB No. 3136-0134) – This form is used to describe and certify the eligibility of third-party gifts for the release of Federal Matching Funds. The state or jurisdictional humanities council must maintain documentation that substantiates the amounts, sources, eligibility, and expenditure of the gifts certified.

Report Authority: Award Terms and Conditions on the Notice of Action
Reporting period/submission date/s: Due by September 15th, annually
Guidelines are available at: https://www.neh.gov/grants/manage/matching-guidelines-general-support-grants-state-humanities-councils
Report instructions are available at: https://www.neh.gov/instructions-certification-giftspledges-form
A blank copy of the report is available at:
https://www.neh.gov/sites/default/files/inline-files/gift-certification-form_0.pdf

Key Line Item –

1. *Total Amount Given*- This is a key line item because it represents the total amount of gifts raised by the state or jurisdictional state humanities council and/or its subrecipients (regrantees) that meet the criteria to be matched dollar-for-dollar with Federal Matching Funds, as determined by the state or jurisdictional state humanities council.

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

SMALL BUSINESS ADMINISTRATION

ASSISTANCE LISTING 59.075 SHUTTERED VENUE OPERATORS GRANT

IMPORTANT NOTE: This program funding was provided to both non-federal entities (e.g., states, local governments, or nonprofit organizations) and for-profit entities. The guidance in this section is only applicable for audits of non-federal entities. The Small Business Administration has developed separate audit requirements and guidance for audits of for-profit entities with SVOG awards which is available at https://www.sba.gov/document/support-svog-audit-attestation-profit-recipients**.**

I. PROGRAM OBJECTIVES

The Shuttered Venue Operators Grant (SVOG) program provides grant awards of up to $10 million to support the ongoing operations of eligible live venue operators or promoters, theatrical producers, live performing arts organization operators, nonprofit museum operators, motion picture theater operators (including owners), and talent representatives who have experienced significant revenue losses because of the COVID-19 pandemic.

The SVOG program was created in Section 324 of the Economic Aid to Hard-Hit Small Businesses, Nonprofits and Venues Act (part of HR 133 Consolidated Appropriations Act, 2021) signed into law on December 27, 2020, including $15 billion in grants to operators of eligible shuttered venues. On March 11, 2021, the American Rescue Plan Act of 2021 (Pub. L. No. 117-2, title V, sec. 5005) was enacted; it provided an additional $1,249,500,000 in grants for eligible entities. Of this total grant funding, at least $2 billion was reserved for applicants with up to 50 full-time employees.

II. PROGRAM PROCEDURES

A. The SVOG program provides awards to the following eligible applicant types:

1. Live performing arts organization operator
2. Live venue operator or promoter
3. Motion picture theater operator (including owners)
4. Nonprofit museum operators
5. Talent representative
6. Theatrical producer

During the application process, entities were required to select one applicant type when applying in order to account for applicant-type specific criteria. However, all applicants

were expected to clearly present the financial and operational impact of the COVID-19 pandemic to confirm their eligibility for an award and establish their funding need. The maximum award amount (cumulative across all award decision types) is $10 million. For affiliates, the maximum award is $10 million per entity (no more than five entities per affiliate group for a cumulative total of $50 million). Museum operator affiliate groups are unique in that in that there is a $10 million cumulative award cap across all affiliated entities.

B. The SVOG program implemented four award decisioning processes, each with a separate notification. Through SVOG, a single entity could have received up to four different SBA Form 1222s or Notice of Award (NOA) documents. Each NOA issued supersedes any previous NOAs and serves as the principal award document. The NOA documents have version numbers 1–4 corresponding to the award decision made. The four award decision processes (in sequential order) include:

1. *Initial Award* – Award decision made based on initial application package (NOA Document #1). Recipients receiving an initial award were given a 12-month grant term (Budget Period - NOA Box 5) to spend award funds. Any applicant that was denied an initial award was given the opportunity to appeal their eligibility. If the decline decision was overturned, then the entity was given an initial award (NOA Document Version #1).

2. *Reconsideration* – Recipients meeting specific criteria were given the opportunity to request a second review of their initial award amount. If SBA adjusted the award amount, then the SBA issued a new NOA (NOA Document #2). If a grantee received a reconsideration award, the grant term remained 12 months.

3. *Supplemental* – Recipients meeting specific criteria were eligible to receive supplemental funding support awards. Recipients receiving a supplemental award were given an 18-month grant term commencing from the date of initial award issuance and received an updated NOA (NOA Document Version #3). SBA is allowing grantees that receive a supplemental award to spend all funds, both initial and supplemental phase awards, across the 18-month grant term. SBA also issued zero-dollar supplemental awards to permit qualifying entities to extend their grant term by six months. In addition to the 18-month grant term, the issuance of a supplemental grant award also provides grantees with a six-month expenditure period extension, specifically extending the end date to incur eligible expenses from December 31, 2021 to June 30, 2022.

4. *Reconsideration 2.0* – SBA opened a final award decision invitation to all grantees to request a final review of their funding need and eligibility for additional award funds. If a reconsideration 2.0 award is issued a new NOA is created (NOA Document Version #4).

The SVOG initially commenced with a multiple disbursement process, but quickly changed to a single disbursement of funds. Therefore, entities receiving funding from multiple award decisions were issued a single disbursement of funds in line with each award decision.

Some entities who received SVOG awards may have also received Paycheck Protection Program (PPP) loans. The American Rescue Plan Act of 2021 modified and amended the PPP program. Prior to the amendments of the American Rescue Plan Act of 2021, entities that received SVOG awards were ineligible to apply and receive PPP loans. After the amendments of the American Rescue Plan Act of 2021, the SVOG program deducted all PPP loans issued a loan number on or after December 27, 2020, regardless of repayment or non-use of those PPP funds. See the October 20, 2021, SVOG FAQ, #102 for more information.

Source of Governing Requirements

The SVOG program was created by Economic Aid to Hard-Hit Small Businesses, Nonprofits and Venues Act (part of HR 133 Consolidated Appropriations Act, 2021) signed into law on December 27, 2020. This Act provided the initial funding and program eligibility qualifications utilized to establish the award decisioning process and build program parameters. On March 11, 2021, the American Rescue Plan Act of 2021 (Pub. L. No. 117-2, title V, sec. 5005) provided additional program funding and clarifications on program design and implementation. All grantees receiving awards from the SVOG program are expected to utilize funding consistent with the terms and conditions of the program and 2 CFR Part 200.

Availability of Other Program Information

Shuttered Venue Operators Grant Website
https://www.sba.gov/funding-programs/loans/covid-19-relief-options/shuttered-venue-operators-grant

Shuttered Venue Operators Grant Portal
https://www.svograntportal.sba.gov/s/

A number of documents posted on SVOG's website contain information pertinent to program. They are:

1. Shuttered Venue Operators Grant program website – www.sba.gov/svog

2. Post-application guidance (July 22, 2022) – https://www.sba.gov/document/support-post-application-guidance-svog-applicants

3. Frequently Asked Questions regarding SVOG (July 25, 2022) – https://www.sba.gov/document/support-svog-post-award-frequently-asked-questions

4. Frequently Asked Questions regarding SVOG (October 20, 2021) – https://www.sba.gov/document/support-faq-regarding-shuttered-venue-operators-grant-svog

If there are specific questions regarding the SVOG program, e-mail SVOGrant@sba.gov.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	N	Y	N	N	N	N	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

See Pub. L. No. 116-260 Title III, Sec. 324 (d)(2)(B)(i-viii), SVOG FAQs, and Post-Award FAQs**.**

Grantees are generally encouraged to use funds to reimburse or pay for ordinary and necessary business expenses to reopen or keep open a business that was shuttered during the COVID-19 pandemic (specific allowable uses listed below). As previously described, grantees affirm allowable use by submitting budgets to SBA showing distribution of award funds across the eight allowable budget

categories. After the SBA completes the four award decisions outlined above, all grantees are required to submit a finalized budget to SBA through the SVOG Portal, which will outline the intended use of funds for the award and establish the budget basis for monitoring and closeout review. The request for a finalized budget response was issued to grantees on a rolling basis beginning in February 2022.

SVOG award funds may be used for any of the following:

a. Payroll costs;

b. Payments on any covered rent obligation;

c. Any covered utility payment;

d. Scheduled payments of interest or principal on any covered mortgage obligation (which shall not include any prepayment of principal on a covered mortgage obligation);

e. Scheduled payments of interest or principal on any indebtedness or debt instrument (which shall not include any prepayment of principal) incurred in the ordinary course of business that is a liability of the eligible person or entity and was incurred prior to February 15, 2020;

f. Covered worker protection expenditures;

g. Payments made to independent contractors, as reported on Form-1099 MISC, not to exceed a total of $100,000 in annual compensation for any individual employee of an independent contractor; and

h. Other ordinary and necessary business expenses, including—

(1) Maintenance expenses,

(2) Administrative costs, including fees and licensing costs,

(3) State and local taxes and fees,

(4) Operating leases in effect as of February 15, 2020,

(5) Payments required for insurance on any insurance policy, and

(6) Advertising, production transportation, and capital expenditures related to producing a theatrical or live performing arts production, concert, exhibition, or comedy show, except that grant funds may not be used primarily for such expenditures.

Entities that received SVOG awards may have also received funding from other Federal sources, for example, PPP loans, the Economic Injury Disaster Loan (EIDL), or the Employee Retention Credit (ERC). SVOG awards should only reimburse costs that have not already been reimbursed (or received a credit) by other funding sources. Additional clarification on allowable use of funds and allocability with other federal sources are provided in the SVOG FAQs at https://www.sba.gov/document/support-faq-regarding-shuttered-venue-operators-grant-svog and the Post-Award FAQs at https://www.sba.gov/document/support-svog-post-award-frequently-asked-questions.

As noted above, the SVOG program establishes several cost items as allowable up to a spending cap. Two allowable cost examples with caps include:

(1) To pay independent contractors, as reported on Form-1099 MISC, not to exceed a total of $100,000 in annual compensation for any individual employee of an independent contractor; and

(2) To pay advertising, production transportation, and capital expenditures related to producing a theatrical or live performing arts production, concert, exhibition, or comedy show, except that grant funds may not be used primarily for such expenditures.

2. *Activities Unallowed*

See Pub. L. No. 116-260, Title III, sec. 324 (d)(3)(A-E), **SVOG FAQs, and Post-Award FAQs**

SVOG award funds may not be used for any of the following:

a. To purchase real estate;

b. For payments of interest or principal on loans originating after February 15, 2020;

c. To invest or re-lend funds;

d. For contributions or expenditures to, or on behalf of, any political party, party committee, or candidate for elective office;

e. For pre-payment of principal on any mortgage obligation, indebtedness, or debt instrument origination on or before February 15, 2020; or

f. To purchase or pay loans for items of prurient sexual nature.

B. Allowable Costs/Cost Principles

SVOG was structured as a grant program and therefore all recipients must implement their awards and spend funds consistent with the *Code of Federal Regulations*, Title 2, Subtitle A, Chapter II, Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. However, when the program statute allows the use of SVOG award funds for a specific use beyond the scope of uses outlined in the Uniform Guidance, that use is allowed. Please refer to the SVOG Post-Award FAQs for examples.

The purchase of alcohol is generally prohibited with 2 CFR section 200.423. However, the SVOG program provides for federal award funds to be utilized for the purchase of alcohol in certain circumstances as outlined in the SVOG FAQs, No. 173. When considering the allowability of alcohol purchases with SVOG award funds, please review and adhere to the guidance on assessing "an ordinary and necessary business" expense as described in the FAQs and defined by the IRS in Publication No. 535.

The authorizing statute permits reimbursement of eligible and allowable costs dating back to March 1, 2020, which for some entities could be a period of one year or more prior to issuance of an initial SVOG award. Box 1 of the SVOG NOA document recognizes the authorizing statute and the authorizing statute serves as SBA's basis for approving pre-award costs consistent with 2 CFR section 200.458. Please refer to FAQ No. 33 for additional information.

Grantees will submit a finalized budget to SBA in the first few months of 2022, which will establish the basis for monitoring and closeout. At closeout, grantees will provide a reconciliation of expenses by allowable budget category in response to the expense report action item. Grantees should maintain justification for any changes from the final budget to the expense report and maintain clear records of the costs charged to the SVOG award substantiating eligibility and allowability.

H. Period of Performance

Recipients that receive an initial SVOG award will be able to spend award funds over a 12-month period (defined in NOA Box 5 as the *Budget Period*) after the award issuance date (defined in the most recent NOA Box 4 as the *Project Period*) for eligible and allowable costs incurred between March 1, 2020, and December 31, 2021. Recipients that receive a supplemental award will be able to spend all award funds (both initial and supplemental phase awards) received over an 18-month period (defined in most recent NOA Box 5 as the *Budget Period*) after the initial phase award issuance date (defined in the most recent NOA Box 4 as the *Project Period*) for eligible and allowable costs incurred between March 1, 2020, and June 30, 2022 (*Eligible Cost Period*). Reconsideration awards made through the SVOG program do not impact the award expenditure or spend down dates, these dates are only determined by the issuance of an initial or supplemental award.

ENVIRONMENTAL PROTECTION AGENCY

ASSISTANCE LISTING 66.458 CLEAN WATER STATE REVOLVING FUND

I. PROGRAM OBJECTIVES

Capitalization grants are awarded to states to create and maintain Clean Water State Revolving Funds (CWSRFs) to (1) enable states to encourage construction of wastewater treatment facilities to meet the enforceable requirements of the Clean Water Act (Act); (2) increase the emphasis on nonpoint source pollution control and protection of estuaries; and (3) establish permanent financing institutions in each state to provide continuing sources of financing to maintain water quality.

II. PROGRAM PROCEDURES

The CWSRF program is established in each state by capitalization grants from the Environmental Protection Agency (EPA). The CWSRF provides loans and other types of financial assistance to qualified communities and local agencies. The CWSRF is a permanent revolving fund to provide loans and other assistance. Since the enabling legislation was enacted in 1987, capitalization grants have been available to states in most years. EPA implements the CWSRF in a manner that preserves a high degree of flexibility for states in operating their revolving funds in accordance with each state's unique needs and circumstances.
States are required to provide an amount equal to 20 percent of the capitalization grant as state matching funds to receive a grant. On November 15, 2022 the Bipartisan Infrastructure Law (BIL) (P.L. 117-58), also known as the Infrastructure Investment and Jobs Act, was signed into law providing additional funding for the CWSRF with appropriations from 2022 through 2026. In addition to providing general supplemental funding for CWSRF eligible activities, the law also provided targeted funding for addressing emerging contaminants. For CWSRF Bipartisan Infrastructure Law grants, state match varies by grant and year. Additional information regarding BIL and a full listing of the state match requirements for CWSRF BIL grants can be found in pages 13 to 16 at https://www.epa.gov/system/files/documents/2022-03/combined_srf-implementation-memo_final_03.2022.pdf.

Capitalization grant applications must include (1) an Intended Use Plan (IUP), which lists proposed projects eligible for financing from CWSRF loans; (2) an identification of the source of the matching amount; (3) a proposed payment schedule; and (4) certain certifications and demonstrations. States may transfer an amount up to 33 percent of its Drinking Water State Revolving Fund (DWSRF) (Assistance Listing 66.468) capitalization grant to the CWSRF or an equivalent amount from the CWSRF to the DWSRF program.

On June 6, 2019, the "Additional Supplemental Appropriations for Disaster Relief Act, 2019," or ASADRA (Pub. L. No. 116-20), was signed into law. The law provided funds to Alabama, Alaska, California, Georgia, Florida, North Carolina, and South Carolina CWSRF programs for drinking water facilities impacted by Hurricanes Florence and Michael, Typhoon Yutu, and calendar year 2018 wildfires and earthquakes.

Source of Governing Requirements

The CWSRF program is authorized under Title VI of the Clean Water Act (33 USC 1381 et seq.) (Act), the "Additional Supplemental Appropriations for Disaster Relief Act, 2019", or ASADRA (Pub. L. No. 116-20), and the Bipartisan Infrastructure Law or BIL (P.L. 117-58). The implementing regulations are found in 40 CFR Part 35, Subpart K.

Availability of Other Program Information

General information about the program is available on the EPA Clean Water State Revolving Fund home page (https://www.epa.gov/cwsrf).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	Y	Y	Y	N	N	N	N

A. Activities Allowed or Unallowed

1. *Financial Assistance*

   a. The CWSRF may provide financial assistance (1) to municipalities, inter-municipal, interstate, or state agencies for the construction of publicly

owned treatment works, as defined in section 212 of the Act that are on the state's project priority list; (2) for implementing nonpoint source management programs under section 319 of the Act; (3) for developing and implementing estuary management plans under section 320 of the Act (33 USC 1383(c)); (4) for the construction, repair or replacement of decentralized wastewater treatment systems that treat municipal wastewater or domestic sewage; (5) for measures to manage, reduce, treat, or recapture stormwater or subsurface drainage water; (6) to any municipality, or intermunicipal, interstate, or state agency for measures to reduce the demand for publicly owned treatment works capacity through water conservation, efficiency, or reuse; (7) for the development and implementation of watershed projects meeting the criteria set forth in section 122 of the Act; (8) to any municipality, or intermunicipal, interstate, or state agency for measures to reduce the energy consumption needs for publicly owned treatment works; (9) for reusing or recycling wastewater, stormwater, or subsurface drainage water; (10) for measures to increase the security of publicly owned treatment works; (11) to any qualified nonprofit entity, as determined by the EPA Administrator, to provide assistance to owners and operators of small and medium publicly owned treatment works to plan, develop, and obtain financing for eligible projects under this subsection, including planning, design, and associated preconstruction activities; and, to assist such treatment works in achieving compliance with the Act; and (12) to any qualified nonprofit entity, as determined by the Administrator, to provide assistance to an eligible individual (as defined in subsection (j)).

(1) For the repair or replacement of existing individual household decentralized wastewater treatment systems; or

(2) In a case in which an eligible individual resides in a household that could be cost-effectively connected to an available publicly owned treatment works, for the connection of the applicable household to such treatment works.

b. The allowable types of financial assistance under Assistance Listing 66.458 (33 USC 1383(d)) are:

(1) Making loans for eligible projects;

(2) Buying or refinancing of debt obligations of municipal, intermunicipal, and interstate agencies incurred after March 7, 1985;

(3) Guaranteeing or purchasing insurance for local debt obligations;

(4) Using as a source of revenue or security for CWSRF debt obligations (providing that the net proceeds of the sale of such bonds are deposited in the CWSRF);

(5) Guaranteeing loan guarantees for similar revolving funds established by municipalities or intermunicipal agencies;

(6) To earn interest on fund accounts; and

(7) For the reasonable costs of administering the fund and conducting activities under this subchapter, except that such amounts shall not exceed 4 percent of all grant awards to such fund under this subchapter, $400,000 per year, or one-fifth percent per year of the current valuation of the fund, whichever amount is greatest, plus the amount of any fees collected by the state for such purpose regardless of the source.

c. Funds awarded as BIL ASADRA capitalization grants may only be used for eligible projects whose purpose is to reduce flood or fire damage risk and vulnerability or to enhance resiliency to rapid hydrologic change or natural disaster at treatment works as defined by section 212 of the Clean Water Act.

d. Funds awarded as BIL Emerging Contaminants capitalization grants may only be used for project that address emerging contaminants. Additional information on this restriction is available on pages 15 to 16 and 36 to 37. at https://www.epa.gov/system/files/documents/2022-03/combined_srf-implementation-memo_final_03.2022.pdf

2. *CWSRF funds may be used by states for the reasonable costs of administering and managing the CWSRF (33 USC 1383(d)(7)).*

See III.G.3.a, “Matching, Level of Effort, Earmarking – Earmarking.”

3. *CWSRF funds may be used by states to provide additional subsidization in the form of principal forgiveness, grants, and negative interest loans to eligible entities receiving CWSRF assistance.*

Unless otherwise allowed by statute, additional subsidy may be provided to (a) implement a process, material, technique, or technology to address water or energy-efficiency goals; (b) mitigate stormwater runoff; (c) encourage sustainable project planning, design, and construction; or (d) a municipality that meets the state’s affordability criteria or seeks additional subsidization to benefit individual ratepayers in the residential user rate class who would otherwise experience significant financial hardship (33 USC 1383(i)(1)). See III.G.3.b, “Matching, Level of Effort, Earmarking – Earmarking.”

4. *States may provide funding to nonprofit organizations (as defined in section 104(w)) or state, regional, interstate, or municipal entities to provide technical assistance to rural, small, and tribal publicly owned treatment works (within the meaning of section 104(b)(8)(B)) in the state.*

   This funding can used for the purpose of hiring staff, nonprofit organizations, or regional, interstate, or municipal entities to assist rural, small, and tribal publicly owned treatment works. The form of that assistance is flexible and could include, but is not limited to, community outreach, technical evaluation of wastewater solutions, preparation of applications, preliminary engineering reports, and financial documents necessary for receiving SRF assistance. See III.G.3.c, "Matching, Level of Effort, Earmarking – Earmarking."

B. Allowable Cost/Cost Principals

The cost principles of 2 CFR 200 Subpart E are applicable (as appropriate) to this award. If the state does not have a previously established indirect cost rate, the state will prepare and submit its indirect cost rate proposal in accordance with 2 CFR 200 Appendix VII. For CWSRF programmatic eligibilities, state CWSRF programs are required to follow 33 USC 1383(c) for assistance eligibilities.

C. Cash Management

The state may draw cash from EPA through the Automated Standard Application for Payments (ASAP) system for:

1. *Loans* – when the CWSRF receives a request from a loan recipient, based on incurred costs, including pre-building and building costs.

2. *Refinance or Purchase of Municipal Debt* – generally, when at a rate no greater than equal amounts over the maximum number of quarters that payments can be made, and up to the amount committed to the refinancing or purchase of the local debt.

3. *Purchase of Insurance* – when insurance premiums are due.

4. *Guarantees and Security for Bonds* – immediately, in the event of imminent default in debt service payments on the guaranteed/secured debt; otherwise, up to an amount dedicated for the guarantee or security based on incurred construction costs.

5. *Administrative Expenses* – cash can be drawn based on a schedule that coincides with the rate at which administrative expenses will be incurred (40 CFR section 35.3160).

On 11/29/2022, EPA issued a permanent regulatory exception that eliminated the requirement for states to draw SRF disbursement requests at a proportional federal to

state ratio. It also eliminated the cap on federal funds that can be drawn for refinance projects in the first eight quarters after EPA awards a capitalization grant to the state. Additional information is available at https://www.epa.gov/system/files/documents/2022-12/Class-Exception-from-SRF-Cash-Draw-Rules.pdf

G. Matching, Level of Effort, Earmarking

1. Matching

States are required to deposit into the CWSRF from state monies, an amount equal to 20 percent of each grant payment. If the state provides a match more than the required amount, the excess balance may be banked toward subsequent match requirements. States generally report the total amount of their matching for a capitalization grant in an annual CWSRF report to EPA. The match is required to be made on or before the time that EPA funds are drawn (40 CFR section 35.3135(b)).

For CWSRF Bipartisan Infrastructure Law grants, state match varies by grant and year. Additional information regarding state match requirements for CWSRF BIL grants is available on pages 13 to 16 at https://www.epa.gov/system/files/documents/2022-03/combined_srf-implementation-memo_final_03.2022.pdf.

2. Level of Effort

Not Applicable

3. Earmarking

a. **CWSRF Administration:** The maximum amount allowable for administering and managing the CWSRF is an amount equal to 4 percent of the cumulative amount of capitalization grant awards received (less any amounts used in previous years to cover administrative expenses), $400,000, or one-fifth percent of the current valuation of the fund, whichever is the greatest. The valuation of the fund is defined as the Total Net Position in the most recent year's audited financial statements of the CWSRF. When the administrative expense of the CWSRF exceeds the largest of these amounts, the excess must be paid from sources outside the CWSRF (40 CFR section 35.3120(g)).

b. **CWSRF Additional Subsidy:** Information regarding the amount and eligible use of additional subsidy is provided below by capitalization grant. An accompanying table is also included.

ASADRA: Not less than 20 percent and not more than 30 percent of the capitalization grant amount may be used to provide subsidy in the form of

grants, principal forgiveness, or negative interest loans for projects eligible for funding under the ASADRA capitalization grant.

FY 2020, FY 2021 and FY 2022: These appropriations (Pub. L. No. 116-94, Pub. L. No. 116-260, 6 and Pub. L. No. 117-103) require that an amount equal to 10 percent of the capitalization grant be used for additional subsidy. This additional subsidy can go to any CWSRF borrower; however, only when such funds are provided as initial financing for an eligible recipient or to buy, refinance, or restructure the debt obligations of eligible recipients that were incurred after the date of enactment of the appropriation.

These grants are also impacted by section 603(i) of the Clean Water Act. Originally this statutory provision allowed states to provide further additional subsidy if the amount appropriated for capitalization grants to all states in the fiscal year exceeds $1,000,000,000. As a result, for the FY 2020 and FY 2021 capitalization grants, a state may provide up to 30% for additional subsidy. This optional amount is in addition to the 10% required by the annual appropriation acts. This subsidy can be provided in the form of grants, principal forgiveness, or negative interest as specified in III.A.3, "Activities Allowed or Unallowed."

The Bipartisan Infrastructure Law slightly revised section 603(i) of the Clean Water Act. Starting with the FY 2022 capitalization grants, if the amount appropriated for capitalization grants to all states in a fiscal year exceeds $1,000,000,000, the state must provide an amount that is not less 10% but not more than 30% as additional subsidy. This amount is in addition to the 10% required by the annual appropriation acts. This subsidy can be provided in the form of grants, principal forgiveness, negative interest, other loan forgiveness, and through buying, refinancing, or restructuring debt as specified in III.A.3, "Activities Allowed or Unallowed."

FY 2022 BIL General Supplemental: States must provide an amount equal to 49% of capitalization grant. This subsidy can be provided in the form of grants and principal forgiveness as specified in III.A.3, "Activities Allowed or Unallowed."

FY 2022 BIL Emerging Contaminants: States must provide an amount equal to 100% of capitalization grant as additional subsidy in the form of grants or principal forgiveness. This subsidy can be provided in the form of grants and principal forgiveness for projects that address emerging contaminants.

Additional Subsidy Chart by Appropriation

FY 2020	FY 2021	FY 2022	FY 2022 BIL
An amount that is not less than 10 percent and not more than 40 percent of the capitalization grant amount. Additionally, the Water Infrastructure Fund Transfer Act (WIFTA) amendment allows states to transfer up to 5 percent of their total allotment of CWSRF capitalization grants as of 10/4/2020, to the DWSRF for threats to public health as a result of heightened exposure to lead. These funds are to be provided as subsidy in the form of principal forgiveness, grants, or negative interest).	An amount that is not less than 10 percent and not more than 40% of the capitalization grant amount.	Not less than 20 percent and not more than 40% of the capitalization grant amount.	**General Supplemental:** An amount equal to 49% of the capitalization grant amount. **Emerging Contaminants:** 100% of the capitalization grant.

c. **CWSRF Technical Assistance:** The maximum amount of CWSRF money that may be used to provide technical assistance consistent with section 603(k) of the Clean Water Act is an amount equal to 2% of all grant awards received by a CWSRF after November 15, 2021. If a state does not utilize the full amount of the technical assistance funds allowed under a capitalization grant, they may reserve the right to utilize the unused portion at a later date.

d. **Green Project Reserve**: To the extent that there are sufficient eligible project applications, no less than 10 percent of appropriated funds shall be used for projects to address green infrastructure, water or energy efficiency improvements or other environmentally innovative activities (Pub. L. No. 116-94, Pub. L. No. 116-260, and Pub. L. No. 117-103).

H. Period of Performance

Grant payments from a capitalization grant shall begin in the quarter in which the grant is awarded and end no later than eight quarters after the grant is awarded, not to exceed 12 quarters from the date of allotment of grant funds to the states (40 CFR section 35.3155(c)).

IV. OTHER INFORMATION

The audit focus is on a state's CWSRF program rather than individual capitalization grants awarded to states by EPA.

The remainder of this section discusses certain CWSRF considerations relative to reporting on the Schedule of Expenditures of Federal Awards (SEFA).

Subrecipient Reporting of CWSRF Loans

CWSRF amounts are awarded by EPA to states as grants. The states then make subawards in the form of loans to its subrecipients. Therefore, in determining the amount of federal funds expended to be reported on the SEFA, subrecipients receiving CWSRF loans should include project expenditures incurred under these loans during the audit period as provided in 2 CFR section 200.502(a). These are subawards—not direct federal loans—and, therefore, neither 2 CFR sections 200.502(b) nor (d) apply when calculating the amount of federal funds expended.

It also is important to appropriately identify these CWSRF loans as subawards because of the impact on which federal agency is the cognizant or oversight agency.

Equivalency Loans Reporting

Equivalency loans are funded with an amount equal to the capitalization grant and reported in the OMB Federal Funding Accountability and Transparency Act (FFATA) Subaward Reporting System. These loans are considered to be federal loans. To achieve consistency in meeting program requirements and eliminate the possibility of over-reporting information under FFATA, equivalency loans must meet all equivalency requirements: federal cross-cutters, single audit, architectural and engineering (A/E) procurement, disadvantage business enterprise (DBE), and signage.

While any of the sources of funds in the CWSRF may be used for equivalency loans, it should be understood that these funds would be considered federal funds once they are deemed equivalency dollars and that all disbursements for equivalency loans must be entered into the SEFA. The SEFA should reflect equivalency dollars rather than actual cash draws from the Treasury to the state. Additionally, the SEFA will differ from the SF-425 form.

ENVIRONMENTAL PROTECTION AGENCY

ASSISTANCE LISTING 66.468 DRINKING WATER STATE REVOLVING FUND

I. PROGRAM OBJECTIVES

Capitalization grants are awarded to states to create and maintain Drinking Water State Revolving Funds (DWSRF) programs. States can use capitalization grant funds to establish a revolving loan fund to assist public water systems finance the costs of infrastructure needed to achieve or maintain compliance with Safe Drinking Water Act (SDWA) requirements and protect the public health objectives of the Act.

II. PROGRAM PROCEDURES

The DWSRF program is established in each state by capitalization grants from the Environmental Protection Agency (EPA) and state match equaling 20 percent of the EPA capitalization grants. For DWSRF Infrastructure Investment, and Jobs Act (IIJA) Grants, state match varies by grant and year. For the DWSRF, there is an annual appropriation and 3 IIJA appropriations for each state. A full listing of the state match requirements for DWSRF IIJA grants can be found in attachment 1 (page 9 of 56) at https://www.epa.gov/system/files/documents/2022-03/combined_srf-implementation-memo_final_03.2022.pdf.

EPA implements the DWSRF program in a manner that preserves flexibility for states in operating their program in accordance with their unique needs and circumstances. States have the flexibility to set aside some of their capitalization grants for other related activities. States may also transfer an amount up to 33 percent of its DWSRF capitalization grant to the Clean Water State Revolving Fund (CWSRF) (Assistance Listing 66.458) or an equivalent amount from the CWSRF to the DWSRF program. A state may transfer capitalization grant dollars, state match, investment earnings, or principal and interest repayments.

Capitalization grant agreements include (1) an application; (2) an Intended Use Plan (IUP), which describes how the state intends to use funds made available to it, including a list of proposed projects eligible for financing and a description of the financial status of the program; (3) a proposed payment schedule; (4) certain certifications and demonstrations which can be included in an optional operating agreement; and (5) workplans containing a least a general description of the use of set-aside funds.

The state must annually provide an IUP which describes how the state will use available DWSRF program funds for the year to meet the objectives of the SDWA and further the goal of protecting public health. The IUP explains how all of the funds available to the DWSRF program (including bond proceeds, interest earnings, loan repayments, federal capitalization grants, state match, etc.) will be expended.

The Disaster Relief Appropriations Act (Pub. L. No. 113-2) provided funds for awards to the states of New York and New Jersey for drinking water facilities impacted by Hurricane Sandy. EPA awarded these funds under Assistance Listing 66.483. Those funds are subject to all of the compliance requirements that apply to Assistance Listing 66.468 except as indicated in III, "Compliance Requirements," in this program supplement.

On June 6, 2019, Pub. L. No. 116-20, the "Additional Supplemental Appropriations for Disaster Relief Act, 2019," or ASADRA, was signed into law. The law provided funds to Alabama, Alaska, California, Georgia, Florida, North Carolina, and South Carolina DWSRF programs for drinking water facilities impacted by Hurricanes Florence and Michael, Typhoon Yutu, and calendar year 2018 wildfires and earthquakes. On November 15, 2022 the Bipartisan Infrastructure Law (BIL) (P.L. 117-58) was signed into law providing additional funding for the DWSRF with appropriations from 2022 through 2026. In addition to a new grant funding base program activities, the law added two additional grants with one focused on funding Per and Polyfluoroalkyl Substances (PFAS) and emerging contaminants and one focused on Lead Service Line removal.

Source of Governing Requirements

This program is authorized under Section 1452 of the Public Health Service Act (Title XIV), commonly known as the SDWA (42 USC 300j-12) and the Disaster Relief Appropriations Act, 2013 (Pub. L. No. 113-2) and the Bipartisan Infrastructure Law (BIL) (P.L. 117-58). . The implementing regulations for the program can be found at 40 CFR Part 35, Subpart L.

Availability of Other Program Information

Other general information about the program is available on the EPA Drinking Water State Revolving Fund home page (https://www.epa.gov/dwsrf).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	Y	Y	Y	N	N	N	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

a. A state DWSRF program may provide the following financial assistance to publicly or privately owned community water systems and nonprofit non-community water systems for eligible drinking water infrastructure projects (40 CFR sections 35.3520 and 35.3525):

(1) Making loans for eligible projects (40 CFR section 35.3520(b).

(2) Purchasing or refinancing existing debt obligations of municipal, intermunicipal and interstate agencies entered into on or after July 1, 1993. Purchase of local debt would have the expectation that the seller would repay the debt at the agreed upon terms.

(3) Guarantee of or purchasing insurance for local debt obligations.

(4) Providing a source of revenue or security for DWSRF debt obligations, provided that the net proceeds of the sale of such debt obligations are deposited in the DWSRF.

(5) Funds awarded (all manner of assistance, both a loan or grant to a local entity) under Assistance Listing 66.483 may be used only for projects to reduce flood damage risk and vulnerability or to enhance resiliency to rapid hydrologic change or a natural disaster (Pub. L. No. 113-2, Division A, Title X, 127 Stat. 31).

(6) For DWSRF IIJA Emerging contaminant grants, assistance is limited to addressing contaminants on the contaminant candidate list and PFAs. For the DWSRF IIJA Lead Service Line grants, assistance is limited to activities directly connected to the

identification, planning, design, and replacement of lead service lines. This can be found on page 19 of 56 of https://www.epa.gov/system/files/documents/2022-03/combined_srf-implementation-memo_final_03.2022.pdf.

b. A state may set aside DWSRF funds for the following designated activities (40 CFR section 35.3535):

(1) Administrative expenses (including technical assistance).

(2) Technical assistance to small water systems that regularly serve 10,000 or fewer persons (40 CFR section 35.3505).

(3) State program management.

(4) Local assistance and other state programs.

2. *Activities Unallowed*

As per 40 CFR 35.3520(d) through (f), a state DWSRF program may not provide assistance for:

a. Dams or reservoirs, water rights, laboratory fees for monitoring, system operation and maintenance, or projects that are primarily fire protection. Water rights are listed as ineligible in DWSRF regulations, but a class deviation for water rights was signed in November of 2019. "Deviation from 40 CFR section 35.3520(e)(2)" DWSRF Class Deviation for Water Rights--Dec 2019 (epa.gov). This allows the use of DWSRF funds for Water rights if it addresses a public health objective of the Safe Drinking Water Act. EPA has the authority to allow deviations from EPA regulations that are not disallowed by law. In this case the Safe Drinking Water Act.

b. Expansion projects pursued solely in anticipation of future growth.

B. Allowable Cost/Cost Principals

The cost principles of 2 CFR 200 Subpart E are applicable as appropriate, to this award. If the state does not have a previously established indirect cost rate, the state will prepare and submit its indirect cost rate proposal in accordance with 2 CFR 200 Appendix VII. For DWSRF programmatic eligibilities, state DWSRF programs are required to follow 40 CFR 35.3520 for assistance eligibilities from the loan fund and 40 CFR 35.3535 for DWSRF set-aside eligibilities.

C. Cash Management

The state may draw cash through the Automated Standard Application for Payments (ASAP) system (40 CFR sections 35.3560 and 35.3565). States and Auditors should be

aware of the November 18th, 2022 permanent regulatory exemption from 40 CFR 35.3560(f) and (g) and 40 CFR 35.3565(b). These regulations specify the rate at which states can draw federal funds in relation to state contribution. Further, the regulations slow the rate at which federal funds can be drawn for refinancing projects in the SRFs. In plain language, this regulatory exception:

- Eliminates the requirement for states to draw SRF disbursement requests at a proportional federal to state ratio.
- Eliminates the cap on federal funds that can be drawn for refinance projects in the first eight quarters after EPA awards a capitalization grant to the state.:

This exemption can be found at https://www.epa.gov/system/files/documents/2022-12/Approval%20of%20Class%20Exception%20from%20the%20Clean%20Water%20and%20Drinking%20Water%20State%20Revolving%20Fund%20Cash%20Draw%20Rules.pdf.

Types of assistance that can be provided include:

1. *Loans* – when the DWSRF receives a request from a loan recipient, based on incurred costs, including pre-building and building costs.

2. *Refinance or Purchase of Municipal Debt* – generally, at a rate not greater than equal amounts over the maximum number of quarters that payments can be made, and up to the amount committed to the refinancing or purchase of the local debt. A state may immediately draw cash for up to the greater of $2 million or 5 percent of each fiscal year's capitalization grant to refinance costs.3. *Purchase of Insurance* – when insurance premiums are due.

4. *Guarantees and Security for Bonds* – immediately, in the event of imminent default in debt service payments on the guaranteed/secured debt; otherwise, up to the amount dedicated for the guarantee or security based on actual construction cost.

5. *Set-Asides* – generally, on an incurred cost basis after workplans have been approved by EPA (40 CFR section 35.3560(e)).

G. Matching, Level of Effort, Earmarking

1. Matching

a. States are required to deposit into the DWSRF from state monies an amount equal to 20 percent of each grant payment. The match is required to be made on or before the time that EPA funds are drawn. When a letter of credit (LOC) mechanism or similar financial arrangement is used for the state match, payments to the LOC account must be made proportionally on the same schedule as payments for the capitalization

grant. Monies from this state match LOC must be drawn into the DWSRF as monies are drawn on the federal automated clearinghouse account. A state may issue general obligation or revenue bonds to derive the state match. If the state provides a match in excess of the required amount, the excess balance may be banked toward subsequent match requirements (40 CFR section 35.3550(g)). For grants under IIJA, the state match requirement can vary depending on the grant and the year. For the IIJA DWSRF Supplemental Grant, state match is 10% for years 2022 and 2023 and 20% for years 2024 through 2026. For the IIJA DWSRF Emerging Contaminants Grant, the grant does not require state match. For the IIJA DWSRF Lead Service Line Removal Grant, the grant also does not require state match. For a full list of match requirements, please see page 16 for IIJA General Supplemental, page 17 for IIJA Emerging Contaminants, and page 19 for IIJA Lead Service Line Replacement - https://www.epa.gov/system/files/documents/2022-03/combined_srf-implementation-memo_final_03.2022.pdf.

2. Level of Effort

Not Applicable

3. Earmarking

a. The allotment can be earmarked for set-aside activities as follows:

(1) *Administrative Expenses* – Not to exceed the higher of 4 percent of the allotment, $400,000, or one-fifth of a percent of the fund's annual net position.

(2) *Technical Assistance to Small Systems* – Not to exceed 2 percent of the cumulative allotment (40 CFR section 35.3535(c)).

(3) *State Program Management* – Not to exceed 10 percent of the cumulative allotment (40 CFR section 35.3535(d)). The cumulative allotment amount will be in state records as their total grants awarded. EPA will have a record of this as well.

(4) *Local Assistance and Other State Programs* – Not to exceed 15 percent of the capitalization grant and no more than 10 percent of the grant is used on any one of the defined activities (40 CFR section 35.3535(e)).

b. For 2018 and previous grants, state cannot use more than 30 percent of any particular fiscal year's capitalization grant to provide subsidies in the form of principal forgiveness or negative interest rate loans to communities meeting the state's definition of disadvantaged, or

communities the state expects to become disadvantaged as a result of the project (40 CFR section 35.3525(b)). Starting with the 2019 grants, states are required to use between 6 percent and 35 percent of their grant for disadvantaged assistance subsidy, as per the amendments from the American Water Infrastructure Act of 2018. For the 2022 through 2026 IIJA grants, the amount of additional subsidy required and allowed varies by grant, and can be found in page 16 for IIJA General Supplemental, page 17 for IIJA Emerging Contaminants, and page 19 for IIJA Lead Service Line Replacement: https://www.epa.gov/system/files/documents/2022-03/combined_srf-implementation-memo_final_03.2022.pdf.

c. EPA's DWSRF appropriations include the following requirements:

(1) The Disaster Relief Appropriations Act (Pub. L. No. 113-2, Division A, Title X, 127 Stat. 31), FY 2019 appropriation and the FY 2020 appropriation each have requirements to provide subsidy in amounts found in the table below. This subsidy can be provided in the form of grants, principal forgiveness, or negative interest.

FY 2019	FY 2020 Funds	FY 2021 and FY 2022 Funds
"20 percent of the capitalization grant amount mandatory additional subsidy, available to all DWSRF-eligible recipients, and an additional 6 to35 percent additional subsidy available only to state-defined disadvantaged communities.	14 percent of the capitalization grant amount mandatory additional subsidy, available to all DWSRF eligible recipients, and an additional 6-35 percent additional subsidy available only to state defined disadvantaged communities. Additionally, the Water Infrastructure Transfer Act (WIFTA) allows states until 10/4/20 to transfer up to 5 percent of their cumulative allotment of CWSRF capitalization grants to the DWSRF for threat to public health as a result of heightened exposure to lead. These funds are to be provided as subsidy in the form of principal forgiveness, grants, and negative interest. For the ASADRA funds, states are required to use between 20% and 30% as subsidy in the form of principal forgiveness, grants, or negative interest.	14 percent of the capitalization grant amount mandatory additional subsidy, available to all DWSRF-eligible recipients, and an additional 6-35 percent additional subsidy available only to state-defined disadvantaged communities. Additionally, the Water Infrastructure Fund Transfer Act (**WIFTA**) allows states, until 10/5/2020, to transfer up to 5 percent of their cumulative allotment of CWSRF capitalization grants to the DWSRF for threats to public health as a result of heightened exposure to lead. These funds are **to** be provided as subsidy in the form of principal forgiveness, grants, or negative interest." For the **ASADRA** funds, states are required to use between 20 percent and 30 percent as subsidy in the form of principal forgiveness, grants, or negative interest. 14 percent of the capitalization grant amount as additional subsidy available to all DWSRF eligible recipients, and an additional 6-35 percent additional subsidy available only to state defined disadvantaged communities. Additionally, the Water Infrastructure Fund Transfer Act (WIFTA) allows

FY 2019	FY 2020 Funds	FY 2021 and FY 2022 Funds
		states until 10/4/2020 to transfer up to 5 percent of their cumulative CWSRF capitalization grant to the DWSRF for threats to public health as a result of heightened exposure to lead. There funds are to be provided as subsidy in the form of principal forgiveness, grants, or negative interest. For **IIJA Base Supplemental Appropriation** states are required to provide 49% of the grant as subsidy in the form of forgiveness of principal or grants. **For IIJA Emerging Contaminants** states are required to provide 100% of the grant as subsidy in the form of forgiveness or principal or grants. 25% of the subsidy is to go to state defined disadvantaged communities or communities serving 25,000 or few people. **For IIJA Lead Service Line Replacement** states are required to provide 49% of the grant as subsidy in the form of forgiveness of principal or grans.

(2) The decision to maintain a category of projects for green infrastructure, water and energy efficiency, and other environmentally innovative activities is at the state's discretion (Pub. L. No. 113-76, Pub. L. No. 113-235, and Pub. L. No. 114-113).

H. Period of Performance

1. Grant payments from a capitalization grant, which increase the ceiling of funds from which a state may draw cash for eligible costs, shall begin no earlier than the quarter in which the grant is awarded, and generally end no later than eight quarters after the grant is awarded, not to exceed twelve quarters from the date of allotment of grant funds to the states. States must enter into binding commitments for an amount equal to each capitalization grant payment and accompanying state match that is deposited into the Fund within one year after the receipt of each grant payment. This does not apply to funds drawn for set-aside activities. States disburse, or liquidate, grant funds for projects in accordance with construction schedules. Funds are disbursed for set-aside activities in accordance with costs being incurred under approved workplans (40 CFR sections 35.3550(e) and 35.3560).

2. Funds made available for disaster relief activities under Assistance Listing 66.483 are available until expended (Pub. L. No 113-2, Division A, Title X, 127 Stat. 31).

IV. OTHER INFORMATION

The audit focus is on a state's DWSRF program rather than individual capitalization grants awarded to states by EPA.
The remainder of this section discusses certain DWSRF considerations relative to reporting on the Schedule of Expenditures of Federal Awards (SEFA)

Subrecipient Reporting of DWSRF Loans

DWSRF amounts are awarded by EPA to states as grants. The states then make subawards in the form of loans to their subrecipients. Therefore, in determining the amount of federal funds expended to be reported on the SEFA, subrecipients receiving DWSRF loans should include project expenditures incurred under these loans during the audit period as provided in 2 CFR section 200.502(a). These are subawards— not direct federal loans—and, therefore, neither 2 CFR sections 200.502(b) nor (d) apply when calculating the amount of federal funds expended. It also is important to appropriately identify these DWSRF loans as subawards because of the impact on which federal agency is the cognizant or oversight agency.

Equivalency Loans Reporting

To achieve consistency in meeting program requirements and eliminate the possibility of over-reporting information under the Federal Funding Accountability and Transparency Act (FFATA), state DWSRF programs must use the same group of loans for the purpose of meeting federal cross-cutting, single audit, procurement, and Transparency Act reporting requirements (as per 40 CFR 35.3575). Equivalency projects/loans are funded with an amount equal to the capitalization grant. DWSRF set-aside activities are also considered federal expenditures. Auditors should be mindful that set-aside spending will not always trigger FFATA reporting based on the thresholds for reporting under the law. In addition, for states using the loan authority under the set-aside funds, it is possible those expenditures are repayment dollars from previous loans and should not be considered federal funds. The state should make subawardees aware if this is the case. Auditors should consult with the state to make that determination. While any of the sources of funds in the DWSRF may be used for equivalency projects/loans, it should be understood that these funds would be considered federal funds once they are deemed equivalency dollars and that all disbursements for equivalency projects/loans must be entered into the SEFA. The SEFA should reflect equivalency dollars rather than actual cash draws from the Treasury to the state. Additionally, the SEFA will differ from the SF-425 form.

ENVIRONMENTAL PROTECTION AGENCY

ASSISTANCE LISTING 66.957 GREENHOUSE GAS REDUCTION FUND: NATIONAL CLEAN INVESTMENT FUND

I. PROGRAM OBJECTIVES

The National Clean Investment Fund (NCIF) is one of three grant programs under the Greenhouse Gas Reduction Fund (GGRF). The NCIF will advance the three GGRF program objectives of reducing emissions of greenhouse gases and other air pollutants; delivering benefits to American communities, particularly low-income and disadvantaged communities; and mobilizing financing and private capital.

II. PROGRAM PROCEDURES

The Inflation Reduction Act amends the Clean Air Act to include Section 134 (42 USC 7434), which authorizes the Environmental Protection Agency (EPA) to make competitive grants under the National Clean Investment Fund. The NCIF is administered under the EPA's Office of the Greenhouse Gas Reduction Fund (OGGRF). The NCIF provides three one-time competitive grant awards to eligible recipients, defined in 42 USC 7434(c)(1). Each grant award is made to an eligible recipient that submitted an individual application (wherein subrecipients were not named in the application for grant funding) or a coalition application (wherein subrecipients were named in the application for grant funding and designated as "coalition members"). Coalition members may be either eligible recipients or other types of organizations eligible for subawards under the EPA Subaward Policy (*see* Section IV, Other Information).

Eligible recipients (and their subrecipient coalition members ("coalition members"), if applicable) use the initial grant award to provide financial assistance to qualified projects. Both recipients and coalition members may provide financial assistance to qualified projects as well as engage in predevelopment, market-building, and program administration activities to help them provide financial assistance to qualified projects. Financial assistance constitutes financial products, including debt, equity, hybrids, and credit enhancements (but not subgrants). Qualified projects are projects, activities, and technologies that are defined in 42 USC 7434(c)(3) (i.e., either reducing or avoiding greenhouse gas emissions and other forms of air pollution in partnership with, and by leveraging investment from, the private sector or assisting communities in their efforts to reduce or avoid greenhouse gas emissions and other forms of air pollution). While some forms of financial assistance to qualified projects may be provided directly to entities deploying qualified projects, other forms of financial assistance may be provided to entities (such as community lenders) such that those entities can provide financial assistance to qualified projects.

EPA has determined that awards and subawards made under the NCIF program to provide financial assistance to qualified projects are considered revolving loan fund programs for the purposes of 2 CFR sections 1500.8(b) and (d) as well as applicable provisions of 2 CFR part 200 and 40 CFR part 33. These revolving loan fund programs include loans as well as other forms of

financial assistance to qualified projects that may generate program income (*see* Section IV, Other Information)

Each recipient's program must provide financial assistance to qualified projects in each of the ten EPA regions (https://www.epa.gov/aboutepa/regional-and-geographic-offices), except for the Freely Associated States, as well as expend at least 40% of grant funds for the purposes of providing financial assistance in "low-income and disadvantaged communities." Freely Associated States are the independent Pacific Island nations, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronnesia.

Source of Governing Requirements

The National Clean Investment Fund is funded by two separate appropriations to make competitive grants to eligible recipients: $11.97 billion from 42 USC 7434(a)(2) and $2 billion from 42 USC 7434(a)(3).

The National Clean Investment Fund implements the statute's use of funds for direct investments under 42 USC 7434(b)(1), which directs recipients of funds for direct investments to (A) provide financial assistance to qualified projects at the national, regional, state, and local levels; (B) prioritize investment in qualified projects that would otherwise lack access to financing; and (C) retain, manage, recycle, and monetize all repayments and other revenue received from fees, interest, repaid loans, and any other financial assistance provided using the grant funds to ensure continued operability.

Availability of Other Program Information

Additional information on the NCIF program is available on the NCIF page of the EPA website at: https://www.epa.gov/greenhouse-gas-reduction-fund/national-clean-investment-fund.

The Office of the Greenhouse Gas Reduction Fund is available at ggrf@epa.gov to provide further details on governing requirements.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	N	N	Y	Y	Y	Y	Y

A. Activities Allowed or Unallowed

Recipients and coalition members under this program may use grant funds to provide financial assistance to qualified projects, as well as to engage in predevelopment, market-building, and program administration activities to help them provide financial assistance to qualified projects. Testing of compliance with this requirement focuses on whether funds were used only for such activities. These allowable activities are further defined below.

1. Financial assistance to qualified projects

42 USC 7434(b)(1) of the Clean Air Act directs that recipients use funds for "financial assistance to qualified projects."

Financial assistance constitutes financial products, including debt (such as loans, partially forgivable loans, forgivable loans, zero-interest and below-market interest loans, loans paired with interest rate buydowns, secured and unsecured loans, lines of credit, subordinated debt, warehouse lending, loan purchasing programs, and other debt instruments), equity (such as equity project finance investments, private equity investments, and other equity instruments), hybrids (such as mezzanine debt, preferred equity, and other hybrid instruments), and credit enhancements (such as loan guarantees, loan guarantee funds, loan loss reserves, and other credit enhancement instruments). For this program, subgrants are not eligible as financial assistance. Recipient and coalition member expenditures for financial assistance are in the form of *Subawards*, *Participant support costs*, and acquisitions of *Intangible property* for a financial assistance purpose, as defined in 2 CFR section 200.1, with the characterization dependent on the nature of the financial assistance.

Under 42 USC 7434(c)(3), a qualified project is any project, activity, or technology that (A) reduces or avoids greenhouse gas emissions or other forms of air pollution in partnership with, and by leveraging investment from, the private

sector; or (B) assists communities in the efforts of those communities to reduce or avoid greenhouse gas emissions and other forms of air pollution.

2. Predevelopment activities

Under 2 CFR section 200.403 and other applicable provisions of 2 CFR part 200, Subpart E, costs are allowable under federal awards so long as they are necessary and reasonable for the performance of the grant award. For this program, consistent with these regulations, costs for predevelopment activities are allowable, with such activities (1) improving the likelihood of the recipient or coalition member financing qualified projects, (2) tied directly to qualified projects the recipient or coalition member intends to finance, and (3) being necessary and reasonable for the deployment of financial assistance to qualified projects. Predevelopment activities include (but are not limited to) site and building assessments (e.g., energy audits); financial and technological feasibility studies (e.g., solar resource studies); design and engineering support; and permitting support.

3. Market-building activities

Under 2 CFR section 200.403 and other applicable provisions of 2 CFR part 200, Subpart E, costs are allowable under federal awards so long as they are necessary and reasonable for the performance of the grant award. For this program, consistent with these regulations, costs for market-building activities are allowable, with such activities (1) building the market for financeable qualified projects, (2) not tied directly to qualified projects the recipient or coalition member intends to finance, and (3) being necessary and reasonable for the deployment of financial assistance to qualified projects. Market-building activities include activities to generate market-wide demand for qualified projects, including (but not limited to) marketing, customer education and engagement, community outreach, contractor engagement, workforce development, and other non-financial market-building activities. Market-building activities also include activities to build a more supportive financial market for financing qualified projects, including (but not limited to) standardization of documentation, development of new financial products, and other financial market-building activities.

4. Program administration activities

Under 2 CFR section 200.403 and other applicable provisions of 2 CFR part 200, Subpart E, costs are allowable under federal awards so long as they are necessary and reasonable for the performance of the grant award. For this program, consistent with these regulations, costs for program administration activities are allowable, with such activities supporting administration of the grant program. Program administration activities include (but are not limited to) conducting due diligence and underwriting financial transactions; establishing and convening

advisory councils; conducting program performance and other reporting activities (e.g., expenditures for personnel and equipment to procure technology infrastructure and expertise for data analysis, performance, and evaluation); and supporting, monitoring, overseeing, and auditing subrecipients, contractors, and program beneficiaries.

The following are unallowable activities for this program:

a. Financial assistance to qualified projects in the form of subgrants;

b. Activities that support projects, activities, or technologies that will be deployed outside the boundaries of the ten EPA regions (https://www.epa.gov/aboutepa/regional-and-geographic-offices) Or are located in the Freely Associated States.

Additionally, coalition members may not provide subgrants to other entities for those entities to provide financial assistance to qualified projects. However, coalition members may still provide subgrants to other entities for those entities to carry out predevelopment, market-building, and program administration activities to the extent permitted in 2 CFR section 200.331 and Appendix A of the EPA Subaward Policy (https://www.epa.gov/sites/default/files/2020-11/documents/gpi-16-01-subaward-policy_app-a.pdf).

B. Allowable Costs/Cost Principles

All costs must meet the requirements for allowability under 2 CFR part 200, Subpart E, including 2 CFR section 200.403 to ensure costs incurred are necessary and reasonable for the performance of the NCIF grants, as well as applicable provisions of 2 CFR part 1500. In particular, recipients and subrecipients must expend funds on entertainment only as allowed under 2 CFR section 200.438. Further, recipients and subrecipients must provide employees, officers, directors, and consultants with compensation charged to the NCIF grant award only as allowed under 2 CFR section 200.430.

Documentation of Personnel and Fringe Benefit Charges*:* Please refer to language in the terms and conditions for additional guidance. Some employees will be paid through the same W-2 entity; however, others will be paid through different entities. This process is documented in separate guidelines maintained by the recipient. Documentation of personnel and fringe benefit charges, which includes all documents submitted upon EPA's request to document how personnel and fringe benefits will be charged against the grant award in accordance with 2 CFR 200.430 *Compensation—personal services* and 2 CFR 200.431 *Compensation—fringe benefits*. Notwithstanding the content of the Recipient's EPA-approved budget, the Recipient is not authorized to charge the grant award for personnel and fringe benefits against employees without using the W-2 as the definitive definition of "employee" until the Documentation of Personnel and Fringe Benefit Charges has been reviewed and approved by the EPA, as communicated by the EPA Project Officer.

I. Procurement, Suspension, and Debarment

For this program, acquisitions of *Intangible property* (including equity investments and loan purchases) are a type of financial assistance, one of three characterizations of financial assistance that recipients and subrecipients may provide to qualified projects and are contracts subject to the competitive procurement requirements in 2 CFR parts 200 and 1500. All procurement activity, including acquisitions of *Intangible property* for a financial assistance purpose, must comply with the conflict-of-interest provisions of 2 CFR section 200.318(c) and the competition requirements of 2 CFR section 200.320, in addition to the limitations on consultant fees in 2 CFR section 1500.10.

The Build America, Buy America Act – Public Law 117-58, §§ 70911-17 requires the EPA to ensure that for any activity related to the construction, alteration, maintenance, or repair of infrastructure, "none of the funds made available for a Federal Financial Assistance program for infrastructure, including each deficient program, may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States." (41 U.S.C. §§ 70911-17)

The Recipient is bound by the EPA Build America, Buy America General Term and Condition, which outlines the Build America, Buy America requirements that all Recipients of EPA Financial Assistance awards must comply with.

When supported by rationale provided in IIJA §70914, the recipient may submit a waiver request in writing to EPA. A list of approved EPA waivers (general applicability and project specific) is available on the EPA Build America, Buy America website https://www.epa.gov/cwsrf/build-america-buy-america-baba-approved-waivers. EPA may waive the application of the Buy America Preference when it has determined that one of the following exceptions applies: (1) applying the Buy America Preference would be inconsistent with the public interest; (2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or (3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

J. Program Income

For this program, Program Income includes but is not limited to income from origination fees, servicing fees, and asset management fees; dividends from equity investments; revenue from asset sales; release of grant funds previously used as Financial Assistance (such as through loan guarantees, loan loss reserves, or similar transactions); interest and other earnings on disbursements of grant funds that have not been transferred to third parties; and funds raised with costs charged against the grant award (such as private debt, philanthropic contributions, and other funds raised). Recipients under the program apply program income via the addition method in accordance with 2 CFR 200.307(b) and 2 CFR 200.1500.8(b). EPA-specific rules on Program Income are provided at 2 CFR

1500.8, and rules on allowable fund raising costs are provided under 2 CFR 200.442 (with additional details in Item 4 of the EPA Guidance on Selected Items of Cost for Recipients).

Under this program, the Recipient is authorized to deduct the cost of generating program income under 2 CFR 200.307(b) and 2 CFR 1500.8(b), provided the costs are reasonable and necessary for performance under the federal award and the costs are not charged to the EPA award. Costs incidental to the generation of program income include origination, servicing, and management costs that are not charged as direct costs to the Federal award or to Program Income. Costs of generating program income can be incurred in advance of receiving the gross income, with the Recipient incurring the costs and later using gross income to reimburse itself for no more than the actual costs incurred to generate the program income, provided the Recipient can account for the actual costs incurred. Program Income requirements flow down to Subrecipients but not to Contractors or Program Beneficiaries.

L. Reporting

Recipients are subject to program performance, financial, and administrative reporting requirements. Further details regarding reporting requirements are in the terms and conditions.

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable. Submission at least annually and no more frequently than quarterly depending on the terms of NCIF grants. Additionally, pursuant to 2 CFR section 200.334, recipients are required to retain financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to the grant award for a period of three years from the date of submission of the final expenditure report.

2. Performance Reporting

Not Applicable.

3. Special Reporting

Not Applicable.

4. Special Reporting for Federal Funding Accountability and Transparency Act

Not Applicable.

M. Subrecipient Monitoring

Recipients (as well as subrecipients that make additional subawards, such as coalition members) are subject to the subrecipient monitoring requirements in 2 CFR section 200.332. These requirements apply to subrecipients that are provided subawards in the form of subgrants to carry out a portion of the grant's allowable activities (including coalition members), which are providing financial assistance to qualified projects as well as engaging in predevelopment, market-building, and program administration activities to help provide financial assistance to qualified projects. 2 CFR part 200 as well as the EPA Subaward Policy (https://www.epa.gov/sites/default/files/2020-11/documents/gpi-16-01-subaward-policy.pdf) both apply to these subrecipients.

N. Special Tests and Provisions

1. Wage Rate Requirements

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

IV. OTHER INFORMATION

The definitions below are intended to provide further details on the flow of funds under the NCIF program. OGGRF expects that all subrecipients under this program that otherwise qualify for the Single Audit under 2 CFR section 500.501 et. seq will also be subject to this compliance supplement. Please consult with EPA prior to auditing, as definitions under the regulations may be updated for this program.

Coalition Member: "Coalition member" means an entity that is named on the application to receive a subgrant from the recipient in order to carry out part of the award received by the recipient. A subgrant made to a coalition member is not considered a subaward from the capitalization of a revolving loan fund for the purposes 2 CFR 1500.8(d) and, as a result, the EPA Subaward Policy applies to such a subgrant. Further, as provided in 2 CFR 200.332, a coalition member is a subrecipient accountable to the recipient for proper use of EPA funding.

Contractor: See definition of Contractor in 2 CFR 200.1.

Closeout Agreement: Recipients under the NCIF are subject to a Closeout Agreement, which governs the use of Program Income retained at the end of the period of performance and earned thereafter in accordance with 2 CFR 200.307(c) and 2 CFR 1500.8(d). Further details regarding the requirements under the Closeout Agreement are included in the grant award terms and conditions.

Subaward: See definition of Subaward in 2 CFR 200.1.

Subrecipient: See definition of Subrecipient in 2 CFR 1500.1. In this program, there are three main types of Subrecipients: (1) a Subrecipient that receives a subgrant that will be used, either in whole or in part, to provide financial assistance to qualified projects, or a "Financial Assistance Subrecipient"; (2) a Subrecipient that receives a subgrant that will be used exclusively for predevelopment, market-building, and/or program administration activities, or a "Technical Assistance Subrecipient"; and (3) a Subrecipient that receives financial assistance in the form of a Subaward, with the Subrecipient then using the Subaward to provide financial assistance to qualified projects, or a "Financial Intermediary Subrecipient."

Participant support costs: 2 CFR 200.1 defines participant support costs as "direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences, or training projects." EPA regulations at 2 CFR 1500.1(a)(1) expand the definition of participant support costs to include "subsidies, rebates, and other payments to program beneficiaries to encourage participation in statutorily authorized environmental stewardship programs," which includes the Greenhouse Gas Reduction Fund. In this program, participant support costs are primarily a form of financial assistance to qualified projects. *See* EPA Guidance on Participant Support Costs, available at: https://www.epa.gov/sites/default/files/2020-11/documents/epa-guidance-on-participant-support-costs.pdf.

Participant support cost requirements: EPA has unique regulatory provisions allowing grantees and their subrecipients to use GGRF funds for "[s]ubsidies, rebates, and other payments provided to program beneficiaries to encourage participation in statutorily authorized programs to encourage environmental stewardship", such as GGRF. C.F.R. § 1500.1(a)(2). GGRF expects that some CCIA recipients and subrecipients will use these mechanisms to distribute GGRF funds. Most federal requirements do not flow down to program beneficiaries. However, the GGRF program will establish detailed requirements (enforced through the award agreement's terms and conditions) for participant support cost eligibility, funds accounting, transaction documentation, and reporting. These terms and conditions can provide that the requirements flow down to subrecipients who use GGRF funds for rebates, subsidies, or other payments to program beneficiaries.

Post-Closeout Program Income: Post-Closeout Program Income means Program Income retained at the end of the Period of Performance, which is subject to the terms and conditions of the Closeout Agreement, as well as Program Income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the Period of Closeout, which is also subject to the terms and conditions of the Closeout Agreement. Under the Closeout Agreement, the Recipient is authorized to deduct the cost of generating Post-Closeout Program Income under 2 CFR 200.307(b) and 2 CFR 1500.8(b), provided the costs are reasonable and necessary for performance under the federal award and the costs are not charged to the EPA award. Costs incidental to the generation of Post-Closeout Program Income include origination, servicing, and management costs that are not charged as direct costs to the Federal award or to Post Closeout Program Income. Costs of generating Post-Closeout Program Income can be incurred in advance of receiving the gross income, with the Recipient incurring the costs

and later using gross income to reimburse itself for no more than the actual costs incurred to generate the Post-Closeout Program Income, provided the Recipient can account for the actual costs incurred.

ENVIRONMENTAL PROTECTION AGENCY

ASSISTANCE LISTING 66.959 GREENHOUSE GAS REDUCTION FUND: SOLAR FOR ALL

I. PROGRAM OBJECTIVES

The Zero-Emissions Technologies Grant Program (herein "Solar for All") is one of three grant programs under the Greenhouse Gas Reduction Fund (GGRF). Solar for All will advance the GGRF program objectives of reducing emissions of greenhouse gases and other air pollutants; delivering benefits to American communities, particularly low-income and disadvantaged communities; and mobilizing financing and private capital.

II. PROGRAM PROCEDURES

The Inflation Reduction Act amended the Clean Air Act to include Section 134 (42 USC 7434), which authorizes the Environmental Protection Agency (EPA) to make competitive grants under the Solar for All competition. The Solar for All program is administered under the EPA's Office of the Greenhouse Gas Reduction Fund (OGGRF). To advance these objectives, under the Solar for All program, 60 grantees received awards including 49-state level awards, six awards to Tribes, and five multistate awards, spanning the entire country to enable low-income and disadvantaged communities to deploy and benefit from residential rooftop and residential-serving community solar projects.

EPA anticipates that subrecipients will carry out a significant portion of the award activities under Solar for All. Recipients can subaward funds to subrecipients, including coalition members named in the application and unnamed subrecipients conducting the same activities as coalition members.

Recipients and subrecipients will use grant funds to expand existing or develop new Solar for All programs to deploy financial and technical assistance to enable low-income and disadvantaged communities to deploy and benefit from residential distributed solar energy. A Solar for All program is a program that ensures low-income households have access to residential rooftop and residential-serving community solar energy, often through providing financial support and other incentives. Programs may also include solar project-deployment technical assistance to enable low-income and disadvantaged communities to overcome the non-financial barriers to distributed residential solar deployment.

Recipients and subrecipients will ensure households benefiting from the program receive the benefits of residential distributed solar by providing customers household savings, community ownership, energy resilience, and other meaningful benefits. All financial and technical assistance funded through Solar for All must enable low-income and disadvantaged communities to deploy and benefit from solar and storage. Solar for All will fund multi-year programs that subsidize many projects while laying the groundwork to transform distributed residential solar generation markets in low-income and disadvantaged communities.

Recipients and subrecipients may provide financial assistance to rooftop residential solar and residential-serving community solar. Recipients and subrecipients may provide financial assistance to associated storage and enabling upgrades as necessary to enable the deployment and maximize the benefits of rooftop residential solar and residential-serving community solar. Financial assistance constitutes grants, rebates, and financial products, including debt and credit enhancements. Both recipients and subrecipients may provide technical assistance to enable low-income and disadvantaged communities to deploy and benefit from residential distributed solar. Technical assistance for the purposes of Solar for All is defined as "project-deployment technical assistance" and is services and tools provided by grantees to communities and energy stakeholders to overcome non-financial barriers to solar deployment.

Source of Governing Requirements

42 U.S.C. 7434 authorizes the EPA to make competitive grants under the Solar for All competition with appropriations funded by 42 USC 7434(a)(1), called Zero Emissions Technologies.

Availability of Other Program Information

Additional information on the Solar for All program is available on the Solar for All page of the Environmental Protection website at: https://www.epa.gov/greenhouse-gas-reduction-fund/solar-all.

The Office of the Greenhouse Gas Reduction Fund is available at ggrf@epa.gov to provide further details on governing requirements.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	N	N	Y	Y	Y	Y	Y

A. Activities Allowed or Unallowed

Recipient and subrecipients under this program may use grant funds to engage in the following activities:

1. *Financial Assistance*

Financial assistance is defined as subgrants, rebates, subsidies, other incentive payments, debt (including loans, partially forgivable loans, forgivable loans, soft loans, subordinate debt), and other financial products consistent with the definition of Federal financial assistance in 2 CFR section 200.1, Contracts in 2 CFR 200.1, and Participant Support Costs in 2 CFR section 1500.1. Solar for All financial assistance is intended to enable low-income and disadvantaged communities (which encompasses four categories of communities: (a) communities identified as disadvantaged by the Climate and Economic Justice Screening Tool (CEJST); (b) a limited number of additional communities identified as disadvantaged by the EJScreen mapping tool; (c) geographically dispersed low-income households; and (d) properties providing affordable housing. Further definition of these terms is included in the grant's terms and conditions) to deploy and benefit from solar, storage, and enabling upgrades.

A community or household benefits from Eligible Zero-Emissions Technologies when the community or household either:

- Receives solar-generated electricity directly (e.g., a rooftop solar system delivering power directly to a single-family home);
- Is subscribed to part of a community solar system and receives a monetary credit for their share of the electricity generated from the community solar system (e.g., a credit on their electricity bill); or
- Benefits indirectly from a solar PV system through a financial or non-financial benefit funded by the financial benefits of the solar PV system,

for households that cannot receive solar-generated electricity directly nor direct financial benefits from residential-rooftop and residential-serving community solar (e.g., multifamily buildings that are master-metered such that residents do not receive individual electricity bills). The U.S. Department of Housing and Urban Development has published guidance with a list of example indirect financial and non-financial benefits from solar in a May memo with the subject "Treatment of Solar Benefits for Residents in Master-metered Buildings," section "Treatment of Certain Benefits in Annual Income Calculation" (https://www.hud.gov/sites/dfiles/Housing/documents/MF_Memo_re_Community_Solar_Credits_in_MM_Buildings.pdf).

Recipients and subrecipients can provide financial assistance to Eligible Zero-Emissions Technologies. Pursuant to 42 USC 7434(c)(4) and the terms and conditions, these technologies include rooftop residential solar and residential-serving community solar projects, which can include associated storage and enabling upgrades.

2. *Project-Deployment Technical Assistance*

42 USC 7434(a)(1) provides that funds for this competition be used for "technical assistance." Technical assistance is defined as "project-deployment technical assistance" and means services and tools provided by grantees to enable low-income and disadvantaged communities to overcome non-financial barriers to rooftop residential solar or residential-serving community solar deployment or build the capacity of communities and businesses to deploy solar. Examples of these services and tools include workforce training, customer outreach and education, project deployment assistance such as siting, permitting, and interconnection support, coordination with utilities for the purposes of project deployment, distributed solar deployment training for developers, and other services and tools that enable low-income and disadvantaged communities to deploy or benefit from rooftop residential solar, and residential-serving community solar.

3. *Program Administration Activities*

Consistent with 2 CFR section 200.403, program administration activities are allowable under federal awards provided they are necessary and reasonable for the performance of the award—in this program, for the provision of financial assistance and project-deployment technical assistance. Expenditures for program administration activities could include those for program performance, financial and administrative reporting, and compliance, including but not limited to activities to support, monitor, oversee, and audit subrecipients, contractors, and program beneficiaries. Program administration activities include procuring services and tools that support the grantee in program design (e.g., technical

assistance from the Department of Energy National Laboratories to support the grantee directly for program design). These program administration activities include but are not limited to the following:

a. Activities that support advisory councils to meet the GGRF program objectives. Advisory councils are groups of individuals who are not employees of the grantee or a subgrantee that provide strategic and policy advice to the organization; refer to Item 2 of EPA's Selected Items of Cost Guidance (https://www.epa.gov/sites/default/files/2018-05/documents/recipient_guidance_selected_items_of_cost_final.pdf) for additional information on the allowability of costs for Advisory councils.

b. Activities that support reporting and compliance, including those to support, monitor, oversee, and audit subrecipients, contractors, and program beneficiaries.

c. Activities that support program evaluation activities including the personnel and equipment needed for data infrastructure and expertise in data analysis, performance, and evaluation.

d. Activities that support fund-raising and preparation of proposals for funding from private foundations, federal agencies, and states may be allowable with prior EPA approval if the funds acquired will be used to meet the statutory objectives of the Solar for All grant program. Additional information is available in Items 4 and 6.b. of EPA's Selected Items of Cost Guidance (https://www.epa.gov/sites/default/files/2018-05/documents/recipient_guidance_selected_items_of_cost_final.pdf).

4. *Unallowable Activities*

The following are unallowable activities for recipients and subrecipients:

a. Activities that are unallowable under 2 CFR part 200, Subpart E and under applicable provisions of 2 CFR part 1500 (i.e., consultant fees in excess of those allowable under 2 CFR section 1500.10);

b. Activities to acquire "intangible property," as defined in 2 CFR section 200.1, including equity investments, such as purchases of ownership interests in companies.

B. Allowable Costs/Cost Principles

All costs must meet the requirements for allowability under 2 CFR part 200, Subpart E, including 2 CFR section 200.403 to ensure costs incurred are necessary and reasonable for the performance of the Solar for All grants, as well as applicable provisions of 2 CFR part 1500. In particular, recipients and subrecipients must expend funds on entertainment

only as allowed under 2 CFR section 200.438. Further, recipients and subrecipients must provide employees, officers, directors, and consultants with compensation charged to the Solar For All grant award only as allowed under 2 CFR section 200.430.

Costs are categorized in compliance with the EPA Cost Review Guidance (https://www.epa.gov/sites/default/files/2019-05/documents/applicant-budget-development-guidance.pdf).

Indirect costs are allocated to activities to the extent authorized by applicable provisions of 2 CFR part 200, Subpart E and EPA's Indirect Cost Policy (https://www.epa.gov/sites/default/files/2018-08/documents/indirect-cost-policy-for-recipients-of-epa-assistance-agreements.pdf).

I. Procurement, Suspension, and Debarment

Recipients and subrecipients, including states, must comply with 2 CFR section 1500.10 which limits the salary rate (excluding overhead) paid to individual consultants retained by recipients, and their contractors or subcontractors to the maximum daily rate for level 4 of the Executive Schedule unless a greater amount is authorized by law. (These non-Federal entities may, however, pay consultants more than this amount with non-EPA funds.) The limitation applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed; recipients will pay these in accordance with their normal travel reimbursement practices.

The Build America, Buy America Act – Public Law 117-58, §§ 70911-17 requires the EPA to ensure that for any activity related to the construction, alteration, maintenance, or repair of infrastructure, "none of the funds made available for a Federal Financial Assistance program for infrastructure, including each deficient program, may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States." (41 U.S.C. §§ 70911-17

The Recipient is bound by the EPA Build America, Buy America General Term and Condition, which outlines the Build America, Buy America requirements that all Recipients of EPA Financial Assistance awards must comply with.

When supported by rationale provided in IIJA §70914, the recipient may submit a waiver request in writing to EPA. Recipients should request guidance on the submission instructions of an EPA waiver request from the EPA Project Officer for this agreement. A list of approved EPA waivers (general applicability and project specific) is available on the EPA Build America, Buy America website https://www.epa.gov/cwsrf/build-america-buy-america-baba-approved-waivers. EPA may waive the application of the Buy America Preference when it has determined that one of the following exceptions applies: (1) applying the Buy America Preference would be inconsistent with the public interest; (2) the types of iron, steel, manufactured products, or construction materials are not

produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or (3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

J. Program Income

For this program, Program Income includes but is not limited to income from origination fees, servicing fees, and asset management fees; revenue from asset sales; release of grant funds previously used as Financial Assistance (such as through loan guarantees, loan loss reserves, or similar transactions); interest and other earnings on disbursements of grant funds that have not been transferred to third parties; and funds raised with costs charged against the grant award (such as private debt, philanthropic contributions, and other funds raised). Recipients under the program apply program income via the addition method in accordance with 2 CFR 200.307(b) and 2 CFR 200.1500.8(b). EPA-specific rules on Program Income are provided at 2 CFR 1500.8, and rules on allowable fundraising costs are provided under 2 CFR 200.442 (with additional details in Item 4 of the EPA Guidance on Selected Items of Cost for Recipients).

Under this program, the Recipient is authorized to deduct the cost of generating program income under 2 CFR 200.307(b) and 2 CFR 1500.8(b), provided the costs are reasonable and necessary for performance under the federal award and the costs are not charged to the EPA award. Costs incidental to the generation of program income include origination, servicing, and management costs that are not charged as direct costs to the Federal award or to Program Income. Costs of generating program income can be incurred in advance of receiving the gross income, with the Recipient incurring the costs and later using gross income to reimburse itself for no more than the actual costs incurred to generate the program income, provided the Recipient can account for the actual costs incurred. Program Income requirements flow down to Subrecipients but not to Contractors or Program Beneficiaries.

L. Reporting

Recipients are subject to program performance, financial, and administrative reporting requirements. Further details regarding reporting requirements are in the terms and conditions.

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable. Submission at least annually and no more frequently than quarterly depending on the terms of Solar for All grants. Additionally, pursuant to 2 CFR section 200.334,

recipients are required to retain financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to the grant award for a period of three years from the date of submission of the final expenditure report.

2. Performance Reporting

Not Applicable.

3. Special Reporting

Not Applicable.

4. Special Reporting for Federal Funding Accountability and Transparency Act

Not Applicable.

M. Subrecipient Monitoring

Recipients, as well as subrecipients providing subawards, are subject to the subrecipient monitoring requirements in 2 CFR section 200.332. Subrecipients are entities that are provided subawards in the form of subgrants to carry out a portion of the grant's allowable activities (including coalition members), as discussed above. 2 CFR part 200 and the EPA Subaward Policy (https://www.epa.gov/sites/default/files/2020-11/documents/gpi-16-01-subaward-policy.pdf) apply to these subrecipients.

N. Special Tests and Provisions

1. Wage Rate Requirements

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

IV. OTHER INFORMATION

The definitions below are intended to provide further details on the flow of funds under the Solar For All program. OGGRF expects that all subrecipients under this program that otherwise qualify for the Single Audit under 2 CFR section 500.501 *et. seq* will also be subject to this compliance supplement.

The definitions of low-income and disadvantaged communities, what it means for a community to benefit from solar, storage, and enabling upgrades, and "Eligible Zero-Emissions Technology" is defined below.

The definition of low-income and disadvantaged communities will be provided in the terms and conditions of the grant awards. The definition of each of the five categories are defined as follows:

a. **CEJST-Identified Disadvantaged Communities:** The CEJST (https://screeningtool.geoplatform.gov/en) is a publicly available mapping tool developed by the White House Council on Environmental Quality. GGRF's definition of "disadvantaged communities" includes all communities identified as disadvantaged through the CEJST.

b. **EJScreen-Identified Disadvantaged Communities:** EJScreen (https://ejscreen.epa.gov/mapper/) is a publicly available, place-based environmental justice screening and mapping tool developed by the EPA. GGRF's definition of "disadvantaged communities" includes (1) the limited supplemental set of census block groups that are at or above the 90th percentile for any of EJScreen's supplemental indexes when compared to the nation or state or (2) geographic areas within Tribal lands as included in EJScreen. The EJ Supplemental Indexes cover 12 environmental indicators: Particulate Matter 2.5, Ozone, Diesel Particulate Matter, Air Toxics Cancer Risk, Air Toxics Respiratory Hazard Index, Traffic Proximity, Lead Paint, RMP Facility Proximity, Hazardous Waste Proximity, Superfund Proximity, Underground Storage Tanks, and Wastewater Discharge. Within EJScreen, the EJ Supplemental Indexes can be found on the "Maps" tab by clicking the "Threshold Map."

c. **Geographically Dispersed Low-Income Households:** GGRF's definition of "geographically dispersed low-income households" includes low-income individuals and households that fall within either of the two categories listed below.

- Individuals and households with incomes at or below the greater of:
  - *For Metropolitan Areas:* (1) 80% Area Median Income (AMI) or (2) 200% of the Federal Poverty Level
  - *For Non-Metropolitan Areas:* (1) 80% AMI; (2) 80% Statewide Non-Metropolitan Area AMI; or (3) 200% of the Federal Poverty Level

d. **Properties Providing Affordable Housing:** GGRF's definition of "properties providing affordable housing" includes properties serving low-income individuals and households defined as properties that fall within either of the two categories listed below.

- Multifamily housing with rents not exceeding 30% of 80% AMI for at least half of residential units and with an active affordability covenant from one of the following federal or state housing assistance programs: (1) Low-Income Housing Tax Credit; (2) a housing assistance program administered by the U.S. Department of Housing and Urban Development (HUD), including Public Housing, Section 8 Project-Based Rental Assistance, Section 202 Housing for the Elderly, Section 811 Housing for Disabled, Housing Trust Fund, Home Investment Partnership Program Affordable Rental and Homeowner Units, Permanent Supportive Housing, and other programs focused on the goal of ending homelessness funded under HUD's Continuum of Care Program; (3) a housing assistance program administered by USDA under Title V of the Housing Act of 1949, including under Sections 514 and 515; (4) a housing assistance program administered by a tribally-designated housing entity, as defined in Section 4(21)

of the Native American Housing Assistance and Self-Determination Act of 1996 (25 USC 4103(22); or (5) a housing assistance program administered by the Department of Hawaiian Homelands as defined in Title VIII of the Native American Housing Assistance and Self-Determination Act of 1996 (24 CFR 1006.10).

- Naturally-occurring (unsubsidized) affordable housing with rents not exceeding 30% of 80% AMI for at least half of residential units.

e. **Federally Recognized Tribal Entities:** All Federally Recognized Tribal entities, which are considered disadvantaged regardless of whether a Federally Recognized Tribe has land, consistent with M-23-09 (memorandum dated as of January 27, 2023) and CEJST. A "Federally Recognized Tribal Entity" means (i) any individual member of a Federally Recognized Tribe; (ii) any for-profit business that has at least 51 percent of its equity ownership (or the equivalent in limited liability companies) by members of Federally Recognized Tribes; (iii) any non-profit entity with at least 51 percent of its Board of Directors (i.e., Governing Board) comprised of members of Federally Recognized Tribes; or (iv) any Federally Recognized Tribal government entity. Under this definition, any Federally Recognized Tribal Entity is included within the definition of Low-Income and Disadvantaged Communities, regardless of where that entity is located (i.e., the entity may be located in areas outside of the CEJST land area dataset, including but not limited to tribal service areas or counties).

ENVIRONMENTAL PROTECTION AGENCY

ASSISTANCE LISTING 66.960 GREENHOUSE GAS REDUCTION FUND: CLEAN COMMUNITIES INVESTMENT ACCELERATOR

I. PROGRAM OBJECTIVES

The Clean Communities Investment Accelerator (CCIA) is one of three grant programs under the Greenhouse Gas Reduction Fund (GGRF). The CCIA will advance the three GGRF program objectives of reducing emissions of greenhouse gases and other air pollutants; delivering benefits to American communities, particularly low-income and disadvantaged communities; and mobilizing financing and private capital.

II. PROGRAM PROCEDURES

The Inflation Reduction Act (IRA) amends the Clean Air Act to include Section 134 (42 USC § 7434), which authorizes the Environmental Protection Agency (EPA) to make competitive grants under the Clean Communities Investment Accelerator. The CCIA is administered under the EPA's Office of the Greenhouse Gas Reduction Fund (OGGRF). The CCIA provides five one-time competitive grant awards to eligible recipients to provide funding and technical assistance to public, quasi-public, not-for-profit, and nonprofit entities that provide financial assistance to qualified projects, which EPA has termed as "community lenders." Community lenders use the funding and technical assistance to provide financial assistance to "qualified projects" within three "priority project categories" in "low-income and disadvantaged communities;" projects that meet these requirements are called "CCIA-eligible projects."

Eligible recipients (and their subrecipient coalition members ("coalition members"), if applicable) use the initial grant award to provide capitalization funding, technical assistance subawards, and technical assistance services to community lenders. Recipients and coalition members provide capitalization funding of up to $10 million (with some limited exceptions to exceed this cap, as included in the grant agreements) per community lender in the form of a *Subaward*, which the community lender can use to provide financial assistance to CCIA-eligible projects. Recipients and coalition members also provide technical assistance subawards of up to $1 million (with some limited exceptions to exceed this cap, as included in the grant agreements) per community lender in the form of a *Subaward*, which the community lender can use to build their capacity to provide financial assistance to CCIA-eligible projects. In addition to transferring funds through capitalization funding and technical assistance subawards, recipients and coalition members provide in-kind technical assistance services to community lenders to build their capacity to provide financial assistance to CCIA-eligible projects. Community lenders that receive capitalization funding subawards or technical assistance subawards are subrecipients with a different set of allowable activities than recipients and coalition members, as noted Section III.A, "Activities Allowed or Unallowed."

Each recipient's program must have the capacity to provide funding and technical assistance to community lenders in each of the ten EPA regions (https://www.epa.gov/aboutepa/regional-and-geographic-offices), except for the Freely Associated States, as well as expend 100% of grant funds for the purposes of providing financial and technical assistance in low-income and disadvantaged communities. Freely Associated States are the independent Pacific Island nations, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

Source of Governing Requirements

The Clean Communities Investment Accelerator is funded by $6 billion from 42 USC 7434(a)(3).

The Clean Communities Investment Accelerator implements the statute's use of funds for indirect investments under 42 USC 7434(b)(2). 42 USC 7434(b)(2) directs recipients of funds for indirect investments to provide funding and technical assistance to establish new or support existing public, quasi-public, not-for-profit, or nonprofit entities that provide financial assistance to qualified projects at the State, local, territorial, or Tribal level or in the District of Columbia, including community- and low-income-focused lenders and capital providers.

EPA has determined that capitalization funding subawards made to community lenders under the CCIA program are considered revolving loan fund programs for the purposes of 2 CFR sections 1500.8(b) and (d) as well as applicable provisions of 2 CFR part 200 and 40 CFR part 33. These revolving loan fund programs include loans as well as other forms of financial assistance to qualified projects that may generate income (*see* Section IV, Other Information).

Availability of Other Program Information

Additional information on the CCIA program is available on the CCIA page of the EPA website at: https://www.epa.gov/greenhouse-gas-reduction-fund/clean-communities-investment-accelerator.

The Office of the Greenhouse Gas Reduction Fund is available at ggrf@epa.gov to provide further details on governing requirements.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a

compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	N	N	Y	Y	Y	Y	Y

A. Activities Allowed or Unallowed

This program currently has two categories of entities that are most likely to be subject to the Single Audit: (i) recipients and coalition members and (ii) subrecipient community lenders. Each of these two categories of entities has different activities allowed or unallowed, as further defined below.

Recipients and Coalition Members

Under this program, recipients and coalition members may use grant funds to provide capitalization funding, technical assistance subawards, and technical assistance services to community lenders such that those community lenders can provide financial assistance to CCIA-eligible projects. In addition, recipients and coalition members may use grant funds to engage in program administration activities that support their provision of capitalization funding, technical assistance subawards, and technical assistance services.

1. Capitalization funding

42 USC 7434(b)(2) directs that recipients provide funding to community lenders. Consistent with 42 USC 7434(b)(2), recipients and coalition members provide "capitalization funding" to existing community lenders for the sole purpose of providing financial assistance to CCIA-eligible projects. In general, a community lender may receive a maximum of $10 million in total capitalization funding from all recipients and coalition members under this program; however, under limited exceptions, a community lender may receive total capitalization funding in excess of the $10 million cap, provided that the framework for those exceptions is specified in the recipient's EPA-approved workplan or a separate post-award request for an exception is granted under procedures described by the terms and

conditions. Recipients and coalition members may deliver capitalization funding through subgrants only. When a recipient or coalition member provides capitalization funding to a community lender in the form of a subgrant, the subgrant is characterized as a *Subaward* and the community lender is characterized as a *Subrecipient*, as defined in 2 CFR section 200.1. The community lender must use the subgrant exclusively as capital to provide financial assistance for CCIA-eligible projects.

2. Technical Assistance Subawards

42 USC 7434(b)(2) directs that recipients provide technical assistance to community lenders. Consistent with 42 USC 7434(b)(2), recipients and coalition members provide "technical assistance subawards" to build the capacity of existing community lenders so that they can provide financial assistance to CCIA-eligible projects (including but not limited to financial assistance provided with capitalization funding). Recipients and coalition members provide these subawards in the form of subgrants, to the extent permitted in 2 CFR section 200.331 and the EPA Subaward Policy. Community lenders use technical assistance subawards for activities consistent with 2 CFR section 200.331 and the EPA Subaward Policy (https://www.epa.gov/sites/default/files/2020-11/documents/gpi-16-01-subaward-policy.pdf). A community lender may only receive a technical assistance subaward if it has already been selected by a recipient or coalition member for capitalization funding under this program. In general, a community lender may receive a maximum of $1 million in total technical assistance subawards from all recipients and coalition members under this program; however, under limited exceptions, a community lender may receive total technical assistance subawards in excess of the $1 million cap, provided that the framework for those exceptions is specified in the recipient's EPA-approved workplan or a separate post-award request for an exception is granted under procedures described by the terms and conditions.

3. Technical Assistance Services

42 USC 7434(b)(2) directs that recipients provide technical assistance to community lenders. Consistent with 42 USC 7434(b)(2), recipients and coalition members provide "technical assistance services" to establish new and build the capacity of existing community lenders so that they can provide financial assistance to CCIA-eligible projects. Technical assistance services include targeted support activities for individual community lenders, such as providing training, market analysis, technical support, and structuring expertise as well as financial market-building activities spanning multiple community lenders, such as developing standardized project performance criteria, building demand for financial assistance, underwriting guidance, documentation, and product features. A community lender does not need to have been selected by a recipient or coalition member for capitalization funding under this program to be eligible for technical assistance services.

4. Program Administration Activities

Under 2 CFR section 200.403 and other applicable provisions of 2 CFR part 200, Subpart E, costs are allowable under federal awards so long as they are necessary and reasonable for the performance of the grant award. Program administration activities include (but are not limited to) managing processes to distribute capitalization funding and technical assistance subawards; establishing and convening advisory councils; conducting program performance and other reporting activities (e.g., expenditures for personnel and equipment to procure technology infrastructure and expertise for data analysis, performance, and evaluation); and supporting, monitoring, overseeing, and auditing subrecipients, contractors, and program beneficiaries. The following are unallowable activities for recipients and coalition members under this program:

a. Activities that support projects, activities, or technologies that fail to meet any of the three criteria for CCIA-eligible projects, see below;

b. Activities that support projects, activities, or technologies that will be deployed outside the boundaries of the ten EPA regions (https://www.epa.gov/aboutepa/regional-and-geographic-offices) including Freely Associated States; or are located in the Freely Associated States.

c. Additionally, recipients and coalition members may not provide capitalization funding or technical assistance subawards between one another.

Subrecipient Community Lenders

Unlike a traditional grant award program, not all subrecipients have the same set of allowable activities as recipients and coalition members. In particular, subrecipient community lenders have a different set of allowable activities for their capitalization funding subawards and technical assistance subawards. The scope of allowable activities for the subrecipient community lenders varies according to whether the community lender is using funds from a capitalization funding subaward or a technical assistance subaward, as described below.

Under this program, subrecipient community lenders will receive one or two types of subawards: capitalization funding subawards and/or technical assistance subawards. Community lenders must use the capitalization funding subawards to provide financial assistance to CCIA-eligible projects and the technical assistance subawards to build their capacity to provide financial assistance to CCIA-eligible projects.

1. Use of Capitalization Funding Subaward

Community lenders must use capitalization funding to provide financial assistance to CCIA-eligible projects.

Financial assistance constitutes financial products, including debt (such as loans, partially forgivable loans, forgivable loans, zero-interest and below-market interest loans, loans paired with interest rate buydowns, secured and unsecured loans, lines of credit, subordinated debt, warehouse lending, loan purchasing programs, and other debt instruments), equity (such as equity project finance investments, private equity investments, and other equity instruments), hybrids (such as mezzanine debt, preferred equity, and other hybrid instruments), and credit enhancements (such as loan guarantees, loan guarantee funds, loan loss reserves, and other credit enhancement instruments).

IRA funds can be used to purchase/refinance debt that was acquired before the law was enacted, provided that such assistance is not provided as additional subsidy. Such a "project" must meet all current CCIA and IRA requirements, including Davis Bacon and Build America Buy America (BABA). A recipient may request a BABA waiver, but there is no guarantee of approval.

CCIA-eligible projects are projects, activities, or technologies that meet the following three requirements, pursuant to 42 USC 7434(b)(2) and the terms and conditions:

a. Must be a “qualified project.” Further definition of this term is included in the grant’s terms and conditions.

b. Must be within a “priority project category,” which includes distributed energy generation and storage, net-zero emissions buildings, and zero-emissions transportation. Further definition of these terms is included in the grant’s terms and conditions.

c. Must be in a “low-income and disadvantaged community,” which encompasses five categories of communities: (a) communities identified as disadvantaged by the Climate and Economic Justice Screening Tool (CEJST); (b) a limited number of additional communities identified as disadvantaged by the Environmental Justice Mapping and Screening tool; (c) geographically dispersed low-income households; (d) properties providing affordable housing; and (e) Federally Recognized Tribal Entities. Further definition of these terms is included in the grant’s terms and conditions.

The definition of low-income and disadvantaged communities will be provided in the terms and conditions of the grant awards. The definition of each of the five categories are defined as follows:

a. **CEJST-Identified Disadvantaged Communities:** The CEJST (https://screeningtool.geoplatform.gov/en) is a publicly-available mapping tool developed by the White House Council on Environmental Quality. GGRF's definition of "disadvantaged communities" includes all communities identified as disadvantaged through the CEJST.

b. **EJScreen-Identified Disadvantaged Communities:** EJScreen (https://ejscreen.epa.gov/mapper/) is a publicly-available, place-based environmental justice screening and mapping tool developed by the EPA. GGRF's definition of "disadvantaged communities" includes (1) the limited supplemental set of census block groups that are at or above the 90th percentile for any of EJScreen's supplemental indexes when compared to the nation or state or (2) geographic areas within Tribal lands as included in EJScreen. The EJ Supplemental Indexes cover 12 environmental indicators: Particulate Matter 2.5, Ozone, Diesel Particulate Matter, Air Toxics Cancer Risk, Air Toxics Respiratory Hazard Index, Traffic Proximity, Lead Paint, RMP Facility Proximity, Hazardous Waste Proximity, Superfund Proximity, Underground Storage Tanks, and Wastewater Discharge. Within EJScreen, the EJ Supplemental Indexes can be found on the "Maps" tab by clicking the "Threshold Map."

c. **Geographically Dispersed Low-Income Households:** GGRF's definition of "geographically dispersed low-income households" includes low-income individuals and households that fall within either of the two categories listed below.

- Individuals and households with incomes at or below the greater of:
  - *For Metropolitan Areas:* (1) 80% Area Median Income (AMI) or (2) 200% of the Federal Poverty Level
  - *For Non-Metropolitan Areas:* (1) 80% AMI; (2) 80% Statewide Non-Metropolitan Area AMI; or (3) 200% of the Federal Poverty Level

d. **Properties Providing Affordable Housing:** GGRF's definition of "properties **providing** affordable housing" includes properties serving low-income individuals and households defined as properties that fall within either of the two categories listed below.

- Multifamily housing with rents not exceeding 30% of 80% AMI for at least half of residential units and with an active affordability covenant from one of the following federal or state housing assistance programs: (1) Low-Income Housing Tax Credit; (2) a housing assistance program administered by the U.S. Department of Housing and Urban Development (HUD), including Public Housing, Section 8 Project-Based Rental Assistance, Section 202

Housing for the Elderly, Section 811 Housing for Disabled, Housing Trust Fund, Home Investment Partnership Program Affordable Rental and Homeowner Units, Permanent Supportive Housing, and other programs focused on the goal of ending homelessness funded under HUD's Continuum of Care Program; (3) a housing assistance program administered by USDA under Title V of the Housing Act of 1949, including under Sections 514 and 515; (4) a housing assistance program administered by a tribally-designated housing entity, as defined in Section 4(21) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. § 4103(22); or (5) a housing assistance program administered by the Department of Hawaiian Homelands as defined in Title VIII of the Native American Housing Assistance and Self-Determination Act of 1996 (24 CFR 1006.10).

- Naturally-occurring (unsubsidized) affordable housing with rents not exceeding 30% of 80% AMI for at least half of residential units.

e. **Federally Recognized Tribal Entities:** All Federally Recognized Tribal entities, which are considered disadvantaged regardless of whether a Federally Recognized Tribe has land, consistent with M-23-09 (memorandum dated as of January 27, 2023) and CEJST. A "Federally Recognized Tribal Entity" means (i) any individual member of a Federally Recognized Tribe; (ii) any for-profit business that has at least 51 percent of its equity ownership (or the equivalent in limited liability companies) by members of Federally Recognized Tribes; (iii) any non-profit entity with at least 51 percent of its Board of Directors (i.e., Governing Board) comprised of members of Federally Recognized Tribes; or (iv) any Federally Recognized Tribal government entity. Under this definition, any Federally Recognized Tribal Entity is included within the definition of Low-Income and Disadvantaged Communities, regardless of where that entity is located (i.e., the entity may be located in areas outside of the CEJST land area dataset, including but not limited to tribal service areas or counties)..

2. Use of Technical Assistance Subaward

Community lenders must use technical assistance subawards to build their capacity to provide financial assistance to CCIA-eligible projects. These capacity-building activities include (but are not limited to) procuring training, market analysis, and technical support; hiring staff; developing new financial products; supporting demand for financial assistance; supporting predevelopment activities, such as site and building assessments (e.g., energy audits), financial and technological feasibility studies (e.g., solar resource studies), design and engineering support, and permitting support; and other activities. These capacity-

building activities may also include making additional subawards to other organizations, consistent with the EPA Subaward Policy.

The following are unallowable activities for subrecipient community lenders under this program:

a. Activities to support projects, activities, or technologies that fail to meet any of the three criteria for CCIA-eligible projects, see above;

b. Activities that support projects, activities, or technologies that will be deployed outside the boundaries of the ten EPA regions. The boundaries of the ten EPA regions do not include the Freely Associate States.

B. Allowable Cost/Cost Principles

All costs must meet the requirements for allowability under 2 CFR part 200, Subpart E, including 2 CFR section 200.403 to ensure costs incurred are necessary and reasonable for the performance of the NCIF grants, as well as applicable provisions of 2 CFR part 1500. In particular, recipients and subrecipients must expend funds on entertainment only as allowed under 2 CFR section 200.438. Further, recipients and subrecipients must provide employees, officers, directors, and consultants with compensation charged to the NCIF grant award only as allowed under 2 CFR section 200.430.

Documentation of Personnel and Fringe Benefit Charges*:* Please refer to language in the terms and conditions for additional guidance. Some employees will be paid through the same W-2 entity, however others will be paid through different entities. This process is documented in separate guidelines maintained by the recipient. Documentation of personnel and fringe benefit charges, which includes all documents submitted upon EPA's request to document how personnel and fringe benefits will be charged against the grant award in accordance with 2 CFR 200.430 *Compensation—personal services* and 2 CFR 200.431 *Compensation—fringe benefits*. Notwithstanding the content of the Recipient's EPA-approved budget, the Recipient is not authorized to charge the grant award for personnel and fringe benefits against employees without using the W-2 as the definitive definition of "employee" until the Documentation of Personnel and Fringe Benefit Charges has been reviewed and approved by the EPA, as communicated by the EPA Project Officer.

I. Procurement, Suspension, and Debarment

Recipients and subrecipients, including states, must comply with 2 CFR section 1500.10 which limits the salary rate (excluding overhead) paid to individual consultants retained by recipients, and their contractors or subcontractors to the maximum daily rate for level 4 of the Executive Schedule unless a greater amount is authorized by law. (These non-Federal entities may, however, pay consultants more than this amount with non-EPA funds.) The limitation applies to consultation services of designated individuals with

specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed; recipients will pay these in accordance with their normal travel reimbursement practices.

The Build America, Buy America Act – Public Law 117-58, requires the EPA to ensure that for any activity related to the construction, alteration, maintenance, or repair of infrastructure, "none of the funds made available for a Federal Financial Assistance program for infrastructure, including each deficient program, may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States." (P.L. 117-58, Secs 70911 – 70917).

The Recipient is bound by the EPA Build America, Buy America General Term and Condition, which outlines the Build America, Buy America requirements that all Recipients of EPA Financial Assistance awards must comply with.

When supported by rationale provided in IIJA §70914, the recipient may submit a waiver request in writing to EPA. t. A list of approved EPA waivers (general applicability and project specific) is available on the EPA Build America, Buy America website https://www.epa.gov/cwsrf/build-america-buy-america-baba-approved-waivers. EPA may waive the application of the Buy America Preference when it has determined that one of the following exceptions applies: (1) applying the Buy America Preference would be inconsistent with the public interest; (2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or (3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

J. Program Income

For this program, Program Income includes but is not limited to income from origination fees, servicing fees, and asset management fees; dividends from equity investments; revenue from asset sales; release of grant funds previously used as Financial Assistance (such as through loan guarantees, loan loss reserves, or similar transactions); interest and other earnings on disbursements of grant funds that have not been transferred to third parties; and funds raised with costs charged against the grant award (such as private debt, philanthropic contributions, and other funds raised). Recipients under the program apply program income via the addition method in accordance with 2 CFR 200.307(b) and 2 CFR 200.1500.8(b). EPA-specific rules on Program Income are provided at 2 CFR 1500.8, and rules on allowable fund raising costs are provided under 2 CFR 200.442 (with additional details in Item 4 of the EPA Guidance on Selected Items of Cost for Recipients).

Under this program, the Recipient is authorized to deduct the cost of generating program income under 2 CFR 200.307(b) and 2 CFR 1500.8(b), provided the costs are reasonable and necessary for performance under the federal award and the costs are not charged to

the EPA award. Costs incidental to the generation of program income include origination, servicing, and management costs that are not charged as direct costs to the Federal award or to Program Income. Costs of generating program income can be incurred in advance of receiving the gross income, with the Recipient incurring the costs and later using gross income to reimburse itself for no more than the actual costs incurred to generate the program income, provided the Recipient can account for the actual costs incurred. Program Income requirements flow down to Subrecipients but not to Contractors or Program Beneficiaries.

L. Reporting

Recipients are subject to program performance, financial, and administrative reporting requirements. Further details regarding reporting requirements are in the terms and conditions.

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable. Submission at least annually and no more frequently than quarterly depending on the terms of CCIA grants. Additionally, pursuant to 2 CFR section 200.334, recipients are required to retain financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to the grant award for a period of three years from the date of submission of the final expenditure report.

2. Performance Reporting

Not Applicable.

3. Special Reporting

Not Applicable.

4. Special Reporting for Federal Funding Accountability and Transparency Act

Not Applicable.

M. Subrecipient Monitoring

Recipients (as well as subrecipients that make additional subawards) are subject to the subrecipient monitoring requirements in 2 CFR section 200.332. These requirements apply to coalition members that provide subawards to community lenders, and these

requirements also apply to subrecipient community lenders to the extent they provide subawards from their capitalization funding and/or technical assistance subawards.

1. Coalition members are provided subawards in the form of subgrants to carry out a portion of the grant's allowable activities, which are providing capitalization funding, technical assistance subawards, and technical assistance services to community lenders as well as engaging in program administration activities. 2 CFR part 200 as well as the EPA Subaward Policy (https://www.epa.gov/sites/default/files/2020-11/documents/gpi-16-01-subaward-policy.pdf) both apply to these subrecipients.

2. Subrecipient community lenders receive capitalization funding and/or technical assistance subawards so that they can then provide financial assistance to CCIA-eligible projects. The capitalization funding must be used for the sole purpose of providing financial assistance to CCIA-eligible projects. The technical assistance subaward must be used to build capacity to provide financial assistance to CCIA-eligible projects. Please refer to Section III.A, "Activities Allowed or Unallowed," for further instructions regarding subrecipient community lenders.

N. Special Tests and Provisions

1. Wage Rate Requirements

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

IV. OTHER INFORMATION

The definitions below are intended to provide further details on the flow of funds under the CCIA program. OGGRF expects that all subrecipients under this program that otherwise qualify for the Single Audit under 2 CFR section 500.501 *et. seq* will also be subject to this compliance supplement.

Coalition Member: "Coalition member" means an entity that is named on the application to receive a subgrant from the recipient in order to carry out part of the award received by the recipient. The EPA Subaward Policy applies to such a subgrant. Further, as provided in 2 CFR 200.332, a coalition member is a subrecipient accountable to the recipient for proper use of EPA funding.

Contractor: See definition of Contractor in 2 CFR 200.1

Closeout Agreement: Recipients under the CCIA are subject to a Closeout Agreement, which governs the use of Program Income retained at the end of the period of performance and earned thereafter in accordance with 2 CFR 200.307(c) and 2 CFR 1500.8(d). Further details regarding the requirements under the Closeout Agreement are included in the grant award terms and conditions.

Subaward: See definition of Subaward in 2 CFR 200.1

Subrecipient: See definition of Subrecipient in 2 CFR 1500.1. In this program, there are four main types of subrecipients: (1) a Subrecipient that receives a Subgrant that will be used, either in whole or in part, to provide Capitalization Funding and Technical Assistance Subawards to Community Lenders, or a "Pass-Through Subrecipient;" (2) a Subrecipient that receives a Subgrant that will be used exclusively to provide Technical Assistance Services and/or Program Administration Activities, or a "Technical Assistance Subrecipient"; (3) a Subrecipient that receives a Subgrant in the form of Capitalization Funding and/or Technical Assistance Subawards, or a "Community Lender Subrecipient;" and (4) a Subrecipient that receives Financial Assistance from a Community Lender in the form of a Subaward, with the Subrecipient then using the Subaward to provide Financial Assistance to CCIA-Eligible Projects, or a "Financial Intermediary Subrecipient."

Program Beneficiary: "Program beneficiary" means an entity (either an individual or an organization) that receives financial assistance from the recipient or a subrecipient as an end-user, except when such financial assistance is characterized as an acquisition of intangible property. Expenditures for financial assistance to program beneficiaries are in the form of *Participant support costs*, as defined in 2 CFR 1500.1. A program beneficiary is distinct from a subrecipient, as defined in 2 CFR 200.1.

Participant support costs: 2 CFR 200.1 defines participant support costs as "direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences, or training projects." EPA regulations at 2 CFR 1500.1(a)(1) expand the definition of participant support costs to include "subsidies, rebates, and other payments to program beneficiaries to encourage participation in statutorily authorized environmental stewardship programs," which includes the Greenhouse Gas Reduction Fund. In this program, participant support costs are primarily a form of financial assistance to qualified projects. *See* EPA Guidance on Participant Support Costs, available at: https://www.epa.gov/sites/default/files/2020-11/documents/epa-guidance-on-participant-support-costs.pdf.

Participant support cost requirements: EPA has unique regulatory provisions allowing grantees and their subrecipients to use GGRF funds for "[s]ubsidies, rebates, and other payments provided to program beneficiaries to encourage participation in statutorily authorized programs to encourage environmental stewardship", such as GGRF. C.F.R. § 1500.1(a)(2). GGRF expects that some CCIA recipients and subrecipients will use these mechanisms to distribute GGRF funds. Most federal requirements do not flow down to program beneficiaries. However, the GGRF program will establish detailed requirements (enforced through the award agreement's terms and conditions) for participant support cost eligibility, funds accounting, transaction documentation, and reporting. These terms and conditions can provide that the requirements flow down to subrecipients who use GGRF funds for rebates, subsidies, or other payments to program beneficiaries.

Post-Closeout Program Income: Post-Closeout Program Income means Program Income retained at the end of the Period of Performance, which is subject to the terms and conditions of

the Closeout Agreement, as well as Program Income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the Period of Closeout, which is also subject to the terms and conditions of the Closeout Agreement. Under the Closeout Agreement, the Recipient is authorized to deduct the cost of generating Post-Closeout Program Income under 2 CFR 200.307(b) and 2 CFR 1500.8(b), provided the costs are reasonable and necessary for performance under the federal award and the costs are not charged to the EPA award. Costs incidental to the generation of Post-Closeout Program Income include origination, servicing, and management costs that are not charged as direct costs to the Federal award or to Post Closeout Program Income. Costs of generating Post-Closeout Program Income can be incurred in advance of receiving the gross income, with the Recipient incurring the costs and later using gross income to reimburse itself for no more than the actual costs incurred to generate the Post-Closeout Program Income, provided the Recipient can account for the actual costs incurred.

DEPARTMENT OF ENERGY

ASSISTANCE LISTING 81.041 STATE ENERGY PROGRAM

I. PROGRAM OBJECTIVES

The objective of the State Energy Program (SEP) is to work with the states, territories, and the District of Columbia (hereinafter "states") to increase the use of energy efficiency and renewable energy across all sectors of the economy nationwide. States use SEP funds to design and implement state-wide energy plans and programs that best meet their individual energy needs. SEP also provides a wide range of technical assistance and support to the states to increase key skills and enhance their ability to design and carry out effective programs.
Note that several states continue to administer ARRA funds that were utilized to capitalize financial programs during the ARRA grants' periods of performance.

SEP received additional funding under the Infrastructure Investment and Jobs Act (IIJA) which created additional compliance requirements. Each SEP grantee will have an award with IIJA funding, which can be found at State Energy Program Guidance | Department of Energy. Subrecipients receiving 81.041 funding are expected to follow all of the requirements established by the pass-through entity as permitted by 2 CFR 200.332.

II. PROGRAM PROCEDURES

To be eligible for a SEP award, a state must submit a SEP State Application to the Department of Energy (DOE). The State Application comprises two elements:

Master File: includes information on the state's overall strategic energy plan, the key elements, goals, and objectives of that plan, and how specific SEP activities fit into that overall plan. It must also include a plan for state subrecipient monitoring.

Annual File: includes a description of the energy efficiency and renewable energy programs and activities that the state intends to carry out during its program year (PY), with budget information and milestones for each project/activity, and an overall budget broken out by object class.

Upon approval of the annual application, states receive funds from DOE and proceed to implement the programs therein. If states indicate in their annual application the intent to pass-through SEP funds, they are authorized to pass through those funds to a variety of subrecipients including, but not limited to, local governments, nonprofit organizations, other state agencies, and businesses.

In addition to federal appropriated funds, other sources of funding under this program may include oil overcharge funds, also known as petroleum violation escrow (PVE) funds. If PVE funds are allocated to a state SEP program, the state is required to follow all program requirements as if those were SEP funds.

Source of Governing Requirements

SEP is authorized under the Energy Policy and Conservation Act, as amended (42 USC 6321 *et seq.*).

SEP's implementing program regulations are found at 10 CFR Part 420.

Availability of Other Program Information

Additional details on SEP requirements can be found in the latest SEP Funding Opportunity Announcements:

1. State Energy Program 2024 Administrative and Legal Requirements Document (ALRD) issued 2/15/24: https://www.energy.gov/sites/default/files/2024-02/SEP-2024-Administrative-and-Legal-Requirements-Document-ALRD.pdf

2. State Energy Program 2021 State Energy Program PY21 Grant Application Instructions issued 2/15/24 https://www.energy.gov/sites/default/files/2024-02/SEP-Program-Notice-24-01-PY-2024-SEP-Formula-Grant-Application-Instructions.pdf

Details on SEP requirements for the Infrastructure, Investment, and Jobs Act of 2021 (IIJA) can also be found in the latest SEP Funding Opportunity Announcements:

1. State Energy Program IIJA Sect ion 40109- Administrative and Legal Requirements Document (ALRD) issued 8/26/22: https://www.energy.gov/sites/default/files/2022-08/SEP-IIJA-ALRD_0.pdf

2. State Energy Program (SEP) IIJA of 2021 Energy Efficiency Revolving Loan Fund Capitalization Grant Program (EE RLF) IIJA - Administrative and Legal Requirements Document (ALRD) issued 11/15/22 https://www.energy.gov/sites/default/files/2022-11/EE-RLF-IIJA-Administrative-and-Legal-Requirements-Document.pdf

3. State Energy Program IIJA Energy Efficiency Revolving Loan Fund Capitalization Grant Program (EE RLF) Administrative and Legal Requirements Document (ALRD) issued 11/15/22: https://www.energy.gov/sites/default/files/2022-11/EE-RLF-IIJA-Administrative-and-Legal-Requirements-Document.pdf

4. State Energy Program IIJA Energy Efficiency Revolving Loan Fund Capitalization Grant Program (EE RLF) Grant Application Instructions issued 11/15/22: https://www.energy.gov/node/4843870

SEP also issues periodic program notices, which outline new policies and requirements. Program notices are available at https://www.energy.gov/scep/state-energy-program-guidance.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	Y	N	Y	N	N	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. A broad range of energy efficiency and renewable energy activities are eligible or funding under SEP. The following types of activities are allowable:

      (1) mandatory lighting efficiency standards for public buildings;

      (2) carpool, vanpool, and public transportation initiatives;

      (3) energy efficient procurement procedures;

      (4) mandatory thermal efficiency standards for new and renovated buildings;

      (5) right turn on red, and left turn from one-way streets onto one-way streets;

(6) coordination among local, state, and federal energy efficiency, renewable energy, and public transportation programs;

(7) public education to promote energy conservation;

(8) transportation efficiency such as accelerating use of alternative transportation fuels and hybrid vehicles;

(9) encouraging use of energy efficiency technologies in industry, buildings, transportation and utilities;

(10) financing for energy efficiency and renewable energy capital investments and programs, including loans, performance contracting, rebates and grants, which includes establishment of revolving loan funds (RLF) and loan loss reserves (LLR) to the extent that the activities supported by the loans are eligible activities under the program (see III.A.1.b, below) (10 CFR 420.18(d));

(11) energy audits for buildings and industrial facilities (including industrial processes) within the state;

(12) adoption of integrated energy plans, which provide for periodic evaluation of a state's energy needs, available energy resources and energy costs;

(13) promoting the use of adequate and reliable energy supplies, including greater energy efficiency that meet applicable safety, environmental, and policy requirements at the lowest cost;

(14) energy efficiency in residential housing;

(15) identifying and educating consumers about deceptive practices related to implementation of energy efficient and renewable resource energy measures;

(16) reducing utility companies' peak demand;

(17) promoting energy efficiency as an integral part of economic development and environmental planning conducted by state and local governments or utilities;

(18) training and education for building designers and contractors to promote buildings that are energy efficient;

(19) building retrofit standards and regulations;

(20) feasibility studies of renewable energy and energy efficiency technologies;

(21) partnerships with other state agencies to leverage additional funds, such as public benefit funds and state and local investments in Clean Air Act compliance; and

(22) collaborative programs for energy efficiency and renewable energy technologies that link a state's energy and environmental objectives (10 CFR sections 420.15 and 420.17).

(23) transmission and distribution planning:

(a) support for local governments and Indian Tribes

(b) feasibility studies for transmission line routes and alternatives

(c) preparation of necessary project design and permits

(d) outreach to affected stakeholders

b. Loan repayments and interest earned on loans can be used only on activities that are included in the state's annual application (10 CFR section 420.18(d)).

c. SEP funds may be used for administrative costs associated with the continued operation of an American Recovery and Reinvestment Act (ARRA)-funded RLF or LLR.

2. *Activities Unallowed*

SEP funds may not be used for the following (10 CFR section 420.18):

a. Construction, such as construction of mass transit systems and exclusive bus lanes, or for construction or repair of buildings or structures.

b. Purchase of land, a building or structure, or any interest therein.

c. Subsidizing fares for public transportation.

d. Subsidizing utility rate demonstrations or state tax credits for energy conservation measures or renewable energy measures.

e. The conduct of, or purchase equipment to conduct, research, development or demonstration of energy efficiency or renewable energy techniques and technologies not commercially available.

f. Rebates in excess of 50 percent of the total cost of purchasing and installing materials and equipment.

g. Loan guarantees or loan forgiveness.

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable. Section 40109 IIJA eliminated the cost match requirement for SEP grants for the period of fiscal years 2022 through 2026. Accordingly, states are not required to contribute matching funds to receive their annual allocations. Cost match is also not required for grants funded by IIJA.

2. Level of Effort

2.1 Level of Effort - *Maintenance of Effort*

Not applicable

2.2 Level of Effort – *Supplement Not Supplant*

Each state receiving federal financial assistance shall provide reasonable assurance that federal financial assistance will be used to supplement, and not to supplant, state and local funds and increase the amount of state and local funds that otherwise would be available, in the absence of the federal financial assistance, for the implementation of a State Energy Plan. See 10 CFR 420.13(b)(7).

3. Earmarking

Not Applicable

IV. OTHER INFORMATION

Federal funds used to capitalize a RLF or fund an LLR are not subject to the limitation on the period of performance for the ARRA award but continue to retain their federal character for the entire period of time that the funds are used for such purpose (i.e., at each revolution of funds). To ensure continuation of required reporting and DOE oversight of the federal requirements that apply to the RLF or LLR activity in perpetuity or as long as the grantee continues the activity, reporting responsibility for the RLF or LLR activities attributable to ARRA funds will fall under the annual SEP formula award. SEP Program Notice 10-008F provides guidance to SEP grantees on ARRA financing programs. Grantees establish program parameters for their RLF and LLR programs per this guidance. RLF and LLR fund amounts are pools of capital, originating from ARRA formula awards, and declared by states as part of their ARRA applications as a distinct activity and subsequently subject to financial and performance reporting.

Grantees are required to continue to use the funds in accordance with the applicable federal requirements of the ARRA award. Therefore, if a grantee has established a RLF or LLR, auditors should include in their samples loans made from the fund during the audit period. Such transactions should be reviewed in the same manner as any other expenditure under the program.

Applicable guidance is available at: https://www.energy.gov/sites/default/files/2020/11/f80/SEP_PROGRAM_NOTICE_10-008F_November_10_2020.pdf.

DEPARTMENT OF ENERGY

ASSISTANCE LISTING 81.042 WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

I. PROGRAM OBJECTIVES

The objective of the Weatherization Assistance for Low-Income Persons (WAP) program is to increase the energy efficiency of dwellings owned or occupied by low-income persons, reduce their total expenditures on energy, and improve their health and safety. WAP has a special interest in addressing these needs for low-income persons who are particularly vulnerable, such as the elderly, disabled persons, and families with children, as well as those with high energy usage and high energy burdens.

WAP received additional funding under the Infrastructure Investment and Jobs Act (IIJA) which created additional compliance requirements. Each WAP grantee has an additional award for these funds, separate from the annual award. These requirements can be found at the link included in the Availability of Other Program Information.

Subrecipients receiving 81.042 funding are expected to follow all of the requirements established by the pass-through entity as permitted by 2 CFR 200.332.

II. PROGRAM PROCEDURES

States may submit an application and plan to the Department of Energy (DOE). The submission describes the proposed weatherization projects and contains a budget, a production schedule of dwelling units to be weatherized with grant funds, a monitoring plan, a training and technical assistance plan, and rental procedures. Upon approval, states receive funds from DOE and may enter into sub-agreements with local administering agencies having approved plans. If a state does not submit an application or if the State Plan is rejected, a local applicant may submit a plan to carry out weatherization projects. Section 411(c) of the Energy Independence and Security Act of 2007 added Puerto Rico and the US territories to the definition of “state.” As a result, DOE makes WAP awards to American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the US Virgin Islands. References to “state” in this program supplement include these entities. DOE also provides direct grants to select Native American tribes each year.

In addition to federal appropriated funds, other sources of funding under this program may include oil overcharge funds, also known as petroleum violation escrow (PVE) funds. PVE-leveraged funds identified in the budget and incorporated into the DOE award (as part of the approved budget) must meet all DOE requirements, including allowability of costs, specified in the award. If such funds are not included in the approved budget, states have greater flexibility in how those funds are used.

Source of Governing Requirements

WAP is authorized under Title IV, Part A, of the Energy Conservation and Production Act (Act), as amended (42 USC 6861 through 6873), including amendments made by, Consolidated Appropriations Act of 2021 (Pub. L. No. 116-260; December 27, 2020); Implementing regulations are published at 10 CFR Part 440.

Availability of Other Program Information

Program notices are available at Weatherization Program Notices and Memorandums | Department of Energy.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	N	N	Y	N	Y	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. The cost of purchase and delivery of weatherization materials (10 CFR section 440.18(d)(1)). Funds may only be expended on weatherization

materials listed in Appendix A to 10 CFR Part 440 or as approved by DOE.

b. Labor costs in accordance with 10 CFR section 440.19.

c. Transportation of weatherization materials, tools, and equipment, and work crews to a storage site and/or to the site of weatherization work (10 CFR section 440.18(d)(3)).

d. Maintenance, operation, and insurance of vehicles used to transport weatherization materials (10 CFR section 440.18(d)(4)).

e. Maintenance of tools and equipment (10 CFR section 440.18(d)(5)).

f. Purchase or annual lease of tools, equipment and/or vehicles, except that any purchase of vehicles shall be referred to DOE in every instance (10 CFR section 440.18(d)(6)).

g. Employment of on-site supervisory personnel (10 CFR section 440.18(d)(7)).

h. Storage of weatherization materials, tools, and equipment (10 CFR section 440.18(d)(8)).

i. The costs of incidental repairs to make the installation of weatherization materials effective (10 CFR section 440.18(d)(9)).

j. The cost of liability insurance for weatherization projects for personal injury and property damage (10 CFR section 440.18(d)(10)).

k. The cost of carrying out low cost/no cost weatherization assistance (10 CFR section 440.20).

l. The cost of WAP financial audits in accordance with 10 CFR section 440.23.

m. Administrative expenses (10 CFR section 440.18(d)(13)).

n. The costs of eliminating health hazards, necessary to ensure the safe installation of weatherization materials (10 CFR section 440.18(d)(15)).

o. Leveraging activities, as specified in the leveraging section of the State Plan and grant agreement (10 CFR 440.14(c)(6)(xiv), Sec. 1011(g) of the Energy Act of 2020 (Division Z of P.L. 116-260)). Leveraging entails a state obtaining additional program-targeted nonfederal or in-kind contributions as a result of WAP-funded activities. Leveraging should be limited to contributions that can be clearly attributed to a state's weatherization activities, and that are used to augment those activities. The

maximum percentage of Weatherization funds that can be diverted for leveraging activities is 15 percent of the grantee's total allocation.

p. Expenditures for labor, weatherization materials, and related matters for a renewable energy system, as defined in 10 CFR section 440.3, shall not exceed an average of $3,000 per dwelling unit or adjusted amount as published in WAP program notices from the Energy Policy Act of 2005, Pub. L. No. 109-58 (42 USC 6865(c)(4); 10 CFR section 440.18(b)).

2. *Activities Unallowed*

a. Funds shall not be used to weatherize a dwelling unit which is designated for acquisition or clearance by a federal, state, or local program within 12 months from the date of the weatherization (10 CFR section 440.18(f)(1)).

b. Funds may not be used to install or otherwise provide weatherization materials for a dwelling unit weatherized previously with grant funds, unless:

(1) The weatherization activities may be considered "low cost/no cost" as described in 10 CFR section 440.20: inexpensive weatherization materials are used; no labor paid with funds provided is used to install weatherization materials referred to here; and a maximum of 10 percent of the amount allocated to a subgrantee, not to exceed $50 in materials costs per dwelling unit, is expended (10 CFR section 440.18(f)(2)(i));

(2) Such a dwelling has been damaged by fire, flood or other act of God and the repair of the damage is not paid for by insurance (10 CFR section 440.18(f)(2)(ii)); or

(3) Language introduced in Consolidated Appropriations Act of 2021, Pub. L. No. 116-260, (h) AMENDING RE-WEATHERIZATION DATE. —Paragraph (2) of section 415(c) of the Energy Conservation and Production Act (42 USC 6865(c)) is amended to read as follows:

"(2) Dwelling units weatherized (including dwelling units partially weatherized) under this part, or under other Federal programs (in this paragraph referred to as 'previous weatherization'), may not receive further financial assistance for weatherization under this part until the date that is 15 years after the date such previous weatherization was completed. This paragraph does not preclude dwelling units that have received previous weatherization from receiving assistance and services (including the provision of information and education to assist with energy management and

evaluation of the effectiveness of installed weatherization materials) other than weatherization under this part or under other Federal programs, or from receiving non-Federal assistance for weatherization."

E. Eligibility

Regulations for these requirements are found at 10 CFR 440.22

1. Eligible dwelling units

a. A dwelling unit is eligible for weatherization assistance if it is occupied by a family unit (section 10 CFR 440.22(a)(1-3):

(1) Whose income is at or below 200 percent of the poverty level determined in accordance with the criteria established by the Director of the Office of Management and Budget;

(2) That contains a member who has received cash assistance payments under Title IV or XVI of the Social Security Act or applicable state or local law at any time during the 12-month period preceding the determination of eligibility for weatherization assistance; or

(3) If the state elects, is eligible for assistance under the Low-Income Home Energy Assistance Act of 1981, provided that such basis is at least 200 percent of the poverty level (42 USC 6862(7), as amended by Section 407(a), ARRA, 123 Stat 146).

The poverty guidelines are issued each year in the *Federal Register* and HHS maintains a web page that provides the poverty guidelines (Poverty Guidelines | ASPE (hhs.gov)).

b. A subgrantee may weatherize a building containing rental dwelling units using financial assistance for dwelling units eligible for weatherization assistance under paragraph (b) of this section, where:

(1) The subgrantee has obtained the written permission of the owner or his agent;

(2) Not less than 66 percent (50 percent for duplexes and four-unit buildings, and certain eligible types of large multi-family buildings) of the dwelling units in the building:

(i) Are eligible dwelling units, or

(ii) Will become eligible dwelling units within 180 days under a federal, state, or local government program for

rehabilitating the building or making similar improvements to the building; and

(3) The grantee has established procedures for dwellings which consist of a rental unit or rental units to ensure that:

(i) The benefits of weatherization assistance in connection with such rental units, including units where the tenants pay for their energy through their rent, will accrue primarily to the low-income tenants residing in such units;

(ii) For a reasonable period of time after weatherization work has been completed on a dwelling containing a unit occupied by an eligible household, the tenants in that unit (including households paying for their energy through their rent) will not be subjected to rent increases unless those increases are demonstrably related to matters other than the weatherization work performed;

(iii) The enforcement of paragraph (b)(3)(ii) of this section is provided through procedures established by the state by which tenants may file complaints, and owners, in response to such complaints, shall demonstrate that the rent increase concerned is related to matters other than the weatherization work performed; and

(iv) No undue or excessive enhancement shall occur to the value of the dwelling units.

(4) (i) A building containing rental dwelling units meets the requirements of paragraph (b)(2), and paragraphs (b)(3)(ii) and (b)(3)(iv), of this section if it is included on the most recent list posted by DOE of Assisted Housing and Public Housing buildings identified by the US Department of Housing and Urban Development as meeting those requirements.

(ii) A building containing rental dwelling units meets the requirements of paragraph (b)(2), and paragraph (b)(3)(iv), of this section if it is included on the most recent list posted by DOE of Assisted Housing and Public Housing buildings identified by the US Department of Housing and Urban Development as meeting those requirements.

(iii) A building containing rental dwelling units meets the requirement of paragraph (b)(2) of this section if it is included on the most recent list posted by DOE of Low Income Housing Tax Credit buildings identified by the US

Department of Housing and Urban Development as meeting that requirement and of Rural Housing Service Multifamily Housing buildings identified by the US Department of Agriculture as meeting that requirement.

(iv) For buildings identified under paragraphs (b)(4)(i), (ii) and (iii) of this section, states will continue to be responsible for ensuring compliance with the remaining requirements of this section, and states shall establish requirements and procedures to ensure such compliance in accordance with this section.

c. In order to secure the federal investment made under this part and address the issues of eviction from and sale of property receiving weatherization materials under this part, States may seek landlord agreement to placement of a lien or to other contractual restrictions;

d. As a condition of having assistance provided under this part with respect to multifamily buildings, a State may require financial participation, when feasible, from the owners of such buildings. Such financial participation shall not be reported as program income, nor will it be treated as if it were appropriated funds. The funds contributed by the landlord shall be expended in accordance with the agreement between the landlord and the weatherization agency.

e. In devising procedures under paragraph (b)(3)(iii) of this section, States should consider requiring use of alternative dispute resolution procedures including arbitration.

f. A State may weatherize shelters. For the purpose of determining how many dwelling units exist in a shelter, a grantee may count each 800 square feet of the shelter as a dwelling unit or it may count each floor of the shelter as a dwelling unit.

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

Not Applicable

3. Eligibility for Subrecipients

A subrecipient is eligible to provide weatherization services under WAP provided that:

a. It is a public or nonprofit entity, or a Community Action Agency (CAA) (e.g., a private corporation or public agency established under the Economic Opportunity Act of 1964, which is authorized to administer funds received from federal, state, or local entities to assess, design,

operate, finance, and oversee antipoverty programs) (10 CFR section 440.15(a)(1)); and

b. It has been selected as a participant in the weatherization program on the basis of public comment received during a public hearing (10 CFR section 440.15(a)(2)).

L. Reporting

All program reporting is done in a web-based interface, Performance and Accountability for Grants in Energy (PAGE) (https://page.energy.gov/). The site provides DOE and grantees, including state and local governments, and tribal organizations, with the ability to electronically submit and manage grant performance and financial information.

Subrecipients receiving 81.042 funding are expected to follow all of the reporting requirements established by the pass-through entity as permitted by 2 CFR 200.332(a)(3).

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement and Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable (

2. Performance Reporting

DOE F 540.3, WAP Quarterly Program Report (OMB Control No. 1910-5127) – This report has columns for each reporting quarter and is submitted online using PAGE).

Reported data can generally be corrected, if needed, until the submission of the subsequent Quarterly Program Report.

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

1. *Grants Outlays* – Funds Subject to DOE Program Rules. Outlays by Function – Total Outlays by Function:

    a. Grantee Administration

    b. Subgrantee Administration

    c. Grantee T&TA

    d. Subgrantee T &TA

    e. Program Operations Total

f. Health and Safety

g. Vehicles and Equipment – Acquisition Cost

h. Liability Insurance

i. Leveraging

j. Financial Audits

2. *Grant Production* –Total Annual Energy Savings (final report only) - For clarification, this is data is only required to be reported in the last quarterly report, in other words the Q4 report containing the annual cumulative values.

a. DOE UNITS* (includes other funds if included in DOE budget)

UNITS BY TYPE:

(1) Owner-Occupied Single Family Site Built

(2) Single-Family Rental Site Built

(3) Multi-Family (5 or more units per building)

(4) Owner-Occupied Mobile Home

(5) Renter-Occupied Mobile Home

(6) Shelter

b. UNITS BY PRIMARY HEATING FUEL

(1) Natural Gas

(2) Fuel Oil

(3) Electricity

(4) Propane/LPG

(5) Kerosene

(6) Wood

(7) Other

c. UNITS BY OCCUPANCY

(1) Elderly-Occupied

(2) Disabled-Occupied

(3) Native American-Occupied

(4) Children-Occupied

(5) High Residential Energy User

(6) Household with a High Energy Burden

d. OTHER UNIT CATEGORIES- Reweatherized Total

e. TOTAL PEOPLE ASSISTED WITH GRANT FUNDS* (includes other funds if included in DOE budget)

(1) Elderly

(2) Persons with Disabilities

(3) Native Americans

(4) Children

f. Leveraged Units (units completed with other funds that are not included in DOE budget, any part of the definition of a DOE unit has been met)

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

DEPARTMENT OF EDUCATION CROSS-CUTTING SECTION

INTRODUCTION

This section contains compliance requirements that apply to more than one Department of Education (ED) program (listed below) in the Supplement because the program was authorized under the Elementary and Secondary Education Act of 1965 (ESEA) or the program is subject to the General Education Provisions Act (GEPA) or the Build America, Buy America Act (BABAA). The applicable programs in Part 4 reference this ED Cross-Cutting Section.

Note: For an area that a specific program did not select under the six-requirement limitation, ED has removed its Assistance Listing from that area (or sub-area) of the cross-cutting section.

Assistance Listing No.	Program Name	Listed as
ESEA Programs		
84.010	Title I Grants to Local Educational Agencies (LEAs)	Title I, Part A
84.011	Migrant Education—State Grant Program (Title, I, Part C)	MEP
84.282	Charter Schools	CSP
84.287	Twenty-First Century Community Learning Centers	21st CCLC
84.365	English Language Acquisition Grants	Title III, Part A
84.367	Supporting Effective Instruction State Grant	Title II, Part A
84.424	Student Support and Academic Enrichment Grants	Title IV, Part A
Non-ESEA Programs		
84.002	Adult Education—State Grant Program	Adult Education
84.027 84.173	Special Education—Grants to States (IDEA, Part B) Special Education—Preschool Grants (IDEA Preschool)	IDEA
84.042 84.044 84.047 84.066 84.217	TRIO—Student Support Services TRIO—Talent Search TRIO—Upward Bound TRIO—Educational Opportunity Centers TRIO—McNair Post-Baccalaureate Achievement	TRIO Cluster
84.048	Career and Technical Education – Basic Grants to States (Perkins V)	CTE
84.126	Rehabilitation Services – Vocational Rehabilitation	

84.181	Special Education—Grants for Infants and Families with Disabilities	IDEA, Part C
84.425A	Education Stabilization Fund–State Educational Agency (Outlying Areas) (ESF-SEA I and II)	
84.425C	Governor's Emergency Education Relief (GEER I and II) Fund	
84.425D	Elementary and Secondary School Emergency Relief (ESSER I and II) Fund	
84.425H	Education Stabilization Fund–Governors (Outlying Areas) (ESF-Governors I and II)	
84.425R	Emergency Assistance to Non-Public Schools (EANS) Program	
84.425U	American Rescue Plan Elementary and Secondary School Emergency Relief (ARP ESSER) Fund	
84.425V	American Rescue Plan Emergency Assistance to Non-Public Schools (ARP EANS)	
84.425X	American Rescue Plan-Outlying Areas State Educational Agency (ARP-OA SEA) Fund	

References to the ESEA are to the ESEA, as amended by the Every Student Succeeds Act (ESSA).

The ESEA was amended December 10, 2015, by the ESSA (Pub. L. No. 114-95).

Education Stabilization Fund (ESF) Programs

To prevent, prepare for, and respond to the Coronavirus Disease 2019 (COVID-19), Congress enacted three laws. In March 2020, it passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 748-284, which includes the ESF. Four CARES Act ESF programs are included in this Supplement: the Governor's Emergency Education Relief (GEER I) Fund (Assistance Listing 84.425C); the Elementary and Secondary School Emergency Relief (ESSER I) Fund (Assistance Listing 84.425D); the Education Stabilization Fund–Governors (Outlying Areas) (ESF-Governors I) (Assistance Listing 84.425H); and the Education Stabilization Fund–State Educational Agency (Outlying Areas) (ESF-SEA I) (Assistance Listing 84.425A).

In December 2020, Congress passed the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act, 2021, Pub. L. No. 116-260, which provided additional funds to the ESF. Five CRRSA ESF programs are included in this Supplement: the Governor's

Emergency Education Relief (GEER II) Fund (Assistance Listing 84.425C); the Elementary and Secondary School Emergency Relief (ESSER II) Fund (Assistance Listing 84.425D); the Education Stabilization Fund–Governors (Outlying Areas) (ESF-Governors II) (Assistance Listing 84.425H); the Education Stabilization Fund–State Educational Agency (Outlying Areas) (ESF-SEA II) (Assistance Listing 84.425A); and the Emergency Assistance to Non-Public Schools (EANS) program (Assistance Listing 84.425.R).

In March 2021, Congress passed the American Rescue Plan Act of 2021 (ARP), Pub. L. No. 117-2, which provided additional funds to the ESF. Three ARP programs are included in this Supplement: the American Rescue Plan Elementary and Secondary School Emergency Relief (ARP ESSER) Fund (Assistance Listing 84.425U); the American Rescue Plan Emergency Assistance to Non-Public Schools (ARP EANS) (Assistance Listing 84.425V); and the American Rescue Plan-Outlying Areas State Educational Agency (ARP-OA SEA) Fund (Assistance Listing 84.425X).

Waivers and Expanded Flexibility

Local educational agencies (LEAs) through their SEA, and schools through their LEA and SEA, may request waivers from ED of many of the statutory and regulatory requirements of programs authorized in the ESEA. In addition, some States have been granted authority to grant waivers of Federal requirements under the Education Flexibility Partnership Act of 1999. See approved States at: https://www.ed.gov/grants-and-programs/grants-birth-grade-12/ed-flex#Participating-States.

Due to the COVID-19 pandemic, ED invited SEAs to apply for certain fiscal waivers. A list of the invited waivers is available at:

- Adult Ed and Perkins: https://www2.ed.gov/about/offices/list/ovae/pi/AdultEd/tydings-covid-waiver-letter-aefla.pdf
- IDEA: https://www2.ed.gov/policy/speced/guid/idea/monitor/cssos-mfs-2018-waiver-authority-06-05-2020.pdf

For certain programs, lists of waivers granted under the CARES Act waiver authority are listed in the *Federal Register*:

- Adult-Ed and Perkins: https://www.federalregister.gov/documents/2020/11/05/2020-24537/notice-of-waiver-granted-under-the-coronavirus-aid-relief-and-economic-security-cares-act

Cross-Cutting Requirements

The requirements in this cross-cutting section can be classified as either general or program-specific. General cross-cutting requirements are those that are the same for all applicable programs but are implemented on an entity level. These requirements need only be tested once to cover all applicable major programs. The general cross-cutting requirements that the auditor only

need test once to cover all applicable major programs are: III.G.2.1, "Level of Effort-Maintenance of Effort" (except for certain ESF programs see the program-specific level of effort- maintenance of effort requirement); and III.N, "Special Tests and Provisions." Program-specific cross-cutting requirements are the same for all applicable programs but are implemented at the individual program level. These types of requirements need to be tested separately for each applicable major program. The compliance requirement in III.N.1, "Participation of Private School Children," may be tested on a general or program-specific basis.

In recent years, the Office of Inspector General in ED has investigated a number of significant criminal cases related to the risk of misuse of Federal funds and the lack of accountability of Federal funds in public charter schools. Auditors should be aware that, unless an applicable program statute provides otherwise, public charter schools, including charter school LEAs, are subject to the requirements in this cross-cutting section to the same extent as other public schools and LEAs. Auditors also should note that, depending upon State law, a public charter school may be its own LEA or a school that is part of a traditional LEA.

Program procedures for non-ESEA programs covered by this cross-cutting section and additional information on program procedures for the ESEA programs are set forth in the individual program sections of this Supplement.

I. PROGRAM OBJECTIVES

Program objectives for programs covered by this cross-cutting section are set forth in the individual program sections of this Supplement.

II. PROGRAM PROCEDURES

A. Overview

1. *ESEA Programs*

The ESEA requires an SEA to either develop and submit separate, program-specific individual State plans to ED for approval as provided in individual program requirements outlined in the ESEA or submit, in accordance with Section 8302 of the ESEA, a consolidated plan to ED for approval. Each SEA submitted a consolidated State plan. SEAs with approved consolidated State plans may require LEAs to submit consolidated plans or allow an LEA to submit a consolidated plan or individual program plans.

B. Subprograms/Program Elements

Unique Features of ESEA Programs That May Affect the Conduct of the Audit Subprograms/Program Elements

The following unique features may affect the conduct of an audit:

1. *Consolidation of Administrative Funds*

   SEAs and LEAs (with SEA approval) may consolidate Federal funds received for administration under many ESEA programs, and non-ESEA programs listed in the last sentence, thus eliminating the need to account for these funds on a program-by-program basis. The amount from each applicable program set aside for State consolidation may not be more than the percentage, if any, authorized for State administration under that program. This also includes these non-ESEA programs, ESSER, GEER (if administered by an SEA), and EANS.

2. *Schoolwide Programs*

   Eligible schools are able to use their Title I, Part A funds, in combination with other Federal, State, and local funds, in order to upgrade the entire educational program of the school and to raise academic achievement for all students. Except for some of the specific requirements of the Title I, Part A program, Federal funds that a school consolidates in a schoolwide program are not subject to most of the statutory or regulatory requirements of the programs providing the funds as long as the schoolwide program meets the intent and purposes of those programs. The Title I, Part A requirements that apply to schoolwide programs are identified in the Title I, Part A program-specific section. If a school does not consolidate Federal funds with State and local funds in its schoolwide program, the school has flexibility with respect to its use of Title I, Part A funds, consistent with Section 1114 of ESEA (20 USC 6314), but it must comply with all statutory and regulatory requirements of the other Federal funds it uses in its schoolwide program.

3. *Transferability*

   SEAs and LEAs (with some limitations) may transfer up to 100 percent of their allotment from one or more applicable programs (Title II, Part A and Title IV, Part A for SEAs and LEAs; 21st CCLC for SEAs) to one or more of those programs or to other applicable programs: Title I, Part A; MEP; Title I, Part D; Title III, Part A; and Title V, Part B. Transferred funds are subject to all of the requirements, set-asides, and limitations of the programs into which they are transferred.

4. *Small Rural Schools Achievement Alternative Use of Funds*

   Eligible LEAs may, after notifying the SEA, spend all or part of the formula funds they receive under two applicable programs (Title II, Part A and Title IV, Part A) for local activities authorized under one or more of five applicable programs (Title I, Part A; Title II, Part A; Title III, Part A; Title IV, Part A; and 21st CCLC).

Availability of Other Program Information

The ESEA, as reauthorized by the ESSA, is available with a hypertext index at

https://www.congress.gov/114/plaws/publ95/PLAW-114publ95.pdf.

An ED *Federal Register* notice, dated July 2, 2004 (69 FR 40360-40365), indicating which Federal programs may be consolidated in a schoolwide program, is available at http://www.gpo.gov/fdsys/pkg/FR-2004-07-02/pdf/04-15121.pdf.

A number of documents contain guidance applicable to the cross-cutting requirements in this section. Documents numbered 10-11 below, which were issued before enactment of the ESSA, are applicable in general. They include:

1. ESSA Fiscal Changes & Equitable Services (which includes guidance on Transferability Authority) (November 21, 2016) ESSA Non Regulatory Guidance Fiscal and Equitable Service 11-21-2016 (PDF) (ed.gov)
   Note: The information on Title I, Part A equitable services in this document is superseded by the nonregulatory guidance ED issued in October 2019. See below.

2. ESSA Schoolwide Guidance (September 29, 2016) https://oese.ed.gov/files/2020/07/essaswpguidance9192016.pdf

3. Title I, Part A of the ESEA: Providing Equitable Services to Eligible Private School Children, Teachers, and Families (October 7, 2019/updated May 17, 2023) https://oese.ed.gov/files/2023/05/Title-I-ES-guidance-revised-5-2023.pdf

4. Informational Document on the Rural Education Achievement Program (REAP) (January 19, 2021) https://oese.ed.gov/files/2021/01/19-0043-REAP-Informational-Document-final-OS-Approved-1.pdf

5. Non-Regulatory Guidance: Early Learning in the Every Student Succeeds Act (November 2016) https://oese.ed.gov/files/2020/07/essaelguidance10202016.pdf

6. Within-District Allocations Under Title I, Part A of the Elementary and Secondary Education Act of 1965 (Draft) https://oese.ed.gov/files/2022/02/Within-district-allocations-FINAL.pdf

7. Providing Equitable Services to Students and Teachers in Non-Public Schools under the CARES Act Programs (Oct. 9, 2020) https://oese.ed.gov/files/2020/10/Providing-Equitable-Services-under-the-CARES-Act-Programs-Update-10-9-2020.pdf

8. Title VIII, Part F of the Elementary and Secondary Education Act of 1965: Equitable Services for Eligible Private School Children, Teachers, and Other Educational Personnel (July 17, 2023) https://www2.ed.gov/about/inits/ed/non-public-education/files/esea-titleviii-guidance-2023.pdf

9. How Does a State or Local Educational Agency Allocate Funds to Charter Schools that are Opening for the First Time or Significantly Expanding Their Enrollment? (December 2000) https://oese.ed.gov/files/2020/07/cguidedec2000.pdf

10. Title I Fiscal Issues: Maintenance of Effort; Comparability; Supplement, not Supplant; Carryover; Consolidating Funds in Schoolwide Programs; and Grantback Requirements (February 2008) https://oese.ed.gov/files/2020/07/fiscalguid.pdf

11. A BABAA FAQ document, U.S. Department of Education Frequently Asked Questions about the Build America Buy America Act, addressing questions related to ED's implementation of BABAA is available at https://www2.ed.gov/policy/fund/guid/buy-america/faqs.pdf and additional information can be found at https://www2.ed.gov/policy/fund/guid/buy-america/index.html.

12. Serving Preschool Children Through Title I, Part A of the Elementary and Secondary Education Act of 1965, as Amended (February 2024) https://oese.ed.gov/files/2024/02/Title-I-Preschool-Early-Learning-Guidance-Revised-2023-FINAL.pdf (This is a new document that is specific to Title I Preschool and is an update to previous guidance that was issued in 2012.)

III. COMPLIANCE REQUIREMENTS

If there has been a transfer of funds to a consolidated administrative cost objective from a major program, in developing audit procedures to test compliance with "Activities Allowed or Unallowed" and "Allowable Costs/Cost Principles," the auditor should include the consolidated administrative cost objective in the universe to be tested.

A. Activities Allowed or Unallowed

1. Activities Allowed

a. Consolidation of Administrative Funds (SEAs/LEAs)- ESEA programs in this Supplement to which this section applies are Title I, Part A (84.010); MEP (84.011); CSP (84.282); 21st CCLC (84.287); Title III, Part A (84.365); Title II, Part A (84.367); Title IV, Part A (84.424A) including the Stronger Connections Grant (84.424F). This section also applies to ESSER, GEER, EANS, and the ESF Outlying Areas program (84.425A, C, D, H, R, U, V, and X).

An SEA may consolidate the amounts specifically made available to it for State administration under one or more ESEA programs (and such other programs as the ED secretary may designate) if the SEA can demonstrate that the majority of its resources are derived from non-Federal sources. An SEA must use consolidated administrative funds for authorized administrative activities of one or more of the consolidated programs. It may also use such funds for administrative activities designed to enhance the effective and coordinated use of funds under one or more of the programs included in the consolidation, such as coordination of ESEA programs with other Federal and non-Federal programs; the establishment and operation of peer review mechanisms; the dissemination of

information regarding model programs and practices; and technical assistance (Section 8201 of ESEA (20 USC 7821)).

An LEA may, with the approval of its SEA, consolidate and use for the administration of one or more ESEA programs not more than the percentage, established in each program, of the total available under those programs. An LEA may use consolidated funds for the administration of the consolidated programs and for uses at the school district and school levels comparable to those authorized for the SEA. An LEA that consolidates administrative funds may not use any other funds under the programs included in the consolidation for administration (Section 8203 of ESEA (20 USC 7823)).

An SEA or LEA that consolidates administrative funds is not required to keep separate records of administrative costs for each individual program.

Expenditures of consolidated administrative funds are allowable if they are for administrative costs that are allowable under any of the contributing programs (sections 8201(c) and 8203(e) of ESEA (20 USC 7821(c) and 7823(e))).

See IV, "Other Information," for guidance on the treatment of consolidated administrative funds for purposes of Type A program determination and presentation in the Schedule of Expenditures of Federal Awards (SEFA).

b. *Schoolwide Programs (LEAs)- ESEA programs in this Supplement to which this section applies are Title I, Part A (84.010); MEP (84.011); 21st CCLC (84.287); Title III, Part A (84.365); Title II, Part A (84.367); and Title IV, Part A (84.424A) but not including the Stronger Connections Grant (84.424F). This section also applies to ESSER & GEER (84.425C, D, and U), IDEA (84.027 and 84.173), and CTE (84.048).*

An eligible school participating under Title I, Part A may, in consultation with its LEA, use its Title I, Part A funds, along with funds provided from the above-identified programs, to upgrade the school's entire educational program in a schoolwide program.

See IV, "Other Information," for guidance on the treatment of consolidated schoolwide funds for purposes of Type A program determination and presentation in the SEFA.

c. *Transferability (SEAs and LEAs)- ESEA programs in this Supplement to which this section applies are: 21st CCLC (84.287) (for SEAs only), Title*

II, Part A (84.367), and Title IV, Part A (84.424A), but not including the Stronger Connections Grant (84.424F).

SEAs may transfer up to 100 percent of the non-administrative funds allocated for State-level activities from applicable programs to one or more of the other listed applicable programs, or to Title I, Part A (Assistance Listing 84.010); MEP (Assistance Listing 84.011); Title I, Part D (Assistance Listing 84.013); Title III, Part A (Assistance Listing 84.365A); and Title V, Part B (84.358). LEAs may transfer up to 100 percent of their allotments from an applicable program to the other listed applicable program, or to Title I, Part A (Assistance Listing 84.010); MEP (Assistance Listing 84.011); Title I, Part D (Assistance Listing 84.013); Title III, Part A (Assistance Listing 84.365A); and Title V, Part B (84.358).

See III.G.3.b, "Matching, Level of Effort, Earmarking – Earmarking," in this cross-cutting section, for additional testing related to transferability.

See IV, "Other Information," for guidance on the treatment of funds transferred under this provision for purposes of Type A program determination and presentation in the SEFA.

d. *Small Rural Schools Achievement (SRSA) (LEAs) Alternative Uses of Funds Program- ESEA programs in this Supplement to which this section applies are Title II, Part A (84.367) and Title IV, Part A (84.424A), but not including the Stronger Connections Grant (84.424F).*

LEAs that (a) have a total average daily attendance of fewer than 600 students, or serve only schools that are located in counties with a population density of fewer than ten persons per square mile; and (b) serve only schools that are designated rural (locale code of 41, 42, or 43) by the National Center for Education Statistics (NCES), or (with the concurrence of the SEA) are located in an area defined as rural by a governmental agency of the State may, after notifying the SEA, spend all or part of the funds received under the above programs for local activities authorized under one or more of the following five programs:

(1) Assistance Listing 84.010 Improving Basic Programs Operated by Local Educational Agencies (Title I, Part A)

(2) Assistance Listing 84.287 Twenty-First Century Community Learning Centers (Title IV, Part B)

(3) Assistance Listing 84.365 Language Instruction for English Learners and Immigrant Students (Title III)

(4) Assistance Listing 84.367 Supporting Effective Instruction (Title II, Part A)

(5) Assistance Listing 84.424 Student Support and Academic Enrichment (Title IV, Part A) (Section 5211(a)-(c) of ESEA (20 USC 7345(a)-(c))).

See IV, "Other Information," for guidance on the treatment of funds transferred under this provision for purposes of Type A program determination and presentation in the SEFA.

B. Allowable Costs/Cost Principles

1. *Documentation of Employee Time and Effort (Consolidated Administrative Funds and Schoolwide Programs)*

ESEA programs in this Supplement to which this section applies are Title I, Part A (84.010); MEP (84.011); CSP (84.282); 21st CCLC (84.287); Title III, Part A (84.365); Title II, Part A (84.367); and Title IV, Part A (84.424A), including the Stronger Connections Grant (84.424F). This section also applies to IDEA (84.027 and 84.173) (schoolwide programs only), CTE (84.048) (schoolwide programs only), and ESSER, GEER, and EANS (84.425C, D, R, U, and V) (consolidated administrative funds and schoolwide programs).

a. *Consolidated Administrative Funds (SEA/LEA):* An SEA or LEA that consolidates Federal administrative funds is not required to keep separate records by individual program (Sections 8201(c) or 8203(e) of ESEA (20 USC 7821(c) or 7823(e))). The SEA or LEA may treat the consolidated administrative funds as a consolidated administrative cost objective.

Time-and-effort requirements with respect to consolidated administrative funds vary under different circumstances.

(1) For an employee who works solely on the consolidated administrative cost objective, an SEA or LEA is not required to maintain records reflecting the distribution of the employee's salary and wages among the programs included in the consolidation.

(2) For an employee who works in part on the consolidated administrative cost objective and in part on a Federal program whose administrative funds have not been consolidated or on activities funded from other revenue sources, an SEA or LEA must maintain time and effort distribution records in accordance with 2 CFR section 200.430(i)(1)(vii) that support the portion of time and effort dedicated to:

(a) The consolidated cost objective, and

(b) Each program or other cost objective supported by non-consolidated Federal funds or other revenue sources.

b. *Schoolwide Programs (LEA)* – A schoolwide program school is permitted to consolidate Federal funds with State and local funds to upgrade the entire educational program of the school. A school that consolidates Federal funds with State and local funds in a consolidated schoolwide pool is not required to maintain separate records by program (Section 1114(a)(3)(C) of ESEA (20 USC 6314(a)(3)(C), 34 CFR section 200.29(d). If a schoolwide program school does not consolidate Federal funds in a consolidated schoolwide pool, the school must keep separate records by program. (Guidance is contained in the publication entitled *Title I Fiscal Issues: Maintenance of Effort; Comparability; Supplement, not Supplant; Carryover; Consolidating Funds in Schoolwide Programs; and Grantback Requirements* (February 2008). This guidance is available at https://oese.ed.gov/files/2020/07/fiscalguid.pdf.

Time-and-effort requirements in schoolwide program schools vary under different circumstances.

(1) If a school operating a schoolwide program consolidates Federal, State, and local funds in a consolidated schoolwide pool, there is no distinction between staff paid with Federal funds and staff paid with State or local funds. Under these circumstances, payment from the single consolidated schoolwide pool is sufficient to demonstrate that an employee works only on activities of the schoolwide program, and no other documentation is required.

(2) If a school operating a schoolwide program does not consolidate Federal funds with State and local funds in a consolidated schoolwide pool, an employee who works, in whole or in part, on a Federal program or cost objective must document time and effort as follows:

(a) For an employee who works solely on a single cost objective (e.g., a single Federal program whose funds have not been consolidated or Federal programs whose funds have been consolidated but not with State and local funds), an LEA is not required to maintain records reflecting the distribution of the employee's salary and wages, including among the Federal programs included in the consolidation, if applicable.

(b) For an employee who works on multiple activities or cost objectives (e.g., in part on a Federal program whose funds have not been consolidated in a consolidated schoolwide pool and in part on Federal programs supported with funds consolidated in a schoolwide pool or on activities that are not part of the same cost objective), an LEA must maintain time and effort distribution records in accordance with 2

CFR section 200.430(i)(1)(vii) that support the portion of time and effort dedicated to:

(i) The Federal program or cost objective; and

(ii) Each other program or cost objective supported by consolidated Federal funds or other revenue sources.

2. *Indirect Costs (SEA/LEA or other subrecipients)*

ESEA programs in this Supplement to which a restricted indirect cost rate applies are Title I, Part A (84.010); MEP (84.011); 21st CCLC (84.287); Title III, Part A (84.365); Title II, Part A (84.367); and Title IV, Part A (84.424A) including the Stronger Connections Grant (84.424F).

This section also applies to Adult Education (84.002); IDEA (84.027 and 84.173); CTE (84.048); and IDEA, Part C (84.181).

A "restricted" indirect cost rate (RICR) must be used for programs administered by State and local governments and their governmental subgrantees that have a statutory requirement prohibiting the use of Federal funds to supplant nonfederal funds. The programs listed above in this section have a non-supplanting requirement and therefore must have a restricted indirect cost rate.

Nongovernmental grantees or subgrantees administering such programs have the option of using the RICR, or an indirect cost rate of 8 percent, unless ED determines that the RICR would be lower.

The formula for a restricted indirect cost rate is:

RICR = (General management costs + Fixed costs) / (Other expenditures). General management costs are costs of activities that are for the direction and control of the grantee's (or subgrantee's) affairs that are organization wide, such as central accounting services, payroll preparation and personnel management. For State and local governments, the general management indirect costs consist of (1) allocated Statewide Central Service Costs approved by the Department of Health and Human Services in a formal Statewide Cost Allocation Plan (SWCAP) as "Section I" costs and (2) departmental indirect costs. The term "general management" as it applies to departmental indirect costs does not include expenditures limited to one component or operation of the grantee. Specifically excluded from general management costs are the following costs that are reclassified and included in the "other expenditures" denominator:

a. Divisional administration that is limited to one component of the grantee;

b. The governing body of the grantee;

c. Compensation of the chief executive officer of the grantee;

d. Compensation of the chief executive officer of any component of the grantee; and

e. Operation of the immediate offices of these officers.

Also excluded from the SWCAP Section I indirect costs are any occupancy and maintenance type costs as described in 34 CFR section 76.568. However, because these costs are allocated and not incurred at the departmental level, they do not require reclassification to the "other expenditure" denominator.

Fixed costs are contributions to fringe benefits and similar costs associated with salaries and wages that are charged as indirect costs, including retirement, social security, pension, unemployment compensation, and insurance costs.

Other expenditures are the grantee's total expenditures for its Federally and non-Federally funded activities, including directly charged occupancy and space maintenance costs (as defined in 34 CFR section 76.568), and the costs related to the chief executive officer of the grantee or any component of the grantee and its offices. Excluded are general management costs, fixed costs, subgrants, capital outlays, debt service, fines and penalties, contingencies, and election expenses (except for elections required by Federal statute).

Occupancy and space maintenance costs associated with functions that are not organization-wide must be included with other expenditures in the indirect cost formula. These costs may be charged directly to affected programs only to the extent that statutory supplanting prohibitions are not violated. This reimbursement must be approved in advance by ED. Specific occupancy and space maintenance costs may be charged directly only to programs affected by the restricted rate calculation if charging for such costs is approved in advance by ED (34 CFR section 76.568(c)).

Indirect costs charged to a grant are determined by applying the RICR to total direct costs of the grant minus capital outlays, subgrants, and other distorting or unallowable items as specified in the grantee's indirect cost rate agreement.

The other ED programs (those not having a statutory non-supplant requirement) that allow indirect costs do not require a restricted rate and should follow the cost principles in 2 CFR Part 200, Subpart E (34 CFR sections 76.560 and 76.563-76.569).

3. *Unallowable Direct Costs to Programs (SEA/LEA or other subrecipients)*

Officials from ED have noted that some entities have charged costs in the following areas which were determined to be unallowable as specified in the indicated references. Auditors should be alert that if any such costs are charged,

charges must be consistent with provisions of 2 CFR Part 200, Subpart E or as applicable.

a. Separation leave costs (2 CFR section 200.431(b)).

b. Severance costs (2 CFR section 200.431(i)).

c. Post-retirement health benefit (PRHB) costs (2 CFR section 200.431(h)).

4. *Unallowable Costs to Programs (Direct or Indirect) (SEA/LEA or other subrecipients)*

Officials from ED have noted that, in cases where grantees rent or lease buildings or equipment from an affiliate organization, the costs associated with the lease or rental agreement can be excessive. The auditor should be alert to the fact that the measure of allowability in such "less-than-arms-length-relationships" is not fair market value, but rather the "costs of ownership" standard as referenced in 2 CFR section 200.465(c).

C. Cash Management

ESEA programs in this Supplement to which this section applies are: CSP (84.282); 21st CCLC (84.287); and Title IV, Part A (84.424A) including the Stronger Connections Grant (84.424F).

This section also applies to Adult Education (84.002); TRIO Cluster (84.042, 84.044, 84.047, 84.066, and 84.217); CTE (84.048); and IDEA, Part C (84.181).

Note: This section applies only to ED programs in which the entity being audited is a grantee (i.e., the entity receives grant funds directly from ED). Auditors should refer to Part 3, Section C, "Cash Management," for any ED program in which the entity is being audited is a subrecipient (i.e., Federal funds are received through a pass-through grant from a grantee).

Grantees draw funds via the G5 System. Grantees request funds by (1) creating a payment request using the G5 System through the Internet; (2) calling the Payee Hotline; or (3) if the grantee is placed on the reimbursement or cash monitoring payment method, submitting a Form 270, *Request for Title IV Reimbursement or Heightened Cash Monitoring 2 (HCM2), (OMB No. 1845-0089)*, to an ED program or regional office.

When creating a payment request in G5, the grantee enters the drawdown amounts, by award, directly into G5. Grantees can redistribute drawn amounts between grant awards by making adjustments in G5 to reflect actual disbursements for each award, as long as the net amount of the adjustments is zero. When requesting funds using the other two methods, grantees provide drawdown information to the hotline operator or on the Form 270, as applicable.

To assist grantees in reconciling their internal accounting records with the G5 System, using their UEI (Unique Entity Identifier) number, grantees can obtain a G5 External Award Activity Report (https://www.G5.gov/) showing cumulative and detail information for each award. The External Award Activity Report can be created with date parameters (Start and End Dates) and viewed on-line. To view each draw per award, the G5 user may click on the award number to view a display of individual draws for that award.

G. Matching, Level of Effort, Earmarking

1. Matching

See individual program supplements for any matching requirements.

2. Level of Effort

2.1 **Level of Effort** – *Maintenance of Effort (SEAs/LEAs)*

ESEA programs in this Supplement to which this section applies are Title I, Part A (84.010); Title III, Part A (84.365); and Title II, Part A (84.367).; as described in the Introduction, "Cross-Cutting Requirements," this requirement is a general cross-cutting requirement that need only be tested once to cover all major programs to which it applies.

An LEA may receive funds under an applicable program only if the SEA finds that the combined fiscal effort per student or the aggregate expenditures of the LEA from State and local funds for free public education for the preceding year was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding year, unless specifically waived by ED.

An LEA's expenditures from State and local funds for free public education include expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities. They do not include the following expenditures: (a) any expenditures for community services, capital outlay, debt service and supplementary expenses as a result of a presidentially declared disaster and (b) any expenditures made from funds provided by the Federal government.

If an LEA fails to maintain fiscal effort, an SEA must reduce an LEA's allocation under a covered program if the LEA also failed to maintain effort in one or more of the five immediately preceding fiscal years in the exact proportion by which the LEA fails to maintain effort by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to the LEA) (Section 8521 of ESEA (20 USC 7901); 34 CFR section 299.5).

In some States, the SEA prepares the calculation from information provided by the LEA. In other States, the LEAs prepare their own calculation. The suggested audit procedures for compliance contained in Part 3G for "Level of Effort – Maintenance of Effort" should be adapted to fit the circumstances. For example, if auditing the LEA and the LEA does the calculations, the auditor should perform steps a., b., and c. If auditing the LEA and the SEA does the calculation, the auditor should perform step c for the amounts reported to the SEA. If auditing the SEA and the SEA performs the calculation, the auditor should perform steps a. and b. and amend step c to trace amounts to the LEA reports. If auditing the SEA and the LEA performs the calculation, the auditor should perform step a. and, if the requirement was not met, determine if the funding was reduced appropriately.

2.2 Level of Effort – *Supplement Not Supplant (grantees and subgrantees)*

MEP (84.011); CTE (84.048); Title III, Part A (84.365); Title II, Part A (84.367); and Title IV, Part A (84.424A) including the Stronger Connections Grant (84.424F).

General – A grantee and subgrantee may use program funds only to supplement and, to the extent practical, increase the level of funds that would, in the absence of the Federal funds, be made available from non-Federal sources for the education of participating students. In no case may an LEA use Federal program funds to supplant funds from non-Federal sources (MEP, Section 1304(c)(2) of ESEA (20 USC 6394(c)(2)); Title III, Part A, Section 3115(g) (20 USC 6825(g)) (see additional information below); Title II, Part A, Section 2301 of ESEA (20 USC 6691)); and Title IV, Part A, Section 4110 (20 USC 7120)).

In the following instances, it is presumed that supplanting has occurred:

a. The SEA or LEA used Federal funds to provide services that the SEA or LEA was required to make available under other Federal, State, or local laws.

b. The SEA or LEA used Federal funds to provide services that the SEA or LEA provided with non-Federal funds (or for Title III, Part A, other Federal funds, as noted below) in the prior year.

c. The SEA or LEA used MEP funds to provide services for participating children that the SEA or LEA provided with non-Federal funds for nonparticipating children.

These presumptions are rebuttable if the SEA or LEA can demonstrate that it would not have provided the services in question with non-Federal funds had the Federal funds not been available.

MEP – An SEA and LEA may exclude from determinations of compliance with the supplement not supplant requirement supplemental State or local funds spent in any school attendance area or school for programs that meet the intent and purposes of the MEP, as identified in Title I of ESEA (sections 1118(d) and 1304(c)(2) of ESEA (20 USC 6321(d) and 6394(c)(2)); 34 CFR section 200.88).

MEP funds may only be used to address the needs of migratory children that are not addressed by services available from other **Federal or non-Federal** programs (Section 1306(b)(2) of ESEA).

Title III, Part A – An SEA or LEA may only use funds under Title III, Part A to supplement the level of Federal, State and local public funds that, in the absence of the Title III funds, would have been provided for programs for English learners and immigrant children and youth (Section 3115(g) of ESEA (20 USC 6825(g))).

3. Earmarking

a. Administration *(SEA)*

Title I, Part A (84.010) and MEP (84.011)

An SEA may reserve for the administration of Title I programs up to one percent from each of the amounts allocated to the State under Title I, parts A, C (MEP), and D (Subpart 1) or $400,000, whichever is greater.

However, if the sum of the amounts appropriated for parts A, C, and D is equal to or greater than $14 billion, as is the case for fiscal year (FY) 2019, the amount an SEA may reserve for administration may not exceed one percent of the amount the State would receive if the Title I allocation were $14,000,000,000 (20 USC 6304(b)). ED has provided a table to the State showing the amount that it could reserve for administration of Title I programs from FY 2021 funds if $14 billion were appropriated for FY 2020. An SEA may reserve less than one percent from each of parts A, C, and D. Moreover, an SEA does not need to reserve the same percentage from each part, although the SEA may not reserve more from parts C and D than it would have reserved if it had reserved proportionate amounts from parts A, C, and D. An SEA reserving $400,000 must reserve proportionate amounts from each of the amounts allocated to the State under Part A but is not required to reserve funds proportionately from each of parts A, C, and D and may, for example, take the reservation entirely out of Part A funds. However, in reserving $400,000, an SEA may not reserve more funds for State administration from Part C or Part D than it would have if it had reserved proportionate funds from parts A, C, and D. (Section 1004 of ESEA (20 USC 6304); see also 34 CFR section 200.100(b)). For more detail, see page 33 of the guidance entitled *State*

Educational Agency Procedures for Adjusting Basic, Concentration, Targeted, and Education Finance Incentive Grant Allocations Determined by the U.S. Department of Education (May 23, 2003) (https://oese.ed.gov/files/2020/07/seaguidanceforadjustingallocations.doc) and page 9 of the ESSA Fiscal Changes & Equitable Services guidance (November 2016) (ESSA Non Regulatory Guidance Fiscal and Equitable Service 11-21-2016 (PDF) (ed.gov)).

As explained in III.A.1, "Activities Allowed or Unallowed – Consolidation of Administrative Funds," the amounts reserved above may be consolidated with State administrative funds available under other applicable programs (Section 8201(a) of ESEA (20 USC 7821(a)).

b. Transferability *(SEA/LEA)*

Title II, Part A (84.367); and Title IV, Part A (84.424A) – not including the Stronger Connections Grant (84.424F).

SEAs may transfer up to 100 percent of the non-administrative funds allocated for State-level activities from one or more of the programs listed above (as well as 21st CCLC) to one or more of those programs, or to Title I, Part A (84.010); MEP (84.011); Title I, Part D, Subpart 1 (84.013); Title III, Part A (84.365A); or Title V, Part B (84.358). LEAs may transfer up to 100 percent of their allotments from one or more of the programs listed above to one or more of those programs, or to Title I, Part A (84.010); MEP (84.011); Title I, Part D, Subpart 2 (84.013); Title III, Part A (84.365A); or Title V, Part B (84.358).

The allocation base for a program for a fiscal year equals that fiscal year's original funding plus funds transferred into the program for that fiscal year. Funds may be transferred during a fiscal year's carryover period.

Funds must be transferred to the receiving program's allocation for the same fiscal year that the funds were allocated to the transferring program (Sections 5103(a) and (b) of ESEA (20 USC 7305b(a) and (b))).

H. Period of Performance (All Grantees and Subgrantees)

ESEA program in the Supplement to which this section applies are MEP (84.011); Title III, Part A (84.365); and Title IV, Part A (84.424).

This section also applies to Adult Education (84.002); IDEA (84.027and 84.173); CTE (84.048); and IDEA, Part C (84.181).

All ESEA and other programs as identified in the program documents except subrecipients under Career Technical Education (CTE) – Funds must be obligated during the 27 months, extending from July 1 of the fiscal year for which the funds were appropriated through September 30 of the second following fiscal year. This maximum

period includes a 15-month period of initial availability plus a 12-month period for carryover. For example, funds from the fiscal year 2019 appropriation initially became available on July 1, 2019; and may be obligated by the grantee and subgrantee through September 30, 2021 (Section 421(b) of GEPA (20 USC 1225(b)); 34 CFR sections 76.703 through 76.710). See note about invited waiver that pertains to this requirement under "Waivers and Expanded Flexibility."

CTE Program – In any academic year that a subrecipient does not obligate all of the amounts it is allocated under the Secondary and Postsecondary CTE programs for that year, it must return the unobligated amounts to the State to be reallocated under the Secondary and Postsecondary CTE programs, as applicable (Section 133(b) of the Carl D. Perkins Career and Technical Education Act of 2006 as amended by the Strengthening Career and Technical Education Act for the 21st Century Act (Perkins V) ((20 USC 2301 et seq., as amended by Pub. L. No. 115-224) (20 USC 2353(b))).

Consolidated Administrative Funds – Under those ESEA programs that allow for the consolidation of administrative funds, such funds must be obligated within the period of availability of the program that the funds came from. Because expenditures in a consolidated administrative fund are not accounted for by specific Federal programs, an SEA or LEA may use a first-in, first-out method for determining when funds were obligated, may attribute costs in proportion to the dollars provided, or may use another reasonable method.

Definition of Obligation – An obligation is not necessarily a liability in accordance with generally accepted accounting principles. When an obligation occurs (is made) depends on the type of property or services that the obligation is for (34 CFR section 76.707):

IF AN OBLIGATION IS FOR –	THE OBLIGATION IS MADE –
(a) Acquisition of real or personal property.	On the date on which the State or subgrantee makes a binding written commitment to acquire the property.
(b) Personal services by an employee of the State or subgrantee	When the services are performed.
(c) Personal services by a contractor who is not an employee of the State or subgrantee.	On the date on which the State or subgrantee makes a binding written commitment to obtain the services.
(d) Performance of work other than personal services.	On the date on which the State or subgrantee makes a binding written commitment to obtain the work.
(e) Public utility services.	When the State or subgrantee receives the services.
(f) Travel.	When the travel is taken.
(g) Rental of real or personal property.	When the State or subgrantee uses the property.
(h) A pre-award cost that was properly approved by the State under the cost principles	On the first day of the subgrant period.

The act of an SEA or other grantee awarding Federal funds to an LEA or other eligible entity within a State does not constitute an obligation for the purposes of this compliance

requirement. An SEA or other grantee may not reallocate grant funds from one subrecipient to another after the period of availability ends.

If a grantee or subgrantee uses a different accounting system or accounting principles from one year to the next, it shall demonstrate that the system or principle was not improperly changed to avoid returning funds that were not timely obligated. A grantee or subgrantee may not make accounting adjustments after the period of availability ends in an attempt to offset audit disallowances. The disallowed costs must be refunded.

I. Procurement and Suspension and Debarment

Applicability of BABAA to ED Programs

A list of ED programs that are subject to BABAA is available at: infrastructure-programs-list.pdf (ed.gov). This list is subject to change resulting from the identification of new programs that will require BABAA compliance or resulting from reauthorizations of existing programs that will require compliance. However, the list becomes outdated each time an update is made so auditors are cautioned to document the date of the list they viewed to determine BABAA applicability.

As of May 3, 2023 (the date of the most current list at the time of this Compliance Supplement's publication), this section applies to Vocational Rehabilitation (84.126); CSP (84.282); IDEA, Part B (84.027); IDEA, Preschool (84.173); and IDEA, Part C (84.181) because Procurement is subject to audit in those program supplement sections.

ED implemented BABAA effective October 1, 2022, in accordance with its approved BABAA adjustment period waiver. The BABAA domestic content procurement preference requirement applies to new, non-competing continuation, and supplemental grants awarded on or after October 1, 2022, under ED's infrastructure programs. At ED, infrastructure is limited to only construction, remodeling, or broadband infrastructure activities. Projects considered under ED's Regulations as "minor remodeling" (34 CFR § 77.1(c)) are not considered infrastructure projects and are not subject to the BABAA Domestic Sourcing Requirements. Only those activities in each grant project related to *infrastructure* are covered. No other projects or costs associated with other grant activities are subject to the BABAA domestic sourcing requirements. The BABAA domestic content procurement preference requirement does not apply retroactively to new, non-competing continuation (NCC), and supplemental grants awarded prior to October 1, 2022. See also related ED BABAA FAQ document referred to in the Availability of Other Program Information section above.

Waivers – BABAA

If a grantee is implementing a proposed construction, remodeling, or broadband infrastructure project and proposes to deviate from the BABAA domestic sourcing requirements and meets relevant requirements for a waiver, a grantee must submit a waiver request, unless the project qualifies under one the department's agency level waivers. The grantee should submit the BABAA Waiver Request Form to ED before,

during, or after it solicits bids for the project that is subject to the BABAA domestic sourcing requirements.

For information regarding the BABAA domestic sourcing waiver requirements and waiver request process, see the U.S. Department of Education Domestic Sourcing Requirements and Grant Waiver Request Procedure guidance document. Additional information, including information about the department's agency level waivers, is available at https://www2.ed.gov/policy/fund/guid/buy-america/index.html.

M. Subrecipient Monitoring

Oversight and Monitoring Responsibilities with Respect to Charter Schools with Relationships with Charter Management Organizations (SEAs/LEAs)

ESEA programs in this Supplement to which this section applies are Title I, Part A (84.010) and Title III, Part A (84.365)

As grantees, SEAs/LEAs are responsible for overseeing and monitoring subrecipients, including charter schools with relationships with Charter Management Organizations (CMOs) (section 4310(3) of the ESEA). Charter schools with relationships with CMOs that receive Federal grant funds must comply with statutes authorizing the applicable grant program, applicable regulations, and the terms and conditions of their grant awards.

As described in the Introduction, "Cross-Cutting Requirements," this requirement is a program-specific cross-cutting requirement that needs to be tested separately for each covered program in the Supplement.

Note: As stated earlier, the Office of Inspector General in ED has investigated a number of significant criminal cases related to the risk of misuse of Federal funds and the lack of accountability of Federal funds in public charter schools. Auditors should be aware that, unless an applicable program statute provides otherwise, public charter schools, including charter school LEAs, are subject to the requirements in this cross-cutting section to the same extent as other public schools and LEAs. Auditors also should note that, depending upon State law, a public charter school may be its own LEA or a school that is part of a traditional LEA.

N. Special Tests and Provisions

1. Participation of Private School Children (*LEAs/SEAs/Governors*)

ESEA programs in this Supplement to which this section applies are Title I, Part A (84.010); MEP (84.011); 21st CCLC (84.287); Title III, Part A (84.365); Title II, Part A (84.367); and Title IV, Part A (84.424A) including the Stronger Connections Grant (84.424F).

This section also applies to ESSER I and GEER I (84.425C and D), as well as ESF-SEA, ESF II-SEA, ESF-Governor, ESF II-Governor, and ARP-OA SEA (84.425A, H, and X, respectively).

Depending on how the SEA/LEA implements requirements for the provision of equitable participation of private school children, this requirement may be tested on a general or program-specific basis (as described in the Introduction, "Cross-Cutting Requirements").

Compliance Requirements For programs funded under Title I, Part A (Assistance Listing 84.010), an LEA, after timely and meaningful consultation with private school officials, must provide equitable services to eligible private school children, their teachers, and their families. Eligible private school children are those who reside in a participating public school attendance area and have educational needs under Section 1115(c) of the ESEA (20 USC 6315(c)). The amount of funds an LEA makes available for equitable services under Title I, Part A must be equal to the proportion of funds generated by private school children from low-income families who reside in participating public school attendance areas. An LEA must determine the proportional share available for services for eligible private school children based on the total amount of Title I funds received prior to any expenditures or transfers of funds within the program, such as reservations for administration, parental involvement, and district-wide activities (20 USC 6320(a)(4)(A)). LEAs determine the proportional share by multiplying the proportion of children from low-income families who attend private schools and live in participating Title I attendance areas by the LEA's total Title I allocation (including any funds transferred into Title I). For more information, see Title I, Part A of the ESEA: Providing Equitable Services to Eligible Private School Children, Teachers, and Families (October 7, 2019) (https://oese.ed.gov/files/2020/07/equitable-services-guidance-100419.pdf).

For programs under Title VIII of the ESEA (Assistance Listing 84.011, 84.365, 84.367, and 84.424), ESF-SEA I (Assistance Listing 84.425A), and ESF-Governor I (Assistance Listing 84.425H), an agency, consortium, or entity receiving financial assistance under an applicable program must provide eligible private school children and their teachers or other educational personnel with equitable services or other benefits under the program. Before an agency, consortium, or entity makes any decision that affects the opportunity of eligible private school children, teachers, and other educational personnel to participate, the agency, consortium, or entity must engage in timely and meaningful consultation with private school officials. Expenditures for services and benefits to eligible private school children and their teachers and other educational personnel must be equal on a per-pupil basis to the expenditures for participating public school children and their teachers and other educational personnel, taking into account the number and educational needs of the children, teachers and other educational personnel to be served (Section 8501 of ESEA (20 USC 7881); 34 CFR sections 299.6 through 299.9).

For programs under ESSER I and GEER I (Assistance Listing 84.425C and D), an LEA that receives funds under one or both of those programs must provide equitable services in the same manner as provided under section 1117 of Title I, Part A of the ESEA (20 USC 6320) (Assistance Listing 84.010) to students and teachers in private schools as determined in consultation with private school officials (section 18005(a) of the CARES Act). To meet this requirement, an LEA must determine the proportional share of ESSER I or GEER I funds available for equitable services in accordance with section 1117(a)(4)(A) of the ESEA (20 USC 6320(a)(4)(A)). Consistent with the guidance

referenced below, under ESSER I and GEER I, the LEA in which a private school is located is responsible for providing equitable services to students and teachers in the school. With respect to the provision of services, in general all students and teachers in a private school are eligible to receive equitable services under ESSER I and GEER I. However, an LEA may limit eligibility to students who are low-achieving and reside in a Title I public school attendance area in the LEA consistent with the Title I, Part A equitable services requirements in section 1117 of the ESEA. In addition, if a Governor (under GEER I) or an SEA (through the SEA reserve fund under ESSER I) targets funds for a specific purpose or population of public school students, an LEA may similarly target services for private school students. For more information, see questions 4 and 7–11 in Providing Equitable Services to Students and Teachers in Non-Public Schools under the CARES Act Programs (Oct. 9, 2020) (https://oese.ed.gov/files/2020/10/Providing-Equitable-Services-under-the-CARES-Act-Programs-Update-10-9-2020.pdf).

An LEA that receives funds under ESSER II, ARP ESSER, or GEER II is not required to provide equitable services to students and teachers in private schools.

For programs under ESF-SEA, ESF II-SEA, ESF-Governor, ESF II-Governor, and ARP-OA SEA, SEAs and governors will ensure that equitable services, as determined through timely and meaningful consultation with non-public school officials, will be provided to students and teachers in non-public elementary and secondary schools in the same manner as provided under section 8501 of the ESEA.

The control of funds used to provide equitable services to eligible private school students, teachers and other educational personnel, and families, and title to materials, equipment, and property purchased with those funds must be in a public agency and the public agency must administer the funds, materials, equipment, and property. The provision of equitable services must be by employees of a public agency or through a contract by the public agency with an individual, association, agency, or organization that is independent of the private school. The contract must be under the control of the public agency (Sections 1117(d), and 8501(d) of ESEA (20 USC 6320(d), and 7881(d); section 18005(b) of the CARES Act; 34 CFR sections 76.661, 200.64(b)(3), 200.67, and 299.9).

These compliance requirements also apply to transfers from *Title II, Part A (84.367) and Title IV, Part A (84.424)* (Section 5103(e)(2) of ESEA (20 USC 7305b(e)(2)), as provided in III.A.3, “Activities Allowed or Unallowed – Transferability”).

Audit Objectives Determine whether (1) an LEA, SEA, or other agency receiving ESEA funds, an LEA receiving ESSER I or GEER I funds (84.425C and D), and an OA SEA or Governor receiving ESF-SEA, ESF II-SEA, ESF-Governor, ESF II-Governor, and ARP-OA SEA (84.425A, H, and X, respectively) has conducted timely consultation with private school officials to determine the kind of educational services to provide to eligible private school children, (2) the planned services were provided, and (3) the required amount was used for private school children.

Suggested Audit Procedures

a. Verify, by reviewing minutes of meetings and other appropriate documents, that the agency, consortium, or entity conducted timely consultation with private school officials in making its determinations and set aside the required amount for private school children.

b. Review program expenditure and other records to verify that educational services that were planned were provided.

c. For Title I, Part A, verify that the amount of funds available for equitable services in an LEA was determined by multiplying the proportion of private school children from low-income families residing in participating public school attendance areas by the LEA's total Title I, Part A allocation.

d. If an agency, consortium, or entity provides services to eligible private school students under an arrangement with a third-party provider, verify that the agency, consortium, or entity retains proper administration and control by having a written contract that:

   (1) Describes the services to be provided; and

   (2) Provides that the agency, consortium, or entity retains ownership of materials, equipment, and property purchased with Federal funds.

e. For programs other than Title I, Part A, ESSER I, and GEER I, verify that expenditures are equal on a per-pupil basis for public and private school students, teachers, and other educational personnel, taking into consideration their numbers and needs as required by 34 CFR section 299.7. Please note that all students and teachers in a non-public school are eligible to receive equitable services under the CARES Act programs, unless a Governor (under the GEER Fund) or an SEA (through the SEA reserve under the ESSER Fund) targets funds for a specific purpose or population of public and non-public school students. If a Governor or SEA does this, then equitable services would also be limited.

2. Access to Federal Funds for New or Significantly Expanded Charter Schools (SEA/LEA, depending on which entity is responsible for funding charter schools)

ESEA programs in this Supplement to which this section applies are Title I, Part A (84.010); Title III, Part A (84.365); Title II, Part A (84.367); and Title IV, Part A (84.424A) not including the Stronger Connections Grant (84.424F).

As described in the Introduction, "Cross-Cutting Requirements," this requirement is a program-specific cross-cutting eligibility requirement that needs to be tested separately for each covered program in the Supplement.

Note: This requirement only applies with respect to funds allocated to new, or significantly expanded, charter schools under a covered program in a State that has charter schools. A *covered program* means an elementary or secondary education program administered by ED under which the secretary allocates funds to States on a formula basis, except that the term does not include a program or portion of a program under which an SEA awards subgrants on a discretionary, noncompetitive basis. *Significant expansion of enrollment* means a substantial increase in the number of students attending a charter school due to a significant event that is unlikely to occur on a regular basis, such as the additional of one or more grades or educational programs in major curriculum areas. The term also includes any other expansion of enrollment that the SEA determines to be significant. 34 CFR section 76.787. *Charter school* has the same meaning as provided in Title IV, Part C, of the ESEA (Section 4310(2) of ESEA (20 USC 7221i(2))). With respect to an existing charter school LEA that has not significantly expanded its enrollment, an SEA must determine the school's eligibility and allocate Federal funds to the school in a manner consistent with applicable Federal statutes and regulations under each covered program.

If a State considers a charter school to be an LEA under a covered program, this requirement applies to the SEA or other State agency responsible for allocating funds under that program—either by formula or through a competition—to LEAs. If a State considers a charter school to be a public school within an LEA under a covered program, this requirement applies to the LEA. The requirements in this Supplement address an SEA's responsibilities with respect to eligible charter school LEAs. An LEA that is responsible for providing funds under a covered program to eligible charter schools must comply with these requirements on the same basis as an SEA.

Compliance Requirements An SEA must ensure that a charter school LEA that opens for the first time or significantly expands its enrollment receives the funds under each covered program for which it is eligible.

Except as noted below, if a charter school LEA opens or expands by November 1, the SEA must allocate to the school the funds for which it is eligible no later than five months after the school first opens or significantly expands its enrollment; if a charter school LEA opens or significantly expands after November 1 but before February 1, an SEA must allocate to the school a pro rata portion of the funds for which the school is eligible on or before the date the SEA makes allocations to other LEAs under that program for the succeeding academic year; if a charter school LEA opens or expands after February 1, the SEA may, but is not required to, allocate to the school a pro rata portion of the funds for which the school is eligible.

An SEA must determine a new or expanding charter school LEA's eligibility based on actual enrollment or other eligibility data available on or after the date the charter school LEA opens or significantly expands. An SEA may not deny funding to a new or expanding charter school LEA due to the lack of prior-year data, even if eligibility and allocation amounts for other LEAs are based on prior-year data. An SEA may allocate funds to, or reserve funds for, an eligible charter school LEA based on reasonable estimates of projected enrollment at the charter school LEA. If an SEA allocates more or

fewer funds to a charter school LEA than the amount for which the charter school LEA is eligible, based on actual enrollment or eligibility data, the SEA must make appropriate adjustments to the amount of funds allocated to the charter school LEA as well as to other LEAs under a covered program on or before the date the SEA allocates funds to LEAs for the succeeding academic year. For purposes of implementing the hold harmless protections in sections 1122(c) and 1125A(f)(3) of Title, Part A of ESEA for a new or expanding charter school LEA, an SEA must calculate a hold-harmless base for the prior year that, as applicable, reflects the new or expanding enrollment of the charter school LEA (Section 4306(c) of ESEA (20 USC 7221e(c))). For more detail, see pages 4–7 of the ESSA Fiscal Changes & Equitable Services guidance (November 2016) (ESSA Non Regulatory Guidance Fiscal and Equitable Service 11-21-2016 (PDF) (ed.gov)).

At least 120 days before the date a charter school LEA is scheduled to open or significantly expand its enrollment, the charter school LEA or its authorized public chartering agency must provide the SEA with written notice of that date. Upon receiving such notice, an SEA must provide the charter school LEA with timely and meaningful information about each covered program in which the charter school LEA may be eligible to participate, including notice of any upcoming competitions under the program. An SEA is not required to make allocations within five months of the date a charter school LEA opens for the first time or significantly expands if the charter school LEA, or its charter authorizer, fails to provide to the SEA proper written notice of the school's opening or expansion.

For a covered program in which an SEA awards subgrants on a competitive basis, the SEA must provide an eligible charter school LEA that is scheduled to open on or before the closing date of any competition a full and fair opportunity to apply to participate in the program. However, the SEA is not required to delay the competitive process in order to allow a charter school LEA that has not yet opened or expanded to compete (Section 4306 of ESEA (20 USC 7221e); 34 CFR sections 76.785 through 76.799).

Audit Objectives (SEA/LEA, depending on which entity is responsible for funding charter schools) Determine whether new or significantly expanding charter schools received the amount of Federal formula funds for which they were eligible in a timely manner.

Suggested Audit Procedures (SEA/LEA, depending on which entity is responsible for funding charter schools)

a. Determine if the entity was responsible for providing Federal formula funds under the applicable covered program to any charter school LEAs/charter schools that opened for the first time or significantly expanded enrollment on or before November 1 of the academic year.

b. Determine if the entity was responsible for providing Federal formula funds under the applicable covered program to any charter school LEAs/charter schools that opened for the first time or significantly expanded enrollment between November 1 and February 1 of the academic year.

c. Review the entity's procedures for allocating Federal formula funds under the applicable covered program to determine whether eligibility to participate in the program was based on enrollment or eligibility data from a prior year. If prior-year data were used for allocations, determine whether the entity properly based the new or expanding charter school LEA's/charter school's eligibility and allocation amount on actual eligibility or enrollment data for the year in which the school opened or expanded.

d. Review documentation to identify the opening or expansion date for each eligible charter school LEA/charter school that opened or significantly expanded its enrollment on or before November 1 of the academic year. Determine whether the charter school LEA/charter school was given access to all of the funds for which it was eligible, in the proper amount, within five months of the opening or expansion date (provided that SEA or LEA notification, data submission, and application requirements were met).

e. Review documentation to identify the opening or expansion date for each eligible charter school LEA/charter school that opened or significantly expanded its enrollment between November 1 and February 1 of the academic year. Determine whether the charter school LEA/charter school was given access to the pro rata portion of the funds for which the school was eligible, in the proper amount, on or before the date the SEA or LEA made allocations to other LEAs/public schools under the program for the succeeding academic year (provided that SEA or LEA notification, data submission, and application requirements were met).

f. Review documentation to determine whether the SEA or LEA made necessary adjustments to account for over- or under-allocations once actual eligibility and enrollment data became available.

g. For Title I, Part A, review documentation to determine whether the SEA applied section 4306(c) of the ESEA to calculate a hold-harmless base for the prior year that reflects the new or significantly expanded enrollment of the charter school LEA.

IV. OTHER INFORMATION

1. Consolidation of Administrative Funds (SEAs and LEAs)

ESEA programs in this Supplement to which this section applies are Title I, Part A (84.010); MEP (84.011); CSP (84.282); 21st CCLC (84.287); Title III, Part A (84.365); Title II, Part A (84.367); and Title IV, Part A (84.424A) including the Stronger Connections Grant (84.424F).

This section also applies to ESSER, GEER, and EANS (84.425C, D, R, U, and V).

State and local administrative funds that are consolidated (as described in III.A.1, "Activities Allowed or Unallowed – Consolidation of Administrative Funds (SEAs and LEAs")) should be included in the audit universe and the total expenditures of the programs from which they

originated for purposes of (1) determining Type A programs and (2) completing the Schedule of Expenditures of Federal Awards (SEFA). A footnote showing, by program, amounts of administrative funds consolidated is encouraged.

2. Schoolwide Programs (LEAs)

ESEA programs in this Supplement to which this section applies are Title I, Part A (84.010); MEP (84.011); Title III, Part A (84.365); Title II, Part A (84.367); and Title IV, Part A (84.424A) not including the Stronger Connections Grant (84.424F).

This section also applies to IDEA (84.027 and 84.173) and CTE (84.048).

Since schoolwide programs are not separate Federal programs, as defined in 2 CFR section 200.42, expenditures of Federal funds consolidated in schoolwide programs should be included in the audit universe and the total expenditures of the programs from which they originated for purposes of (1) determining Type A programs and (2) completing the SEFA. A footnote showing, by program, amounts consolidated in schoolwide programs is encouraged.

3. Transferability (SEAs and LEAs)

ESEA programs in this Supplement to which this section applies are Title II, Part A (84.367) and Title IV, Part A (84.424A) –not including the Stronger Connections Grant (84.424F).

Expenditures of funds transferred from one program to another (as described in III.A.3, "Activities Allowed or Unallowed – Transferability (SEAs and LEAs)") should be included in the audit universe and total expenditures of the receiving program for purposes of (1) determining Type A programs, and (2) completing the SEFA. A footnote showing amounts transferred between programs is encouraged.

DEPARTMENT OF EDUCATION

ASSISTANCE LISTING 84.002 ADULT EDUCATION – BASIC GRANTS TO STATES

I. PROGRAM OBJECTIVES

The Adult Education and Family Literacy State Grant program provides grants to eligible agencies to provide adult education and literacy services. These grants help adults (1) become literate and obtain the knowledge and skills necessary for employment and economic self-sufficiency; (2) obtain the education and skills that are necessary to become full partners in the educational development of their children and lead to sustainable improvements in the economic opportunities for their family; and (3) attain a secondary school diploma and transition to postsecondary education and training, including through career pathways. These grants also assist immigrants and other individuals who are English language learners in improving their reading, writing, speaking, and comprehension skills in English and mathematics and in acquiring an understanding of the American system of government, individual freedom, and the responsibilities of citizenship.

II. PROGRAM PROCEDURES

To receive funds, states must submit to the secretaries of Labor and Education, and have approved, a four-year unified or combined state plan (state plan) that covers the program, as well as certain other core programs required to be included in the plan under the Workforce Innovation and Opportunity Act (WIOA) (Pub. L. No. 113-128). State plans must be modified at the end of the first two-year period and may be revised at other times when substantial changes in conditions occur. Funds are awarded to the state eligible agency each year in accordance with a statutory formula. In turn, the state eligible agency makes awards to eligible providers on a competitive basis, using the same competitive process for all eligible providers, and ensures that all eligible providers have direct and equitable access to apply and compete for funds. Local activities, implemented by eligible providers, include services or instruction in one or more of the following categories: adult education, workplace adult education and literacy activities, family literacy activities, English language acquisition activities, integrated English literacy and civics education, workforce preparation activities, and integrated education and training. Eligible providers are organizations with demonstrated effectiveness in providing adult education and literacy activities and may include a local educational agency; a community-based organization or faith-based organization; a volunteer literacy organization; an institution of higher education; a public or private nonprofit agency; a library; a public housing authority; a nonprofit institution that has the ability to provide adult education and literacy services to eligible individuals; a consortium or coalition of the agencies, organizations, institutions, libraries, or authorities described above; and a partnership between an employer and an entity listed above.

Source of Governing Requirements
The program is authorized by the Adult Education and Family Literacy Act (AEFLA), Title II of WIOA (Pub. L. No. 113-128 (29 USC 3271 et seq.)).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	Y	Y	N	N	N	Y	N

A. Activities Allowed or Unallowed

The state eligible agency shall require that each eligible provider receiving a grant or contract establish or operate one or more programs that provide services or instruction in one or more of the following categories: adult education, workplace adult education and literacy activities, English language acquisition activities, integrated English literacy and civics education, workforce preparation activities, and integrated education and training (29 USC 3272(2) and 3321(b); 34 CFR section 463.30).

1. Activities Allowed

a. *State-Level Activities*- State eligible agencies must use AEFLA funds for the following:

(1) Subgrants to eligible providers (29 USC 3302(a)(1) and 3321(a)).

(2) State administrative costs, including the development, and implementation of the state plan; consultation with other appropriate agencies, groups, and individuals in the development and implementation of AEFLA activities; and coordination and non-duplication with related federal and state programs (29 USC 3301 and 3302(a)(3)).

(3) State leadership activities including the following required activities: (1) alignment of adult education and literacy activities with other WIOA core programs to implement the strategy identified in the state plan; (2) high-quality professional development programs; (3) technical assistance to eligible providers; and (4) monitoring and evaluation of adult education and literacy activities (29 USC 3302(a)(2) and 3303(a)(1)).

b. *Subrecipient Activities*- Subrecipient activities are described in the eligible provider's approved application. Eligible providers may also use funds for administrative costs (see III.G.3.b, "Matching, Level of Effort, Earmarking – Earmarking," for a limitation) (29 USC 3272(2), 3321(b), and 3323(a)(2)); 34 CFR sections 463.25, 463.26, and 463.30).

B. Allowable Costs/Cost Principles

See Part 4, 84.000 ED Cross-Cutting Section.

C. Cash Management

See Part 4, 84.000 ED Cross-Cutting Section.

E. Eligibility

1. Eligibility for Individuals

Eligible individuals are individuals who are at least 16 years of age, who are not enrolled or required to be enrolled in secondary school under state law, and who are basic skills deficient, do not have a secondary school diploma or its recognized equivalent and have not achieved an equivalent level of education, or are English language learners (29 USC 3272(4)).

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

   a. Each state eligible agency providing adult education and literacy services shall provide a nonfederal contribution of at least 25 percent of the total amount of funds expended for adult education and literacy activities in the state (29 USC 3302(b)(1)(B)).

   b. A state eligible agency serving an outlying area shall provide a nonfederal contribution equal to 12 percent of the total amount of funds for adult education and literacy activities in the outlying area, unless ED allows a smaller nonfederal contribution (29 USC 3302(b)(1)(A)).

   c. A state eligible agency's nonfederal contribution may be provided in cash or in-kind, fairly evaluated, and shall include only nonfederal funds that are used for adult education and literacy activities in a manner that is consistent with the purpose of AEFLA (29 USC 3302(b)(2)).

2. Level of Effort

2.1 Level of Effort – *Maintenance of Effort*

A state eligible agency may receive funds for any fiscal year if ED finds that the fiscal effort per student or the aggregate expenditures of such eligible agency for adult education and literacy activities, in the second preceding fiscal year, was not less than 90 percent of the fiscal effort per student or the aggregate expenditures of the state eligible agency for adult education and literacy activities, in the third preceding fiscal year (29 USC 3331(b)).

2.2 Level of Effort – *Supplement Not Supplant*

Not Applicable

3. Earmarking

a. *State Eligible Agency* – The following earmarking requirements are for each yearly grant award and must be met within the period of its availability (generally 27 months) (34 CFR sections 76.703 through 76.710):

(1) Funds used for grants and contracts for eligible providers shall not be less than 82.5 percent of the state eligible agency's grant funds (29 USC 3302(a)(1)).

(2) Funds used for corrections education and education for other institutionalized individuals shall not be more than 20 percent of the 82.5 percent available for grants and contracts for eligible providers (29 USC 3302(a)(1) and 3305); 34 CFR Part 463, Subpart F).

(3) Funds used for state leadership activities shall not exceed 12.5 percent of the state eligible agency's grant funds (29 USC 3302(a)(2) and 3303)).

(4) Funds used for necessary and reasonable administrative expenses of the state eligible agency shall not be more than 5 percent of the grant funds, or $85,000, whichever is greater (29 USC 3302(a)(3)).

c. *Subrecipients* – Eligible providers must use at least 95 percent of the funds received from the state eligible agency to carry out adult education and literacy activities unless a lower limit has been agreed to by the state eligible agency. Eligible providers may use up to 5 percent of their funds for noninstructional costs, including planning, administration, professional development, providing services in alignment with the local workforce development plan required under WIOA, and fulfilling certain one-stop partner responsibilities required by Section 121(b)(1)(A) of WIOA (this may include using funds to pay for infrastructure costs of one-stop centers in accordance with Section 121(b)(1)(A) of WIOA). In cases when the 5 percent limit is too restrictive, the eligible provider must negotiate with the state eligible agency to determine the adequate level of funds for noninstructional purposes (29 USC 3323; 34 CFR sections 463.25 and 463.26).

H. Period of Performance

See Part 4, 84.000 ED Cross-Cutting Section.

M. Subrecipient Monitoring

See 2 CFR 200.331 Requirements for Pass-through Entities.

IV. OTHER INFORMATION

Certain compliance requirements that apply to multiple Department of Education (ED) programs are discussed once in the ED Cross-Cutting Section of this supplement (page 4-84.000-1) rather

than being repeated in each individual program. Where applicable, this section references to the ED Cross-Cutting Section for these requirements.

DEPARTMENT OF EDUCATION

ASSISTANCE LISTING 84.010A TITLE I GRANTS TO LOCAL EDUCATIONAL AGENCIES (TITLE I, PART A OF THE ESEA)

I. PROGRAM OBJECTIVES

The objective of this program is to improve the teaching and learning of children who are at risk of not meeting challenging state academic standards and who reside in areas with high concentrations of children from low-income families.

II. PROGRAM PROCEDURES

The US Department of Education (ED) provides funds under Title I, Part A (hereafter Part A) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA) (Pub. L. No. 114-95), through each state educational agency (SEA) to local educational agencies (LEAs) through a statutory formula based primarily on the number of children ages 5 through 17 from low-income families. This number is augmented by annually collected counts of children ages 5 through 17 in foster homes, locally operated institutions for neglected or delinquent children, and families above poverty that receive assistance under Temporary Assistance for Needy Families (TANF) (Assistance Listing 93.558), adjusted to account for the cost of education in each state. To receive funds, an SEA must submit to ED for approval either (1) an individual state plan as provided in Section 1111 of the ESEA (20 USC 6311), or (2) a consolidated state plan that includes Part A, in accordance with Section 8302 of the ESEA (20 USC 7842). Each SEA included Part A in a consolidated state plan. This plan, after approval by ED, remains in effect for the duration of the state's participation in Part A under the current ESEA authorization. The plan must be updated to reflect substantive changes.

In general, to receive Part A funds, LEAs must have on file with the SEA an approved plan that includes the descriptions required under Section 1112(b) of the ESEA (20 USC 6312(b)). In lieu of an individual program plan, however, an LEA may include Part A as part of a consolidated application submitted to the SEA under Section 8305 of the ESEA (20 USC 7845).

LEAs allocate Part A funds to eligible school attendance areas based on the number of children from low-income families residing within the attendance area. A school at or above 40 percent poverty or a school that receives a waiver from the SEA may use its Part A funds, along with other federal, state, and local funds, to operate a schoolwide program to upgrade the instructional program in the whole school (20 USC 6314(a)). Otherwise, a school operates a targeted assistance program in which the school identifies students who are failing, or most at risk of failing, to meet the state's challenging state academic achievement standards and who have the greatest need for assistance. The school then designs, in consultation with parents, staff, and the LEA, an instructional program to meet the needs of those students (20 USC 6315).

Source of Governing Requirements

This program is authorized by Title I, Part A of the ESEA, as amended by the ESSA (20 USC 6301 through 6339 and 6571 through 6576)). Program regulations are found at 34 CFR Part 200. The regulations in 34 CFR parts 76, 77, and 299 apply to this program.

Availability of Other Program Information

A number of documents posted on ED's website contain information pertinent to the Part A requirements in this Compliance Supplement. They are:

1. Title I, Part A of the ESEA: Providing Equitable Services to Eligible Private School Children, Teachers, and Families (October 7, 2019/updated May 17, 2023) https://www.ed.gov/sites/ed/files/2023/05/Title-I-ES-guidance-revised-5-2023.pdf

2. Supplement not Supplant under Title I, Part A of the ESEA (June 2019) https://www.ed.gov/sites/ed/files/2020/07/snsfinalguidance06192019.pdf

3. ESSA Fiscal Changes & Equitable Services (November 2016) [Section I contains information relevant to III.G.3 Earmarking] https://www.ed.gov/sites/ed/files/2020/07/essaguidance160477.pdf

   Notes: The information on Title I, Part A equitable services in Section V of this document is superseded by the document listed under #1 above https://www.ed.gov/sites/ed/files/2023/05/Title-I-ES-guidance-revised-5-2023.pdf. The information on within-district Title I, Part A allocations in Section II of this document is superseded by the document listed under #6 below.

4. ESSA Schoolwide Guidance (September 2016) https://www.ed.gov/sites/ed/files/2020/07/essaswpguidance9192016.pdf

5. Within-District Allocations Under Title I, Part A of the Elementary and Secondary Education Act of 1965 (Appendix A includes information on the National School Lunch Program's Community Eligibility Provision in the context of within-district Title I, Part A allocations.) https://www.ed.gov/sites/ed/files/2022/02/Within-district-allocations-FINAL.pdf

6. The American Recovery and Reinvestment Act of 2009 (ARRA): Using Title I, Part A ARRA Funds for Grants to Local Educational Agencies to Strengthen Education, Drive Reform, and Improve Results for Students (September 2, 2009) https://www.ed.gov/sites/ed/files/2020/07/titlei-reform.pdf
   Note: Although the period of availability for Title I ARRA funds has expired, the information in this document about the use of Part A funds remains generally applicable.

7. Serving Preschool Children Through Title I, Part A of the Elementary and Secondary Education Act of 1965, as Amended (February 2024)

https://www.ed.gov/sites/ed/files/2024/02/Title-I-Preschool-Early-Learning-Guidance-Revised-2023-FINAL.pdf (This is a new document that is specific to Title I Preschool and is an update to previous guidance that was issued in 2012.)

8. Early Learning in the Every Student Succeeds Act (October 2016) [References to Title I contain information relevant to III.E.2.c Eligibility.] https://www.ed.gov/sites/ed/files/2020/07/essaelguidance10202016.pdf

9. The Community Eligibility Provision and Selected Requirements Under Title I, Part A of the Elementary and Secondary Education Act of 1965, as Amended (Revised March 2015) https://www.ed.gov/sites/ed/files/2023/10/CEP-and-Selected-Requirements-Title-IA-2015.pdf

10. Homeless Student Guidance (Updated August 2018) [Section V/M contains information relevant to III.E.2.c Eligibility.] https://www.ed.gov/sites/ed/files/2020/07/160240ehcyguidanceupdated082718.pdf

11. Opportunities and Responsibilities for State and Local Report Cards Under the Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act (September 2019) https://www.ed.gov/sites/ed/files/2020/07/report-card-guidance-final.pdf

Additional information is provided in the "Availability of Other Program Information" part of Part 4, 84.000 ED Cross-Cutting Section.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	Y	N	N	N	N	Y	Y

A. Activities Allowed or Unallowed

1. *Activities Allowed*

See also Part 4, 84.000 ED Cross-Cutting Section.

a. *SEAs*- SEAs must use regular federal fiscal year (FY) 2024 funds to provide subgrants to LEAs through their FY 2024 LEA allocation process. SEAs may reserve funds for state administration and Direct Student Services and must reserve funds for school improvement activities in accordance with the statutory requirements (Title I, Sections 1003, 1003A, and 1004 of ESEA (20 USC 6303, 6303b (if applicable), and 6304). (See also III.G.3.a, "Matching, Level of Effort, Earmarking – Earmarking," below, and ED Cross-Cutting Section, 84.000, III.G.3.a.)

B. Allowable Costs/Cost Principles

See Part 4, 84.000 ED Cross-Cutting Section.

E. Eligibility

1. Eligibility for Individuals

Not Applicable

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

a. *School Attendance Areas or Schools (LEAs with either schoolwide programs or targeted assistance programs)*

An LEA must determine which school attendance areas are eligible to participate in Part A. A school attendance area is generally eligible to participate if the percentage of children from low-income families is at

least as high as the percentage of children from low-income families in the LEA as a whole or at least 35 percent. An LEA may also designate and serve a school in an ineligible attendance area if the percentage of children from low-income families enrolled in that school is equal to or greater than the percentage of such children in a participating school attendance area. When determining eligibility, an LEA must select a poverty measure from among the following data sources: (1) the number of children ages 5–17 in poverty counted in the most recent census; (2) the number of children eligible for free and reduced price lunches; (3) the number of children in families receiving TANF; (4) the number of children eligible to receive Medicaid assistance; or (5) a composite of these data sources. Except as follows, the LEA must use that measure consistently across the district to rank all its school attendance areas according to their percentage of poverty. For measuring the number of children from low-income families in a secondary school, an LEA may use the same measure it uses for elementary schools or apply the average percentage of children from low-income families in the elementary schools that feed into the secondary school.

An LEA must serve eligible schools or attendance areas in rank order according to their percentage of poverty. An LEA must serve those areas or schools above 75 percent poverty, including any middle or high schools, before it serves any with a poverty-percentage at or below 75 percent. After an LEA has served all areas and schools with a poverty rate above 75 percent or, at its discretion, high schools at or above 50 percent, the LEA may serve lower-poverty areas and schools either by continuing with the district-wide ranking or by ranking its schools at or below 75 percent poverty according to grade-span grouping (e.g., K–6, 7–9, 10–12). If an LEA ranks by grade span, the LEA may use the district-wide poverty average or the poverty average for the respective grade-span grouping. An LEA may serve, for one additional year, an attendance area that is not currently eligible but that was eligible and served in the preceding year.

An LEA may elect not to serve an eligible area or school that has a higher percentage of children from low-income families only if (1) the school meets the Part A comparability requirements; (2) the school is receiving supplemental state or local funds that are spent according to the requirements in sections 1114 or 1115 of the ESEA; and (3) the supplemental state and local funds expended in the area or school equal or exceed the amount that would be provided under Part A. An LEA with an enrollment of fewer than 1,000 students or with only one school per grade span is not required to rank its school attendance areas (Title I, Section 1113(a)-(b) of ESEA (20 USC 6313(a)-(b)); 34 CFR section 200.78(a)).

b. *Allocating Funds to Eligible School Attendance Areas and Schools (LEAs with either schoolwide programs or targeted assistance programs)*
From its total Part A allocation and before reserving any funds for allowable activities or allocating Part A funds to participating public school attendance areas or schools, an LEA must reserve, to provide equitable services to eligible private school children, the proportional share generated by children from low-income families who reside in participating public school attendance areas and who attend private schools. For the purpose of determining the proportional share (equitable services section of III.N., "Special Tests and Provisions"), the LEA may use the same poverty data, if available, as the LEA uses to count public school children. If the same data are not available, the LEA may use comparable data from a survey of families of private school children, allowing such survey results to be extrapolated from a representative sample if complete actual data are unavailable. An LEA may also correlate sources of data or apply the low-income percentage of each participating public school attendance area to the number of private school children who reside in that school attendance area. If an LEA selects a public school to participate on the basis of enrollment, rather than because it serves an eligible school attendance area, the LEA must, in consultation with private school officials, determine an equitable way to count private school children from low-income families in order to calculate the proportional share of Part A funds available to serve private school children. An LEA may count private school children from low-income families every year or every two years.

After reserving Part A funds to provide equitable services to eligible private school students, homeless children, children in local institutions for neglected children, and any other allowable reservations, an LEA must allocate Part A funds to each participating school attendance area or school, in rank order, on the basis of the number of public school children from low-income families residing in the area or attending the school.

If an LEA serves any attendance area with less than a 35 percent poverty rate, the LEA must allocate to all its participating areas an amount per child from a low-income family that equals at least 125 percent of the LEA's Part A allocation per child from a low-income family. (An LEA's allocation per child from a low-income family is the total LEA allocation under subpart 2 of Part A divided by the number of children from low-income families in the LEA according to the poverty measure selected by the LEA to identify eligible school attendance areas. The LEA then multiplies this per-child amount by 125 percent.) If an LEA serves only areas with a poverty rate greater than 35 percent, the LEA must allocate funds, in rank order, on the basis of the total number of public-school children from low-income families in each area or school but is not required to allocate a per-pupil amount of at least 125 percent. If an LEA

serves areas or schools below 75 percent poverty by grade-span groupings, the LEA may allocate different amounts per child from a low-income family for different grade-span groupings as long as those amounts do not exceed the amount per child from a low-income family allocated to any area or school above 75 percent poverty. Amounts per child from a low-income family within grade spans may also vary as long as the LEA allocates higher amounts per child from a low-income family to higher-poverty areas or schools within the grade span than it allocates to lower-poverty areas or schools.

(Title I, Section 1113(c) of the ESEA (20 USC 6313(c)) and Title I, Section 1117(a)(4) of ESEA (20 USC 6320(a)(4)); 34 CFR sections 200.64(a)(2)-(3), 200.77 and 200.78)

c. *Serving Homeless Children in Participating and Nonparticipating Schools and Children in Local Institutions for Neglected or Delinquent Children (LEAs)*

(1) Before allocating Part A funds to school attendance areas and schools and based on its total allocation, an LEA must reserve funds to provide services comparable to those provided to children in participating school attendance areas and schools to serve:

(a) Children in local institutions for neglected children; and

(b) Homeless children and youths, including providing educationally related support services to children in shelters and other locations where homeless children may live and services not ordinarily provided to other children served by Part A.

(2) An LEA may reserve funds to provide services comparable to those provided to children in participating school attendance areas and schools to serve:

(a) Children in local institutions for delinquent children; and

(b) Neglected and delinquent children in community day school programs.

(Title I, Section 1113(c) of ESEA (20 USC 6313(c)); 34 CFR section 200.77)

3. Eligibility for Subrecipients

ED allocates funds by formula for basic grants, concentration grants, targeted grants, and education finance incentive grants, through SEAs, to each eligible LEA for which the Bureau of the Census has provided data on the number of children from low-income families residing in the school attendance areas of the LEA (the "Census list"). If there is an LEA in a state that is not on the Census list (see III.G.3.a, "Matching, Level of Effort, Earmarking - Earmarking," below), the SEA must determine that the LEA is eligible under each formula as follows:

a. Basic grants – an eligible LEA must have at least 10 formula children (i.e., the Census estimate of low-income children, children in neglected facilities and in publicly supported foster homes, and children from families that receive an annual payment from the TANF program (Assistance Listing 93.558) that exceeds the federal poverty level) and the number of formula children must exceed 2 percent of the LEA's total population of children ages 5 through 17.

b. Concentration grants – an eligible LEA must be eligible for basic grants and the number of formula children must exceed 6,500 children or 15 percent of the LEA's total population of children ages 5 through 17 population.

c. Targeted grants – an eligible LEA must have at least 10 formula children and the number of those children must equal or exceed 5 percent of the LEA's total population of children ages 5 through 17.

d. Education finance incentive grants – an eligible LEA must have at least 10 formula children and the number of those children must equal or exceed 5 percent of the LEA's total population of children ages 5 through 17.

(Title I, Sections 1124-1125A of ESEA (20 USC 6333-6337; 34 CFR section 200.71)

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort

2.1 Level of Effort – *Maintenance of Effort*

See Part 4, 84.000 ED Cross-Cutting Section.

2.2 Level of Effort – *Supplement Not Supplant*

See III.N.6, "Special Tests and Provisions - Title I, Part A specific: Supplement Not Supplant."

3. Earmarking

See also Part 4, 84.000 ED Cross-Cutting Section and the following:

a. Allocation of funds to LEAs (SEAs)

ED provides LEA allocation tables to SEAs for basic grants, concentration grants, targeted grants, and education finance incentive grants based on LEA-level data from the Bureau of the Census (Census list).

(1) If there is an LEA in a state that is not on the Census list (e.g., charter school LEAs), the SEA must adjust the initial allocations provided by ED for any eligible LEA that is not on the Census list (see III.E.3, “Eligibility - Eligibility for Subrecipients,” above) (34 CFR section 200.72).

(2) In making the adjustments, the SEA must ensure that no eligible LEA is reduced below its hold harmless level. An LEA’s hold harmless level is 85, 90, or 95 percent of the amount it was allocated in the preceding year depending on its percentage of formula children (34 CFR section 200.73).

(3) In making the adjustments, the SEA must apply section 4306(c) of the ESEA, as amended by the ESSA, which requires the SEA, for purposes of implementing the hold-harmless protections in sections 1122(c) and 1125A(f)(3) of the ESEA for a newly opened or significantly expanded charter school LEA, to calculate a hold-harmless base for the prior year that reflects the new or significantly expanded enrollment of the charter school LEA (20 USC 7221e(c)). For more information see pages 4–7 in the ESSA Fiscal Changes & Equitable Services guidance (November 2016) (https://www.ed.gov/sites/ed/files/2020/07/essaguidance160477.pdf).

b. Targeting school improvement funds (SEAs)

Each SEA must ratably reduce the allocations of LEAs and also follow the special rule described below to reserve for school improvement activities the greater of:

- Seven percent of the SEA’s FY 2024 Part A award; or

- The sum of the total amount that the SEA reserved for school improvement under section 1003(a) from its FY 2016 Part A award (generally, 4 percent of that award) and the amount of the SEA's FY 2016 School Improvement Grants (SIG) allocation under section 1003(g).

Special rule: In reserving funds for school improvement, an SEA may not reduce an LEA's Part A allocation below the prior year's amount. If funds are insufficient to reserve the amount described in the two bullets above, the SEA is not required to reserve this amount. The special rule in section 1003(h) of the ESEA took effect beginning with FY 2018 Part A funds that ED awarded states on July 1, 2018 (https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title20-section6303&num=0&edition=prelim).

Of the amount reserved, the SEA must allocate not less than 95 percent directly to LEAs on a formula or competitive basis to support school improvement activities in schools identified for comprehensive support and improvement under ESEA Section 1111(c)(4)(D)(i) of the ESEA or implementing targeted support and improvement plans under ESEA Section 1111(d)(2) of the ESEA. However, the SEA may, with the approval of its LEAs, provide directly for these activities or arrange for them to be provided by other entities such as school support teams or educational service agencies.

If, after consulting with LEAs, the SEA determines that the amount of funds reserved is greater than needed, the SEA must allocate the excess amount to LEAs (1) in proportion to their allocations under subpart 2 of Part A or (2) in accordance with the SEA's reallocation procedures under Section 1126(c) of the ESEA (Title I, Section 1003(a)-(h) of ESEA (20 USC 6303(a)-(h)); 34 CFR section 200.100(a)).

c. Funds reserved for state administration (SEAs)
From the amount received by the SEA for Part A, to administer Part A, an SEA may reserve no more than the greater of 1 percent of what the SEA would have received for Part A, if the appropriation for parts A, C, and D of Title I were $14 billion (as indicated on a state administrative allocation table that ED provides to SEAs) or $400,000 ($50,000 for outlying areas) (Title I, Section 1004 (20 USC 6304); 34 CFR section 200.100(b)).

d. Funds reserved for Direct Student Services (SEAs: optional)
After meaningful consultation with geographically diverse LEAs, an SEA may, but is not required to, reserve a maximum of 3 percent of its Part A allocation for direct student services (Title I, Section 1003A (20 USC 6303b).

M. Subrecipient Monitoring

See Part 4, 84.000 ED Cross-Cutting Section.

N. Special Tests and Provisions

1. Participation of Private School Children

See Part 4, 84.000 ED Cross-Cutting Section.

2. Access to Federal Funds for New or Significantly Expanded Charter Schools

See Part 4, 84.000 ED Cross-Cutting Section.

3. Annual Report Card, High School Graduation Rate

Compliance Requirements An SEA and its LEAs must report graduation rate data for all public high schools at the school, LEA, and state levels using the four-year adjusted cohort rate and, at an SEA's or LEA's discretion, one or more extended-year adjusted cohort rates. Graduation rate data must be reported both in the aggregate and disaggregated by the subgroups in Section 1111(c)(2) of the ESEA, homeless status, status as a child in foster care using a four-year adjusted cohort graduation rate (and any extended-year adjusted cohort rates) (ESEA sections 1111(h)(1)(C)(iii)(II) and 8101(23), (25) (20 USC 6311(h)(1)(C)(iii)(II) and 7801(23), (25))). Except as noted below, only students who earn a regular high school diploma may be counted as a graduate for purposes of calculating graduation rates. The term "regular high school diploma" means the standard high school diploma that is awarded to the preponderance of students in the state and that is fully aligned with the state standards (but not to alternate academic achievement standards for students with the most significant cognitive disabilities) or a higher diploma. A regular high school diploma does not include a recognized equivalent of a diploma, such as a general equivalency diploma (GED), certificate of completion, certificate of attendance, or similar lesser credential (ESEA, Section 8101(43) (20 USC 7801(43))). An SEA may, but is not required to, award a state-defined alternate diploma for students with the most significant cognitive disabilities who take an alternate assessment aligned with alternate academic achievement standards. That diploma must be standards based, aligned with the state's requirements for a regular high school diploma, and obtained within the time period for which the state ensures the availability of a free appropriate public education. If an SEA awards an alternate diploma, the SEA may count those students in its four-year and any extended-year adjusted cohort graduation rate, even if the student takes more than four years to receive the alternate diploma (ESEA, Section 8101(23)(A)(ii)(I)(bb), (25)(A)(ii)(I)(bb) (20 USC 7801(23)(A)(ii)(I)(bb), (25)(A)(ii)(I)(bb))).

To remove a student from the cohort, a school or LEA must confirm, in writing, that the student transferred out, emigrated to another country, transferred to a prison or juvenile facility, or is deceased. To confirm that a student transferred out, the school or LEA must

have official written documentation that the student enrolled in another school or in an educational program that culminates in the award of a regular high school diploma. A student who is retained in grade, enrolls in a GED program, or leaves school for any other reason may not be counted as having transferred out for the purpose of calculating graduation rate and must remain in the adjusted cohort (ESEA sections 1111(h)(1)(C)(iii)(II) and 8101(23), (25) (20 USC 6311(h)(1)(C)(iii)(II) and 7801(23), (25))).

Audit Objectives Determine whether SEAs and LEAs have implemented appropriate policies and procedures for documenting the removal of a student from the adjusted cohort.

Suggested Audit Procedures

SEAs

Review SEA policies and procedures that ensure that LEAs are maintaining appropriate documentation to confirm when students have been removed from the adjusted cohort.

LEAs

Verify that the LEA maintains appropriate written documentation to support the removal of a student from the adjusted cohort. Select a sample of students that have been removed from the adjusted cohort. Verify the LEA has maintained appropriate written documentation to support the removal of these students from the adjusted cohort (see the last paragraph under "3" above).

4. Assessment System Security – (SEAs/LEAs)

Compliance Requirements SEAs, in consultation with LEAs, are required to establish and maintain an assessment system that is valid, reliable, and consistent with relevant professional and technical standards. Within their assessment system, SEAs must have policies and procedures to maintain test security and ensure that LEAs implement those policies and procedures (Title I, Section 1111(b)(2)(B)(iii) of the ESEA (20 USC 6311(b)(2)(B)(iii))).

Audit Objectives Determine whether SEAs and LEAs have developed and operationalized policies and procedures regarding test security for the assessments.

Suggested Audit Procedures

SEAs

a. Review SEA policies and procedures for ensuring that the SEA and LEAs have developed and operationalized test security measures.

b. Verify that the SEA has developed and operationalized the relevant policies and procedures.

LEAs

a. Ascertain that the LEA has policies and procedures for ensuring that the LEA and its schools implement test security measures.

b. Verify that the LEA and its schools implemented test security measures, for example, by reviewing documentation and interviewing LEA officials and school administrators and teachers.

Note: An auditor need not consider the sufficiency of an SEA's or LEA's test security procedures. ED ensures that the sufficiency of test security procedures is reviewed as a part of its peer review process of State assessment systems. For more information see pages 43-45 of the State's Guide to the U.S. Department of Education's Assessment Peer Review Process (September 2018) (https://www.ed.gov/sites/ed/files/2023/11/assessmentpeerreview.pdf).

5. Title I, Part A specific: Supplement Not Supplant

Compliance Requirements An LEA may use Part A funds only to supplement the funds that would, in the absence of the Part A funds, be made available from state and local sources for the education of students participating in a Part A program. In no case may an LEA use Part A funds to supplant funds from state and local sources (Section 1118(b)(1) of ESEA (20 USC 6321(b)(1))). An LEA may not be required to (1) identify that an individual cost or service supported with Part A funds is supplemental; or (2) provide services through a particular instructional method or in a particular instructional setting (Section 1118(b)(3) of ESEA (20 USC 6321(b)(3))).

To demonstrate compliance, an LEA must demonstrate that it has a methodology (e.g., through written procedures) and uses it to allocate state and local funds to each Title I school and ensures that the school receives all of the state and local funds it would otherwise receive if it were not receiving Part A funds (i.e., the LEA's methodology may not take into account a school's Title I status) (Section 1118(b)(2) (20 USC 6321(b)(2))). An LEA may use a combination of methodologies to allocate state and local funds to schools (e.g., use a different methodology for high schools than it uses for elementary schools). An LEA also may design its methodology to take into consideration grade span or school type, student enrollment size, or schools in need of additional funds to serve high concentrations of children with disabilities, English learners, or other such groups of students the LEA determines require additional support.

An LEA need not have a methodology if it has (1) only one school; (2) only Title I schools; or (3) a grade span that contains only one school, only non-Title I schools, or only Title I schools (i.e., no methodology is required for this grade span).

This requirement applies to both schoolwide program schools and targeted assistance schools. Thus, a Title I targeted assistance school is not required to use Part A funds to provide supplemental services to identified children or to identify that an individual cost or service supported with Part A funds is supplemental. Part A funds still must be used only for allowable activities (i.e., in a Title I targeted assistance school, Part A funds may be used only to serve students who are failing, or most at risk of failing, to meet challenging state academic standards) (see sections 1114 and 1115 of ESEA (20 USC 6314 and 6315)).

If an LEA reserves state and local funds for district-level activities (i.e., funds that it does not allocate through its methodology to schools), the LEA must conduct activities with those funds in a manner that does not take into account a school's Title I status. In addition, to the extent an LEA retains state and local funds to implement activities that are required by federal, state, or local law, the LEA must use those funds in a manner that does not take into account a school's Title I status.

An LEA may exclude from determinations of compliance with the supplement not supplant requirement supplemental state or local funds spent in any school attendance area or school for programs that meet the intent and purposes of Part A (Section 1118(d) of ESEA (20 USC 6321(d)); 34 CFR section 200.79).

Audit Objectives Determine whether an LEA complied with the requirement and whether an SEA reviewed whether LEAs complied with the requirement.

Suggested Audit Procedures

LEAs

Determine whether an LEA has a methodology for allocating state and local funds to each Title I school that ensures the school receives all of the state and local funds it would otherwise receive if it were not receiving Part A funds; (2) determine whether the LEA implemented its methodology; (3) if the LEA reserves state and local funds for district-level activities, determine whether the LEA conducts activities with those funds in a manner that does not take into account a school's Title I status.

SEAs

Verify that the SEA reviews LEA compliance with the Part A supplement not supplant provision (e.g., through sub-recipient monitoring).

IV. OTHER INFORMATION

Certain compliance requirements that apply to multiple programs are discussed once in the ED Cross-Cutting Section of this Supplement (84.000) rather than being repeated in each individual program. When applicable, Section III references 84.000 for these requirements. Further, Section

IV (Other Information) of the Cross-Cutting Section also provides information that is relevant to this program. (See Other Information, 1. Consolidation of Administrative Funds and 2. Schoolwide Programs).” Finally, as discussed in the Cross-Cutting Section’s Introduction, SEAs and LEAs may have been granted waivers from certain compliance requirements. Auditors should ascertain from the audited SEAs and LEAs whether the SEA or the LEA or its schools are operating under any approved waivers.

DEPARTMENT OF EDUCATION

ASSISTANCE LISTING 84.011 MIGRANT EDUCATION-STATE GRANT PROGRAM (Title I, Part C of ESEA)

I. PROGRAM OBJECTIVES

The objectives of the Migrant Education-State Grant program (Migrant Education program or MEP) are to (1) assist states in supporting high-quality and comprehensive educational programs and services during the school year and, as applicable, during summer or intersession periods, that address the unique educational needs of migratory children; (2) ensure that migratory children who move among the states are not penalized in any manner by disparities among the states in curriculum, graduation requirements, and challenging state academic standards; (3) ensure that migratory children receive full and appropriate opportunities to meet the same challenging state academic standards that all children are expected to meet; (4) help migratory children overcome educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors that inhibit the ability of such children to succeed in school; and (5) help migratory children benefit from state and local systemic reforms.

II. PROGRAM PROCEDURES

MEP funds are allocated to a state educational agency (SEA), under either an approved consolidated application or an approved individual program application, in order for the SEA to provide MEP services and activities either directly, or through local operating agencies (LOAs). LOAs may be (1) a local educational agency (LEA) to which an SEA makes a subgrant, (2) a public or private agency with which an SEA or the secretary makes an arrangement, or (3) an SEA if the SEA operates the state's migrant education program or projects directly.
The amount of funding an SEA receives annually depends, in part, on the number of eligible migratory children that the SEA determined reside within the state and the number of eligible migratory children who received MEP-funded services provided by the state during summer or intersession programs. Because an SEA may choose to provide MEP services directly or through a local operating agency, some of the suggested audit procedures will apply for an SEA or LOA, depending on which agency provides the services and where the records are maintained.

In general, only eligible migratory children may receive MEP services. A "migratory child" means a child or youth who made a qualifying move in the preceding 36 months as a migratory agricultural worker or migratory fisher; or with, or to join, a parent or spouse who is a migratory agricultural worker or a migratory fisher. A qualifying move is a move due to economic necessity (a) from one residence to another residence; and (b) from one school district to another, except in the case of a state that comprises a single school district, wherein a qualifying move is from one administrative area to another within such district, or in the case of a school district of more than 15,000 square miles, wherein a qualifying move is a distance of 20 miles or more to a temporary residence (Title I, Part C, Section 1309(3), (5)(20 USC 6399(3), (5)). The 34 CFR section 200.81 further defines the following key terms: "agricultural work or employment,"

"fishing work or employment," "temporary employment," "seasonal employment," "personal subsistence," and "qualifying work."

Source of Governing Requirements

This program is authorized by Title I, Part C of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 USC 6391 through 6399). Requirements in 34 CFR Part 200, subparts C (34 CFR sections 200.81 through 200.89) and E (34 CFR sections 200.100 through 200.103), 34 CFR Part 76, and 34 CFR Part 299 also apply.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	Y	N	N	N	Y	Y

A. Activities Allowed or Unallowed

1. *Activities Allowed*

See also Part 4, 84.000 ED Cross-Cutting Section.

a. *SEAs*- SEAs may use funds to operate the program directly or through contracts or subgrants to LEAs or other LOAs and pay for state administration. In general, funds available under the MEP may be used only to (a) identify eligible migratory children and their needs; (b) provide instructional and support services that address the identified needs of the eligible children (including, but not limited to, preschool services, academic and career counseling, and advocacy and outreach); and (c) to support such objectives through related activities such as, but not limited to, professional development, parental involvement, and transfer of student records.

An SEA may also use MEP funds to carry out administrative activities that are unique to the program. These activities include, but are not limited to, statewide identification and recruitment of migratory children, interstate and intrastate program coordination, transfer of student records, collecting and using information to make subgrants, and direct supervision of instructional or support staff (Title I, Part C, sections 1301, 1304(c), and 1306(b) of ESEA (20 USC 6392, 6391(c), and 6396(b)); 34 CFR section 200.82).

b. *LEAs or Other LOAs*- LEAs or other LOAs use funds in accordance with the agreement with the SEA to (a) identify eligible migratory children and their needs; (b) provide instructional and support services that address the identified needs of the eligible children; and (c) to support such objectives through related activities such as, but not limited to, professional development, parental involvement, and transfer of student records.

c. *Schoolwide Programs (LEAs)* – Before a school chooses to consolidate MEP funds in its schoolwide program, the school must (1) use these funds, in consultation with parents of migratory children or organizations representing those parents, or both, first to meet the unique educational needs of migratory students that result from the effects of their migratory lifestyle, and those other needs that are necessary to permit these students to participate effectively in school; and (2) document that these needs have been met (Title I, Part C, Section 1306(b)(4) of ESEA (20 USC 6396); 34 CFR sections 200.86 and 200.29(c)(1)).

B. Allowable Costs/Cost Principles

See Part 4, 84.000 ED Cross-Cutting Section.

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort

2.1 Level of Effort – Maintenance of Effort (SEAs/LEAs)

Not Applicable

2.2 Level of Effort – Supplement Not Supplant

See Part 4, 84.000 ED Cross-Cutting Section.

3. Earmarking

a. Administration

See Part 4, 84.000 ED Cross-Cutting Section.

b. Transferability

Not Applicable

H. Period of Performance (All grantees)

See Part 4, 84.000 ED Cross-Cutting Section.

N. Special Tests and Provisions

1. Participation of Private School Children (SEAs/LEAs)

See Part 4, 84.000 ED Cross-Cutting Section.

2. Priority for Services

Compliance Requirements SEAs and LEAs or other LOAs must give priority for MEP services to migratory children who made a qualifying move within the previous one-year period; and are failing, or most at risk of failing, to meet the challenging state's academic standards, or have dropped out of school (Title I, Part C, Section 1304(d) of ESEA (20 USC 6394(d)).

Audit Objectives (*SEAs providing services directly and LEAs or other LOAs)* Determine whether the SEA or LEA or other LOA is defining, and properly identifying and counting, "priority for services" migratory children so that priority in the provision of MEP services is given to those migratory children who made a qualifying move within the previous one-year period; and are failing, or most at risk of failing, to meet the challenging state's academic standards, or have dropped out of school (priority children).

Suggested Audit Procedures *(SEAs providing services directly and LEAs or LOAs)*

a. Review the SEA's or LEA's or other LOA's procedures to identify those individual migratory children who made a qualifying move within the

previous one-year period; and are failing, or are most at risk of failing, to meet the challenging state academic standards, or have dropped out of school. Such procedures must include an accurate definition of priority for services.

b. Review the SEA or LEA's or other LOA's process for selecting children to receive MEP services.

c. Select a sample of migratory children who were identified as "priority for services" children. Review program records to determine if these children were provided MEP services. (In rare instances, a local project may not have any "priority for services" children in its service area, in which case the suggested audit procedures would not apply.)

d. Review the SEA's or LEA's or other LOA's procedures to accurately document the eligible migratory children who were identified as being "priority for services," and the services provided to those children.

3. Subgrant Process (SEAs)

Compliance Requirements SEAs may provide MEP services either directly, or through LEAs or other LOAs. When the SEA awards subgrants, in order to target program funds appropriately, the SEA is required determine the amount of the subgrants by taking into account (1) the numbers of migratory children, (2) the needs of migratory children, (3) the "priority for services" requirement in section 1304(d) of ESEA (20 USC 6394(d)), and (4) the availability of funds from other federal, state, and local programs. How the SEA takes into consideration each of the required factors is left to the SEA's discretion (Title I, Part C, sections 1301 and 1304(b)(5) of the ESEA (20 USC 6391 and 6394(b)(5))).

Audit Objectives Determine whether the SEA's process to determine the amount of MEP subgrants takes into account current information on numbers of migratory children, needs of migratory children, need to serve priority children, and the availability of funds from other federal, state, and local programs.

Suggested Audit Procedures

Review the SEA's process for awarding MEP funds to subgrantees to ascertain if the process:

a. Uses current or recent (e.g., previous year, average of most recent two or three years) information.

b. Takes into account the following: (1) numbers of migratory children; (2) needs of migratory children; (3) "priority for services" requirement in Section 1304(d) of ESEA; and (4) availability of funds from other federal, state, and local programs.

4. Child Counts – Quality Control Process

Compliance Requirements SEAs must establish and implement a system of quality controls for the proper identification and recruitment of eligible migratory children on a statewide basis that includes at a minimum, the components specified in ED regulations. These components include training recruiters on eligibility requirements; supervision and annual review and evaluation of identification and recruitment practices; resolving eligibility questions raised by recruiters and communicating this information to all LOAs; examining each COE by qualified personnel to verify eligibility; validating that eligibility determinations were made properly, including prospective re-interviewing of a randomly selected sample of children determined to be migratory during the performance reporting period (34 CFR section 200.89(b)(2)); and implementing corrective action if the SEA identifies COEs that do not sufficiently document a child's eligibility, or in response to internal State audit findings and recommendations, or monitoring or audit findings of the Secretary. SEAs are required to describe specific aspects of their quality control process in Section 2.4.3 of the Consolidated State Performance Report, Part II (See III.L.3.b., "Reporting – Special Reporting - Consolidated State Performance Report, Part II, Migrant Child Counts"). SEAs may require LEAs and other LOAs to submit information to the SEA and comply with specified quality control procedures (20 USC 6394(c)(7); 34 CFR sections 200.89(c) and (d); ED has identified Required Data Elements and Required Data Sections and provided Instructions and Questions & Answers for the National COE at https://www2.ed.gov/programs/mep/coe2017.docx).

Audit Objectives Determine whether the SEA and LEAs and other LOAs (1) established and implemented a quality control process that meets the requirements of ED regulations, and (2) whether the process is accurately reported in the Consolidated State Performance Report, Part II.

Suggested Audit Procedures

SEAs

a. Verify that the SEA has a documented a quality control process that meets the requirements of ED regulations, including processes for annual prospective re-interviewing of a sample of children determined to be eligible for the MEP during the performance reporting period (September 1 to August 31).

b. Ascertain whether the quality control process was actually conducted in the manner described.

c. Verify that the SEA accurately reported the quality control process in Section 2.4.3 of the Consolidated State Performance Report, Part II.

LEAs and Other LOAs

a. Determine if the LEAs and other LOAs were required to submit information to the SEA relating to Section 2.4.3 of the Consolidated State Performance Report, Part II, and if so, what information was required, the processes for obtaining it, and how quality was ensured.

b. Ascertain whether the LEAs and other LOAs complied with the SEA's requirements relating to obtaining, processing, and submitting accurate data required for Section 2.4.3 of the Consolidated State Performance Report, Part II

IV. OTHER INFORMATION

Note: Certain compliance requirements that apply to multiple programs are discussed once in the ED Cross-Cutting Section of this Supplement (84.000) rather than being repeated in each individual program. When applicable, Section III references the ED Cross-Cutting Section for these requirements.

Also, as discussed in the ED Cross-Cutting Section, SEAs and LEAs may have been granted waivers from certain compliance requirements. This includes waivers of certain Title I, Part C requirements that ED invited SEAs to apply for due to the COVID-19 Pandemic. Auditors should ascertain from the audited SEAs and LEAs whether the SEA or the LEA or its schools are operating under any approved waivers.

1. Consolidation of Administrative Funds (SEAs and LEAs)

   See Part 4, 84.000 ED Cross-Cutting Section: Other Information.

2. Schoolwide Programs (LEAs)

   See Part 4, 84.000 ED Cross-Cutting Section: Other Information.

3. Prima Facie Case Requirement for Audit Findings

   See Part 4, 84.000 ED Cross-Cutting Section: Other Information.

DEPARTMENT OF EDUCATION

ASSISTANCE LISTING 84.027 SPECIAL EDUCATION—GRANTS TO STATES (IDEA, Part B)
ASSISTANCE LISTING 84.173 SPECIAL EDUCATION—PRESCHOOL GRANTS (IDEA Preschool)

I. PROGRAM OBJECTIVES

The purposes of the Individuals with Disabilities Education Act (IDEA) are to (1) ensure that all children with disabilities have available to them a free appropriate public education (FAPE) that emphasizes special education and related services designed to meet their unique needs and prepares them for further education, employment, and independent living; (2) ensure that the rights of children with disabilities and their parents are protected; (3) assist states, localities, educational service agencies, and federal agencies to provide for the education of all children with disabilities; and (4) assess and ensure the effectiveness of efforts to educate children with disabilities. The Assistance to States for Education of Children with Disabilities program (IDEA, Part B) and the Preschool Grants for Children with Disabilities program (IDEA Preschool) provide grants to states to assist them in meeting these purposes (20 USC 1400 et seq.). IDEA's Special Education—Grants to States program (IDEA, Part B) provides grants to states, and through them to LEAs, to assist them in providing special education and related services to eligible children with disabilities ages 3 through 21 (20 USC 1411). (The obligation to make FAPE available to children with disabilities ages 3 through 5 and 18 through 21 depends on state law. All states require that FAPE be made available to children with disabilities ages 3 through 5, and most states mandate FAPE through age 20 or 21.) IDEA's Special Education—Preschool Grants program (IDEA Preschool), also known as the "619 program," provides grants to states, and through them to LEAs, to assist them in providing special education and related services to children with disabilities ages three through five and, at a state's discretion, to two-year-old children with disabilities who will turn three during the school year (20 USC 1419).

II. PROGRAM PROCEDURES

A state applying through its state educational agency (SEA) for assistance under IDEA, Part B must, among other things, submit a plan to the Department of Education (ED) that provides assurances that the SEA has in effect policies and procedures that ensure that all children with disabilities have the right to a FAPE (20 USC 1412(a)).

States that receive assistance under IDEA, Part B, may receive additional assistance under the Preschool Grants program. A state is eligible to receive a grant under the Preschool Grants program if (1) the state is eligible under 20 USC 1412; and (2) the state demonstrates to the Secretary that it has in effect policies and procedures that ensure the provision of FAPE to all children with disabilities ages 3 through 5 years residing in the state (20 USC 1419(b)). However, a state that provides early intervention services in accordance with Part C of the IDEA

to a child who is eligible for services under section 1419 is not required to provide that child with FAPE (20 USC 1412(a)(1)(C)).

Source of Governing Requirements

These programs are authorized under the Individuals with Disabilities Education Act, Part B (IDEA-B) as amended on December 3, 2004 (Pub. L. No. 108-446; 20 USC 1400 et seq.). Implementing regulations for these programs are 34 CFR Part 300.

Availability of Other Program Information

A number of documents posted on ED's website contain information pertinent to the IDEA, Part B requirements in this Compliance Supplement:

1. OSEP Memorandum 10-5, *Maintenance of Financial Support under the Individuals with Disabilities Education Act*, dated December 2, 2009
   http://www2.ed.gov/policy/speced/guid/idea/monitor/mfs-12-2-2009.pdf

2. OSEP Memorandum 15-10, *Issuance of Guidance on the Final Local Educational Agency (LEA) Maintenance of Effort (MOE) Regulations under Part B of the Individuals with Disabilities Education Act (IDEA)*, dated July 27, 2015
   https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/osepmemo1510leamoeqa.pdf

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	Y	Y	N	N	Y	N

A. Activities Allowed or Unallowed

See also Part 4, 84.000 ED Cross-Cutting Section.

1. *SEAs*

   Allowable activities for SEAs are subgranting funds to LEAs and state administration, and other state-level activities (see Section III.G.3, "Matching, Level of Effort, Earmarking – Earmarking," for a further description of these activities).

2. *LEAs*

   a. *IDEA, Part B* – An LEA may only use federal funds under IDEA, Part B for the excess costs of providing special education and related services to children with disabilities. Special education includes specially designed instruction, at no cost to the parent, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions and in other settings, and instruction in physical education. Related services include transportation and such developmental, corrective and other supportive services as may be required to assist a child with a disability to benefit from special education. Related services do not include a medical device that is surgically implanted or the replacement of such device. A portion of these funds, under conditions specified in the law, may also be used by the LEA (1) for services and aids that also benefit nondisabled children; (2) for early intervening services; (3) to establish and implement high-cost or risk-sharing funds; and (4) for administrative case management. Excess costs are those costs for the education of an elementary school or secondary school student with a disability that are in excess of the average annual per student expenditure in an LEA during the preceding school year. LEAs are required to compute the minimum average amount of per pupil expenditure separately for children with disabilities in its elementary schools and for children with disabilities in its secondary schools, and not

on a combination of the enrollments in both. Appendix A to 34 CFR Part 300 provides detailed guidance and an example for calculating the average per pupil expenditures and the minimum average amounts that the LEA must spend before using IDEA funds (20 USC 1401(8), (26) and (29); 20 USC 1413(a)(2) and (4); 34 CFR sections 300.16, 300.34, 300.39, 300.202, and 300.208).

b. *IDEA Preschool* – An LEA may use federal funds under the Preschool Grants program only for the costs of providing special education and related services (as described above) to children with disabilities ages three through five and, at a state's discretion, providing a free appropriate public education to two-year-old children with disabilities who will turn three during the school year (20 USC 1419(a); 34 CFR section 300.800).

B. Allowable Costs/Cost Principles

See also Part 4, 84.000 ED Cross-Cutting Section.

The use of IDEA funds by a state, for the acquisition of equipment, or the construction or alteration of facilities, must be approved by ED based on a determination by ED that the program would be improved by allowing funds to be used for these purposes (20 USC 1404).

F. Equipment and Real Property Management

Acquisition of equipment and construction or alteration of facilities by the IDEA Part B programs must meet the prior approval requirements in, and be consistent with, the IDEA-specific requirements in 20 USC 1404 and 1412(a)(10)(B); and 34 CFR sections 300.144 and 300.718.

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort

2.1 Level of Effort – *Maintenance of Effort*

a. SEAs – Maintenance of State Financial Support

(1) A state may not reduce the amount of state financial support for special education and related services for children with disabilities (or state financial support otherwise made available because of the excess costs of educating those children) below the amount of state financial support provided for the preceding fiscal year.

The secretary reduces the allocation of funds under 20 USC 1411 for any fiscal year following the fiscal year in which the state fails to comply with this requirement by the amount by which the state failed to meet the requirement.

If, for any fiscal year, a state fails to meet the state-level maintenance of effort requirement (or is granted a waiver from this requirement), the financial support required of the state in future years for maintenance of effort must be the amount that would have been required in the absence of that failure (or waiver) and not the reduced level of the state's support (20 USC 1412(a)(18); 34 CFR section 300.163).

(2) For any fiscal year for which the federal allocation received by a state exceeds the amount received for the previous fiscal year and if the state pays or reimburses all LEAs within the state from state revenue 100 percent of the nonfederal share of the costs of special education and related services, the SEA may reduce its level of expenditure from state sources by not more than 50 percent of the amount of such excess (20 USC 1413(j)(1); 34 CFR section 300.230).

An SEA may meet the maintenance of effort requirement by either a total or per capita amount.

For more information on the maintenance of financial support requirements for SEAs, see OSEP Memorandum 10-5, *Maintenance of Financial Support under the Individuals with Disabilities Education Act*, dated December 2, 2009. This guidance is available at (same as #1 Memo 10-5) http://www2.ed.gov/policy/speced/guid/idea/monitor/mfs-12-2-2009.pdf.

(3) For the purposes of establishing an LEA's eligibility for an award for a fiscal year, the SEA must determine that the LEA meets the eligibility standard (see III.G.2.1.b.(2), "Eligibility Standard") (34 CFR section 300.203(a)).

b. LEAs – Local Maintenance of Effort

(1) General

IDEA, Part B funds received by an LEA cannot be used, except under certain limited circumstances, to reduce the

level of expenditures for the education of children with disabilities made by the LEA from local funds, or a combination of state and local funds, below the level of those expenditures for the preceding fiscal year. To meet this requirement, LEAs must meet (1) the eligibility standard and (2) the compliance standard. These standards are described in detail below in paragraphs b(2) and b(3), respectively.

Allowances may be made for (a) the voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel; (b) a decrease in the enrollment of children with disabilities; (c) the termination of the obligation of the agency, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the SEA, because the child (i) has left the jurisdiction of the agency, (ii) has reached the age at which the obligation of the agency to provide a FAPE has terminated, or (iii) no longer needs such program of special education; (d) the termination of costly expenditures for long-term purchases, such as the acquisition of equipment and the construction of school facilities; or (e) the assumption of costs by the high cost fund operated by the SEA under 34 CFR section 300.704 (20 USC 1413(a)(2); 34 CFR sections 300.203 and 300.204).

Appendix E of 34 CFR Part 300 provides LEA maintenance of effort calculation examples. For more information on the LEA maintenance of effort requirements, see OSEP Memorandum 15-10, *Issuance of Guidance on the Final Local Educational Agency (LEA) Maintenance of Effort (MOE) Regulations under Part B of the Individuals with Disabilities Education Act (IDEA)*, dated July 27, 2015. This guidance is available at https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/osepmemo1510leamoeqa.pdf.

(2) Eligibility Standard

(a) To meet the eligibility standard for an award for a fiscal year, the LEA must budget for the education of children with disabilities at least the same amount, from at least one of the following sources, as the LEA spent for that purpose from the same

source for the most recent fiscal year for which information is available:

(i) Local funds only;

(ii) The combination of state and local funds;

(iii) Local funds only on a per capita basis; or

(iv) The combination of state and local funds on a per capita basis.

(b) When determining the amount of funds that the LEA must budget to meet the requirement, the LEA may take into consideration, to the extent the information is available, the exceptions and adjustment provided in 34 CFR sections 300.204 and 300.205 that the LEA:

(i) Took in the intervening year or years between the most recent fiscal year for which information is available and the fiscal year for which the LEA is budgeting; and

(ii) Reasonably expects to take in the fiscal year for which the LEA is budgeting.

(c) Expenditures made from funds provided by the federal government for which the SEA is required to account to the federal government or for which the LEA is required to account to the federal government directly or through the SEA may not be considered in determining whether an LEA meets the eligibility standard (34 CFR section 300.203(a)).

(3) Compliance Standard

Except as provided in 34 CFR sections 300.204 and 300.205, funds provided to an LEA under IDEA, Part B must not be used to reduce the level of expenditures for the education of children with disabilities made by the LEA from local funds below the level of those expenditures for the preceding fiscal year.

An LEA meets this standard if it does not reduce the level of expenditures for the education of children with disabilities made by the LEA from at least one of the following sources below the level of those expenditures

from the same source for the preceding fiscal year, except as provided in 34 CFR sections 300.204 and 300.205:

(i) Local funds only;

(ii) The combination of state and local funds;

(iii) Local funds only on a per capita basis; or

(iv) The combination of state and local funds on a per capita basis.

Expenditures made from funds provided by the federal government for which the SEA is required to account to the federal government or for which the LEA is required to account to the federal government directly or through the SEA may not be considered in determining whether an LEA meets the compliance standard (34 CFR section 300.203(b)).

(4) Subsequent Years Rule

If, in the fiscal year beginning on July 1, 2013, or July 1, 2014, an LEA fails to meet the eligibility standard or compliance standard in effect at that time, the level of expenditures required of the LEA for the fiscal year subsequent to the year of the failure is the amount that would have been required in the absence of that failure, not the LEA's reduced level of expenditures.

If, in any fiscal year beginning on or after July 1, 2015, an LEA fails to meet the requirements of 34 CFR sections 300.203(b)(2)(i) or (iii) and the LEA is relying on local funds only, or local funds only on a per capita basis, to meet the eligibility standard or compliance standard, the level of expenditures required of the LEA for the fiscal year subsequent to the year of the failure is the amount that would have been required under 34 CFR sections 300.203(b)(2)(i) or (iii) in the absence of that failure, not the LEA's reduced level of expenditures.

If, in any fiscal year beginning on or after July 1, 2015, an LEA fails to meet the requirement of 34 CFR section 300.203(b)(2)(ii) or (iv) and the LEA is relying on the combination of state and local funds, or the combination of state and local funds on a per capita basis, to meet the eligibility standard or compliance standard, the level of expenditures required of the LEA for the fiscal year

subsequent to the year of the failure is the amount that would have been required under 34 CFR sections 300.203(b)(2)(ii) or (iv) in the absence of that failure, not the LEA's reduced level of expenditures (34 CFR section 300.203(c)).

(5) Consequence of Failure to Maintain Effort

If an LEA fails to maintain its level of expenditures for the education of children with disabilities in accordance with 34 CFR section 300.203(b), the SEA is liable in a recovery action under Section 452 of the General Education Provisions Act (20 USC 1234a) to return to the Department of Education, using nonfederal funds, an amount equal to the amount by which the LEA failed to maintain its level of expenditures in accordance the compliance standard in that fiscal year, or the amount of the LEA's Part B subgrant in that fiscal year, whichever is lower (34 CFR section 300.203(d)).

(6) Adjustment to Local Fiscal Effort

For any fiscal year for which the federal allocation received by an LEA exceeds the amount received for the previous fiscal year, the LEA may reduce the level of local or state and local expenditures by not more than 50 percent of the excess (20 USC 1413(a)(2)(C)(i) and 34 CFR section 300.205(a)). If an LEA exercises this authority, it must use an amount of local funds equal to the reduction in expenditures under Section 1413(a)(2)(C)(i) to carry out activities authorized under the Elementary and Secondary Education Act (ESEA) of 1965. The amount of funds expended by the LEA for early intervening services counts toward the maximum amount of state and local expenditures that the LEA may reduce. However, if an SEA determines that an LEA is unable to establish and maintain programs of FAPE that meet the requirements of Section 1413(a) or the SEA has taken action against the LEA under Section 1416, the SEA shall prohibit the LEA from reducing its local or state and local expenditures for that fiscal year. If, in making its annual determinations, an SEA determines that an LEA is not meeting the requirements of Part B of the IDEA, including the targets in the state's performance plan, the SEA must prohibit the LEA from reducing its maintenance of effort under 20 USC 1413(a)(2)(C) for any fiscal year (20 USC 1413(a)(2)(C) and 1416(f); 34 CFR sections 300.205 and 300.608(a)).

2.2 Level of Effort – *Supplement Not Supplant*

Not Applicable

3. Earmarking

Individual state grant award documents identify the amount of funds a state must distribute to its LEAs on a formula basis and the amount it can set aside for administration and other state-level activities under paragraphs 3.a. and b. below.

a. IDEA, Part B (SEAs)

(1) *Funds Set Aside for State Administration:* Each state may reserve, for each fiscal year, not more than the maximum amount the state was eligible to reserve for state administration under 20 USC 1411 for fiscal year (FY) 2004, or $800,000 (adjusted for inflation in accordance with 20 USC 1411(e)(1)(B)), whichever is greater. Administration includes the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities. These funds may also be used for the administration of Part C of the IDEA if the SEA is the lead agency (20 USC 1411(e)(1)A; 34 CFR section 300.704(a)).

(2) *Funds Set Aside for Other State-Level Activities*: The maximum amount a state may reserve for other state-level activities in fiscal year 2007 and subsequent fiscal years is as follows: States, for which the amount reserved for state administration is greater than $850,000 and the state reserves funds for the LEA risk pool, may reserve an amount equal to 10 percent of the state's allocation for fiscal year 2006 under 20 USC 1411(d), adjusted cumulatively for inflation. States, for which the amount reserved for administration is greater than $850,000 and the state does not reserve funds for the LEA risk pool, may reserve an amount equal to 9 percent of the state's allocation for fiscal year 2006 under 20 USC 1411(d), adjusted cumulatively for inflation. States for which the amount reserved for state administration is less than or equal to $850,000 and the state reserves funds for the LEA risk pool may reserve an amount equal to 10.5 percent of the state's allocation for fiscal year 2006 under 20 USC 1411(d), adjusted cumulatively for inflation. States for which the amount reserved for administration is less than or equal to $850,000 and the state does not reserve funds for the LEA risk pool may reserve an amount equal to 9.5 percent of the state's allocation for fiscal year 2006 under 20 USC 1411(d), adjusted cumulatively for inflation (20 USC 1411(e)(2) and 34 CFR section 300.704(b)). SEAs must use some portion of state-level activity funds for monitoring, enforcement, and complaint

investigation, and to establish and implement the mediation process, including providing for the costs of mediators and support personnel (20 USC 1411(e)(2)(B); 34 CFR section 300.704(b)(3)).

These funds may also be used

(a) for support and direct services, including technical assistance and personnel preparation and professional development and training;

(b) to support paperwork reduction activities, including expanding the use of technology in the individualized education plan (IEP) process;

(c) to assist LEAs in providing positive behavioral interventions and supports and appropriate mental health services for children with disabilities;

(d) to improve the use of technology in the classroom to enhance learning by children with disabilities;

(e) to support the use of technology, including technology with universal design principals and assistive technology devices, to maximize accessibility to the general education curriculum for children with disabilities;

(f) for development and implementation of transition programs, including coordination of services with agencies involved in supporting the transition of students with disabilities to postsecondary activities;

(g) to assist LEAs in meeting personnel shortages;

(h) to support capacity-building activities and improve the delivery of services by LEAs to improve results for children with disabilities;

(i) for alternative programming for children with disabilities who have been expelled from school, and services for children with disabilities in correctional facilities, children enrolled in state-operated or state-supported schools, and children with disabilities in charter schools;

(j) to support the development of and provision of appropriate accommodations for children with disabilities, or the development and provision of alternative assessments that are valid and reliable for assessing the performance of children with disabilities; and

(k) to provide technical assistance to schools and LEAs and direct services, including supplemental educational services as defined in section 1116(e)(12)(C) of the ESEA (20 USC 6316(e)(12)(C)), in schools or LEAs identified for improvement solely on the basis of the assessment results of the disaggregated group of children with disabilities (20 USC 1411(e)(2)(C); 34 CFR section 300.704(b)(4)).

(3) *LEA Risk Pool*: Each state has the option to reserve for each fiscal year 10 percent of the amount of funds the state reserves for other state-level activities: (a) to finance and make disbursements from the high-cost fund to LEAs; and (b) to support innovative and effective ways of cost-sharing by the state, by an LEA, or among a consortium of LEAs, as determined by the state in coordination with representatives from LEAs. For purposes of this provision, the term "LEA" includes a charter school that is an LEA, or a consortium of LEAs (20 USC 1411(e)(3); 34 CFR section 300.704(c)).

(4) *Formula Subgrants to LEAs*: Any funds under this program that the SEA does not retain for administration and other state-level activities shall be distributed to eligible LEAs in the state. An SEA must distribute to each eligible LEA the amount that the LEA would have received, from the fiscal year 1999 appropriation, if the state had distributed 75 percent of its grant for that year to LEAs. (This amount is based on the IDEA-B child count conducted on December 1, 1998.) The SEA must then distribute 85 percent of any remaining funds to those LEAs on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the LEA's jurisdiction; and then distribute 15 percent of any remaining funds to those LEAs in accordance with their relative numbers of children living in poverty, as determined by the state educational agency (20 USC 1411(f)(1) and (2); 34 CFR sections 300.705(a) and (b)).

b. IDEA, Preschool Grants Program (SEAs)

(1) *Reservation for State Activities*. Each state may reserve, for each fiscal year, not more than the maximum amount of funds that the secretary determines may be retained by the state for administration and other state-level activities (20 USC 1419(d); 34 CFR section 300.812).

(a) *Funds Set Aside for State Administration*: An SEA may use not more than 20 percent of the funds it is allowed to retain for state activities under 20 USC 1419(d) for the purposes of administering this program, including the coordination

of activities under Part B of the IDEA with, and providing technical assistance to, other programs that provide services to children with disabilities. These funds may also be used for the administration of Part C of the IDEA (20 USC 1419(e); 34 CFR section 300.813).

(b) *Funds Set Aside for Other State-Level Activities*: SEAs shall use funds reserved for state activities that are not used for administration for:

(i) support services (including establishing and implementing the mediation process required by section 20 USC 1415(e)), which may benefit children with disabilities younger than 3 or older than 5 as long as those services also benefit children with disabilities ages 3 through 5;

(ii) direct services for children eligible for services under this program;

(iii) activities at the state and local levels to meet the performance goals established by the state under 20 USC 1412(a)(15);

(iv) supplementing other funds used to develop and implement a statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not to exceed one percent of the amount received by the state under this program for a fiscal year;

(v) providing early intervention services (which must include an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills) in accordance with Part C of the IDEA to children with disabilities who are eligible for services under section 619 of the IDEA until such children enter, or are eligible under state law to enter, kindergarten; or

(vi) at the state's discretion, continuing service coordination or case management for families who receive services under Part C of the IDEA (20 USC 1419(f); 34 CFR section 300.814).

(2) *Formula Subgrants to LEAs*. Any funds under this program that the SEA does not retain for administration and other state-level activities shall be distributed to eligible LEAs in the state.

(a) An SEA must distribute to each eligible LEA the amount the LEA would have received from the fiscal year 1997 appropriation if the state had distributed 75 percent of its grant for that year to LEAs. (This amount is based on the IDEA-B child count conducted on December 1, 1996.)

(b) The SEA must then distribute 85 percent of any remaining funds to those agencies on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction; and then distribute 15 percent of any remaining funds to those agencies in accordance with their relative numbers of children living in poverty, as determined by the SEA.

(c) If an SEA determines that an LEA is adequately providing a FAPE to all children with disabilities ages 3 through 5 residing in the area served by that agency with state and local funds, the SEA may reallocate any portion of the funds under this program that are not needed by that LEA to provide a FAPE to other LEAs in the state that are not adequately providing special education and related services to all children with disabilities ages 3 through 5 residing in the areas they serve. The SEA may also retain those funds for use at the state level to the extent the state has not reserved the maximum amount of funds it is permitted to reserve for state-level activities under 34 CFR section 300.812 (20 USC 1419(g); 34 CFR sections 300.815 through 300.817).

c. Schoolwide Programs (LEAs)

The amount of IDEA-B funds used in a schoolwide program may not exceed the amount received by the LEA under IDEA-B for that fiscal year divided by the number of children with disabilities in the jurisdiction of the LEA multiplied by the number of children with disabilities participating in the schoolwide program (20 USC 1413(a)(2)(D); 34 CFR section 300.206).

d. Adjustments of Base Payments to LEAs

(1) If a new LEA is created within a state, the state must divide the base allocation for the LEAs that would have been responsible for serving children with disabilities now being served by the new

LEA among the new LEA and affected LEAs based on the relative numbers of children with disabilities currently provided special education by each of the LEAs.

(2) If one or more LEAs are combined into a single LEA, the state must combine the base allocation of the merged LEAs.

(3) If, for two or more LEAs, geographic boundaries, or administrative responsibilities for providing services to children with disabilities ages 3 through 21 change, the base allocation of affected LEAs must be redistributed among affected LEAs based on the relative numbers of children with disabilities currently provided special education by each affected LEA.

(4) If an LEA received a base payment of zero in its first year of operation, the state must adjust the base payment for the first fiscal year after the first annual child count in which the LEA reports that it is serving any children with disabilities. The state shall divide the base allocation for the LEAs that would have been responsible for serving children with disabilities now being served by the LEA among the LEA and affected LEAs based on the relative numbers of children with disabilities currently provided special education by each of the LEAs (34 CFR section 300.705(b)(2)).

e. Coordinated Early Intervening Services (LEAs)

An LEA can use not more than 15 percent of the amount of federal Part B funds the LEA receives for any fiscal year (less any amount by which it reduces its expenditures under 20 USC 1413(a)(2)(C)) (see III.G.2.1.b.(6) in this section), in combination with other funds, to develop and implement, early intervening services for children in kindergarten through grade 12 who have not been identified under IDEA but need additional academic and behavioral support to succeed in the general education environment (20 USC 1413(f); 34 CFR section 300.226).

H. Period of Performance

See also Part 4, 84.000 ED Cross-Cutting Section.

I. Procurement and Suspension and Debarment

See Part 4, 84.000 ED Cross-Cutting Section. Further, acquisition of equipment and construction or alteration of facilities by the IDEA Part B programs must meet the prior approval requirements in, and be consistent with, the IDEA-specific requirements in 20 USC 1404 and 1412(a)(10)(B); and 34 CFR sections 300.144 and 300.718.

IV. OTHER INFORMATION

Certain compliance requirements that apply to multiple ED programs are discussed once in the ED Cross-Cutting Section of this Supplement (84.000) rather than being repeated in each individual program. Where applicable, Section III references the ED Cross-Cutting Section for these requirements.

DEPARTMENT OF EDUCATION

ASSISTANCE LISTING 84.032 FEDERAL FAMILY EDUCATION LOANS (GUARANTY AGENCIES)

I. PROGRAM OBJECTIVES

Nonprofit and state guaranty agencies are established to guarantee student loans made by lenders and perform certain administrative and oversight functions under the Federal Family Education Loans (FFEL) program. FFEL program loans include Federal Stafford Loans (both subsidized and unsubsidized), Federal PLUS loans, and Federal Consolidation loans. The Department of Education (ED) provides reinsurance to the guaranty agency.

II. PROGRAM PROCEDURES

To participate in the FFEL program and to receive various payments and benefits incident to that participation, a guaranty agency enters into agreements with ED under which the guaranty agency agrees to comply with the applicable law and regulations. In general, guaranty agencies (1) establish and maintain a Federal Fund and the Agency Operating Fund; (2) collect on defaulted loans on which they have paid claims; (3) make timely claim payments to lenders; (4) make timely reinsurance filings with ED; (5) provide accurate and reliable reports to ED; (6) apply proper charges to defaulted borrowers; and (7) take proper enforcement measures with respect to lenders, lender servicers, and defaulted borrowers.

Section 428A of the Higher Education Act, as amended (HEA), allows ED to enter into Voluntary Flexible Agreements (VFA) with guaranty agencies to pilot alternatives to the current guaranty agency financing model or structure. Any guaranty agency or consortium of agencies may apply to enter into a VFA with ED (Section 428A(a)(3) of the HEA (20 USC 1078-1(a)(3))). VFA pilots are uniquely designed by the guaranty agency and ED and ED may waive some of the compliance requirements as part of the agreement. If a VFA exists, the auditor should review the VFA and determine (1) which of the compliance requirements below are applicable, and (2) what, if any, additional or alternative audit procedures should be performed to test compliance with the terms of the VFA.

The Student Aid and Fiscal Responsibility Act (SAFRA), Title II of the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, provides that after June 30, 2010, no new student loans will be made under the FFEL program. Therefore, since July 1, 2010, all new subsidized and unsubsidized Stafford Loans made to students, PLUS loans made to parents and to graduate/professional students, and consolidation loans made to borrowers, have only been made under the William D. Ford Federal Direct Student Loans (Direct Loan) program (Assistance Listing 84.268) and will not be handled by guaranty agencies.

Source of Governing Requirements

The FFEL program is authorized by the Title IV, Part B of the Higher Education Act (HEA) of 1965, as amended (20 USC 1071 to 1087-4). Program regulations are located at 34 CFR Part 682.

Availability of Other Program Information

Expansion of Collections Pause to Defaulted FFEL Program Loans Managed by Guaranty Agencies

To help borrowers burdened by debt during the COVID-19 emergency, ED announced an expansion of the pause on federal student loan interest and collections to all defaulted loans in the FFEL program. ED issued Dear Colleague Letter (DCL) GEN-21-03 on May 12, 2021, with an update on May 24, 2021, entitled "Expansion of Collections Pause to Defaulted FFEL Program Loans Managed by Guaranty Agencies (Updated May 24, 2021)."

This pause had a significant impact on guaranty agency operations, including the compliance requirements covered by this compliance supplement, that auditors should be aware of. For instance:

- Interest was retroactively reduced to zero percent back to March 13, 2020, and through August 31, 2023.

- Guaranty agencies were not allowed to charge and retain collection cost for loan rehabilitation and for those rehabilitations that occurred during the Pandemic period, the guarantor must make adjustments to interest and collection costs on the loan before it is transferred to the new holder.

- Guaranty agencies were allowed to charge 2.8 percent collection cost to borrowers for consolidation loans (change from 18.5 percent) through December 31, 2022. Previous collection charges made where the loan verification certificate (LVC) was completed after March 30, 2021, must be refunded to the Direct Loan consolidating servicer to adjust the borrower accounts. Collection charges return to 18.5% for loans were the LVC is received after August 28, 2023, for loans that default after August 28, 2023, or once the payment pause expires.

- Guaranty agencies were required to make adjustments to interest on involuntary payments to loans that defaulted on or after March 13, 2020, through August 28, 2023; these loans must be transferred to ED under Special Mandatory Assignment (SMA).

- Guaranty agencies were allowed to transfer funds from the Federal Fund to the Operating Fund without prior permission (through August 28, 2023) from ED to reimburse themselves for lost revenue and to make refunds to borrowers. Guaranty agencies who received additional funds from ED must report that activity on the Guaranty Agency Financial Report (GAFR) Forms 2000 (Annual Report).

Fresh Start Initiative

On April 6, 2022, ED announced the "Fresh Start" initiative to eliminate negative effects for FFEL borrowers who defaulted prior to March 13, 2020. On December 2, 2022, ED published DCL GEN-22-16 entitled "Fresh Start Initiative Guidance to Guaranty Agencies (GAs). This letter "...informs GAs of their obligations regarding Federal Family Education Loan (FFEL) Program loans that are in default in accordance with the Fresh Start Initiative." A general 'fact sheet' was provided and is included in the DCL data linked above.

Guaranty agency obligations to implement the initiative will be in place for one year following the end of the pandemic payment pause, or through August 28, 2024.

Some of those obligations impact the compliance requirements covered by this compliance supplement. For instance, as described in detail in DCL GEN-22-16 guaranty agencies are obligated to:

- Resume interest rate accruals for all loans upon cessation of the pandemic payment pause in accordance with the law, the borrower's promissory note, and any modifications to the loan agreement agreed upon by the guaranty agency.

- Suspend collection attempts for borrowers who are eligible for Fresh Start for one year following the end of the pandemic payment pause, or through August 28, 2024.

- Implement credit reporting procedures.

- Assign defaulted loans to ED/Debt Management and Collection System (DMCS) for transfer to its contractor, Nelnet, upon request from a borrower eligible for Fresh Start.

- Assign SMA and Fresh Start borrowers to DMCS who have unfulfilled rehabilitation agreements.

Borrowers who defaulted on or after March 13, 2020, and before the cessation of the pandemic payment pause on August 28, 2023, are still subject to SMA in accordance with DCL GEN 21-03. Borrowers who default after the pandemic payment pause, or after August 28, 2023, will not be eligible for the Fresh Start initiative and will be subject to collections in accordance with 34 CFR 682.410(b)(6) and (b)(9).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance

requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
N	N	N	N	N	N	N	N	N	Y	N	Y

L. Reporting

1. Financial Reporting

Not Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

a. **Report Title:** ED Form 2000, Guaranty Agency Financial Report
OMB PRA Number: OMB No. 1845-0026
Report Authority: Title IV, Part B, Sec. 428 of the HEA and 34 CFR 682 Subpart D
Reporting period/submission date/s: Monthly, Monthly/Quarterly, and Annually, based on the Federal fiscal year
Link to report and report instructions:
ED Form 2000, *Guaranty Agency Financial Report (OMB No. 1845-0026)* – Guaranty agencies submit this form monthly, monthly/quarterly, and annually. Instructions for this report are available at https://ifap.ed.gov/sites/default/files/attachments/2020-02/GAFRGuideFY19FINALSep2019.pdf.

In determining which amounts to test on ED Form 2000, particular attention should be given to validating the September 30 amounts reported for the following key line items within the ED Form 2000:

MR-1 – Claims Paid
MR-3 – Status Changes
MR-5 - Repurchases
MR-6 – Repurchases for Reinsurance Claims Paid in Prior Fiscal Year
MR-7 – Partial Refunds
MR-8 – Partial Refunds (Previous Fiscal Year)
MR-9 – Overstated Claims
MR-10 – all line items
MR-11 – FFEL Consolidation Refund
MR-12 – GA Administrative Wage Garnishment
MR-13 – Default Collections
MR-32 – Ending Balance of Defaulted Loans

AR-20 – Other Revenues
AR-25 – Other Expenses
AR-52 – Other Assets
AR-53 – Accounts Payable, Accrued Expenses, and Other Current Liabilities
AR-55 – Other Liabilities

Guaranty agencies are required to submit loan level detail information to the National Student Loan Data System (NSLDS) (*OMB No. 1845-0035)*. NSLDS data may be used to validate the MR and AR line items tested. Guaranty agencies must maintain loan level detail for all data reported on the ED Form 2000.

When reviewing support for the above line items, the auditor should consider whether the relevant amounts in these reports reconcile with the NSLDS Extract submitted by the guaranty agency or other financial data as represented by the guaranty agency. (Note: There may be some differences between the ED Form 2000 and the NSLDS Extracts due to timing factors (e.g., pulling of NSLDS Extract in third week vs. month end. In this case, the guaranty agency's books and records should provide the information necessary to complete this reconciliation.)

b. **Report Title:** National Student Loan Data System (NSLDS)
OMB PRA Number: OMB No. 1845-0035
Report Authority: Title IV, Part G of the Higher Education Act of 1965, as amended by the 1998 Amendments to the HEA (P.L. 105-244) section 485B
Reporting period/submission date/s: Monthly (Electronically)
Link to report and report instructions: NSLDS for Financial Aid Professionals

The guaranty agency is required to submit loan-level detail data to the NSLDS. The NSLDS Enrollment Reporting Guide that describes this level of detail is available at https://ifap.ed.gov/sites/default/files/attachments/2019-12/NewNSLDSEnrollmentReportingGuide_0.pdf.

Key Line Items - The following are identified as key data elements:

1. *Social security number*
2. *First name*
3. *Date of birth*
4. *Original school code*
5. *Academic level*
6. *Current school code*
7. *Enrollment status code*
8. *Enrollment status date*
9. *Originating lender code*
10. *Loan guarantee date*
11. *Amount of guarantee*
12. *Current holder lender code*
13. *Date repayment entered*
14. *Loan status code*
15. *Loan status date*
16. *Outstanding principal*
17. *Amount of claim paid to lenders (principal and interest)*
18. *Interest and fee amounts for loans in defaulted status*

Samples should be selected from the guaranty agency's NSLDS Extracts (Note: Guaranty Agencies may have changed to automated exchanges of data with schools and lenders; thus, hard copy documents may not exist. In this instance, auditors may only be able to trace to system information and not to supporting records.) (34 CFR section 682.414(b)).

In addition to providing ED with information it needs to maintain its accounting and loan database records, data in the ED Form 2000 report are used for various purposes by ED. The use of this data is the subject of several other compliance requirements cited in III.N, "Special Tests and Provisions," which identify the need to test specific items in these reports. For audit efficiency, the auditor may want to test those requirements at the same time as this compliance requirement. The other compliance requirements are III.N.1, "Current Records," III.N.2, "Conditions of Reinsurance Coverage," III.N.3, "Death, Disability, Closed Schools, False Certifications, Unpaid Refunds, Bankruptcy, and Teacher Loan Forgiveness Claims," and III.N.8, "Federal Fund and Agency Operating Fund."

4. Special Reporting for Federal Funding Accountability and Transparency Act

Not Applicable

N. Special Tests and Provisions

1. Current Records

Compliance Requirements The guaranty agency shall maintain current, complete, and accurate records for each loan that it holds. The records must be maintained in a system that allows ready identification of each loan's current status, including status date, updated at least once every 10 business days (34 CFR section 682.414(a)).

Audit Objectives Determine whether the guaranty agency's records are updated for information received from lenders, schools, borrowers, others, and NSLDS on a timely basis.

Suggested Audit Procedures

a. For a sample of loans, compare dates transactions or information was posted to the guaranty agency's system to the dates the source information was received.

b. Verify that the status date is not the date the claim was paid but the actual date of occurrence (i.e., date of death on NSLDS).

c. Identify whether any backlog exists that is over 10 days old.

d. Verify that there are no duplicate records for a given borrower.

2. Conditions of Reinsurance Coverage

Compliance Requirements A guaranty agency may make a payment from the Federal Fund and receive a reinsurance payment on a loan only if the requirements in 34 CFR sections 682.406 and 682.414 are met. The lender must provide the guaranty agency with documentation, as described in 34 CFR sections 682.406 and 682.414. Key items in that documentation include:

a. Evidence that the lender exercised due diligence in making, disbursing, and servicing the loan as prescribed by the rules of the guaranty agency, including documentation of:

   (1) Timely conversion to repayment;

   (2) Collection and payment histories;

   (3) Beginning and ending dates of borrower deferments/forbearances;

   (4) Required skip-tracing activities; and

   (5) No 45-day gaps in collection activities (34 CFR sections 682.406, 682.411, and 682.414).

b. Evidence that the loan was actually in default before the guaranty agency paid a default claim (34 CFR section 682.406(a)(4)).

c. Evidence that the lender filed a default claim with the guaranty agency within 90 days of default (34 CFR section 682.406(a)(5)).

d. Evidence that the loan was legally enforceable by the lender when the guaranty agency paid the claim on the loan to the lender (34 CFR section 682.406(a)(10)).

e. Evidence that the lender provided an accurate collection history and an accurate payment history with the default claim showing that the lender exercised due diligence in collecting the loan that met the requirements of 34 CFR section 682.411 (34 CFR section 682.406(a)(3)).

f. Evidence that the lender satisfied all conditions of guarantee coverage set by the guaranty agency (34 CFR section 682.406(a)(7)).

g. Evidence that the guaranty agency submitted a request for payment to ED within 30 days of lender payment (34 CFR section 682.406(a)(9)).

The secretary requires a guaranty agency to repay reinsurance payments received on a loan if the lender or the guaranty agency failed to meet these requirements (34 CFR sections 682.406 and 682.414).

Past problem areas have been:

The lender:

a. Did not exercise due diligence in collecting the loan in accordance with 34 CFR section 682.411 (34 CFR section 682.406(a)(3)).

b. Did not include adequate documentation evidencing: timely conversion to repayment, a detailed collection and detailed payment history, beginning or ending dates of borrowers' deferments/forbearances, performance of required

skip-tracing activities, and no 45-day gaps in collection activities to support claim eligibility and the claim amount (34 CFR section 682.406(a)(3)).

c. Did not file a default claim with the guaranty agency within 90 days of default (34 CFR section 682.406(a)(5)).

(Note: The guaranty agency shall reject the claim based on due diligence (34 CFR section 682.406(a)(3)) or timely filing violations (34 CFR section 682.406(a)(5)), unless it was cured by the lender in accordance with 34 CFR Part 682, Appendix D (34 CFR section 682.406(b))).

d. Was paid interest beyond 30 days after a claim was returned for inadequate documentation for claims returned on or after July 1, 1996 (34 CFR section 682.406(a)(6)).

The guaranty agency:

a. Filed a request for payment of reinsurance later than 30 days following payment of a default claim to the lender (34 CFR section 682.406(a)(9)).

b. Did not pay the lender within 90 days of the date the lender filed the claim (34 CFR section 682.406(a)(8)).

Audit Objectives Determine whether loans for which reinsurance was paid met the requirements for reinsurance.

Suggested Audit Procedures

a. Select a sample of defaulted loans from the guaranty agency's ED Form 2000 reports.

b. Ascertain if, prior to paying claims, the guaranty agency determined that:

(1) The lender exercised due diligence in making, disbursing, and servicing the loan;

(2) The loan was legally enforceable;

(3) The loan was in default;

(4) The claim was timely filed;

(5) The lender provided an accurate collection and payment history showing that the lender exercised due diligence in collecting the loan; and

(6) The lender satisfied conditions of guaranty coverage set by the guaranty agency.

c. Ascertain that the guaranty agency:

(1) Filed a request for payment of reinsurance no later than 30 days following payment of a default claim to the lender; and

(2) Paid the lender or returned the claim to the lender for additional documentation within 90 days of the date the lender submitted the claim.

(3) Calculated and reported the loan amount using the appropriate rate on the Form 2000.

3. Death, Disability, Closed Schools, False Certification, Unpaid Refunds, Bankruptcy, and Teacher Loan Forgiveness Claims

Compliance Requirements If an individual borrower dies or the student for whom a parent received a PLUS loan dies, the obligation of the borrower and any endorser to make any further payments on the loan is canceled, in accordance with 34 CFR section 682.402(b). A borrower may file an application for discharge due to total and permanent disability. Total and permanent disability discharges are approved in accordance with 34 CFR section 682.402(c). If a borrower files an application for discharge due to a closed school, the secretary reimburses the holder of the loan in accordance with 34 CFR section 682.402(d). If a borrower's eligibility to receive a loan was falsely certified by an eligible school, the secretary reimburses the holder of the loan and discharges the loan in accordance with 34 CFR section 682.402(e). The secretary reimburses the holder of a loan for the amount of unpaid refunds under certain circumstances in accordance with 34 CFR sections 682.402(l) through (p). If a borrower files a petition for relief under the Bankruptcy Code, the secretary reimburses the holder of the loan for unpaid principal and interest on the loan, in accordance with 34 CFR section 682.402(f). The rules applicable to joint consolidation loans to married borrowers and co-makers on a PLUS loan are in 34 CFR sections 682.402(a)(2) and (3).

A lender must file a death, disability, closed school, false certification, or bankruptcy claim within the period prescribed in 34 CFR section 682.402(g)(2). The guaranty agency shall review a death, disability, closed school, false certification, or bankruptcy claim promptly and shall pay the lender in accordance with 34 CFR section 682.402(h). Guaranty agencies are required to take specific actions in bankruptcy proceedings in accordance with 34 CFR section 682.402(i). In accordance with 34 CFR section 682.402, the guaranty agency shall not request payment from ED until the lender's claim has been paid. A borrower or lender must file an unpaid refund application within the period prescribed in 34 CFR section 682.402(l). The guaranty agency shall review an unpaid refund claim promptly in accordance with 34 CFR section 682.402(l) and shall pay the lender in accordance with 34 CFR section 682.402(n).

If, after being employed full time as a teacher for five consecutive academic years, a borrower applies for teacher loan forgiveness through the loan holder, the guaranty

agency must determine if the borrower meets the eligibility requirements and pay the loan holder within 45 days (34 CFR sections 682.216(a) and (f)).

Audit Objectives Determine whether death, disability, closed school, false certification, unpaid refund, bankruptcy, and teacher loan forgiveness claims met the requirements for the payment of such claims.

Suggested Audit Procedures

a. Select a sample of death, disability, closed school, false certification, unpaid refund, bankruptcy, and teacher loan forgiveness claims from the guaranty agency's ED Form 2000 reports.

b. Review claim documentation that supports the eligibility of the claims for payment.

c. Verify that the guarantor calculated and reported the claim amount using the appropriate rate on the Form 2000.

4. Default Aversion Assistance

Compliance Requirements Upon receipt of a complete request from a lender, received no earlier than day 60 and no later than day 120 of delinquency, a guaranty agency shall engage in default aversion activities designed to prevent the default by a borrower. Default aversion activities are activities of a guaranty agency that are directly related to providing collection assistance to the lender on a delinquent loan prior to the loan being legally in a default status (34 CFR section 682.404(a)(2)(ii)). In consideration of such efforts, the guaranty agency receives a default aversion fee (34 CFR section 682.404(j)).

Calculating the Fee – A guaranty agency may transfer a default aversion fee from its Federal Fund to its Operating Fund equal to 1 percent of the total unpaid principal and accrued interest owed on loans on which the lender requests default aversion assistance. However, if a loan on which the guaranty agency has received the default aversion fee is subsequently paid as a default claim, the guaranty agency must rebate funds to the Federal Fund by deducting the rebate funds from the default aversion fee calculation. The fees may be transferred from the Federal Fund to the Operating Fund no more frequently than monthly and may not be paid more than once on any loan (34 CFR section 682.404(j)).

Audit Objectives Determine whether the guaranty agency performed default aversion activities in accordance with the requirements, whether loans on which the default aversion fee was received were qualified, and whether the fees were calculated accurately.

Suggested Audit Procedures

a. For a sample of loans, review documentation supporting that the loans qualified for and the guaranty agency performed the default aversion activities.

b. For a sample of default aversion fee transfers:

(1) Verify that the default aversion fee was calculated accurately.

(2) Verify that default aversion fees were not paid more than once on the same loan.

c. For a sample of defaulted loans, verify that the appropriate default aversion fees are returned to the Federal Fund.

5. Collection Efforts

Compliance Requirements The guaranty agency must engage in certain collection activities within certain time frames as prescribed by 34 CFR section 682.410(b)(6) on a loan for which it pays a default claim filed by a lender. These collection activities include written notices, contacts with borrowers, wage garnishments, etc. If a guaranty agency contracts with another party to perform default aversion assistance activities and collect defaulted loans, the party that provides default aversion assistance on a loan may not perform collection activity on that loan within three years of the date the default claim is paid (34 CFR sections 682.404(j) and 682.410(b)(6)).

Under DCL GEN-21-03, guaranty agencies were directed to stop all collection efforts in March 2021 and return any involuntary amounts collected. Collection efforts are to resume on or after the Fresh Start period for those borrowers who defaulted prior to August 28, 2023. For borrowers who defaulted after August 28, 2023, regular collection efforts must resume. See DCL GEN-22-16.

Audit Objectives Determine whether the guaranty agency performed required collection procedures on defaulted loans and that the collection contractor did not perform collection activities within three years of the default claim payment on loans for which it performed default aversion assistance.

Suggested Audit Procedures

a. If the guaranty agency uses a collection contractor, review the contract to ascertain if the contract specified the required collection procedures to be followed for defaulted loans.

b. For a sample of defaulted loan accounts, review documentation that supports that prescribed collection activities were followed.

c. Verify that the collection contractor did not perform collection activity within the three-year period on loans for which it performed default aversion assistance.

6. Federal Share of Borrower Payments

Compliance Requirements If the borrower makes payments on a loan after the guaranty agency has paid a claim on that loan, the guaranty agency must pay the secretary an equitable share of those payments.

The secretary's equitable share is the portion of payments that remains after deducting:

a. The complement of the reinsurance percentage in effect when reinsurance was paid on the loan (see III.N.2, "Federal Reinsurance Rate" for the applicable reinsurance rate. The complement of the reinsurance percentage equals 100 minus the federal reinsurance rate), and

b. Sixteen percent of borrower payments (34 CFR section 682.404(g)(1)(ii)).

A guaranty agency may not retain the equitable share on loans that have been repaid by a Federal Consolidation Loan.

For defaulted loans, which are repaid by a consolidation loan, under separate authority, agencies are allowed to retain only the amount of collection costs charged to the borrower and paid off by the consolidation loan. The amount that may be retained is as follows: The guaranty agency can charge up to 18.5 percent of the outstanding principal and interest on the defaulted loan; however, the secretary is entitled to the lesser of actual collection costs charged or 8.5 percent of principal and interest outstanding on the defaulted loan. (Note: There is also a provision that a guaranty agency may not retain any portion of the collection costs paid by a consolidation loan that exceed 45 percent of the agency's total collections on defaulted loans that year. However, this provision has been waived by DCL GEN-21-03 and GEN-22-16 until September 30, 2024. See Federal Register for additional information. (34 CFR sections 682.401(b)(18) and 685.220(f)).

A guaranty agency is required to deposit into its Federal Fund all funds received on loans on which a claim has been paid, including default collections, within 48 hours (two business days) of receipt of those funds, minus any portion that the agency is authorized to deposit into the Operating Fund. "Receipt of Funds" means actual receipt of funds by the guaranty agency or its agent, whichever is earlier (34 CFR section 682.419(b)(6)).

Audit Objectives Determine whether the secretary's equitable share of borrower payments on defaulted loans is properly computed and deposited into the Federal Fund in a timely manner.

Suggested Audit Procedures

a. Test a sample of borrower payments on defaulted loans at the loan level to ascertain if the equitable share due ED was deposited into the Federal Fund in a timely manner.

7. Assignment of Defaulted Loans to ED

Compliance Requirements Unless the secretary notifies a guaranty agency in writing that other loans must be assigned to the secretary, a guaranty agency must assign any loan that meets all of the following criteria as of April 15 of each year: (a) the unpaid principal balance is at least $100; (b) the loan, and any other loans held by the guaranty agency for that borrower, have been held by the agency for at least five years; (c) a payment has not been received on the loan in the last year; and (d) a judgment has not been entered on the loan against the borrower. The secretary may also direct a guaranty agency to assign to ED certain categories of defaulted loans held by the guaranty agency as described in 34 CFR section 682.409. In determining whether mandatory assignment from a guaranty agency is required, the secretary will review the adequacy of collection efforts. ED considers the guaranty agency's record of success in collecting its defaulted loans, the age of the loans, and the amount of any recent payments on the loans (Section 428(c)(8) of the HEA (20 USC 1078(c)(8)); 34 CFR section 682.409).

DCL GEN-21-03 required that guaranty agencies pause assigning loans that it would have otherwise assigned until it receives instructions from ED to resume those assignments and also required that guaranty agencies transfer loans meeting certain criterion to ED. Eligible loans for transfer include those in "population 2" of the DCL which is defined as:

> "Population 2 includes outstanding loans on which a default claim was paid on or after March 13, 2020 and on or prior to the end date for the pause for loans held by [ED], that are not subject to an active bankruptcy filing, and are in default on or after the date of this letter…"

DCL GEN-22-16 provided additional requirements for guaranty agencies to assign certain population of loans to ED. This DCL provided details about the "Fresh Start" initiative which includes ED eliminating the "…negative effects for federal student loan borrowers who are in default." Guaranty agencies are required to suspend collection attempts for borrowers eligible for Fresh Start for one year after the end of the pandemic payment pause, or August 29, 2023. Loans are required to be assigned to ED upon a request from a borrower who is eligible for Fresh Start. Borrowers eligible for Fresh Start are those who defaulted prior to March 13, 2020.

Audit Objectives Determine whether the guaranty agency assigned to ED all loans that were required to be assigned, unless assignment has been paused.

Suggested Audit Procedures

a. Review the guaranty agency's aging of loans and identifications of loan populations to ascertain if the guaranty agency is holding loans that should be assigned to ED.

b. Determine whether the guaranty agency is complying with any directive from the Secretary to assign to ED certain other categories of defaulted loans.

8. Federal Fund and Agency Operating Fund

Compliance Requirements- *Federal Fund*-A guaranty agency shall deposit in the Federal Fund the following:

a. All amounts received from ED as payment of reinsurance or other claims on loans.

b. All funds received by the guaranty agency from any source on FFEL loans on which a claim has been paid minus the portion the agency is authorized to deposit in its Operating Fund (must be deposited within 48 hours of receipt).

c. Insurance premiums or federal default fees.

d. Amounts received for Supplemental Preclaim Assistance (SPA) activity performed prior to October 1, 1998.

e. Earnings from investments of the Federal Fund.

f. Other receipts as specified in regulations (34 CFR section 682.419(b)).

The Federal Fund may only be used for the following purposes:

a. To pay lender insurance claims.

b. To transfer default aversion fees into the Agency Operating Fund.

c. For other purposes listed in the regulations (34 CFR section 682.419(c)), including for any purpose authorized by the secretary (see N. Special Test 14. Lost Revenue).

Agency Operating Fund

The guaranty agency shall deposit into the Operating Fund:

a. Account maintenance fees.

b. Default aversion fees.

c. The portion of the amounts collected on defaulted loans that remains after the secretary's share of collections has been paid and the complement of the reinsurance percentage has been deposited into the Federal Fund (34 CFR section 682.423).

d. Other receipts as specified in regulations (34 CFR section 682.423(b)).

Funds in the Operating Fund may only be used for application processing, loan disbursement, enrollment and repayment status management, default aversion activities, default collection activities, school and lender training, financial aid awareness and related outreach activities, compliance monitoring, and other SFA-related activities for the benefit of students (34 CFR section 682.423(c)).

Past problem areas concerning fund revenue and expense have included:

a. Failure to credit funds received into the Federal Fund, including lock-box operations, within the specified period.

b. Unauthorized expenses paid from the Federal Fund assets.

c. Failure to report all credits to the Federal Fund on ED Form 2000.

d. Use of the Federal Funds for other programs (e.g., Leveraging Educational Assistance Partnerships [LEAP] and state programs).

e. Commingling of funds.

Audit Objectives Determine whether the guaranty agency credited the required amounts to the Federal and Operating Funds and used the resources of each fund solely for authorized purposes.

Suggested Audit Procedures

a. Review revenue records to assure that amounts required to be credited to the Federal and Operating Funds were so credited. Review revenues and receipts that were not credited to the Federal or Operating Funds to assure that they were not inappropriately omitted.

b. Test expenditures to ascertain if they were made for allowable purposes.

c. Examine the general journal for unusual entries that impact the Federal or Operating funds.

9. Investments – Federal Fund

Compliance Requirements Funds transferred to the Federal Fund shall be invested in obligations issued or guaranteed by the United States or a state, or in other similarly low-risk securities selected by the guaranty agency, with the approval of the secretary (such as

pooled investments as part of a state investment program). Earnings from the Federal Fund are the sole property of the federal government (Section 422A(b) of the HEA (20 USC 1072a(b)); and DCLID: 99-G-316.

Audit Objectives Determine whether the agency invested federal funds only in approved securities or other instruments and properly accounted for investment earnings.

Suggested Audit Procedures

a. Review investment activity during the period to ascertain that Federal Fund assets were invested in approved securities or other instruments.

b. Ascertain that earnings were deposited in the Federal Fund.

10. Collection Charges

Compliance Requirements The guaranty agency must charge each defaulted borrower reasonable costs incurred by the agency for its default collection activities. The agency must charge these costs on defaulted loans whether acquired by a default or bankruptcy claim (34 CFR section 682.410(b)(2)). Costs of collection on defaulted loans include those direct costs of collection activities conducted after default on loans held by the agency, and indirect costs that are properly allocated to those same activities. Direct costs include the expenses listed in 34 CFR section 30.60(a), such as collection agency charges, court costs, and attorney fees.

Because HEA section 484A(b) makes the defaulter liable only for reasonable collection costs, and costs are reasonable only if they are based on actual collection expenses being incurred by the guaranty agency, the agency must ensure that the estimate is based on reliable data. A charge based on expense and recovery data incurred in the most recently completed and audited fiscal year of the guaranty agency can be reasonably expected to predict actual costs being incurred in the year for which the charge is assessed. However, when changes that will affect that rate are reasonably expected in expenses or recoveries during the year for which the charge is computed, adjustments may be warranted.

The rate or amount to be charged the borrower to satisfy collection costs is the least of the following three rates:

a. The amount or rate, if any, specified in the borrower’s note;

b. The rate determined by dividing the agency’s expected expenses by its expected recoveries for the period at issue; or

c. The rate that would be charged if the loan were held by ED (through March 1, 2007, 25 percent of the amount of principal and interest satisfied from a payment; thereafter, 24 percent of the amount).

An agency that is limited to the amount charged by ED must conform its charges to the limits in paragraph c, above, no later than the date on which it ordinarily implements any adjustment based on its annual assessment of costs and recoveries.

There are instances when collection charges may not be assessed to the borrower at the rate determined as specified above:

a. A guaranty agency may charge collection costs in an amount not to exceed 18.5 percent of the outstanding principal and interest on a defaulted FFELP loan that is paid off by a Federal Consolidation Loan. DCL Gen 21-03 limits collection cost to 2.8% for loans in which the LVC was completed after March 30, 2021. DCL Gen 22-16 removed collection cost for defaulted loan consolidated after January 1, 2023. This limitation on collection cost applies through the Fresh Start period but doesn't apply to borrowers that default after August 28, 2023. The guaranty agency must remit to the secretary a portion of the collection charge equal to the lesser of the amount charged the borrower or 8.5 percent of the outstanding principal and interest of the loan. A guaranty agency must remit directly to the secretary the entire amount of the collection charge with respect to each defaulted loan that is paid off with excess consolidation proceeds, as defined in 34 CFR section 682.401(b)((18)(iv) (34 CFR section 682.401(b)(18)) (see III.N.6, "Federal Share of Borrower Payments").

b. Borrowers who make the required nine voluntary and on-time payments within ten months and whose loans are then rehabilitated by sale to an eligible lender may not be charged more than 16 percent of the outstanding principal and interest on the loans being rehabilitated (20 USC 1078-6(a)(1)(D)(i)(II)(aa); 34 CFR section 682.405(b)(1)(vi)). A guaranty agency may not charge any collection costs to a borrower who timely enters into a loan rehabilitation agreement or other repayment agreement as discussed in paragraph c, below.

c. A guaranty agency may not charge collection costs to a borrower who enters into a loan rehabilitation agreement or other repayment agreement with the guaranty agency during the 60-day period after notice from the guaranty agency that the guaranty agency has paid a default claim and will report default status on the loan to national credit bureaus (34 CFR section 682.410(b)(5)(ii).

d. For loans rehabilitated on or after March 13, 2020, DCL GEN-21-03 requires that collection costs be reduced for loans considered "Population 3" which includes outstanding loans that were in default during the pandemic (regardless of when the claim was paid) and for which that default was resolved through rehabilitation or consolidation prior to March 13, 2020. The DCL states that:

> "To provide parity with the treatment of loans held by [ED], a [guaranty agency] may not add collection costs to the loan when it is successfully rehabilitated but may reimburse itself for those costs…."

Therefore, borrowers charged collection costs during this time are owed a refund from the guaranty agency.

Audit Objectives To determine whether the guaranty agency charged appropriate costs for its default collection activities to borrowers on defaulted loans acquired by the guaranty agency either by payment of a default or bankruptcy claim. Determine if the guaranty agency has corrected borrower accounts for loans rehabilitated before May 12, 2021, during the Pandemic period.

Suggested Audit Procedures

a. Test a sample of defaulted loan accounts to determine whether the guaranty agency charged only for reasonable costs of collection.

b. Ascertain if the method used to calculate the amount charged (1) included only appropriate expenses of default collection activities, and (2) was limited to the amount prescribed by regulation.

c. Review methodology for determining loans in Population 3 as defined by DCL GEN-21-03, and if the guaranty agency has made the required corrections. If the guaranty agency has not made the required corrections, document the identification method of Population 3 and validate these amounts.

11. Enforcement Action

Compliance Requirements The guaranty agency shall take measures to ensure enforcement of all federal, state and guaranty agency requirements and at a minimum, conduct biennial on-site program reviews of lenders that meet criteria specified in 34 CFR section 682.410(c)(1) or are selected using an alternative methodology approved by the secretary. The guaranty agency is required to use statistically valid techniques to calculate liabilities owed the secretary that the review indicates may exist; demand prompt payment from the responsible party; and refer to the secretary any case in which the payment of funds is not made within 60 days. A guaranty agency also is required to undertake or arrange for the prompt and thorough investigation of criminal or other programmatic misconduct by its program participants. It is responsible also for promptly reporting all of the allegations and indications of fraud or misconduct having a substantial basis in fact, and the scope, progress, and results of the agency's investigations (34 CFR section 682.410(c)).

Audit Objectives Determine whether the guaranty agency is carrying out program reviews and related enforcement activity in accordance with the above requirements.

Suggested Audit Procedures

a. Review the guaranty agency's procedures for selecting lenders to review to ascertain if they meet the regulatory criteria or an alternative methodology approved by the secretary.

b. Review the guaranty agency's program review guidance to ascertain if it is up-to-date and includes, when problems are found, a statistically valid method for determining liabilities due the secretary.

c. Review program review reports to ascertain if amounts due the secretary were identified and, if so, whether appropriate demand for payment and follow-up was conducted.

d. Through inquiry and review, determine whether the guaranty agency adopted procedures for reporting all allegations of misconduct having a substantial basis to ED. Review guaranty agency records on the follow-up of misconduct to determine whether ED was notified when appropriate.

12. Access to National Student Loan Data System (NSLDS)

Compliance Requirements Section 485B of HEA (20 USC 1092b) establishes principles for administering the NSLDS. The secretary is required to ensure that the primary purpose of access to the system by guaranty agencies is for legitimate program operations and to take actions to maintain confidence in the NSLDS, including, at a minimum, developing standardized protocols for limiting access to the data system. NSLDS access and use requirements were issued by ED in Dear Colleague Letter GEN-05-06/FP-05-04 (https://ifap.ed.gov/dear-colleague-letters/04-11-2005-gen-05-06-access-and-use-nslds-information) *Access To and Use of NSLDS Information,* dated April 8, 2005, and expanded July 2009 in NSLDS Organization Access Process located at (NSLDS Access) Subject: NSLDS Organization Access Process | Knowledge Center.

Each organization using the NSLDS is required to establish a Destination Point Administrator (DPA). The roles and responsibilities of the DPA are to ensure that authorized personnel use the NSLDS only for official government business. The responsibilities of the DPA include the following:

a. Ensuring that all users are aware of their responsibilities regarding access to NSLDS.

b. Monitoring the use and access of NSLDS data by all of the organization's users.

c. De-activating a User ID when the person to whom it was assigned is no longer with the organization or otherwise is no longer eligible to have access to NSLDS.

d. Ensuring that information in or received from the NSLDS is protected from access by or disclosure to unauthorized personnel.

Audit Objectives Determine whether the guaranty agency has established required controls and oversight regarding NSLDS access.

Suggested Audit Procedures

a. Review and evaluate the guaranty agency's established and documented controls over access to the NSLDS.

b. Verify that the entity removes NSLDS access when an employee terminates or is reassigned to a position not requiring NSLDS access.

13. Implementation of Dear Colleague Letter GEN-21-03 "Expansion of Collections Pause to Defaulted FFEL Program Loans Managed by Guaranty Agencies (Updated May 24, 2021)"

Compliance Requirements Dear Colleague Letter GEN-21-03 required that all guaranty agencies identify three populations for all loans in its portfolio, stating as follows:

> "On March 30, 2021, the U.S. Department of Education [ED] announced an expansion of the pause on federal student loan interest and collections on all defaulted loans in the FFEL Program that are managed by [guaranty agencies]. These flexibilities will be in place for the same period of time as the pause for loans held by [ED], which is currently slated to run through September 30, 2021."

(Note: This "end date" was updated to be through August 28, 2023, by the Secretary.)

There were three populations of FFEL Program loans covered by the announcement:

- Population 1 includes outstanding loans on which a default claim was paid prior to March 13, 2020, that are not subject to an active bankruptcy filing, and are still in default as of the date of this letter;

- Population 2 includes outstanding loans on which a default claim was paid on or after March 13, 2020 and on or prior to the end date for the pause for loans held by ED, that are not subject to an active bankruptcy filing, and are in default on or after the date of this letter; and

- Population 3 includes outstanding loans that were in default during the pandemic (regardless of when the claim was paid) and for which that default was resolved through rehabilitation or consolidation prior to the date of this letter.

The DCL describes in detail each action that guaranty agencies must take and the applicable waivers of the Higher Education Act of 1965, as amended (HEA), and ED's implementing regulations that ED will exercise to facilitate these actions.

Audit Objectives Determine whether the guaranty agency correctly calculated interest adjustments retroactive to the beginning of the Pandemic, or March 13, 2020. Identify and document all assumptions made in this process.

Suggested Audit Procedures

a. Review and evaluate the guaranty agency's methods for determining the population for all loans in its portfolio.

b. Test a sample of defaulted loan accounts from populations 1 and 2 to determine whether the guaranty agency correctly charged interest and retroactively adjusted interest where required.

14. Calculation of Lost Revenue

Compliance Requirements DCL GEN-21-03 allows a guaranty agency to reimburse itself from the Federal Fund for lost revenue that will be realized as a result of the implementation of the Dear Colleague Letter. That reimbursement, however, will only cover "…the share of what a [guaranty agency] might have reasonably collected during the pandemic but for the suspension. Lost revenue calculations will need to be submitted to Federal Student Aid's Office of Partner Participation and Oversight's Financial Oversight Service Group.

Guaranty agencies may reimburse themselves for this lost revenue from the Federal Fund on a quarterly basis based on their good-faith estimates, and without the requirement for prior approval from Federal Student Aid as to lost revenue. After August 28, 2023, guarantors must receive approval from Federal Student Aid to transfer lost revenue that accrued for periods prior to August 28, 2023. When the suspension ends, (August 28, 2023) ED will compare the total amount reimbursed to the amount of lost revenue as submitted by the guaranty agency, with an attendant over-/under-payment process.

ED is not setting specific requirements for the guaranty agency's estimate of its lost collection revenues for the purposes of seeking reimbursement from the Federal Fund, but the estimate must be made in good faith and supported by the guaranty agency's records.

Audit Objectives Determine whether the guaranty agency has estimated its lost revenue in accordance with DCL GEN-21-03 and any additional related guidance and confirm that the estimation is supported by the guaranty agency's records.

Suggested Audit Procedures

a. Review the guaranty agency's methods for determining its lost revenue and ensure that it complies with DCL GEN-21-03 and any relevant guidance.

b. Review the guaranty agency's lost revenue estimate and confirm that it is supported by the guaranty agency's records.

15. Credit Bureau Reporting

Compliance Requirements DCL GEN-21-03 required that all loans in "Population 2", or loans that defaulted during the pandemic payment pause (March 13, 2020, through August 29, 2023) will be returned to good standing. DCL GEN-22-16 required that, effective February 1, 2023, GAs are to report all defaulted borrowers as current unless their first date of delinquency (FDD) (which is not the same as their default date) is more than seven years ago.

- If the FDD is more than seven years ago, GAs must delete the borrower's tradeline. If a borrower elects to have their loans transferred to ED as part of "Fresh Start", the GA must delete the credit reporting tradeline upon assignment to ED.

- If a borrower does not request a transfer to ED during the Fresh Start period, after it ends the GA will report delinquent/defaulted with the original FDD (so that the debt does not restart the seven-year clock).

Audit Objectives Determine whether the guaranty agency correctly adjusted defaulted borrower's credit reports as required by both DCLs.

Suggested Audit Procedures

a. Review the guaranty agency's methods for determining a borrower's FDD met acceptable standards. Note any assumptions made by the guaranty agency.

b. Review the guaranty agency's procedures for updating the credit bureau reporting as required by the DCLs, including process of update and management and correction of reporting errors after the initial submission. Determine if the process and updates were reasonable and resulted in overall compliance with this provision.

IV. OTHER INFORMATION

Identification of Program Expenditures

FFEL Programs are administered by guaranty agencies and lenders, with distinct compliance requirements that apply to each. Therefore, FFEL program expenditures should be identified in the single audit report package and on the Data Collection Form as "FFEL – Guaranty Agencies" or "FFEL – Lenders".

Use of a Guaranty Agency "Servicer"

Some guaranty agencies hire servicers to administer FFEL Program functions. Guaranty agency servicers are required to obtain a financial statement audit and an examination-level compliance

attestation engagement under the April 2020 Audit Guide: Guide for Financial Statement Audits and Compliance Attestation Engagements of Guaranty Agency Servicers Administering the Federal Family Education Loan Program (Guaranty Agency Servicer Audit Guide), issued by ED's Office of Inspector General and available at https://oig.ed.gov/non-federal-audits/federal-family-education-loan-ffel-program-audits. Auditors of guaranty agencies may exclude coverage of compliance requirements performed by a servicer, provided the auditor has determined that the servicer has obtained an audit under the Guaranty Agency Servicer Audit Guide for the entire audit period of the guaranty agency. If the servicer has a different audit period, the auditor of the guaranty agency must determine that the most recently required audit of the servicer under the Guaranty Agency Servicer Audit Guide has been completed timely and must obtain a representation from the servicer that it has engaged (or will engage) an auditor to perform the required audit under the Guaranty Agency Servicer Audit Guide for the immediate subsequent audit period. The auditor of the guaranty agency must confirm that the audit period of the prior servicer audit, together with the audit period for the subsequent servicer audit, covers the entire audit period of the guaranty agency audit.

If the auditor excludes coverage of guaranty agency compliance requirements performed by a servicer, the *Report on Compliance for Each Major Federal Program and Report on Internal Control Over Compliance Required by Uniform Guidance* must clearly describe the compliance requirements for which coverage has been excluded, name the servicer that performed those compliance requirements, state that the servicer has obtained an audit performed under the April 2020 Guaranty Agency Servicer Audit Guide issued by ED's Office of Inspector General, and specify the period of that audit. Alternatively, the auditor may decide to use a servicer's audit (attestation engagement) and rely on it in rendering an opinion on compliance. In such cases, the auditor should obtain the servicer's most recent compliance audit report and any other reports regarding servicer compliance.

If the servicer's compliance audit report or other reports contain findings of noncompliance, the auditor should assess the effect of that noncompliance on the nature, timing, or extent of substantive tests to be conducted at the guarantee agency and/or the servicer, as well as reporting that information. The auditor must also adhere to pertinent generally accepted auditing standards relating to use of servicer organization audits and reliance on the work of other auditors.

DEPARTMENT OF EDUCATION

ASSISTANCE LISTING 84.032 FEDERAL FAMILY EDUCATION LOANS (LENDERS)

I. PROGRAM OBJECTIVES

Banks, schools, other financial institutions, governmental entities, or nonprofit organizations that meet the definition of an eligible lender in Section 435(d) of the Higher Education Act of 1965, as amended (HEA) (20 USC 1085(d)) may function as lenders under the Federal Family Education Loans (FFEL) program. All of these types of lenders must comply with the requirements generally applicable to lenders. However, there are additional compliance requirements that apply to schools as lenders.

II. PROGRAM PROCEDURES

Prior to July 1, 2010, eligible banks, savings and loan associations, credit unions, pension funds, insurance companies, and schools could make loans under the FFEL program (34 CFR section 682.101(a)). Under Section 435(d)(1) of the HEA (20 USC 1085(d)(1)), state agencies and nonprofit organizations also qualified as eligible lenders under certain conditions and for certain purposes. Schools that meet the requirements of 34 CFR section 682.601(a) could also make loans under the FFEL program. An eligible lender that holds loans as an eligible lender trustee for a school, or an organization affiliated with a school, and the school involved in such an arrangement are subject to certain restrictions on lending under Section 435(d)(7) of the HEA (20 USC 1085(d)(7)). These entities may continue to hold FFEL program loans until they are sold to another lender, repaid, or a claim is paid on the loan.

A lender (other than a school lender) holding more than $5 million in FFEL loans during its fiscal year, and a school lender under 34 CFR section 682.601 that holds any FFEL loans during its fiscal year, must submit an independent annual compliance audit for that year conducted by a qualified independent organization or person (34 CFR section 682.305(c)(1)). Governmental entities or nonprofit organizations that function as lenders under the FFEL program must meet this requirement by auditing the school lender activity as a major program (or, if applicable, as part of the Student Financial Aid (SFA) Cluster) as part of the entity's single audit under 2 CFR Part 200, Subpart F. (For Schools that are Lenders, see guidance in IV, "Other Information.")

The SAFRA Act, Title II of the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, provides that, after June 30, 2010, no new student loans will be made under the FFEL program. Therefore, beginning July 1, 2010, all new subsidized and unsubsidized Stafford Loans made to students, PLUS loans made to parents and to graduate/professional students, and consolidation loans made to borrowers, will be made under the Federal Direct Student Loans (Direct Loan) program (Assistance Listing 84.268).

Source of Governing Requirements

The FFEL program is authorized by Title IV, Part B, of the HEA, as amended (20 USC 1071 through 1087-4). Program regulations are located at 34 CFR Part 682.

Availability of Other Program Information

A number of documents contain guidance applicable to FFEL program lenders. They include:

1. Dear Partner (Colleague) Letters https://ifap.ed.gov/ilibrary/document-types/dear-colleague-letters
2. Electronic Announcement https://ifap.ed.gov/ilibrary/document-types/electronic-announcements
3. FFEL Special Allowance Rates FFEL Special Allowance Rates | Library | Knowledge Center
4. FFEL Variable Interest Rates
   FFEL Variable Interest Rates | Library | Knowledge Center
5. Dear Colleague Letter FP-07-01 FFELP Loans Eligible for 9.5 Percent Minimum Special Allowance Rate https://ifap.ed.gov/dear-colleague-letters/01-24-2007-fp-07-01-ffelp-loans-eligible-95-percent-minimum-special
6. Dear Colleague Letter FP-07-06 Audit Requirements for 9.5 Percent Minimum Special Allowance Payment Rate https://ifap.ed.gov/dear-colleague-letters/04-27-2007-fp-07-06-audit-requirements-95-percent-minimum-special-allowance
7. Dear Colleague Letter FP 07-12 -Determination of Not-For-Profit Holder Status for SAP Billing https://ifap.ed.gov/dear-colleague-letters/12-28-2007-fp-07-12-determination-not-profit-holder-status-sap-billing
8. Dear Colleague Letter FP 08-10 The Higher Education Opportunity Act https://ifap.ed.gov/sites/default/files/attachments/dpcletters/GEN0812FP0810AttachHEOADCL.pdf
9. Dear Colleague Letter FP 12-01 Loan Verification Certificate for Special Direct Consolidation Loans https://ifap.ed.gov/dear-colleague-letters/01-20-2012-fp-12-01-subject-loan-verification-certificate-special-direct
10. Dear Colleague Letter FP 12-02 LIBOR-Based SAP under the Consolidated Appropriations Act, 2012 https://ifap.ed.gov/sites/default/files/attachments/2019-05/LIBORLenderBulletinFeb2012.pdf
11. Dear Colleague Letter FP 12-03 Corrections to GEN-11-19/FP-11-01 Revised Loan Discharge Application: Unpaid Refund https://ifap.ed.gov/dear-colleague-letters/11-22-2011-gen-11-19-subject-revised-loan-discharge-application-unpaid

12. Dear Colleague Letter GEN-12-01 Changes Made to the Title IV Student Aid Programs by the Recently Enacted Consolidated Appropriations Act, 2012 https://ifap.ed.gov/dear-colleague-letters/01-18-2012-gen-12-01-subject-changes-made-title-iv-student-aid-programs

13. Dear Colleague Letter GEN-16-08, Approval of Servicemember Civil Relief Act (SCRA) Interest Rate Limitation Request for the Direct Loan and FFEL Programs https://ifap.ed.gov/dear-colleague-letters/05-05-2016-gen-16-08-subject-approval-servicemember-civil-relief-act-scra

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
N	N	N	N	N	Y	N	Y	N	Y	N	Y

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort

2.1 Level of Effort – *Maintenance of Effort*

Not Applicable

2.2 Level of Effort – *Supplement Not Supplant*

For schools that are lenders, proceeds from special allowance payments and interest payments from borrowers, interest subsidies received from the US Department of Education (ED), and any other proceeds from the sale of or other disposition of loans (exclusive of return of principal, any financing costs incurred by the school to acquire funds to make the loans, and the cost of charging origination fees or interest rates at less than the fees or rates authorized by the HEA) must be used to supplement, not to supplant, nonfederal funds that would otherwise be used for need-based grant programs (Section 435(d)(2)(C) of the HEA (20 USC 1085(d)(2(C)); 34 CFR section 682.601(c)).

3. Earmarking

Not Applicable

I. Procurement and Suspension and Debarment

For schools that are lenders (see III.N.10, "Holding Loans as a Trustee for an Institution of Higher Education or an Affiliated Organization"), any contract awarded for financing, servicing, or administration of FFEL loans must be awarded on a competitive basis (Section 435(d)(2)(A)(iv) of the HEA (20 USC 1085(d)(2)(A)(iv)); 34 CFR section 682.601(a)(4)).

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

d. *Lender's Interest and Special Allowance Request and Report (LaRS) (OMB No. 1845-0013)* – The LaRS is used by ED to calculate interest subsidies, special allowance payments due to lenders, and excess interest owed ED. It is also used to obtain information about the lender's FFEL program portfolio. For lenders to receive payments of interest benefits and special allowance payments, quarterly reports must be submitted to ED on

the LaRS. The lender must submit fully completed quarterly LaRS to ED even if the lender is not owed, or does not wish to receive interest benefits or special allowance payments from ED.

The LaRS must be submitted within 90 days after the end of the quarter to be considered timely. When testing of LaRS information is requested later in this program supplement, that testing can be done concurrently with this testing. See 34 CFR section 682.414(a)(4)(ii) for more information.

The LaRS is a five-part form with a cover page.

(1) *Page 1* – The first page of the form identifies the lender by name and identification number and, if the lender uses a servicer to prepare the form, the servicer's name, and identification number. It also requires that an official representative of the lender certify that the data reported is correct and that it conforms to the laws, regulations, and policies applicable to the FFEL Program.

(2) *Part I – Lender Origination and Lender Loan Fees* – This part contains information on the amount of funds disbursed during the quarter and the amount of loan origination and lender loan fees due to ED. (As there are no new loans originated under the FFEL program, this part is limited to adjustments and cancellations of previously disbursed loans.)

(3) *Part II – Interest Benefits* – This part contains information on the amount of interest benefits due to the lender on eligible loans.

(4) *Part III – Special Allowance* – This part contains information for the lender to request special allowance payments from ED. The loan information must be separated according to loan type, applicable interest rate, and special allowance categories. ED calculates the amount of special allowance payments due to the lender and/or the amount of excess interest owed to ED, based on this data.

(5) *Part IV – Loan Activity* – This part contains information regarding any changes in principal amounts for each type of FFEL program loan in the lender's portfolio during the quarter.

(6) *Part V – Loan Portfolio Status* – This part contains information regarding the status of the outstanding loan principal for each type of FFEL program loan in the lender's portfolio at the end of the quarter.

The information reported on the LaRS is subject to levels of edit checks for data reasonability during ED's processing of the payment request. In some cases, the form will be rejected and returned to the lender for correction. In other cases, ED notifies the lender that its submission failed

to pass certain reasonability edits and instructs the lender to determine if the errors resulted in an incorrect payment of interest benefits or special allowance. The lender is further instructed by ED to make applicable adjustments to the affected loan balances on the next quarterly report. The lender is required to keep records necessary to support the amounts reported on the LaRS (34 CFR section 682.305(a)).

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Individual Record Review

Compliance Requirements A lender is required to maintain current, complete, and accurate records of each loan that it holds. These loan records (files) form the basis for the information contained in the LaRS. The records must be maintained in a system that allows ready identification of each loan's status. Except for the loan application and the promissory note, these records may be stored in microform, computer file, optical disk, CD-ROM, or other media formats provided that the means of storage meets the requirements in 34 CFR sections 668.24(d)(3)(i) through (iv) (34 CFR section 682.414(a)).

The required records are identified in 34 CFR section 682.414(a)(4)(ii) and are listed below.

a. A copy of the loan application if a separate application was provided to the lender

b. A copy of the signed promissory note

c. The repayment schedule

d. A record of each disbursement of loan proceeds

e. Notices of changes in a borrower's address and status as at least a half-time student

f. Evidence of the borrower's eligibility for a deferment

g. The documents required for the exercise of forbearance

h. Documentation of the assignment of the loan

i. A payment history showing the date and amount of each payment received from or on behalf of the borrower, and the amount of each payment that was attributed to principal, interest, late charges, and other costs

j. A collection history showing the date and subject of each communication between the lender and the borrower or endorser relating to collection of a delinquent loan; each communication (other than regular reports by the lender showing that an account is current) between the lender and a credit bureau regarding the loan; each effort to locate a borrower whose address is unknown at any time; and each request by the lender for default aversion assistance on the loan

k. Documentation of any Master Promissory Note confirmation process or processes

l. Any additional records that are necessary to document the validity of a claim against the guarantee or the accuracy of reports submitted.

Note: *Original Loan Applications and Promissory Notes.* If the audit sample includes loans that the lender no longer owns, such as loans that the lender sold to another party, loans that were repaid by a consolidation loan or loans, or assigned to a guaranty agency, the auditor may perform alternative procedures to obtain access to and review the original documents. The alternative procedures could include, but are not necessarily limited to, the review of (1) a copy or image maintained by the lender or servicer of the original document; or (2) a certified true copy, obtained from the entity that currently holds the original loan document, that may be compared to the lender's document.

Audit Objectives Determine whether the lender maintained current, complete, and accurate loan records.

Suggested Audit Procedures

a. Trace loan information from the lender's summary records/ledgers to detailed loan records.

b. Test a sample of individual loan files and determine if the lender maintained the required documents and the information recorded in the detailed loan record agrees with the information in these documents and the summary records.

2. Interest Benefits

Compliance Requirements *Payment of Interest Benefits*- ED pays the lender interest benefits (see 34 CFR section 682.202(a) for applicable FFEL interest rates) on eligible FFEL program loans (subsidized Stafford and certain consolidated loans) on behalf of a qualified borrower during certain loan statuses including:

a. All periods prior to the beginning of the repayment period;

b. Any period when the borrower has an authorized deferment (34 CFR section 682.300); and

c. During a period that does not exceed three consecutive years from the established repayment period start date on each loan under the income-based repayment plan and that excludes any period during which the borrower receives an economic hardship deferment if the borrower's monthly payment amount is not sufficient to pay the accrued interest on the borrower's loan or on the qualifying portion of the borrower's Consolidation Loan.

Payment of Interest Benefits on Consolidated Loans- Consolidation loan borrowers qualify for interest benefits during authorized periods of deferment on the portion of the loan that does not represent Health Education Assistance Loans (HEAL) if the loan application was received by the lender on or after:

a. January 1, 1993, but prior to August 10, 1993;

b. August 10, 1993, but prior to November 13, 1997, if the loan consolidates only subsidized Stafford loans; or

c. November 13, 1997, but prior to July 1, 2010, for the portion of the loan that repaid subsidized FFEL loans and Direct Subsidized Loans (34 CFR section 682.301(a)(3)).

Termination of Interest Benefits- Generally, ED's obligation to pay interest benefits to a lender ceases when the eligible borrower enters repayment status and does not qualify for a deferment. Interest benefits to the lender also begin or terminate with certain other date-specific events enumerated in 34 CFR sections 682.300(b)(2) and (c).

Reporting of Interest Benefits- The information needed for ED to calculate interest benefits is reported in Part II of the LaRS. See 34 CFR section 682.202(a) for applicable interest rates for FFEL program loans. The Servicemembers Civil Relief Act (50 USC App. 527) (SCRA), which limits the interest rate on a borrower's loan to 6 percent during the borrower's active duty military service, applies to FFEL loans. This limitation applies to borrowers who were in military service as of August 14, 2008, but a borrower is not entitled to a refund of interest paid above the 6 percent rate prior to that date. The SCRA interest rate limit does not apply to an endorser to a PLUS loan made to a parent or graduate/professional student unless that individual is also performing eligible military service (50 USC App. 527). Lenders must also limit interest billing to ED to an interest rate of no more than 6 percent for borrowers that qualify for SCRA interest rate cap (34 CFR 682.208(j)).

Consolidation Loan Interest Payment Rebate Fee- Consolidation loan interest payment rebate fees are required on a monthly basis from lenders that hold federal consolidation loans with first disbursements after October 1, 1993. The monthly rebate fee is 0.0875 percent (1.05 percent annualized) of the unpaid balance of the principal and the accrued unpaid interest on all federal consolidation loans disbursed after October 1, 1993 and held by the lender on the last day of the month. For loans based on applications received

during the period October 1, 1998 through January 31, 1999, inclusive, the monthly rebate fee is 0.05167 percent (0.62 percent annualized) of the unpaid balance of principal and accrued unpaid interest. Consolidation loan rebate fees (CLRF) are reported monthly using the FFEL Consolidation Loan Rebate Fee Report and Remittance Form *(OMB No. 1845-0046)* (Section 428C(f) of the HEA (20 USC 1078-3(f))).

Audit Objectives Determine whether interest benefits were accurately calculated and billed to ED and that the CLRF were submitted on a monthly basis to ED.

Suggested Audit Procedures

a. Test that the loans are assigned the correct interest rate in accordance with 34 CFR section 682.202(a) and 50 USC App. 527 and are reported in the correct interest rate category in the LaRS.

b. Test that the lender begins and ends billings to ED for interest benefits on the appropriate day for loans in an in-school, grace, or authorized deferment period.

c. Review loan records, disbursement records, or other documentation to verify that interest is billed only for periods specified in 34 CFR section 682.300(b)(2) and is not billed for interest covered under 34 CFR section 682.300(c).

d. For consolidated loans on which the lender has claimed interest benefits, review the history files, and verify that the loans qualified for interest payments.

e. For consolidated loans subject to the consolidation loan interest payment rebate fee, verify that fees were calculated accurately and submitted on a monthly basis.

f. Test the accuracy of the average daily balance or actual accrual calculations by recalculating amounts or by reasonableness tests.

3. Special Allowance Payments

Compliance Requirements *Special Allowance Payments/Return of Excess Interest*- In addition to interest benefits, ED pays a special allowance to the lender on the average daily outstanding balance of eligible FFEL loans. ED computes the special allowance payable to the lender based upon the average daily balance computed by the lender. The amount of each quarterly special allowance payment on a loan will vary according to the type of FFEL program loan, the date the loan was disbursed, the loan period, and the loan status. The lender reports in Part III of the LaRS the average daily principal balance of those loans in each category qualifying for the payment. In addition, ED will calculate the amount of excess interest or negative special allowance owed to ED. ED computes the special allowance payment due to the lender during processing of the LaRS (34 CFR sections 682.304 through 682.305).

Loans Eligible for Special Allowance Payments-See 34 CFR section 682.302(b) for details on loans eligible for special allowance payments. Limitations on the payment of a special allowance for PLUS loans were eliminated by the Higher Education Reconciliation Act (HERA) (Pub. L. No. 109-171). Lenders may receive special allowance payments on PLUS loans that were first disbursed on or after January 1, 2000, and before July 1, 2006, for periods beginning April 1, 2006 (Section 438(b)(2)(I) of the HEA (20 USC 1087-1(b)(2)(I)). The average loan principal, including capitalized interest, is to be calculated using the average daily balance method defined in 34 CFR section 682.304(d). For any FFEL loan that is subject to the SCRA six percent interest rate limit, for those FFEL loans first disbursed on or after July 1, 2008, the applicable interest rate used in calculating the lender's special allowance payment is the SCRA-determined rate. Interest benefits due the lender may be calculated by using either the average daily balance or actual accrual methods in 34 CFR sections 682.304(b) and (c).

Special Allowance Rates for Loans Made on or After October 1, 2007, but Prior to July 1, 2010-Except for certain loans made from funds derived from tax-exempt sources, the special allowance rate for any eligible loan, for which the first disbursement of principal was made on or after October 1, 2007, is to be calculated according to the formulas described in:

a. Section 438(b)(2)(I)(vi)(I) of the HEA (20 USC 1087-1(b)(2)(I)(vi)(I)) (34 CFR section 682.302(f)(1)) for a loan that is held by an entity that does not qualify as an "eligible not-for-profit holder," or

b. Section 438(b)(2)(I)(vi)(II) of the HEA (20 USC 1087-1(b)(2)(I)(vi)(II)) (34 CFR section 682.302(f)(2)) for a loan that is held by an entity that qualifies as an "eligible not-for-profit holder."

An "eligible not-for-profit holder" is an eligible lender under Section 435(d) of the HEA (20 USC 1085(d)), other than a school lender, that is—

a. A state, or a political subdivision, agency, authority, or instrumentality of a state, including an entity eligible to issue bonds described in section 144(b) of the Internal Revenue Code (Code), or in 26 CFR section 1.103-1;

b. A not-for-profit entity described in section 150(d)(2) of the Code that has not made the election described in section 150(d)(3) of the Code to relinquish that status;

c. A not-for-profit entity described in section 501(c)(3) of the Code; or

d. A trustee acting on behalf of a governmental or nonprofit entity listed above, without regard to whether that entity qualifies as an eligible lender under Section 435(d) in its own right (Section 435(p) of the HEA (20 USC 1085(p); 34 CFR section 682.302(f)(3)).

Loans that are held by a governmental or nonprofit entity that is an eligible lender under Section 435(d) of the HEA may qualify for the higher special allowance rate, as may loans held by an eligible lender trustee on behalf of such an entity. Loans held by the entity or eligible lender trustee qualify for the higher rate only if the governmental or nonprofit entity—

a. On September 27, 2007, either acted as an eligible lender under Section 435(d) of the HEA (other than as a school lender), or was the sole beneficial owner of a FFEL program loan that was eligible for special allowance payments;

b. Is neither owned nor controlled, even in part, by a for-profit entity; and

c. Remains the sole beneficial owner of such loans and the income from such loans (Section 435(p)(2) of the HEA (20 USC 1085(p)(2))).

The grant of a security interest in a loan or its income, or the pledge of the loan or income as collateral, in order to secure a debt obligation issued by a governmental or nonprofit entity, does not affect the not-for-profit eligibility status of that entity or of an eligible lender trustee to the extent acting on its behalf (Section 435(p)(2)(E) of the HEA (20 USC 1085(p)(2)(E))).

An eligible lender trustee may not receive compensation in excess of reasonable and customary rates for serving as a trustee for a governmental or nonprofit entity (Section 435(p)(2)(D) of the HEA (20 USC 1085(p)(2)(D))).

Note that a state is permitted to designate a not-for-profit entity that was not acting as an eligible lender under Section 435(d) of HEA on September 27, 2007, as a new "eligible not-for-profit holder" (34 CFR section 682.302(f)(3)).

Loans Made or Purchased with Funds from the Issuance of Tax-Exempt Obligations- The special allowance rate payable on loans made or purchased from funds derived from tax-exempt obligations depends on the specific source of funds used to acquire the loan, whether specified events occurred after its acquisition, the date the loan was acquired, the rate payable on the loan when it was acquired, and the characteristics of the lender that acquired the loan (Section 438 of the HEA (20 USC 1087-1)).

With limited exceptions, for HERA small lenders (see below), the special allowance rates for loans made on or after October 1, 2007, are the same for all loans, regardless of the source of funding, and differ only with respect to the status of the holder of the loan. Loans made before October 1, 2007, that were acquired with funds from tax-exempt obligations originally issued prior to October 1, 1993, receive a special allowance at one-half the rate otherwise payable, but not less than needed to provide, including the interest on the loan, an annualized return of 9.5 percent (sections 438(b)(2)(B)(i), (ii), and (iv) of the HEA (20 USC 1087-1(b)(2)(B)(i), (ii), and (iv)). This separate rate is referred to as the "9.5 percent floor."

Loans acquired with funds from tax-exempt obligations originally issued on or after October 1, 1993 receive the same special allowance rate as loans acquired with funds

from sources other than tax-exempt obligations. An obligation that was issued to obtain funds to make loans, or to acquire an interest in a loan (including an interest by pledge of the loan as collateral), is considered to have been originally issued on the date it was issued. A tax-exempt obligation that refunds or is one of a series of tax-exempt refunding obligations, is considered to have been originally issued when the initial obligation was issued (Section 438(b)(2)(B)(iv) of the HEA (20 USC 1087-1(b)(2)(B)(iv))).

Only loans made or purchased from an eligible funding source specified in 34 CFR section 682.302(c)(3)(i) may qualify for the 9.5 percent floor. Those sources are funds obtained from:

a. The proceeds of a tax-exempt obligation originally issued prior to October 1, 1993;

b. Collections or default payments by a guarantor on a loan acquired with the proceeds of such an obligation;

c. Interest benefits or special allowance payments received on a loan acquired with the proceeds of such an obligation;

d. The sale of a loan acquired with the proceeds of such an obligation; or

e. The investment of the proceeds of such an obligation.

Special allowance at the 9.5 percent floor may be received on claims submitted for the quarter ending December 31, 2006 and thereafter only if the lender has submitted, and ED has accepted, a report of an audit conducted under a methodology prescribed for this purpose that identifies those loans that have been acquired from the eligible sources in the previous paragraph, and the lender has submitted, for each such claim, a management certification that SAP is claimed at that rate only on loans determined through that process to be eligible. (See Dear Colleague Letters FP-07-01 and FP-07-06.)

However, loans made from or purchased using these eligible sources do not qualify for the 9.5 percent floor if the loans were made or purchased after February 7, 2006, or for loans made before that date and purchased after that date, did not qualify on that date for special allowance at the 9.5 percent floor (Section 438(b)(2)(B)(vi) of the HEA (20 USC 1087-1(b)(2)(B)(vi)); 34 CFR section 682.302(e)(4)).

These deadlines were deferred until December 31, 2010, with respect to a “HERA small lender,” a loan holder that on February 8, 2006, and during the quarter for which the special allowance is paid:

a. Was a unit of state or local government or a private nonprofit entity;

b. Was not owned or controlled by, or under common ownership with, a for-profit; and

c. Held directly or through any subsidiary, affiliate, or trustee, a total unpaid balance of principal equal to or less than $100 million on loans for which special allowances were paid under section 438(b)(2)(B) in the most recent quarterly payment prior to September 30, 2005(Section 438(b)(2)(B)(vii) of the HEA (20 USC 1087-1(b)(2)(B)(vii)); 34 CFR section 682.302(e)(5)).

Loans that are eligible for the 9.5 percent floor may lose eligibility for that rate and revert to the usual rates for any loan that is:

a. Pledged or otherwise transferred prior to October 1, 2004 from the tax-exempt obligation used to acquire the loan, unless either of the following applies:

(1) The loan is pledged or transferred in consideration of funds listed in 34 CFR section 682.302(c)(3)(i) or from a tax-exempt refunding obligation, or

(2) The prior tax-exempt obligation used to acquire the loan is neither retired nor deceased with yield-restricted obligations;

b. Financed by a tax-exempt obligation that, after September 30, 2004, has matured, been refunded, or is retired or deceased;

c. Refinanced after September 30, 2004 with funds obtained from a source other than the funds listed in 34 CFR section 682.302(c)(3)(i);

d. Sold or transferred to any other holder after September 30, 2004.

Section 438(b)(2)(B) of the HEA (20 USC 1087-1(b)(2)(B)); 34 CFR sections 682.302(e)(2) and (3)).

Termination of Special Allowance Payments on a Loan-Special allowance payments on loan balances terminate when a date-specific event occurs and the loan is no longer eligible for the payment. These date-specific events are described in detail in 34 CFR section 682.302(d) and include the following:

a. The date a borrower’s loan is repaid;

b. The date a borrower’s loan check is returned uncashed to the lender;

c. The date the lender receives payment on a claim for loss on the loan;

d. The date the loan ceases to be guaranteed or ceases to be eligible for reinsurance, regardless of whether the lender has filed a claim for loss on the loan with the guarantor;

e. The 60th day after the borrower’s default on the loan, unless the lender files a claim for loss on the loan with the guarantor together with all the required documentation on or before the 60th day;

f. The 120th day after disbursement if the loan check has not been cashed on or before that date or if the loan proceeds disbursed by EFT have not been released from the restricted account maintained by the school on or before that date;

g. The 30th day after the date the lender received a returned claim from the guaranty agency due solely to inadequate documentation on a loan submitted by the regulatory deadline for loss on the loan (unless the lender files a claim for loss on the loan with the guarantor, together with the required documentation prior to the 30th day); and

h. The date on which the lender determines the loan is legally unenforceable based on receipt of an identity theft report under 34 CFR section 682.208(b)(3).

Loss of Interest and Special Allowance Payment Benefits-A lender can lose reinsurance coverage and interest and special allowance payment benefits due to violations of due diligence requirements on a loan *(*see III.N.7, "Due Diligence by Lenders in the Collection of Delinquent Loans"). To reinstate reinsurance and other federal payments on the loan, the violation has to be "cured" (see III.N.9, "Curing Due-Diligence and Timely Filing Violations"). See Appendix D to 34 CFR Part 682 for more information.

Audit Objectives Determine whether special allowance payments were earned and reported properly.

Suggested Audit Procedures

a. Test that the lender is reporting all eligible loans in its portfolio in Part III of the LaRS by the proper year, quarter, interest rate, and special allowance category.

b. Using the results of any audit conducted by or for the lender under Dear Colleague Letter FP-07-06 and accepted by ED, test that the lender is accurately reporting for the 9.5 percent floor only those loans that—

(1) were identified as a result of the audit as made or purchased with eligible sources of funds, or

(2) if made or acquired by the lender after December 31, 2006, were made or purchased with funds obtained from repayments, sales, or interest or special allowance payments on loans that were established by such audit to be first-generation loans, as that term is used in Dear Colleague Letter FP 07-01, and

(3) unless held by a lender that qualified for deferral until December 30, 2010,

(a) were made or purchased prior to February 8, 2006, and

(b) were eligible for 9.5 percent floor on February 8, 2006.

c. Test that the lender is terminating special allowance requests on loan balances when a date-specific event specified in 34 CFR section 682.302(d) occurs, as documented in the borrower's file.

d. Test that the lender is terminating billing under the 9.5 percent floor when disqualifying events specified in HEA and 34 CFR sections 682.302(e)(2) and (3) occur.

e. Test the accuracy of the average daily balance calculations as defined in 34 CFR section 682.304(d) by recalculating amounts or by reasonableness tests.

f. Test a sample of loans included in the average daily balances to determine that the average daily balances do not include loans that are not eligible for special allowance payments.

g. For loans made on or after October 1, 2007 through June 30, 2010, for which the lender claimed special allowance as an "eligible not-for-profit holder," examine if the lender claimed special allowance on loans held as a trustee on behalf of another entity—

(1) the claim was limited to loans to which a governmental or nonprofit entity listed above held full beneficial ownership; and

(2) the lender was compensated by the governmental or nonprofit entity at a rate in excess of that paid other eligible lender trustees holding FFEL program loans, and if so, by what amount.

4. Loan Sales, Purchases, and Transfers

Compliance Requirements Loan sales, purchases, and transfers between eligible lenders entail special portfolio management risks and, therefore, require special controls. The lender must exercise due care in ensuring that gaps in servicing do not occur, possibly affecting the reinsurance of the loan. The lender must notify the borrower, either jointly with the other party or separately, of the transfer of the loan and the purchasing lender must notify the guaranty agency of the loan transfer (34 CFR section 682.208(e)). Within 90 days of its acquisition of the loan, the purchasing lender shall report to at least one national credit bureau the information required in 34 CFR section 682.208(b)(2). In addition, the HEOA amended Section 428 (b)(2)(F) of the HEA (20 USC 1078(b)(2)(F)), which requires that a borrower be notified if the transfer, sale, or assignment of the borrower's loan will result in a change in the identity of the party to whom the borrower must send payments or direct any communications. After August 13, 2008, the borrower also must be advised of the effective date of the transfer of the loan, the date on which the current loan servicer (as of the date of the notice) will stop accepting payments, and the date on which the new loan servicer will begin accepting payments (20 USC 1078(b)(2)(F)). If an originating lender sells or otherwise transfers a loan to a new holder, ED will hold the originating lender liable for the payment of the origination and lender

fees and will not pay interest benefits or a special allowance to the new holder or pay reinsurance to the guaranty agency until the origination fees are paid to ED (34 CFR section 682.305(a)(4)).

Audit Objectives Determine whether loan sales, purchases, and transfers were made in accordance with ED requirements and that accurate records of such transactions were maintained.

Suggested Audit Procedures

a. For a sample of loans, trace the principal amount of loans sold as reported on the LaRS to the bills of sale.

b. Review a sample of the loan purchase/sales agreements and ascertain the terms of the agreements as to the day of sale, transfer of funds, and responsibility for loan origination and lender fees. Test that the sale/purchase was conducted in accordance with these terms and the date-specific event was properly noted in the lender's records as to the start/end date of eligibility for interest benefits and special allowance.

c. Select a sample of loans that were transferred to the lender during the audit period and verify that all applicable LaRS loan data, including beginning balances, was entered completely and accurately into the lender's system. Verify that all required supporting loan documentation was obtained and maintained.

d. Select a sample of loans that were transferred, sold, or assigned on or after August 14, 2008, and determine if the borrower was notified with the required information.

5. Enrollment Reports

Compliance Requirements Schools are required to confirm and report to the National Student Loan Data System (NSLDS) the enrollment status of students who receive federal student loans. This process is called Enrollment Reporting. Enrollment information is used to determine the borrower's eligibility for in-school status, deferment, interest subsidy, and grace period. Enrollment changes, such as a change from full-time to half-time status, graduation, withdrawal, or an approved leave of absence, are changes that need to be reported. The enrollment information is merged into the NSLDS database and reported to guarantors, lenders, and servicers of student loans.

Lenders must use the NSLDS data to make adjustments for interest and special allowance billings on each loan. The billing for interest benefits and special allowance payments relies on the timely and proper processing of student enrollment information, including timely conversion to repayment status. The conversion of a loan to repayment status is subject to a number of conditions as defined in 34 CFR section 682.209. Typically, Stafford loan borrowers begin repayment 6 months following the date on which the borrower is no longer enrolled on at least a half-time basis at a school. PLUS and

consolidation loans go into repayment on the day the loan is disbursed, or if disbursed in multiple installments, on the date the loan is fully disbursed. The first payment is due within 60 days of the date the loan is fully disbursed (34 CFR section 682.209).

Audit Objectives Determine whether, upon receipt of Enrollment Reports or other notification of change information, the lender accurately and timely updated loan records for changes to student status, including conversion to repayment status.

Suggested Audit Procedures

a. Trace a sample of loans from the Enrollment Reports received during the period to loan records to determine if changes to student enrollment status were made accurately.

b. Determine whether conversions to repayment status were made within required time limits.

c. Obtain and review the error reports (manifests, in-school discrepancy reports, or out-of-school status reports), if any, generated by the lender that identify discrepancies between the Enrollment Reports and the lender's records.

d. For a sample of loans, trace student enrollment data to any interim status reports or other notification of change information that may have been received directly from the school.

6. Payment Processing

Compliance Requirements Except in the case of payments made under an income-based repayment plan, the lender may credit the entire payment amount first to any late charges accrued or collection costs, then to any outstanding interest, and then to any outstanding principal. A borrower may prepay all or part of a loan at any time without a penalty. Unless the borrower requests otherwise, if a prepayment equals or exceeds the established monthly payment amount, the lender shall apply the prepayment to future installments and advance the next payment due date. The lender must (1) inform the borrower in advance that any additional full payment amounts submitted without instructions as to their handling will be applied to future scheduled payments with the borrower's next scheduled payment due date advanced, or (2) provide a notification after the payment is received stating that the payment has been so applied and the due date of the borrower's next scheduled payment. Information related to the next scheduled payment due date need not be provided to a borrower making prepayments while in an in-school, grace, deferment, or forbearance period when payments are not due (34 CFR section 682.209(b)). Interest must be charged in accordance with 34 CFR sections 682.202(a) and (b).

Income-Based Repayment Plan- The HEA provides an income-based repayment (IBR) plan that enables a borrower who has had a partial financial hardship to make a lower monthly payment with certain exceptions. The IBR plan has different rules for applying

payments. For loans repaid under the IBR plan, the lender must apply payments in the order of (1) accrued interest, (2) collection costs, (3) late charges, and (4) loan principal (Section 428(b)(9)(A)(v) of the HEA (20 USC 1078(b)(9)(A)(v))).

Audit Objectives Determine whether the lender (1) calculated interest and principal in accordance with 34 CFR sections 682.202 (a) and (b), and (2) applied loan payments and prepayments in accordance with 34 CFR section 682.209(b), or in the case of prepayments, with the documented specific request of the borrower.

Suggested Audit Procedures

a. Test whether the lender applied the borrower payments and prepayments to loan records in accordance with payment application requirements.

b. Test that application of principal and interest were appropriately calculated and that the correct amount was applied to the individual borrower's loan balance.

c. Test if prepayments were allocated in accordance with ED regulatory requirements or, if applicable, borrower instructions.

7. Due Diligence by Lenders in the Collection of Delinquent Loans

Compliance Requirements Lenders are required to engage in specific collection activities and meet specific claim-filing deadlines on delinquent loans. In the case of a loan made to a borrower who is incarcerated, residing outside the United States or its territories, Mexico, or Canada, or whose telephone number is unknown, the lender may send a forceful collection letter instead of each telephone effort described below. There are also specific collection activities that must be performed before a lender can file a default claim on a loan with an endorser. The due diligence provisions preempt any State law, including state statutes, regulations, or rules that would conflict with or hinder satisfaction of the requirements or frustrate the purposes of that section (34 CFR section 682.411).

Definition of Delinquency **–** Delinquency on a loan begins on the first day after the due date of the first missed payment. The due date of the first payment is established by the lender but must follow the deadlines specified in 34 CFR section 682.209(a). If a payment is made late, the first day of delinquency is the day after the due date of the next missed payment. A payment that is within $5.00 of the amount normally required to advance the due date may advance the due date if the lender's procedures allow for that advancement (34 CFR section 682.411(b)).

Definition of Collection Activity- Collection activity with respect to a loan is defined as:

a. Mailing or otherwise transmitting to the borrower at an address that the lender reasonably believes to be the borrower's current address, a collection letter or final demand letter that satisfies the timing and content requirements of 34 CFR sections 682.411(c), (d), (e), or (f);

b. Attempting telephone contact with the borrower;

c. Conducting skip-tracing efforts, in accordance with 34 CFR sections 682.411(h)(1) or (m)(1)(iii) to locate a borrower whose correct address or telephone number is unknown to the lender;

d. Mailing or otherwise transmitting to the guaranty agency a request for default aversion assistance available from the agency on the loan at the time the request is transmitted; or

e. Any telephone discussion or personal contact with the borrower as long as the borrower is apprised of the account's past-due status (34 CFR section 682.411(l)(5)).

Gaps in Collection Activity

A lender/servicer may not permit the occurrence of a gap of more than 45 days (or 60 days in the case of a transfer) in collection activity on a loan (34 CFR section 682.411(j)).

Due Diligence Documentation

A lender is required to maintain complete and accurate records of each loan that it holds. In determining whether the lender met the due diligence compliance requirements pertaining to collection of delinquent loans, the documentation maintained must include a collection history showing the date and subject of each communication between the lender and the borrower or endorser relating to collection of a delinquent loan; each communication (other than regular reports by the lender showing that an account is current) between the lender and a credit bureau regarding the loan; each effort to locate a borrower whose address is unknown at any time; and each request by the lender for default aversion assistance on the loan (34 CFR section 682.414(a)(4)).

Failure to Comply with Due-Diligence Regulations

Failure to comply with the federal due-diligence regulations will result in the loss of reinsurance for the guaranty agency, the loss of a lender's right to receive an insurance payment from the guaranty agency's Federal Fund, and the lender's right to receive interest and special allowance (34 CFR Part 682, Appendix D, paragraph I.B.3).

Due-Diligence Requirements for Loans with Monthly and Less-than-Monthly Repayment Obligations

The required collection activities are described below. As part of one of the collection activities, the lender must provide the borrower with information on the availability of the Student Loan Ombudsman's office (34 CFR section 682.411).

One to 15 Days Delinquent: One written notice or collection letter should be sent to the borrower informing the borrower of the delinquency and urging the borrower to make payments sufficient to eliminate the delinquency (except in the case where a loan is

brought into this period by a payment on the loan, expiration of an authorized deferment or forbearance period, or the lender's receipt from the drawee of a dishonored check submitted as a payment on the loan). The notice or collection letter sent during this period must include, at a minimum, a lender contact, a telephone number, and a prominent statement informing the borrower that assistance may be available if he or she is experiencing difficulty in making a scheduled repayment.

Sixteen to 180 Days Delinquent (16–240 days delinquent for a loan repayable in installments less frequently than monthly): Unless exempted as set forth in 34 CFR section 682.411(d)(4), during this period the lender shall engage in the following:

a. At least four diligent telephone contacts (see definition of a "diligent telephone contact" below) urging the borrower to make the required payments on the loan. At least one of the telephone contacts must occur on or before the 90th day of delinquency and another one must occur after the 90th day of delinquency.

b. At least four collection letters – at least two of which must warn the borrower that if the loan is not paid, the lender will assign the loan to the guaranty agency that, in turn, will report the default to all national credit bureaus, and that the agency may institute proceedings to offset the borrower's state and federal income tax refunds and other payments made by the federal government to the borrower, or to garnish the borrower's wages, or assign the loan to the federal government for litigation against the borrower.

Diligent Efforts for Telephone Contact

Diligent efforts for telephone contact are defined in 34 CFR section 682.411(m) as:

a. A successful effort to contact the borrower by telephone;

b. At least two unsuccessful attempts to contact the borrower by telephone at a number that the lender reasonably believes to be the borrower's correct telephone number; or

c. An unsuccessful effort to ascertain the borrower's correct telephone number, including but not limited to, a directory assistance inquiry as to the borrower's telephone number and sending a letter to or making a diligent effort to contact each reference, relative, and individual identified in the most recent loan application or most recent school certification for that borrower that the lender holds. The lender may contact a school official other than the financial aid administrator who reasonably may be expected to know the borrower's address.

Subsequent Payment or Information Obtained

Following the lender's receipt of payment on the loan or a correct address for the borrower, the lender's receipt from the drawee of a dishonored check received as a payment on the loan, the lender's receipt of a correct telephone number for the borrower, or the expiration of an authorized deferment or forbearance period, the lender is required to engage only in the following activities (34 CFR section 682.411):

a. *For loans less than 91 days delinquent (121 days for a loan repayable in installments less frequently than monthly)* – Two diligent efforts to contact the borrower by telephone.

b. *For loans 91–120 days delinquent (121–180 days for a loan repayable in installments less frequently than monthly)* **–** One diligent effort to contact the borrower by telephone.

c. *For loans more than 120 days delinquent (180 days for a loan repayable in installments less frequently than monthly)* **–** No additional diligent efforts to contact the borrower by telephone are required.

d. *181–270 days delinquent (241–330 days for loans payable in installments less frequent than monthly)* – During this period, the lender must engage in efforts to urge the borrower to make the required payments on the loan. These efforts must, at a minimum, provide information to the borrower regarding options to avoid default and the consequences of defaulting on the loan.

e. *Final demand on or after the 241st day of delinquency (the 301st day for loans payable in installments less frequent than monthly)* – The lender must send a final demand letter to the borrower requiring repayment of the loan in full and notifying the borrower that a default will be reported to a national credit bureau. The lender must allow the borrower at least 30 days after the date the letter is mailed to respond and bring the loan out of default before filing a default claim on the loan.

Default Aversion Assistance

Default aversion assistance is collection assistance that a guarantor provides to supplement a lender's efforts to prevent default on a borrower's loan; however, it does not replace the lender's responsibility to perform due diligence. Not earlier than the 60th day and no later than the 120th day of delinquency, a lender must request default aversion assistance from the guaranty agency that guarantees the loan (34 CFR section 682.411(i)).

Skip-Tracing Requirements

Skip tracing is the process by which lenders attempt to obtain corrected address or telephone information for borrowers for whom the lender does not have accurate

information. Skip-tracing processes must meet regulatory time frames and minimum standards as outlined in 34 CFR section 682.411(h).

Unless the final demand letter (as specified in the "Subsequent Payment or Information Obtained" section above) has already been sent, the lender shall begin to diligently attempt to locate the borrower through the use of effective commercial skip-tracing techniques within 10 days of its receipt of information indicating that it does not know the borrower's current address. These efforts must include, but are not limited to, sending a letter to, or making a diligent effort to contact each endorser, relative, reference, individual, and entity identified in the borrower's loan file, including the schools the student attended. For this purpose, a lender's contact with a school official that might reasonably be expected to know the borrower's address may be with someone other than the financial aid administrator and may be in writing or by telephone.

These efforts must be completed by the date of default with no gap of more than 45 days between attempts to contact those individuals or entities. Upon receipt of information indicating that it does not know the borrower's current address, the lender shall discontinue the collection efforts described in the Subsequent Payment or Information Obtained section.

If the lender is unable to ascertain the borrower's current address despite its performance of the activities described in the Subsequent Payment or Information Obtained section, the lender is excused thereafter from performance of the collection activities (with the exception of a request for default aversion assistance) unless it receives a communication indicating the borrower's address prior to the 241st day of delinquency (the 301st day for loans payable in less frequent installments than monthly).

Requirements for Loan Endorsers

Loan endorsers are required for PLUS loans for borrowers with an adverse credit history (34 CFR sections 682.201(b)(4) and 682.201(c)(1)(vii)).

Before filing a default claim on a loan with an endorser, the lender must:

a. Make a diligent effort to contact the endorser by telephone and send the endorser two letters advising the endorser of the delinquent status of the loan and urging the endorser to make the required payments on the loan.

b. At least one letter must warn the endorser that if the loan is not paid, the lender will assign the loan to the guaranty agency that, in turn, will report the default to all national credit bureaus.

c. On or after the 241st day of delinquency (the 301st day for loans payable in installments less frequent than monthly) send a final demand letter to the endorser requiring repayment of the loan in full and notifying the endorser that a default will be reported to a national credit bureau. The lender shall allow the endorser at least 30 days after the date the letter is mailed to respond to the final demand

letter and to bring the loan out of default before filing a default claim on the loan (34 CFR section 682.411(n)).

Skip Tracing for Loan Endorsers

Unless the final demand letter specified in the paragraph above has already been sent, upon receiving information indicating that it does not know the endorser's current address or telephone number, the lender must diligently attempt to locate the endorser through the use of normal commercial skip-tracing techniques. This effort must include an inquiry to directory assistance (34 CFR section 682.411(n)(3)).

Audit Objectives Determine if the lender complied with the due-diligence requirements for collection of delinquent loans, including the requirements for skip tracing or default aversion assistance.

Suggested Audit Procedures

a. Test a sample of loans that were delinquent from one to 15 days, verify that the lender's records document that the required written notice or collection letter was sent to the borrower. Verify that the letter contained the required information.

b. Test a sample of loans that were delinquent between 16 to 180 days (16 to 240 days for loans repayable in installments less frequently than monthly) verify that the lender's records document that the required telephone efforts were made and that the required collection letters were sent to the borrower. Verify that at least two of the letters warned the borrower of possible assignment of the loan to the guaranty agency, reporting the default to all national credit bureaus, offset of income tax refunds to garnish wages, and litigation against the borrower.

c. Test a sample of loans that were delinquent from 181 to 270 days (241 to 331 days for loans payable in installments less frequently than monthly) verify that the lender's records document the lender's efforts to urge the borrower to make the required payments on the loan and that the efforts, at a minimum, provided information to the borrower regarding options to avoid default and the consequences of defaulting on the loan.

d. Test a sample of loans that are 241 days delinquent (the 301st day for loans payable in installments less than monthly), verify that the lender sent the required final demand letter to the borrower.

e. *Loan Endorser Procedures*: Test a sample of the lender's records to verify that they document that the lender made a diligent effort to contact the endorser by phone, sent the required letters and final demand letter, if applicable, in accordance with requirements.

f. *Skip-Tracing Procedures*: From the sample of delinquent loans where a final demand letter was not sent to the borrower, verify that the lender's records document that the lender attempted to contact each endorser, relative, reference, individual and entity identified in the borrower's loan file within 10 days of receipt of information indicating that the lender did not know the borrower's current address. Verify that these efforts were completed by the date of default with no gap of more than 45 days between attempts. Verify that the lender's efforts for loan endorsers included an inquiry to directory assistance.

g. *Default Aversion Assistance:* Obtain and review the agreement the guaranty agency has with the lender that establishes the time period for default aversion assistance. From the population of delinquent or defaulted loans, determine the loans where required default aversion assistance from the loan guaranty agency should have been requested by the lender. For a sample of the loans, verify that the lender's records document that default aversion assistance was requested within the required timeframes.

8. Timely Claim Filings by Lenders or Servicers

Compliance Requirements Lenders are required to timely file claims with the guaranty agency for payment of death, disability, closed schools, false certification, bankruptcy, and default claims. Each type of claim has a separate timely filing requirement (34 CFR sections 682.402(g)(2) and 682.406(a)(5)). A lender has up to three years after the default claim filing deadline to successfully cure due-diligence violations that have rendered a loan un-reinsured (34 CFR Part 682, Appendix D). The lender is also required to maintain records to document the validity of a claim against a loan guaranty (34 CFR sections 682.402(g)(1) and 682.414(a)(4)(iii)).

TYPE OF CLAIM	TIMELY FILING REQUIREMENTS
Default	A lender must submit default claims to the guaranty agency within 90 days of the default.
Death	A lender must submit a claim within 60 days of the date that the lender determines that a borrower (or the student on whose behalf a parent obtained a PLUS loan) has died.
Total and Permanent Disability	Effective July 1, 2013, if a borrower, who is not a veteran, notifies the lender that the borrower claims to be totally and permanently disabled as described in paragraph (1) of the definition of that term in 34 CFR section 682.200(b), the lender must direct the borrower to notify the secretary of the borrower's intent to submit an application for total and permanent disability discharge and provide the borrower with the information needed for the borrower to notify the secretary (34 CFR section 682.402(c)(2)). After the secretary receives the application described in 34 CFR section 682.402 (c)(2)(iv), the secretary notifies the holders of the borrower's Title IV loans that the secretary has received a total and permanent disability discharge application from the borrower. The holders of the loans must notify the applicable guaranty agencies that the total and permanent disability discharge application has been received (34 CFR section 682.402(c)(2)(vi)).

TYPE OF CLAIM	TIMELY FILING REQUIREMENTS
	The secretary will notify the borrower and the borrower's lenders whether the application for a disability discharge has been approved and will direct each lender to submit a disability claim to the guaranty agency so the loan can be assigned to the secretary. The lender must submit the claim to the guaranty agency within 60 days of the date the lender received notification from the secretary that the borrower is totally and permanently disabled (34 CFR sections 682.402(c)(3)(iii) and 682.402 (g)(2)(ii)). Effective July 1, 2013, if the borrower, who is a veteran, notifies the lender that the borrower claims to be totally and permanently disabled as described in paragraph (2) of the definition of that term in 34 CFR section 682.200(b), the lender must direct the veteran to notify the secretary of the veteran's intent to submit an application for total and permanent disability discharge and provide the veteran with the information needed to apply for a total and permanent discharge to the secretary (34 CFR section 682.402(c)(9)). After the secretary receives the application described in 34 CFR section 682.402 (c)(2)(iv), the secretary notifies the holders of the veteran's Title IV loans that the secretary has received a total and permanent disability discharge application from the borrower. The holders of the loans must notify the applicable guaranty agencies that the total and permanent disability discharge application has been received (34 CFR section 682.402(c)(9)(vi)). If the secretary approves the veteran's total and permanent disability discharge application based on documentation from the Department of Veterans Affairs, the lender must submit a disability claim to the guaranty agency in accordance with 34 CFR section 402(g)(1) (34 CFR section 682.402(c)(9)(xii)(A)). The secretary will notify the veteran and the veteran's lenders whether the application for a disability discharge has been approved and will direct each lender to submit a disability claim to the guaranty agency so the loan can be assigned to the secretary. The lender must submit the claim to the guaranty agency within 60 days of the date the lender received notification from the secretary that the veteran is totally and permanently disabled (34 CFR section 682.402(c)(9)(x) and 34 CFR 682.402 (g)(2)(ii)).
Closed School	The lender shall file a claim within 60 days after the borrower submits to the lender the written request and sworn statement described in 34 CFR section 682.402(d)(3) or after the lender is notified by the secretary or the secretary's designee or by the guaranty agency to do so.
False Certification	The lender shall file a claim with the guaranty agency within 60 days after the borrower submits to the lender the written and sworn statement described in 34 CFR section 683.402(e)(3) or after the lender is notified by the secretary or the secretary's designee or by the guaranty agency to do so.
Bankruptcy	A lender shall file a bankruptcy claim by the earlier of: (1) 30 days after the date on which the lender receives notice of the first meeting of creditors or other information described in 34 CFR section 682.402(f)(3); or (2) 15 days after the lender is served with a complaint or motion to have the loan determined to be dischargeable on grounds of undue hardship, or if the lender secures an extension of time within which an answer may be filed, 25 days before the expiration of that period, whichever is later.

Records to Support a Claim

The lender is required to maintain records necessary to document the validity of a claim against a loan guaranty (34 CFR section 682.414(a)(4)(ii)). Items to be filed by the lender when making a claim to the guaranty agency include (34 CFR section 682.402):

a. The original or a true and exact copy of the promissory note.

b. The loan application if a separate loan application was provided to the lender.

c. In the case of a death claim, an original or certified copy of the death certificate or other documentation supporting the discharge request that formed the basis for the determination of death.

d. In the case of a disability claim, a copy of the certification of disability described in 34 CFR section 682.402(c)(2).

e. In the case of a closed school claim, the documentation described in 34 CFR section 682.402(d)(3) or any other documentation as the secretary may require.

f. In the case of a false certification claim, the documentation described in 34 CFR section 682.402(e)(3).

g. In the case of a bankruptcy claim:

   (1) Evidence that a bankruptcy petition has been filed and all pertinent documents sent to or received from the bankruptcy court by the lender;

   (2) An assignment to the guaranty agency of any proof of claim filed by the lender regarding the loan; and

   (3) A statement of any facts of which the lender is aware that may form the basis for an objection or exception to the discharge of the borrower's loan obligation in bankruptcy and all documents supporting those facts (34 CFR section 682.402(g)(1)(v)).

Audit Objectives Determine whether the lender complied with the documentation requirements and deadlines for timely filing of claims with the guaranty agency concerning death, disability, false certification, closed schools, bankruptcy, or default claims.

Suggested Audit Procedures

a. Select a sample from all loans on which a claim was filed and verify that the lender's records document that a claim was filed with accurate claim payment information and in a timely manner with the guaranty agency.

b. Using the same sample of claims, verify that the lender maintained the required documentation to support the particular type of claim.

9. Curing Due-Diligence and Timely Filing Violations

Compliance Requirements A due-diligence violation occurs when a lender does not perform a requirement (see III.N.8, "Timely Claim Filings by Lenders or Servicers") within the time frame specified. The time interval between collection activities is called a "gap." If the gap between collection activities exceeds that permitted a due diligence violation has occurred and the lender may incur penalties, including loss of insurance and reinsurance on the loan (34 CFR section 682.411 and 34 CFR Part 682, Appendix D).

Some examples of due-diligence violations include the lender's failure to perform the following functions in a timely manner:

a. Sending the required collection letter(s), including the required final demand letter;

b. Making the required telephone contact or diligent effort to contact the borrower;

c. Requesting default aversion assistance from the guarantor;

d. Conducting skip tracing activity.

A timely filing violation occurs when a lender fails to submit default, death, disability, closed school, or false certification claims within the prescribed time frames prescribed. See III.N.8, "Timely Claim Filings by Lenders or Servicers," for timely filing requirements.

Cures for Due-Diligence Violations-

Violations of six days or less (21 days or less for a transfer) **–** There will be no reduction or recovery by the secretary of payments to the lender or guaranty agency if there is no violation of federal requirements of six days or more (21 days or more for a transfer).

Two or fewer violations of six days or more (21 days or more for a transfer) and no gap of 46 days or more (61 days for a transfer) **–** Principal will be reinsured, but accrued interest, interest benefits, and special allowance payable by the secretary for the delinquency period will be limited to amounts accruing through the date of default. However, the lender must complete all required activities before the claim filing deadline, except that a default aversion assistance request must be made before the 330th day of delinquency. If the lender fails to make the default aversion assistance request by the 330th day, the secretary will not pay any accrued interest, interest benefits and special allowance for the most recent 270 days prior to the default. If the lender fails to complete any other required activity before the claim filing deadline, accrued interest, interest benefits, and special allowance otherwise payable by the secretary for the delinquency period will be limited to amounts accruing through the 90th day before default.

Three violations of six days or more (21 days or more for a transfer) and no gap of 46 days or more (61 days for a transfer) **–** The lender must satisfy the requirements in 34 CFR Part 682, Appendix D, I.E.1., or receive a full payment or a new, signed repayment agreement in order for reinsurance on the loan to be reinstated. The secretary will not pay any interest benefits or special allowance for the period beginning with the lender's earliest unexcused violation occurring after the last payment received before the cure is accomplished, and ending with the date, if any, that reinsurance on the loan is reinstated.

More than three violations of 6 days or more (21 days or more for a transfer) of any type, or a gap of 46 days (61 days for a transfer) or more and at least one violation **–** The lender must satisfy the requirement outlined in 34 CFR Part 682, Appendix D, I.D.1, for the reinsurance on the loan to be reinstated. The secretary will not pay any interest benefits or special allowance for the period beginning with the lender's earliest unexcused violation occurring after the last payment received before the cure is accomplished, and ending with the date, if any, that reinsurance on the loan is reinstated (34 CFR Part 682, Appendix D, I.C.3).

Cures for Timely Filing Violations- When a lender has a timely filing violation on a default claim, the guarantee on the loan may be reinstated through one of the following (34 CFR Part 682, Appendix D, I.E.1):

a. The receipt of one full payment as defined in 34 CFR Part 682, Appendix D, I.A,

b. The receipt of a new repayment agreement signed by the borrower, or

c. Successful completion of the requirements in 34 CFR Part 682, Appendix D, I.E.1.

Audit Objectives Determine whether the lender complied with the cure procedures in 34 CFR Part 682, Appendix D for loans with due-diligence or timely filing violations. Determine whether the information for cures was accurately reported on the LaRS.

Suggested Audit Procedures

a. Select a sample of cured loans identified on the LaRS and verify that the lender's records document that it performed the required cure procedures.

b. For cured loans for which the lender obtained a new repayment agreement, verify that the agreement meets the repayment period limitations of 34 CFR sections 682.209(a)(8) and 682.209(h)(2).

c. For cured loans for which the lender obtained one full payment, obtain documentation of the payment, and verify that the payment complied with the terms of the most current repayment schedule and was valid in accordance with 34 CFR Part 682, Appendix D, I.A.

10. Servicemembers Civil Relief Act

Compliance Requirements Effective July 1, 2016, FFEL lenders and lender-servicers must use the Defense Manpower Data Center's (DMDC) Servicemembers Civil Relief Act (SCRA) website at least monthly to identify borrowers who are in military service status for the purpose of determining eligibility for a 6 percent interest rate cap under 34 CFR section 682.202(a)(8). Once a borrower's status and service dates have been confirmed using the DMDC, the loan servicer must use the DMDC-generated certification information in lieu of requiring a request from the borrower and a copy of the servicemember's military orders to support the borrower's receipt of the SCRA interest rate limitation. A borrower may provide the loan holder with alternative evidence of military service status to demonstrate eligibility if the borrower believes that the information contained in the DMDC database is inaccurate or incomplete. When the loan servicer applies the SCRA's interest rate limitation to a borrower's account, it must notify the borrower in writing within 30 days that the interest rate on the loan has been changed (see Dear Colleague Letter GEN-16-08, May 5, 2016) (34 CFR section 682.208(j)).

Audit Objectives Determine whether eligible borrowers of FFEL loans received the benefit of the 6 percent interest rate cap provided by the SCRA.

Suggested Audit Procedures

a. Test a sample of loans to verify that FFEL lenders and lender-servicers used the DMDC's SCRA website to identify borrowers eligible for the SCRA interest rate limit of 6 percent.

b. Test sample of borrowers who were eligible for the SCRA interest rate cap to verify that they received the new rate of 6 percent only if their previous interest rate was greater than 6 percent.

c. Test a sample of loans to verify that borrowers were notified in writing within 30 days that the interest rate was reduced to the SCRA limit of 6 percent.

IV. OTHER INFORMATION

Selection of Major Programs When the Entity is a School That is a Lender under the FFEL Program.

Some schools hold loans under the FFEL program. Under the HEA and 34 CFR section 682.601(a)(7), for any fiscal year beginning on or after July 1, 2006, in which a school engages in activities as an eligible lender, the school must submit a compliance audit covering its activities as a lender. An audit conducted in accordance with 2 CFR Part 200, Subpart F, that treats the lender function as a major program, will satisfy that requirement.

If the SFA Cluster (see Part 5) was selected as a major program for a school that is also a lender under the FFEL program, the auditor must also include in the audit coverage, work sufficient to

render an opinion, as part of an opinion on the SFA Cluster, on the school's compliance with the requirements set forth in this program supplement. Audit documentation must demonstrate sufficient audit coverage of the above compliance requirements to support that opinion, as well as the compliance requirements set forth in the SFA Cluster. When the SFA Cluster is audited as a major program for a school that is a lender, the program should be listed in the Summary of Auditor's Results Section of the Schedule of Findings and Questioned Costs as "SFA Cluster (including Assistance Listing 84.032 FFEL - Lenders)."

For schools that are lenders, if the SFA Cluster is not selected as a major program, Assistance Listing 84.032 must be covered as a separate major program using this program supplement. In such cases, the program should be listed in the Summary of Auditor's Results Section of the Schedule of Findings and Questioned Costs as "Assistance Listing 84.032 - FFEL – Lenders."

Governmental Lenders Covered as Part of a Statewide Single Audit

Some "statewide" entities are defined to include a governmental lender under the FFEL program. For such entities, this program supplement should be used to identify pertinent compliance requirements. Auditors for such entities with large FFEL lending programs must consider the provisions of 2 CFR section 200.518(b)(3) in determining major programs. When those provisions apply, coverage of the FFEL program for a lender should be identified and reported on separately and listed as a major program in the Summary of Auditor's Results Section of the Schedule of Findings and Questioned Costs as "Assistance Listing 84.032 - FFEL – Lenders."

Use of Third Party Servicers

Some lenders (including schools that are lenders in the FFEL program) use third party servicer organizations to perform some or many lender functions. Third party servicer organizations are required to obtain a financial statement audit and compliance attestation engagement under the January 2011 *Lender Servicer Financial Statement Audit and Compliance Attestation Guide* (Lender Servicer Audit Guide), issued by ED. Auditors of lenders (including school lenders) may exclude coverage of compliance requirements performed by a third party servicer, provided the auditor has determined that the third party servicer has obtained an audit under the Lender Servicer Audit Guide for the entire audit period of the lender. If the third party servicer has a different audit period, the auditor of the lender must determine that the most recently required audit of the third party servicer under the Lender Servicer Audit Guide has been completed timely and must obtain a representation from the third party servicer that it has engaged (or will engage) an auditor to perform the required audit under the Lender Servicer Audit Guide for the immediate subsequent audit period. The auditor of the lender must confirm that the audit period of the prior third party servicer audit, together with the audit period for the subsequent third party servicer audit, covers the entire audit period of the lender/school lender audit.

If the auditor excludes coverage of compliance requirements performed for a third party servicer, the *Report on Compliance With Requirements Applicable to Each Major Program and on Internal Control Over Compliance* must clearly describe the compliance requirements for which coverage has been excluded, name the third party servicer that performed those compliance requirements, state that that the third party servicer has obtained an audit performed under the January 2011 Lender Servicer Audit Guide issued by ED, and specify the period of that audit.

Alternatively, the auditor may decide to use a third party servicer's audit (attestation engagement) and rely on it in rendering an opinion on compliance. In such cases, the auditor should obtain the servicer's most recent compliance audit report and any other reports regarding servicer compliance.

If the servicer's compliance audit report or other reports contain findings of noncompliance, the auditor should assess the effect of that noncompliance on the nature, timing, or extent of substantive tests to be conducted at the lender and/or the servicer organization, as well as reporting that information. The auditor must also adhere to pertinent generally accepted auditing standards relating to use of servicer organization audits and reliance on the work of other auditors.

DEPARTMENT OF EDUCATION

ASSISTANCE LISTING 84.041 IMPACT AID (Title VII of ESEA)

I. PROGRAM OBJECTIVES

The objective of the Impact Aid Program (IAP) under Title VII of the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESSA) (Pub. L. No. 114-95), is to provide financial assistance to local educational agencies (LEAs) whose local revenues or enrollments are adversely affected by federal activities. These activities include the federal acquisition of real property (Section 7002) (20 USC 7702) or the presence of children residing on tax-exempt federal property or residing with a parent employed on tax-exempt federal property ("federally connected" children) (Section 7003) (20 USC 7703).

II. PROGRAM PROCEDURES

Funds are provided on the basis of statutory criteria and data supplied by LEAs in applications submitted to the Department of Education (ED), with copies provided simultaneously to the state educational agency (SEA). ED makes payments directly to the LEA. Generally, payments under Section 7003 of the ESEA are based on membership and attendance counts of federally connected children, with additional funds provided for certain federally connected children with disabilities and children residing on Indian lands. Payments under Section 7002 of the ESEA are based on the estimated taxable value of eligible federal property and the applicable tax rate, and, in case of insufficient funds, upon a statutory formula that considers past year payments.

Except for the additional funds provided for federally connected children with disabilities under Section 7003(d) of the ESEA, funds provided under sections 7002 and 7003 are considered general aid and generally have no restrictions on their expenditure. Under 2 CFR 200.101(e)(2), sections 7002 and 7003(b) are **not** subject to subparts C (pre-federal award), D (post federal award), or E (cost principles) of 2 CFR Part 200; therefore, ED generally has no basis to sustain findings related to these subparts for funds provided under sections 7002 and 7003(b) of the ESEA.

Any formula funds that are provided under Section 7007(a) of the ESEA to certain LEAs that received Section 7003 payments must be used for construction, as defined in the statute. Any discretionary construction grant funds that are provided under Section 7007(b) of the ESEA to certain LEAs that received Section 7002 or 7003 payments must be used for emergency repairs or modernization, as defined in the statute and regulations.

In fiscal years where the auditee expends only Section 7002 funds from the Impact Aid program, the auditor must exclude the amount of the 7002 Impact Aid expenditures from the determination of the Type A/B program threshold. See IV, "Other Information" below for additional information on major program determination and SEFA presentation.

Source of Governing Requirements

This program is authorized by sections 7001–7014 of the ESEA, as amended, which is codified at 20 USC 7701 through 7714. Implementing regulations are 34 CFR Part 222.

Availability of Other Program Information

Additional information on this program may be found at http://www.ed.gov/about/offices/list/oese/programs.html and at https://impactaid.ed.gov/.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	N	N	N	Y	N	Y
Only 7003(d) 7007	Only 7003(d) 7007				Only 7003(d)				Only 7003(b)7003(d)		N.1 Only 7002 7003(b) 7007 N.2 Only 7003(d)

A. Activities Allowed or Unallowed

1. *Activities Allowed*

a. *Section 7003(d) – Federally Connected Children with Disabilities* LEAs must use the payments provided under Section 7003(d) of the ESEA to conduct programs or projects for the free, appropriate public education of the federally connected children with disabilities who generated those funds. Allowable costs include expenditures reasonably related to the conduct of programs or projects for the free, appropriate public education of children with disabilities, including program planning and evaluation and acquisition costs of equipment, except when the title to that equipment would not be held by the LEA. Costs for school construction are not allowable (Section 7003 of ESEA (20 USC 7703), 34 CFR section 222.53(c)).

b. *Section 7007 – Construction* LEAs that receive payments under Section 7003 of the ESEA and that meet certain other statutory criteria may receive formula assistance under Section 7007(a) of the ESEA in any fiscal year that Congress appropriates funds under that section. LEAs must use the payments provided under Section 7007(a) for construction, as defined in Section 7013(3) of the ESEA. Under Section 7013(3), the term "construction" includes (a) preparing drawings and specifications for school facilities; (b) erecting, building, acquiring, altering, remodeling, repairing, or extending school facilities; (c) inspecting and supervising the construction of school facilities; and (d) debt servicing for such activities (sections 7007 and 7013(3) of ESEA (20 USC 7707 and 7713)). Certain LEAs that receive payments under Section 7002 or 7003 of the ESEA and that meet other statutory and regulatory criteria may receive discretionary grant assistance under Section 7007(b) of the ESEA. Selected grantees must use these funds for emergency or modernization construction grant expenditures, as specified in their grant award documents. Emergency and modernization are defined in 34 CFR section 222.176 and the allowable and unallowable uses of these funds are detailed in 34 CFR sections 222.172 through 222.174.

c. *Section 7002 – Federal Property Payments and Section 7003(b) – Basic Support Payments* Funds made available under sections 7002 and 7003(b) of the ESEA usually become part of the general operating fund of the LEAs. These funds are available as general aid for free public education and may be used for current operating expenditures or capital outlays in accordance with state laws. The

auditor is not expected to perform any tests with respect to the expenditure of these funds.

B. Allowable Costs/Cost Principles

The cost principles described in 2 CFR Part 200, Subpart E, apply only to Section 7003(d) (federally connected children with disabilities) and Section 7007 (construction) funds.

Under 2 CFR 200.101(e)(2), sections 7002 (federal property payments) and 7003(b) (basic support payments) are not subject to the cost principles described in Subpart E of 2 CFR Part 200.

G. Matching, Level of Effort, Earmarking

1. Matching
   Not Applicable

2. Level of Effort

   2.1 Level of Effort – *Maintenance of Effort*

   Not Applicable

   2.2 Level of Effort – *Supplement Not Supplant*

   Section 7003(d) funds may not supplant any state funds (either general or special education state aid) that were or would have been available to the LEA for the free, appropriate public education of federally connected children with disabilities counted under Section 7003(d). A reduction in the per-pupil amount of state aid for children with disabilities, including children counted under Section 7003(d), from that received in the previous year raises a presumption that supplanting has occurred. An LEA can rebut this presumption by demonstrating that the reduction was unrelated to the receipt of Section 7003(d) funds (Section 7003(d) of ESEA (20 USC 7703(d)); 34 CFR section 222.54).

3. Earmarking
   Not Applicable

L. Reporting

1. Financial Reporting
   Not Applicable

2. Performance Reporting
   Not Applicable

3. Special Reporting

Application for Impact Aid – Section 7003 (OMB No. 1810-0687) – Each year an LEA must submit this application, which provides the following information: counts of federally connected children in various categories, membership and average daily attendance data, and information on expenditures for children with disabilities. This form is in the Impact Aid Grant System, which does not have a public link, therefore school districts will need to provide a copy to the auditor. Please note: As a result of the public health emergency related to the coronavirus, the Impact Aid Coronavirus Relief Act (Pub. L. No. 116-211) provides LEAs the option for their fiscal year 2022 7003 application of using the same student count data from their fiscal year 2021 application or providing new student count data as prescribed in Section 7003. Similarly, the Impact Aid Supplemental Flexibility Act (Pub. L. No. 117-83) gave LEAs the option to use the same student count data for the FY 2023 application as it used for the FY 2022 application or providing new student count data as prescribed in Section 7003.

Key line items:

1. Current year membership (enrollment) on the survey date should be tested. LEAs have the option to use the current year enrollment numbers or enrollment numbers associated with the Impact Aid Coronavirus Relief Act. Federally connected children who live on Indian lands are weighted the most in the payment formula, followed by those with parents in the Uniformed Services, and civilian children who both live on and whose parents work on Federal property. Children living in Federal low rent housing and children who only live on or whose parents only work on Federal property are weighted lower in the payment formula. The auditor should use professional judgment when determining which categories to test, taking into account the relative materiality of the weight and number of children reported in each category. (Note: Eligible LEAs submit a separate application for Section 7002 or Section 7007(b) funding. The auditor is not expected to perform any tests with respect to the Section 7002 or Section 7007(b) applications.)

4. Special Reporting for Federal Funding Accountability and Transparency Act
See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements Section 7007 construction funds, as well as any section 7002 or 7003(b) funds spent for construction or minor remodeling, are subject to Wage Rate Requirements (20 USC 1232b).

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

2. Required Level of Expenditure

Compliance Requirements For each fiscal year, the amount of expenditures for special education and related services provided to federally connected children with disabilities must be at least equal to the amount of funds received or credited under Section 7003(d) of the ESEA for that fiscal year. This is demonstrated by comparing the amount of Section 7003(d) funds received or credited with the result of the following calculation:

a. Divide total LEA expenditures for special education and related services for all children with disabilities by the average daily attendance (ADA) of all children with disabilities served during the year.

b. Multiply the amount determined in paragraph a, above, by the ADA of the federally connected children with disabilities claimed by the LEA for the year.

If the amount of Section 7003(d) funds received or credited is greater than the amount calculated above, an overpayment equal to the excess Section 7003(d) funds exists. This overpayment may be reduced or eliminated to the extent that the LEA can demonstrate that the average per pupil expenditure for special education and related services provided to federally connected children with disabilities exceeded its average per pupil expenditure for serving non-federally connected children with disabilities (Section 7003(d) of ESEA (20 USC 7703(d)); 34 CFR section 222.53(d)).

Audit Objectives Determine whether the LEA met the required level of expenditure for providing special education and related services to federally connected children with disabilities.

Suggested Audit Procedures

a. Review the LEA's calculation to ascertain if it shows that the required level of expenditure for federally connected children was met. Check accuracy of calculation.

b. Trace amounts used in the calculation of supporting records.

c. If the LEA's calculation shows that an overpayment was made, verify that the average per pupil expenditure for federally connected children with disabilities exceeded the average per pupil expenditure for non-federally connected children to the extent of the overpayment.

IV. OTHER INFORMATION

Given the nature of the Section 7002 funds, a recipient expending only Section 7002 funds would have no compliance requirements subject to testing for the Impact Aid program or would

only be subject to the Wage Rate Requirements (20 USC 1232b) if 7002 funds were spent for construction or minor remodeling. Selecting the Impact Aid program as a major federal program in fiscal years where no (or only one) compliance requirements are subject to testing could result in the exclusion of other programs as major federal programs. Therefore, if a recipient had Impact Aid expenditures only from Section 7002 funds during its fiscal year, the auditor must exclude the amount of the 7002 Impact Aid expenditures from the determination of the Type A/B program threshold. If a recipient had Impact Aid expenditures from multiple sections, including Section 7002, the entire amount of Impact Aid expenditures should be considered when determining the Type A/B program threshold and the 7002 funds would only be subject to Wage Rate Requirements testing, if applicable. All Impact Aid expenditures, including Section 7002 funds excluded from the Type A/B program threshold, must be reported on the Schedule of Expenditures of Federal Awards.

DEPARTMENT OF EDUCATION

ASSISTANCE LISTING 84.042 TRIO – STUDENT SUPPORT SERVICES

ASSISTANCE LISTING 84.044 TRIO – TALENT SEARCH

ASSISTANCE LISTING 84.047 TRIO – UPWARD BOUND

ASSISTANCE LISTING 84.066 TRIO – EDUCATIONAL OPPORTUNITY CENTERS

ASSISTANCE LISTING 84.217 TRIO – MCNAIR POST-BACCALAUREATE ACHIEVEMENT

I. PROGRAM OBJECTIVES

The federal TRIO programs are authorized by Title IV of the Higher Education Act of 1965, as amended, and now consist of seven programs. These programs are designed to help first-generation college and economically disadvantaged students achieve success at the postsecondary level by facilitating high school completion and entry, retention, and completion of postsecondary education. Five of these programs are included in the TRIO cluster. The remaining two TRIO programs do not meet the funding threshold to be included in the Supplement. The five included programs are:

Student Support Services (SSS) program provides academic support services to low-income, first-generation, and individuals with disabilities to enable them to be retained in and graduate from institutions of higher education. The program assists participants in making the transition from one level of higher education to the next. The program also fosters an institutional climate supportive of the success of students who are limited English proficient and students from groups that are traditionally underrepresented in postsecondary education and improves the financial literacy and economic literacy of students.

Talent Search (TS) program identifies qualified youth with the potential for educational success at the postsecondary level and encourages them to complete or reenter secondary school and undertake a program of postsecondary education. The TS program also publicizes the availability of student financial assistance for persons who seek to pursue a postsecondary education. TS also encourages persons who have not completed education programs at the secondary or postsecondary level to enter or reenter and complete these programs.

Upward Bound (UB) program targets low-income and potential first-generation college students who are enrolled in high school, or veterans seeking to prepare themselves for success in postsecondary education. The program provides opportunities for participants to succeed in pre-college performance and ultimately in higher education pursuits.

Educational Opportunity Centers (EOC) program provides information regarding financial and academic assistance available to individuals who desire to pursue a program of postsecondary education. EOC projects provide assistance to individuals in applying to admission to institutions that offer programs of postsecondary education, including assistance in preparing necessary

applications for use by admissions and financial aid officers. EOC projects also provide information to improve financial and economic literacy of participants.

McNair Post-Baccalaureate Achievement (McNair) program provides low-income, first-generation college students and students from groups underrepresented in graduate education with effective preparation for doctoral study through involvement in research and other scholarly activities.

II. PROGRAM PROCEDURES

All TRIO grants are competitive discretionary grants and are awarded for five years. Eligible applicants for SSS and McNair grants are institutions of higher education or combinations of such institutions.

Eligible applicants for TS and EOC grants are institutions of higher education, public or private agencies, or organizations, including community-based organizations with experience in serving disadvantaged youth, secondary schools, and combinations of institutions and agencies.

Eligible applicants for UB grants are institutions of higher education, public and private agencies, or organizations, including community-based organizations with experience in serving disadvantaged youth, secondary schools, and combinations of institutions, agencies, and organizations. The UB program has three types of projects: regular, veterans, and math/science.

Source of Governing Requirements

The federal TRIO programs are authorized by Title IV of the Higher Education Act of 1965, as amended (20 USC 1070a et seq.). The applicable regulations are at 34 CFR parts 643 (TS), 644 (EOC), 645 (UB), 646 (SSS), and 647 (McNair).

Availability of Other Program Information

Other program information is available at http://www2.ed.gov/about/offices/list/ope/trio/index.html.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a

compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	N	N	N	N	Y	N	Y

A. Activities Allowed or Unallowed

1. *Activities Allowed*

a. *UB Program*

(1) Services and activities a UB project must provide (see III.N.1, "Special Test and Provisions – Services that Student Support Services, Talent Search, Upward Bound or McNair Projects Must Provide") include the following:

(a) Academic tutoring to enable students to complete secondary or postsecondary courses;

(b) Advice and assistance in secondary and postsecondary course selection;

(c) Assistance in preparing for college entrance exams and completing college admissions applications;

(d) Providing information on the full range of federal student financial aid programs and benefits and resources for locating public and private scholarships, and assistance in completing financial aid applications, including the Free Application for Federal Student Aid;

(e) Providing guidance on and assistance in reentering secondary school, alternative education programs for secondary school dropouts that lead to the receipt of a regular secondary school diploma, or general educational development (GED) programs or postsecondary education;

(f) Education or counseling services designed to improve the financial and economic literacy of students or the student's parents, including financial planning for postsecondary education; and

(g) Core curriculum instruction in mathematics through pre-calculus, laboratory science, foreign language, composition, and literature (required for projects that have received funds for at least two years, see III.N.2, "Special Test and Provisions - Core Curriculum Instruction in the Upward Bound Program") (34 CFR section 645.11).

(2) Services and activities a UB project may provide include the following:

(a) Exposure to cultural events, academic programs, and other activities not usually available to disadvantaged youth;

(b) Information, activities, and instruction designed to acquaint youth participating in the project with the range of career options available to the youth;

(c) On-campus residential programs;

(d) Mentoring programs involving elementary school or secondary school teachers or counselors, faculty members at institutions of higher education, students, or any combination of these persons;

(e) Work-study positions where youth participating in the project are exposed to careers requiring a postsecondary degree;

(f) Programs and activities for participants who are limited-English proficient, from groups traditionally underrepresented in higher education, individuals with disabilities, homeless children or youths, participants in foster care or aging out of foster care or other disconnected participants; and

(g) Other activities designed to meet the purposes of the Upward Bound program in Math-Science or Veterans programs services to their participants as discussed in 34 CFR section 645.1 (34 CFR section 645.12).

b. *SSS Program*

(1) Services and activities an SSS project must provide (see III.N.1, "Special Test and Provisions - Services that Student Support Services, Talent Search, Upward Bound or McNair Projects Must Provide") include the following:

(a) Academic tutoring, directly or through other services provided by the institution, to enable students to complete postsecondary courses, which may include instruction in reading, writing, study skills, mathematics, science, and other subjects;

(b) Advice and assistance in postsecondary course selection;

(c) Information on the full range of federal student financial aid programs and benefits and resources for locating public and private scholarships, and assistance in completing financial aid applications (including the Free Application for Federal Student Aid);

(d) Education or counseling services designed to improve the financial and economic literacy of students;

(e) Activities designed to assist participants enrolled in four-year institutions of higher education in applying for admission to, and obtaining financial assistance for enrollment in, graduate and professional programs; and

(f) Activities designed to assist students enrolled in two-year institutions of higher education in applying for admission to, and obtaining financial assistance for enrollment in, a four-year program of postsecondary education (34 CFR section 646.4(a)).

(2) Services and activities an SSS project may provide include:

(a) Individualized counseling for personal, career, and academic matters provided by assigned counselors;

(b) Information, activities, and instruction designed to acquaint students with the range of career options available to the students;

(c) Exposure to cultural events and academic programs not usually available to disadvantaged students;

(d) Mentoring programs involving faculty or upper class students, or a combination thereof;

(e) Securing temporary housing during breaks in the academic year for students who are or were formerly homeless children and youths and foster care youths;

(f) Programs and activities that are specially designed for students who are limited English proficient, students from groups that are traditionally underrepresented in postsecondary education, students who are individuals with disabilities, students who are homeless children and youths, students who are foster care youth or other disconnected students;

(g) Other activities designed to meet the purposes of the SSS program (34 CFR section 646.4(b)); and

(h) The following cost items are allowable if reasonably related to allowed project activities: (a) cost of remedial and special classes, and courses in English language instruction for students of limited English proficiency, under certain circumstances; (b) in-service training of project staff; (c) activities of an academic or cultural nature; (d) transportation and, with the prior approval of the secretary, meals and lodging of participants and staff to and from approved educational and cultural activities sponsored by the project; (e) purchase, lease, or rental of computer hardware, computer software, or other equipment to be used for student development, student records and project administration; (f) professional development travel for staff; (g) project evaluation; (h) grant aid to eligible students, under certain circumstances; and (i) temporary housing during breaks in the academic year for students who are homeless children, youths or were formerly homeless, and students who are foster care youth (34 CFR section 646.30).

c. *TS Program*

(1) Services and activities a TS project must provide (see III.N.1, “Special Test and Provisions - Services that Student Support Services, Talent Search, Upward Bound or McNair Projects Must Provide”) include the following:

(a) Connections for participants to high-quality academic tutoring services to enable the participants to complete secondary or postsecondary courses;

(b) Advice and assistance in secondary school course selection and, if applicable, initial postsecondary course selection;

(c) Assistance in preparing for college entrance examinations and completing college admission applications;

(d) Information on the full range of federal student financial aid programs and benefits (including federal Pell Grant awards and loan forgiveness) and on resources for locating public and private scholarships, and assistance in completing financial aid applications, including the Free Application for Federal Student Aid (FAFSA);

(e) Guidance and assistance in secondary school reentry, alternative education programs for secondary school dropouts that lead to the receipt of a regular secondary school diploma, entry into GED programs, or entry into postsecondary education; and

(f) Connections for participants to education or counseling services designed to improve the financial and economic literacy of the participants or the participants' parents, including financial planning for postsecondary education (34 CFR section 643.4(a)).

(2) Services and activities a TS project may provide include the following:

(a) Academic tutoring, which may include instruction in reading, writing, study skills, mathematics, science, and other subjects;

(b) Personal and career counseling or activities;

(c) Information and activities designed to acquaint youth with the range of career options available to them;

(d) Exposure to the campuses of institutions of higher education, as well as to cultural events, academic programs, and other sites or activities not usually available to disadvantaged youth;

(e) Workshops and counseling for families of participants served;

(f) Mentoring programs involving elementary or secondary school teachers or counselors, faculty members at institutions of higher education, students, or any combination of these persons;

(g) Programs and activities that are specially designed for participants who are limited English proficient, from groups that are traditionally underrepresented in postsecondary education, individuals with disabilities, homeless children and youths, foster care youth, or other disconnected participants;

(h) Other activities designed to meet the purposes of the TS program (34 CFR section 643.4(b)); and

(i) Specific activities may include the following, if reasonably related to the objectives of the TS project:

(i) transportation, meals, and lodging with prior approval for visits to postsecondary educational institutions, participation in "College Day" activities, career field trips, and transportation to institutions of higher education, secondary schools not attended by the participants, or other locations at which the participant receives instruction that is part of a rigorous secondary school program of study; (ii) purchase of testing and test preparation materials; (iii) fees for college admissions applications and entrance examinations with the exceptions noted in 34 CFR section 643.30(c); (iv) in-service staff training; (v) rental of space, if space is not available at the site of the grantees and/or is not owned by the grantee; (vi) purchase, lease, or rental of computer hardware, computer software, and other equipment for students development, project administration, and recordkeeping; and (vii) tuition for a course that is part of a rigorous secondary school program of study (as defined in 34 CFR section 643.7, and recognized by ED) if the conditions of 34 CFR section 643.30(h) are met (34 CFR section 643.30).

d. *EOC Program*

Allowable services and activities under the EOC program include the following:

(1) Public information campaigns designed to inform the community about opportunities for postsecondary education and training;

(2) Academic advice and assistance in course selection;

(3) Assistance in completing college admission and financial aid applications;

(4) Assistance in preparing for college entrance examinations;

(5) Education or counseling services designed to improve the financial and economic literacy of participants;

(6) Guidance on secondary school reentry or entry to a GED program or other alternative education program for secondary school dropouts;

(7) Individualized personal, career, and academic counseling;

(8) Tutorial services;

(9) Career workshops and counseling;

(10) Mentoring programs involving elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combinations of these persons;

(11) Programs and activities that are specifically designed for participants who are limited English proficient, participants from groups that are traditionally underrepresented in postsecondary education, participants who are individuals with disabilities, participants who are homeless children and youth, participants who are foster care youth, or other disconnected participants;

(12) Other activities designed to meet the purposes of the EOC program (34 CFR section 644.4); and

(13) Specific activities may include the following, if reasonably related to the objectives of the EOC project: (a) transportation, meals, and lodging with prior approval for visits to postsecondary educational institutions, participation in "College Day" activities, and career field trips; (b) purchase of testing materials; (c) fees for college admissions applications and entrance examinations with the exceptions noted in 34 CFR section 644.30(c); (d) in-service staff training; (e) rental of space, if space is not available at the site of the grantees and/or is not owned by the grantee; and (f) purchase, lease, or rental of computer hardware, computer software, and other equipment for students development, project administration, and recordkeeping (34 CFR section 644.30).

e. *McNair Program*

(1) Services and activities a McNair project must provide (see III.N.1, "Special Test and Provisions - Services that Student Support Services, Talent Search, Upward Bound or McNair Projects Must Provide") include the following:

(a) Opportunities for research and other scholarly activities at the grantee institution or at graduate centers that are designed to provide students with effective preparation for doctoral study;

(b) Summer internships;

(c) Seminars and other educational activities designed to prepare students for doctoral study;

(d) Tutoring;

(e) Academic counseling; and

(f) Assistance to students in securing admission to and financial aid for enrollment in graduate programs (34 CFR section 647.4(a)).

(2) Services and activities a McNair project may provide include the following:

(a) Education or counseling services designed to improve the financial and economic literacy of students, including financial planning for postsecondary education;

(b) Mentoring programs involving faculty members at institutions of higher education, students, or a combination of faculty members and students;

(c) Exposure to cultural events and academic programs not usually available to project participants;

(d) Activities of an academic or scholarly nature, such as trips to institutions of higher education offering doctoral programs, and special lectures, symposia, and professional conferences, which have as their purpose the encouragement and preparation for project participants for doctoral study;

(e) Stipends of up to $2,800 per year for students engaged in research internships, provided that the student has

completed the sophomore year of study at an eligible institution before the internship begins (see III.E.1.e, "Eligibility - Eligibility for Individuals");

(f) Necessary tuition, room and board, and transportation for students engaged in research internships during the summer;

(g) Purchase, lease, or rental of computer hardware, computer software, or other equipment for student development, project administration, and recordkeeping; and

(h) Other activities designed to meet the purposes of the McNair program (34 CFR sections 647.4(b) and 647.30).

2. *Activities Unallowed*

a. *All Programs* – The following cost items can never be charged to any TRIO program: (1) tuition, fees, stipends, and other forms of direct financial support for employees; (2) research not directly related to the evaluation or improvement of the project (except for the research activities of McNair participants); and (3) construction, renovation, and remodeling of any facilities (34 CFR sections 643.31, 644.31, 645.41, 646.31, and 647.31).

b. *SSS Program* – SSS funds cannot be used for activities involved in recruiting students for enrollment at the grantee institution or for tuition, fees, stipends, and other forms of direct financial support for staff or participants, except for grant aid for participants (34 CFR sections 646.30 and 646.31).

c. *UB Program* – The cost of room and board for the following persons may not be charged to the program: (1) administrative and instructional staff personnel who do not have responsibility for dormitory supervision of project participants; and (2) participants in Veterans UB projects. Meals for staff are also unallowable except as provided in 34 CFR sections 645.40 (d) and (m), and in 645.41(c) (34 CFR section 645.41).

d. *TS Program* – TS funds cannot be used for (1) stipends and other forms of direct financial support for participants, or (2) application fees for financial aid (34 CFR section 643.31).

e. *EOC Program* –-EOC funds cannot be used for tuition, fees, stipends, and other forms of direct financial support for project participants (34 CFR section 644.31).

f. *McNair Program* – McNair funds cannot be used for tuition, stipends, test preparation and fees, or any other form of student financial support to staff

or participants not expressly allowed under 34 CFR section 647.30 (see paragraphs 1.e.(2)(c) through (g), above) (34 CFR section 647.31(a)).

C. Cash Management

See Part 4, 84.000 ED Cross-Cutting Section.

E. Eligibility

1. Eligibility for Individuals

a. *SSS Program*

(1) Eligible Participants – A student is eligible to participate in a SSS project if the student meets all of the following requirements: (a) is a citizen or national of the United States or meets the residency requirements for federal student financial assistance; (b) is enrolled at the grantee institution or accepted for enrollment in the next academic term at that institution; (c) has a need for academic support as determined by the grantee in order to pursue successfully a postsecondary educational program; and (d) is a low-income individual, a first-generation college student, or an individual with disabilities (34 CFR sections 646.3 and 646.7).

(2) Grant Aid to SSS Students – Grant aid to students is restricted to students who meet all of the following criteria: (a) participating in the SSS project, undergoing their first two years of postsecondary education; and (b) receiving federal Pell Grants. In exceptional cases, grant aid may be offered to students who have completed their first two years of postsecondary education and are receiving federal Pell Grants (34 CFR section 646.30(i)).

The amount of grant aid awarded to an SSS student may not exceed the maximum appropriated Pell Grant ($6,345 for the 2020–2021 academic year) or be less than the minimum appropriated Pell Grant ($639 for the 2020–2021 academic year) (20 USC 1070a-14(d)(1)).

b. *TS Program – Eligible Participants*

An individual is eligible to participate in a TS project if the individual meets all of the following requirements: (1) is a citizen, national, or permanent resident of the United States or is in the United States for other than a temporary purpose; (2) has completed five years of elementary education or is at least eleven years of age but not more than 27 years of age (an individual more than 27 years of age may participate in a TS project if there is no EOC in the area, or a veteran regardless of age); and (3) is enrolled in or has dropped out of any grade from six through 12, or

has graduated from secondary school or dropped out of the postsecondary education and needs one or more of the services provided by the project (34 CFR section 643.3).

c. *UB Program*

(1) Eligible Participants – An individual is eligible to participate in a Regular, Veterans, or Math-Science UB project if the individual meets all of the following requirements: (a) is a citizen, national, or permanent resident of the United States, or is in the United States for other than a temporary purpose; (b) is a potential first-generation college student, a low-income individual, or an individual who has a high risk for academic failure; (c) has a need for academic support in order to pursue successfully a program of education beyond high school; and (d) at the time of initial selection has completed the 8th grade but has not entered the 12th grade and is at least 13 years old but not older than 19. A veteran, regardless of age, who meets all other criteria is eligible to participate (34 CFR sections 645.3 and 645.6).

(2) Stipends – Stipends for regular and Math-Science projects may not exceed $40 per month from September to May of the academic year and $60 for each of the summer months (June, July, and August). Youth participating in a work-study position may be paid a stipend of $300 per month during June, July, and August. Stipends for participants in veterans' projects may not exceed $40 per month. To be eligible for a stipend, participants must show evidence of satisfactory participation in project activities, including regular attendance and performance in accordance with the number of sessions in which a student participated (20 USC 1070a-13(f); 34 CFR section 645.42).

d. *EOC Program – Eligible Participants*

An individual is eligible to participate in an EOC project if the individual meets all of the following requirements: (1) is a citizen, national, or permanent resident of the United States or is in the United States for other than a temporary purpose; (2) is at least 19 years of age (an individual less than 19 years of age can be served by the EOC project if TS services are not available); and (3) expresses a desire to enroll or is enrolled in a program of postsecondary education and requests information or assistance in applying for admission or financial aid for such a program. A veteran, regardless of age, is eligible to participate in an EOC project if he or she meets eligibility requirements (34 CFR section 644.3).

e. *McNair Program*

(1) Eligible Participants – A student is eligible to participate in a McNair project if the student meets all of the following requirements: (a) is a citizen, national, or permanent resident of the United States or is in the United States for other than a temporary purpose; (b) is currently enrolled in a degree program at an institution of higher education that participates in the student financial assistance programs; (c) is a low-income individual who is a first-generation college student or a member of a group that is underrepresented in graduate education or, under certain circumstances, underrepresented in certain academic disciplines; and (d) has not enrolled in doctoral level study (34 CFR sections 647.3 and 647.7).

(2) McNair Stipends – Stipends of up to $2,800 per year for students engaged in approved research internships, provided that the student has completed the sophomore year of study at an eligible institution before the internship begins (20 USC 1070a-15(f); 34 CFR section 647.30).

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

L. Reporting

1. Financial Reporting

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

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

2. Performance Reporting

a. *Student Support Services Program Annual Performance Report (OMB No. 1840-0525)* – Grantees must submit an annual performance report to ED each year of the project period.

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

Section II, *Record Structure for Participant List,* fields:

15 Eligibility
17 First Enrollment Date (at grantee institution)
18 Date of First Project Service
19 College Grade Level (entry into project)
22 Participant Status (during academic year)
23 Enrollment Status (at end of the academic year)
24 Academic Standing
27 College Grade Level (at the end of the academic year)
31 Undergraduate Degree/Certificate Completed at Grantee Institution

b. *Upward Bound, and Upward Bound Math-Science Programs Annual Performance Report (OMB No. 1840-0831)* – Grantees must submit an annual performance report to ED each year of the project period.

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

Section II, *Record Structure for Participant List for Upward Bound and Upward Bound Math-Science Projects,* fields:

16 Eligibility (at time of initial selection)
17 At Risk: Reading Language Arts or Math Proficiency Not Achieved (at time of initial selection)
18 At Risk: Low Grade Point Average (at time of initial selection)
19 At Risk: Pre-Algebra or Algebra Course Not Successfully Completed by Beginning of 10th Grade (at time of initial selection)
20 Limited English Proficiency (at time of initial selection)
24 Date of First Project Service
25 Grade Level at First Service
27 Participant Status for reporting year
28 Participation Level for reporting year
29 Served by Another Federally Funded College Access Program for reporting year
30 Grade Level at the beginning of academic year being reported
37 Secondary School Retention and Graduation Objective – Numerator, for reporting year
45 Date of Last Project Service

c. *Talent Search Annual Performance Report (OMB No. 1840-0826)* – Grantees must submit an annual performance report to ED each year of the project periods.

Key Line Items – The following line items and sections contain critical information:

(1) Section II, *Demographic Profile of Project Participants and Listing of Target School*, subsections:

A. Types of Participants Assisted
B. Participant Distribution by Eligibility
F. Veterans Served
G. Participants with Limited English Proficiency
J. TS participants also served during reporting year by another federally funded program
L. Target Schools

(2) Section IV, *Educational Status of Talent Search Participants* (at end of the reporting period or the following fall), lines:

A1. Persisted in school for the next academic year at the next grade level or graduated high school.
B1. Received regular secondary school diploma within standard number of years but did not complete a rigorous program of study.
C1. Enrolled in postsecondary education or notified of deferred enrollment columns (b) and (c).

d. *Educational Opportunity Centers Program Annual Performance Report For Program Year (OMB Number 1840-0830)* – Grantees must submit an annual performance report to ED each year of the project period.

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

Section II: *Demographic Profile of Project Participants, Target Schools, Invitational Priorities*

H. EOC Participants also served during the reporting year by another federally funded program Section IV, *Educational Status of EOC Participants (at the end of the reporting period or for the following fall)*, lines:

A1. Received a secondary school diploma or its equivalent
B1. Completed a financial aid application
D2. Had a secondary school diploma or credential at the time of first service in the reporting year and enrolled in a postsecondary education program

e. *Ronald E. McNair Post-Baccalaureate Achievement Program Performance Report (OMB No. 1840-0640)* – Grantees must submit an annual performance report to the department each year of the project period.

Key Line Items – The following items contain critical information:

Section II, *Record Structure for Participant List,* fields:

15 Low-income
16 First-generation
17 Under-represented racial/ethnic group
18 First Postsecondary Education Enrollment Date
20 Project Entry Date
21 Grade Level at Project Entry
22 Participant Status (during academic year being reported)
23 Enrollment Status (during academic year being reported)

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Services that Student Support Services, Talent Search, Upward Bound or McNair Projects Must Provide

Compliance Requirements Recipients of TRIO Programs funded under SSS, TS, UB and McNair programs must provide specific services and activities. The services and activities that each program must provide are listed in III.A.1, "Allowable Activities," above, and are as follows:

a. UB Program (34 CFR section 645.11), see III.A.1.a.(1) above

b. SSS Program (34 CFR section 646.4(a)), see III.A.1.b.(1) above

c. TS Program (34 CFR section 643.4(a)), see III.A.1.c.(1) above

d. McNair Program (34 CFR section 647.4(a)), see III.A.1.e.(1) above

A grantee must provide all of the required services in the applicable SSS, TS, UB, or McNair program regulations to its participants (either directly through the project or through another service provider, as permitted by the applicable regulations). However, not all participants may need all of the required services or may choose not to take advantage of them.

Audit Objectives Determine whether the required services were provided to SSS, TS, UB, or McNair participants.

Suggested Audit Procedures

Review records of services received by participants, calendars, or logs of service providers (i.e., counselors or tutors) and expenditure records to verify that the required services and activities were provided to participants.

2. Core Curriculum Instruction in the Upward Bound Program

Compliance Requirements UB projects that have received funding for a least two years must provide core curriculum instruction in mathematics through pre-calculus, laboratory science, foreign language, composition, and literature to its participants in the next and succeeding years. However, not all participants may need instruction in mathematics through pre-calculus, laboratory science, foreign language, composition, and literature, or may choose not to take advantage of this instruction (34 CFR section 645.11 (b)).

Audit Objectives Determine whether UB projects that have received funding for at least two years provided instruction in mathematics through pre-calculus, laboratory science, foreign language, composition, and literature in its core curriculum in the next and succeeding years.

Suggested Audit Procedures

a. Ascertain if the UB project has received funding for at least two years.

b. Verify by reviewing participant files, records of services received by participants, expenditure records and class rosters or enrollment records that project participants have available core curriculum instruction in mathematics through pre-calculus, laboratory science, foreign language, composition, and literature in the next and succeeding years.

3. Minimizing Duplication of Services under the TS and UB Programs

Compliance Requirements To minimize the duplication of services and promote collaborations so that more students can be served, TS and UB projects are required to collaborate with other TRIO projects, Gaining Early Awareness and Readiness for Undergraduate programs (GEAR UP) projects (Assistance Listing 84.334), or projects from other programs serving similar populations that are serving the same target schools or target area (34 CFR sections 643.11(b) and 645.21(a)(4)).

In addition, the recipients of TS and UB grants are required to keep records, to the extent practicable, of any services TS or UB participants receive during the project year from another TRIO program or another federally funded program that serves populations similar to those served under the TS and UB programs (34 CFR sections 643.32(c)(5) and 645.43(c)(5)).

Audit Objectives Determine whether the TS or UB project: (1) collaborates with other TRIO projects, GEAR UP projects, or programs serving similar populations and the same target schools or target area to minimize the duplication of services and promote

collaborations so that more students can be served; and (2) keeps records of any services TS or UB participants receive during the project year from another TRIO program or another federally funded program that serves populations similar to those served under the TS and UB programs.

Suggested Audit Procedures

a. Review project files (e.g., approved application, Upward Bound Program Assurances, or Talent Search Program Assurances) for information on collaboration plans and documentation that demonstrates the plans were implemented (e.g., memoranda of understanding), and, for records of services received by participants and referrals from federally funded projects, high school counselors, and community-based organizations.

b. Verify that the TS or UB grantee collaborates with entities operating projects or programs serving similar populations to minimize the duplication of services.

c. Review and assess participant files, project databases, referrals from service providers, tutors, and instructors.

d. Verify that the TS or UB project maintains records of services received by participants from another federal TRIO program or another federally funded program that serves similar populations.

IV. OTHER INFORMATION

1. Certain compliance requirements that apply to multiple ED programs, including the TRIO cluster, are discussed once in the ED Cross-Cutting Section of this Supplement (84.000) rather than being repeated in each individual program. Where applicable to the TRIO cluster requirements, references are made to the specific part of the ED Cross-Cutting Section.

2. A citizen, national, or permanent resident of the United States, includes a permanent resident of Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands (Palau), or resident of one of the Freely Associated States—the Federated States of Micronesia or the Republic of the Marshall Islands.

DEPARTMENT OF EDUCATION

ASSISTANCE LISTING 84.048A CAREER AND TECHNICAL EDUCATION—BASIC GRANTS TO STATES (Perkins V)

I. PROGRAM OBJECTIVES

On July 31, 2018, the president signed into law the Strengthening Career and Technical Education for the 21st Century Act (Pub. L. No. 115-224) (Perkins V), which reauthorized and amended the Carl D. Perkins Career and Technical Education Act of 2006. Perkins V provides grants to states and outlying areas to develop the academic knowledge and technical and employability skills of secondary students and postsecondary students by (1) building on the efforts of states and localities to develop challenging academic and technical standards and to assist students in meeting such standards; (2) promoting the development of services and activities that integrate rigorous and challenging academic and career and technical instruction, and that link secondary education and postsecondary education; (3) increasing state and local flexibility in providing services and activities designed to develop, implement and improve career and technical education; (4) conducting and disseminating national research and disseminating information on best practices that improve career and technical education programs and programs of study, services, and activities; (5) providing technical assistance; (6) supporting partnerships among secondary schools, postsecondary institutions, baccalaureate degree-granting institutions, area career and technical education schools, local workforce investment boards, business and industry, and intermediaries; and (7) providing individuals with opportunities to develop, in conjunction with other educational and training programs, the knowledge and skills needed to keep the United States competitive; and (8) increasing the employment opportunities for populations who are chronically unemployed or underemployed, including individuals with disabilities, individuals from economically disadvantaged families, out-of-workforce individuals, youth who are in, or have aged out of, the foster care system, and homeless individuals.

II. PROGRAM PROCEDURES

A. Overview

Participating states must designate or establish a state board of career and technical education (defined in Perkins V as the “eligible agency” (Section 3(18) of Perkins V (20 USC 2302(18)), and herein referred to as the “state”) to administer and supervise state career and technical education programs. In order to receive funds for any program year, the state must have an approved state plan for career and technical education or an approved combined state plan under the Workforce Innovation and Opportunity Act (WIOA) (Pub. L. No. 113-128).

B. Allocation and Uses of Funds

The Department of Education (ED) allocates funds to the state based on a statutory formula described in Section 111 of Perkins V. From the amount allotted to the state under Section 111 for any fiscal year, the state shall make available funds for the following statutorily prescribed programs and activities.

Programs and Activities	Section of Perkins V	Statutory Amount of Section 111 Funds
Secondary and postsecondary career and technical education programs	Section 112(a)(1)	Not less than 85 percent, of which not more than 15 percent of the 85 percent may be "reserved" under section 112(c)
State leadership activities	Section 112(a)(2)	Not more than 10 percent
State administration activities	Section 112(a)(3)	Not more than 5 percent, or $250,000, whichever is greater

The state may operate these programs and activities directly and/or transfer funds through contracts or grants to other state agencies to administer one or more of them.

In administering secondary and postsecondary career and technical education programs under Section 112(a)(1) of Perkins V, the state makes grants to eligible recipients ("hereinafter referred to as subrecipients") as defined in Section 3(21) of Perkins V (20 USC 2302(21)). Subrecipients submit applications to the state in order to receive funds, which are distributed by statutory formula.

The state and subrecipients may use their funds for a wide range of CTE programs, activities, and services as described in law:

1. Secondary and postsecondary career and technical education programs – Section 135 of Perkins V (20 USC 2355);

2. State leadership activities – Section 124 of Perkins V (20 USC 2344);

3. State administration activities – Section 112(a)(3) of Perkins V (20 USC 2322)(a)(3)).

Source of Governing Requirements

This program is authorized by the Carl D. Perkins Career and Technical Education Act of 2006, as amended by the Strengthening Career and Technical Education for the 21st Century Act (Perkins V) (20 USC 2301 et seq., as amended by Pub. L. No. 115-224).

Availability of Other Program Information

Program and policy guidance applicable to the Perkins V requirements in this program supplement are available on the Perkins Collaborative Resource Network (PCRN) at http://cte.ed.gov/. The relevant documents are:

1. State allocations under Perkins V (under Grant Programs/State Allocations tab);

2. Guidance for the submission of state plans, revisions, budgets, and performance levels for Perkins V (under the Grant Programs/State Plans tab);

3. Guidance for the submission of Consolidated Annual Reports (CAR) under Perkins V (under the Accountability/CAR tab); and

4. Prior approval authority regarding program income for Perkins V subrecipients (under Grant Programs/State Formula Grants/Related Sources/Program Memorandum).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	Y	Y	N	N	N	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

a. **S**tate Leadership Activities – Required Uses.

A state shall use state leadership funds for supporting:

(1) Preparation for nontraditional fields in current and emerging professions, programs for special populations, and other activities that expose students, including special populations, to high-skill, high-wage, and in-demand occupations;

(2) Individuals in state institutions, such as state correctional institutions, including juvenile justice facilities, and educational institutions that serve individuals with disabilities;

(3) Recruiting, preparing, or retaining career and technical education teachers, faculty, specialized instructional support personnel, or paraprofessionals, such as preservice, professional development, or leadership development programs;

(4) Technical assistance for eligible recipients; and

(5) Reporting on the effectiveness of such use of funds in achieving the goals described in sections 122(d)(2) and the state determined levels of performance described in sections 113(b)(3)(A) and reducing disparities or performance gaps as described in sections 113(b)(3)(C)(ii)(II).

b. State Leadership Activities – Other Permissible Uses of Funds. In addition to the required State Leadership Activities (1)– (5) listed above, a state may use state leadership funds for a broad variety of permissive activities listed in Section 124(b) of Perkins V (20 USC 2344(b)). While not an exhaustive list, examples of allowable activities include;

(1) Developing statewide programs of study;

(2) Establishing statewide articulation agreements aligned to approved programs of study;

(3) Supporting subrecipients in eliminating inequities in student access to

(a) high-quality programs of study that provide skill development; and

(b) effective teachers, faculty, specialized instructional support personnel, and paraprofessionals;

(4) The creation, evaluation, and support of competency based curricula;

(5) Improvement of career guidance and academic counseling programs that assist students in making informed academic and career and technical education decisions, including academic and financial aid counseling;

(6) Support for career and technical student organizations;

(7) Support for establishing and expanding work-based learning opportunities that are aligned to career and technical education programs and programs of study; and

(8) Other state leadership activities that improve career and technical education.

c. State Administration – A state may use funds reserved for state administration for:

(1) Developing the state plan;

(2) Reviewing local applications;

(3) Monitoring and evaluating program effectiveness;

(4) Ensuring compliance with all applicable federal laws;

(5) Providing technical assistance; and

(6) Supporting and developing state data systems relevant to the provisions of Perkins V (Section 112(a)(3) of Perkins V (20 USC 2322(a)(3))).

d. Subrecipient (Eligible Recipient*)* Activities- Funds made available to subrecipients (referred to in the Perkins V law as eligible recipients) such as secondary school districts or local education agencies at the secondary level and community and technical colleges at the postsecondary level shall be used to develop, coordinate, implement or improve career and technical education programs to meet the needs identified in the comprehensive local needs assessment (described in Section 134(c) of Perkins V) at the secondary and postsecondary levels. The subrecipient plan or approved application describes the specific activities to be carried out. Requirements for, and examples of, uses of funds are identified in Section 135(b), (c) and (d) of Perkins V (20 USC 2355(b)), (c), and (d)).

e. Perkins funds made available to subrecipients shall be used to support career and technical education programs that are of sufficient size, scope, and quality to be effective and that—

(1) Provide career exploration and career development activities through an organized, systematic framework designed to aid students, including in the middle grades, before enrolling and while participating in a career and technical education program, in making informed plans and decisions about future education and career opportunities and programs of study;

(2) Provide professional development for teachers, faculty, school leaders, administrators, specialized instructional support personnel, career guidance and academic counselors, or paraprofessionals;

(3) Provide within career and technical education the skills necessary to pursue careers in high-skill, high-wage, or in-demand industry sectors or occupations;

(4) Support integration of academic skills into career and technical education programs and programs of study to support—

(a) CTE participants at the secondary school level in meeting the challenging state academic standards adopted under Section 1111(b)(1) of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. No. 115-224, by the state in which the eligible recipient is located; and

(b) CTE participants at the postsecondary level in achieving academic skills;

(5) Plan and carry out elements that support the implementation of career and technical education programs and programs of study and that result in increasing student achievement of the local levels of performance established under Section 113; and

(6) Develop and implement evaluations of the activities carried out with funds under this part, including evaluations necessary to complete the comprehensive needs assessment required under Section134(c) and the local report required under Section 113(b)(4)(B).

f. Schoolwide Programs- See Part II.B.2 of the 84.000 ED Cross-Cutting Section.

2. *Activities Unallowed*

a. State Leadership Activities –A state may not use state leadership funds for administrative costs unless expressly authorized under subsection (a) (Section 124(c) of Perkins V (20 USC 2344(c))).

B. Allowable Costs/Cost Principles

See Part III.B. of 84.000 ED Cross-Cutting Section.

C. Cash Management

See Part III.C. of 84.000 ED Cross-Cutting Section.

E. Eligibility

1. Eligibility for Individuals

Not Applicable

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

Not Applicable

3. Eligibility for Subrecipients

Subrecipients (Eligible Recipients) as Determined by the State is as follows:

a. Secondary Career and Technical Education Programs

(1) The state determined sub-recipient (eligible recipient) as defined in section 3 (21)(a) of Perkins V. A subrecipient must be:

(a) A local educational agency (LEA), including a public charter school that is eligible to receive $15,000 or more under Section 131(c) of Perkins V;

(b) An area career and technical education school or an educational service agency that meets the requirements in Section 131(e) of Perkins V; or

(c) A consortium of LEAs that meets the requirements in Section 131(f) of Perkins V. (20 USC 2351 (f).

(2) The state must treat a secondary school funded by the Bureau of Indian Education (BIE) within the state as if such school were a LEA within the state for the purpose of receiving a distribution under Section 131 of Perkins V (Section 131(h) of Perkins V (20 USC 2351(h))).

(3) Except as noted below, the state must provide funds to public charter schools offering a career and technical education program in the same manner as it provides those funds to other schools; career and technical education programs within a charter school must be of sufficient size, scope, and quality to be effective (Section 133(d) of Perkins V (20 USC 2353(d))). For the definition of "charter school" applicable to Perkins V, see Section 4310 (20 USC 7221i) of the Elementary and Secondary Education Act of 1965, as amended (ESEA) at https://www2.ed.gov/documents/essa-act-of-1965.pdf.

(4) For any program year, unless a state has an approved alternative formula, a state must distribute the amount reserved for the secondary school career and technical education programs as follows:

(a) Thirty percent to each LEA in proportion to the number of individuals aged 5 through 17, inclusive, who reside in the school district served by such LEA for the preceding fiscal year compared to the total number of such individuals who reside in the school districts served by all LEAs in the state for such preceding fiscal year, as determined on the basis of the most recent satisfactory data provided to the secretary by the Bureau of the Census for the purpose of determining eligibility under Title I of the ESEA; or student membership data collected by the National Center for Educational Statistics through the Common Core of Data survey system; and

(b) Seventy percent to each LEA in proportion to the number of individuals aged 5 through 17, inclusive, who reside in the school district served by such LEA and are from families with incomes below the poverty level for the preceding fiscal year, as determined on the basis of the most recent satisfactory data used under Section 1124(c)(1)(A) of the ESEA (20 USC 6333(c)(1)(A)), compared to the total number of such individuals who reside in the school districts served by all the LEAs in the state for such preceding fiscal year (Section 131(a) of Perkins V (20 USC 2351(a))).

(5) An LEA that does not meet the minimum grant requirement of $15,000 can form a consortium with one or more LEAs to meet the minimum grant requirement (Section 131(f) of Perkins V (20 USC 2351(f))).

(6) The state must waive the minimum grant requirement for an LEA that is in a rural, sparsely populated area or that is a public charter school operating a secondary school career and technical education program if the LEA demonstrates that the LEA is unable to enter into a consortium for purposes of providing activities under Title I, Part C of Perkins V (Section 131(c)(2) of Perkins V (20 USC 2351(c)(2))).

(7) If the state reserves 15 percent or less pursuant to Section 112(a)(1) (20 USC 2322(a)(1)), it may distribute those funds on a competitive basis or through any alternative method (Section 133(a) of Perkins V (20 USC 2353(a))).

b. Postsecondary Career and Technical Education Programs

(1) A subrecipient (Eligible Recipient) as defined in section 3 (20) of Perkins V must be an eligible institution, which is

(a) A consortium of two or more of the entities described in subparagraphs (B) through (F);

(b) A public or nonprofit private institution of higher education that offers and will use funds provided under this title in support of career and technical education courses that lead to technical skill proficiency, or a recognized postsecondary credential, including an industry-recognized credential, a certificate, or an associate degree except that, for the purpose of Section 132, the term “recognized postsecondary credential” as used in this subparagraph shall not include a baccalaureate degree;

(c) A local educational agency providing education at the postsecondary level;

(d) An area career technical educational school providing education at the postsecondary level;

(e) An Indian tribe, tribal organization, or tribal education agency that operates a school or may be present in the state;

(f) A postsecondary education institution controlled by BIE or operated by or on behalf of any Indian tribe that is eligible to contract with the secretary of the Interior for the administration of programs under the Indian Self-Determination and Education Assistance Act (25 USC 5301 et seq.) or the Act of April 16, 1934 (25 USC 5342 et seq.);

(g) A tribally controlled college or university; or

(h) An educational service agency (Section 3(17) of Perkins V (20 USC 2302(17))).

(2) Unless a state has an approved alternative formula, the state must distribute the amounts reserved for the postsecondary career and technical education programs to each subrecipient in proportion to the number of Pell grant recipients and recipients of assistance from BIE enrolled in programs meeting the requirements of Section 135 of Perkins V at that subrecipient in the preceding year compared to the total of such subrecipients enrolled in those programs in the state in the preceding year (Section 132(a) of Perkins V (20 USC 2352(a))). The minimum grant is $50,000; a state must reallocate amounts allocated to subrecipients that are less than $50,000 to other subrecipients or consortia in accordance with Section 132, except as provided below (Section 132(c) of Perkins V (20 USC 2352(c))).

(3) A subrecipient that does not meet the minimum grant requirement of $50,000 may form a consortium with one or more subrecipients to meet the minimum grant requirement (Section 132(a)(3) of Perkins V (20 USC 2352(a)(3))). The state may waive the minimum grant requirement for subrecipients in rural, sparsely populated areas (Section 132(a)(4) of Perkins V (20 USC 2352(a)(4))).

(4) If the state reserves 15 percent or less for its postsecondary program, it may distribute these funds on a competitive basis or through any alternative method (Section 133(a) of Perkins V (20 USC 2353(a))).

G. Matching, Level of Effort, Earmarking

1. Matching

A state must match, from nonfederal sources and on a dollar-for-dollar basis, the funds reserved for administration of the state plan. The matching requirement may be applied overall, rather than line-by-line, to state administrative expenditures. (Section 112(b) of Perkins V (20 USC 2322 (b)))

2. Level of Effort

2.1 Level of Effort – *Maintenance of Effort*

a. General

(1) A state must maintain its fiscal effort in the preceding year from state sources for career and technical education on either an aggregate or a per-student basis when compared with such effort in the second preceding year unless this requirement is specifically waived by the Secretary of Education. For example, to receive its Federal Fiscal Year (FY) 2023 grant award, a state must maintain its level of fiscal effort on either an aggregate or per-student basis in State Fiscal Year (SFY) 2022 (July 1, 2021 -June 30, 2022) at the level of its fiscal effort in SFY 2021 (July 1, 2029-June 30, 2021)

b. If a state has been granted a waiver of the maintenance of effort requirement that allows it to receive a grant for a program year, the maintenance of effort requirement for the year after the year the waiver was granted is determined by comparing the amount spent for career and technical education programs from non-federal sources in the first preceding program year with the amount spent in the third preceding program year (i.e. the year prior to the waiver) (Section 211(b)(3) of Perkins V (20 USC 2391(b)(3)).

In computing the fiscal or aggregate expenditures, the Secretary shall, at the request of the state, exclude competitive or incentive-based programs established by the state, capital expenditures, special one-time project costs, and the cost of pilot programs (Section 211(b)(1)(B) of Perkins V (20 USC 2391(b)(1)(B)).

(1) Administration

- A state shall provide from non-federal sources for state administration under Perkins V, an amount that is not less than the amount provided by the state from non-federal sources for state administrative costs for the preceding fiscal or program year. (Section 223(a) of Perkins V (20 USC 2413(a)).

2.2 Level of Effort – *Supplement Not Supplant*

a. The state and its subrecipients may use funds for career and technical education activities that supplement, and not supplant, non-federal funds expended to carry out career and technical education activities (Section 211(a)of Perkins V (20 USC 2391(a))). The examples of instances where

supplanting is presumed to have occurred as described in Part III.G.2.2 of the 84.000 ED Cross-Cutting Section also apply to Perkins V.

b. Notwithstanding the above paragraph, funds made available under Perkins V may be used to pay for the costs of career and technical education services required in an individualized education plan (IEP) developed pursuant to Section 614(d) of the Individuals with Disabilities Education Act (IDEA) and services necessary to meet the requirements of Section 504 of the Rehabilitation Act of 1973 with respect to ensuring equal access to career and technical education (Section 224(c) of Perkins V (20 USC 2414(c))).

3. Earmarking

a. *States* – Subject to the requirements discussed below regarding the minimum amount for state administration, a state must reserve the following percentages:

(1) *Secondary and Postsecondary Career and Technical Education Programs* – not less than 85 percent. A state must distribute all of these funds to its eligible recipients. A state may reserve no more than 15 percent of the 85 percent of funds to make grants for activities described in Section 135 of Perkins V (20 USC 2355) to subrecipients in (a) rural areas; (b) areas with high percentages of CTE concentrators or CTE participants; and (c) areas with high numbers of CTE concentrators or CTE participants; and (d) areas with disparities or gaps in performance as described in Section 113(b)(3)(C)(ii)(II) (sections 112(a)(1) and (c) of Perkins V (20 USC 2322(a)(1) and (c))).

(2) *State Leadership Activities* – not more than 10 percent. Within the state leadership activities not more than 2 percent of the amount allocated to each state in Section 111 of Perkins V (20 USC 2321) shall be allotted to activities that serve individuals in state institutions. Also, not less than $60,000 and not more than $150,000 of the amount allocated to each state in Section 111 of Perkins V shall be made available for services that prepare individuals for nontraditional fields Also, an amount must be made available for the recruitment of special populations to enroll in CTE programs, which must be not less than the lesser of an amount equal to 0.1 percent or $50,000 (Section 112(a)(2) of Perkins V (20 USC 2322(a)(2))).

(3) *State Administration* – not more than 5 percent or $250,000, whichever is greater, for administration of the state plan (Section 112(a)(3) of Perkins V (20 USC 2322 (a)(3))).

b. Subrecipients – Subrecipients under the secondary and postsecondary career and technical education programs may use no more than 5 percent of those funds for administrative costs (Section 135(d) of Perkins V (20 USC 2355(d))).

H. Period of Performance

See Part III.H. of the 84.000 ED Crosscutting Section.

M. State Monitoring of Eligible recipients

1. Each state must evaluate annually, using the local adjusted levels of performance described in Section 113(b)(4) of Perkins V (20 USC 2323(b)(4)), the career and technical education activities of each eligible recipient receiving funds under sections 131 and 132 of Perkins V (Section 123(b)(1) of Perkins V (20 USC 2343(b)(1))).

2. The state determines whether a subrecipient failed to meet at least 90 percent of an agreed upon local level of performance for any of the core indicators of performance described in Section 113(b)(4) of Perkins V for all CTE concentrators and, if so, required the subrecipient to develop and implement the improvement plan required by Section 123(b)(2) of Perkins V (20 USC 2343(b)(2)).

IV. OTHER INFORMATION

Certain compliance requirements that apply to multiple ED programs, including Perkins V, are discussed once in the ED Cross-Cutting Section of this Supplement (84.000) rather than being repeated in each individual program. Where applicable to the Perkins V requirements, references are made to the specific part of the ED Cross-Cutting Section. Further, the Other Information section in 84.000 also provides information that is relevant to this program. (See Other Information, 2. Schoolwide Programs).

DEPARTMENT OF EDUCATION

ASSISTANCE LISTING 84.126 REHABILITATION SERVICES–VOCATIONAL REHABILITATION GRANTS TO STATES

I. PROGRAM OBJECTIVES

The purpose of Title I of the Rehabilitation Act of 1973, as amended (Act), which authorizes the State Vocational Rehabilitation (VR) Services program, is to assist states in operating statewide comprehensive, coordinated, effective, efficient, and accountable VR programs, each of which is (1) an integral part of a statewide workforce development system; and (2) designed to assess, plan, develop, and provide VR services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests, informed choice, and economic self-sufficiency so that such individuals may prepare for and engage in gainful employment.

II. PROGRAM PROCEDURES

A. Overview

Federal funds are distributed to the states on a formula basis. The program is administered by an agency designated by the state as having overall administrative responsibility for the VR program. If the designated state agency is not an agency primarily concerned with VR, or vocational and other rehabilitation of individuals with disabilities, it must include a designated state unit within the agency that is responsible for the designated state agency's VR program (state VR agency).

To receive funds under Title I of the Act, a state must submit, and have approved by the secretaries of Education and Labor, a Unified or Combined State Plan in accordance with Section 102 or Section 103, respectively, of the Workforce Innovation and Opportunity Act (WIOA) (29 USC 3112 and 3113). The Unified or Combined State Plan must include a VR services portion, which contains both assurances and descriptions that are required by Title I of the Act and the implementing regulations (34 CFR Part 361). The VR services portion of the Unified or Combined State Plan is one of the key bases of the Department of Education's, Rehabilitation Services Administration's monitoring of the state's administration of the VR program.

Services are provided directly by state VR agency staff, purchased from community- based vendors, or arranged to be provided by other public entities. Services identified in Section 103(a) of the Act (29 USC 723(a)), except those of an assessment nature, are provided in accordance with an Individualized Plan for Employment (IPE), which can be developed by the individual, or with assistance from others, including a qualified VR counselor employed by the state VR agency or, as appropriate, a disability advocacy organization. The services identified in the IPE are those determined by the individual and qualified VR counselor to be necessary for the individual to achieve an employment outcome that is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, and informed

choice. State VR agencies also may provide services to groups of individuals with disabilities, including students and youth with disabilities.

B. Other

WIOA requires the VR program to collaborate with other workforce development, educational, and human resource programs in a one-stop service delivery system. WIOA's objective is to create a seamless delivery system by linking the agencies operating these programs in order to provide universal access to the programs operated by each agency. While the one-stop system operates as a common portal for gaining access to these programs, each program provides its respective services to persons meeting its respective eligibility criteria.

Agencies responsible for administering the programs whose services are delivered in a one-stop system are known as "partners;" those whose participation is mandated by WIOA, including the state VR agency, are "required partners." Each partner must enter into a Memorandum of Understanding (MOU) with the Local Workforce Development Board regarding the operation of the one-stop system. The MOU covers the services to be provided through the one-stop system, funding for those services and for the operating costs of the system, including infrastructure costs and other shared costs of one-stop centers, and the methods for referring individuals between one-stop operators and partners. It establishes how each partner will participate in the one-stop system and share in the cost of its operation. Each partner's resources may be used only for (1) services that are authorized under that partner's program and delivered to individuals who are eligible for those services; and (2) operating costs of the one-stop center, including infrastructure costs and shared services costs allocable to the partner's program.

In addition to the MOU required by WIOA, the Act requires that a state VR agency's VR services portion of the Unified or Combined State Plan provide for a network of cooperative agreements binding that agency's central and local offices to the central and local offices, respectively, of the other partners in the one-stop service delivery system. states can choose to use the same document to meet the requirements for both the MOU and the cooperative agreements. As used henceforth in this discussion, "MOU" refers to whatever document(s) a state agency uses to meet these requirements.

Source of Governing Requirements

The VR program is authorized by Title I of the Rehabilitation Act of 1973, as amended by Title IV of WIOA (29 USC 701 et seq.). Program regulations are found at 34 CFR Part 361.

Availability of Other Program Information

The Rehabilitation Service Administration's (RSA) website contains information pertinent to the program. The following documents are most pertinent to the critical areas to be tested under the VR program:

1. Instructions for completing the Vocational Rehabilitation Financial Report (RSA- 17) for the State Vocational Rehabilitation Services program (DCL-23-03)

https://rsa.ed.gov/sites/default/files/subregulatory/DCL-23-03_0.pdf

2. Period of Performance Frequently Asked Questions

   RSA: Period of Performance for Formula Grant Awards FAQs (3.21.2017) (PDF) (ed.gov)

3. One-Stop Infrastructure Costs Frequently Asked Questions
   https://rsa.ed.gov/sites/default/files/subregulatory/rsa-faq-one-stop-infrastructure-costs-12-27-2016.pdf

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
N	N	N	N	N	N	Y	Y	N	Y	N	N

H. Period of Performance

Under section 111(a)(1) of the Rehabilitation Act, the Department pays to each state each federal fiscal year an amount equal to the federal share of the cost of providing VR services and administering the VR program. Consistent with the definition of "period of performance" at 2 CFR section 200.1 and the requirements governing information that must be contained in a Grant Award Notification (GAN) at 2 CFR section 200.211, the VR GAN specifies the

beginning and end dates for each VR grant award. Therefore, state VR agencies may incur obligations or make expenditures under a grant award if they are incurred during the period of performance for that award. Any obligations or expenditures incurred outside of that period of performance would need to be paid with funds available from a different VR grant award that aligns with the time period when the obligations or expenditures were incurred.

I. Procurement and Suspension and Debarment

See Part 4, 84.000 ED Cross-Cutting Section under the "Applicability of BABAA to ED Programs" section.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not applicable

d. *RSA-17 (OMB No. 1820-0017), Vocational Rehabilitation Financial Report* – Applicable

e. *SF-429 (OMB No. 4040-0016), Real Property Status Report* – Applicable

State VR grantees must report Federal interest in real property, to the extent applicable, pursuant to the requirements of 2 CFR 200.330. One of the testing areas is procurement and the Federal interest issues will arise most often in the context of procurement of real property or procurement contracts for capital improvements to real property.

2. Performance Reporting

Report Title: *Case Service Report (RSA-911)*
OMB PRA Number: *OMB No. 1820-0508*
Report Authority: *Rehabilitation Act of 1973 and Grant Award Notification Attachment titled* "Grant Terms and Conditions for Performance and Financial Reports"

Reporting period/submission date/s: Data are submitted on a quarterly basis, no later than 45 days after the end of each quarter in accordance with the following schedule:

1. Reporting Period: July 1 – September 30
   Report Due: November 15
2. Reporting Period: October 1 – December 31

Report Due: February 15
3. Reporting Period: January 1 – March 31
Report Due: May 15
4. Reporting Period: April 1 – June 30
Report Due: August 15

Link to report and report instructions:
https://rsa.ed.gov/sites/default/files/subregulatory/DCL-23-04.pdf

Key Line Items - *Supporting documentation* must be included in the service record or case management system for the data elements listed below pursuant to 34 CFR 361.47 and consistent with Federal requirements at 2 CFR 200.303. Dates reported in the case management system must match the supporting documentation The following data elements contain critical information:

1. Date of Application (element 7)
2. Date of Eligibility Determination (element 38)
3. Date of Initial Individualized Plan for Employment (IPE) (element 398)
4. Start Date of Employment in Primary Occupation (element 350)
5. Employment Outcome at Exit (element 356)
6. Date of Exit (element 353)
7. Hourly Wage at Exit (element 359)

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

IV. OTHER INFORMATION

Certain compliance requirements that apply to multiple Department of Education (ED) programs are discussed once in the ED Cross-Cutting Section of this Supplement (84.000) rather than being repeated in each individual program. When applicable, Section III references to the ED Cross-Cutting Section for these requirements.

DEPARTMENT OF EDUCATION

ASSISTANCE LISTING 84.181 SPECIAL EDUCATION—GRANTS FOR INFANTS AND FAMILIES

I. PROGRAM OBJECTIVES

The purposes of the Individuals with Disabilities Education Act (IDEA), Part C (Part C) state formula grant program are to (1) develop and implement a statewide, comprehensive, coordinated, multi-disciplinary interagency system that provides early intervention services for infants and toddlers with disabilities and their families; (2) facilitate the coordination of payment for early intervention services from federal, state, local, and private sources (including public and private insurance coverage); (3) enhance the state's capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families; (4) enhance the capacity of state and local agencies and service providers to identify, evaluate, and meet the needs of all children, including historically underrepresented populations, particularly minority, low-income, inner-city, and rural children, and infants and toddlers in foster care; and (5) encourage states to expand opportunities for children under the age of 3 years who would be at risk of having substantial developmental delay if they did not receive early intervention services.

II. PROGRAM PROCEDURES

Generally, the state is responsible for maintaining and implementing a statewide system to identify, evaluate, and provide early intervention services to eligible children and their families. Such a system includes a public awareness and child find system, development and implementation of an individualized family service plan for eligible children, maintenance of a central directory of information about early intervention services, and personnel development and contracting for or otherwise providing services to eligible children and their families.

The state designates a state lead agency that is responsible for administering, and supervising activities funded by this program. Program services may be carried out by the lead agency, other state agencies, or by public or private organizations either under contract to the state or through other arrangements with such agencies. The lead agency also monitors activities that are covered by the program, whether or not this program funds them. The state also must establish a State Interagency Coordinating Council that, among other things, advises and assists the lead agency in the development and implementation of policies and achieving participation, cooperation, and coordination of all appropriate public agencies in the state.

The amount of a state's allocation under Part C for a fiscal year is based on its proportion of the general population of infants and toddlers, from birth through 2 years of age, in the state (i.e., the ratio of the number of infants and toddlers in the state compared to the number of infants and toddlers in all the states).

Source of Governing Requirements

These programs are authorized under 20 USC 1431 through 1445. Implementing regulations specific to this program are in 34 CFR Part 303.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	Y	Y	Y	Y	N	N	N	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   See also Part 4, 84.000 ED Cross-Cutting Section. Each state, in its IDEA Part C application, must include a description of the uses of funds for the fiscal year or years covered by the application, consistent with the requirements in 34 CFR sections 303.205 and 303.501. Generally, allowable activities include:

   a. Maintaining a statewide, comprehensive, coordinated, multi-disciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.

b. Providing direct early intervention services for infants and toddlers with disabilities and their families, which are otherwise not funded through other public or private sources.

c. Expanding and improving on services under Part C that are otherwise available for infants and toddlers and their families.

d. Providing a free appropriate public education, in accordance with Part B of the IDEA, to children with disabilities from their third birthday to the beginning of the following school year.

e. With the written consent of the parents, continuing to provide early intervention services under this part to children with disabilities from their third birthday (in accordance with 34 CFR section 303.211) until such children enter, or are eligible under state law to enter, kindergarten, in lieu of a free appropriate public education provided in accordance with Part B.

f. In any state that does not provide services for at risk infants and toddlers, to strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public or private community-based organizations, services, and personnel for the purpose of (a) identifying and evaluating at-risk infants and toddlers, (b) making referrals of the infants and toddlers identified and evaluated, and (c) conducting periodic follow-up on each such referral to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant and toddler for services.

g. A state may charge rent, occupancy, or space maintenance costs as a direct cost to its IDEA Part C grant award, only if it indicates so in Section IV.B.2, “Restricted Indirect Cost Rate/Cost Allocation Plan Information,” of its IDEA Part C grant application and receives approval from ED in its grant award letter (34 CFR section 303.225(c)(3)).

h. Subject to approval by the governor, the State Interagency Coordinating Council may use IDEA Part C funds to (1) conduct hearings and forums; (2) reimburse members of the council for reasonable and necessary expenses for attending council meetings and performing council duties (including child care for parent representatives); (3) pay compensation to a member of the council if the member is not employed or must forfeit wages from other employment when performing official council business (otherwise council members must serve without compensation from IDEA Part C funds); (4) hire staff; and (5) obtain the services of professional, technical, and clerical personnel as may be necessary to carry out the performance of its functions under Part C of the Act (20 USC 1441(d); 34 CFR section 303.603).

B. Allowable Costs/Cost Principles

See also Part 4, 84.000 ED Cross-Cutting Section.

Further, under IDEA the acquisition of equipment or construction or alteration of facilities must be approved by ED based on a determination by ED that the program would be improved by allowing funds to be used for those purposes (see 20 USC 1404, 1433, and 1438; 34 CFR sections 303.104 and 303.501).

C. Cash Management

See also Part 4, 84.000 ED Cross-Cutting Section.

F. Equipment/Real Property Management

Further, acquisition of equipment and construction or alteration of facilities by the IDEA Part C program must meet the prior approval requirements in, and be consistent with, the IDEA-specific requirements in 20 USC 1405 and 34 CFR section 303.104.

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort

2.1 Level of Effort – *Maintenance of Effort*

Although the following requirement is identified as a supplement not supplant requirement in the law and regulation, this Supplement classifies this type of requirement as maintenance of effort.

The total amount of state and local funds budgeted for expenditure in the current fiscal year for early intervention services for children eligible under Part C and their families must be at least equal to the total amount of state and local funds actually expended for early intervention services for these children and their families in the most recent preceding fiscal year for which the information is available. Allowances may be made for:

(a) decreases in the number of children who are eligible to receive Part C early intervention services; and

(b) unusually large amounts of funds expended for such long-term purposes such as the acquisition of equipment and the construction of facilities (20 USC 1437(b)(5)(B); 34 CFR section 303.225(a)(2) and (b)).

Monies received from Medicaid reimbursements attributable to federal funds, a parent's private health insurance, or a parent or family fees paid under the state's system of payments are not included in "state and local funds" under the state's calculation of the level of effort under 34 CFR section 303.225(b) (34 CFR sections 303.520(d)(2), (d)(3), and (e)(3)).

If a state has enacted a state statute that meets the requirements in 34 CFR section 303.520(b)(2) regarding the use of private health insurance coverage to pay for early intervention services under Part C of the Act, the state may reestablish a new baseline of state and local expenditures under 34 CFR section 303.225(b) in the next federal fiscal year following the effective date of the statute (34 CFR section 303.520(b)(3)).

2.2 Level of Effort – *Supplement Not Supplant*

Not Applicable

3. **Earmarking**

Not Applicable

H. Period of Performance

See also Part 4, 84.000 ED Cross-Cutting Section.

I. Procurement and Suspension and Debarment

Further, acquisition of equipment and construction or alteration of facilities by the IDEA Part C program must meet the prior approval requirements in, and be consistent with, the IDEA-specific requirements in 20 USC 1405 and 34 CFR section 303.104.

See Part 4, 84.000 ED Cross-Cutting Section.

IV. OTHER INFORMATION

Certain compliance requirements that apply to multiple Department of Education (ED) programs are discussed once in the ED Cross-Cutting Section of this Supplement (84.000) rather than being repeated in each individual program. When applicable, Section III references to the ED Cross-Cutting Section for these requirements.

DEPARTMENT OF EDUCATION

ASSISTANCE LISTING 84.282 CHARTER SCHOOLS

I. PROGRAM OBJECTIVES

The objectives of the Expanding Opportunity Through Quality Charter Schools Program (CSP), authorized under Title IV, Part C of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), are to expand opportunities for all students, particularly for children with disabilities, English learners, and other traditionally underserved students, to attend charter schools and meet challenging state academic standards; provide financial assistance for the planning, program design, and initial implementation of charter schools; increase the number of high-quality charter schools available to students across the United States; evaluate the impact of charter schools on student achievement, families, and communities; share best practices between charter schools and other public schools; encourage states to provide facilities support to charter schools; and support efforts to strengthen the charter school authorizing process.

II. PROGRAM PROCEDURES

A. Overview

The ESEA was reauthorized by the ESSA (Pub. L. No. 114-95) on December 10, 2015. In accordance with Section 4(a)(1)(B) of the ESSA and Section 4302(c) of the ESEA, as amended by the ESSA, CSP grants awarded in fiscal year (FY) 2016 and earlier years operate in accordance with the requirements of the ESEA, as amended by the No Child Left Behind Act of 2001 (NCLB). CSP grants awarded in FY 2017 and later years are subject to the provisions of the ESEA, as amended by the ESSA. The CSP encompasses multiple subprograms, including Grants to State Entities (SE Grants), Grants to Charter School Developers for the Opening of New Charter Schools and for the Replication and Expansion of High-Quality Charter Schools (Developer Grants), Grants to Charter Management Organizations for the Replication and Expansion of High-Quality Charter Schools (CMO Grants), and National Dissemination Grants.

B. Grants to State Entities

Prior to FY 2017, CSP funds generally were awarded on a competitive basis to state educational agencies (SEAs) in states with statutes specifically authorizing charter schools. Beginning with new awards in FY 2017, eligible entities under the CSP are state entities (SEs), which consist of SEAs, state charter school boards, governors, and charter school support organizations. For CSP grants awarded in FY 2016 and earlier, SEAs were authorized to use their CSP funds to award subgrants to eligible applicants for planning, program design, and initial implementation of charter schools; and to support the dissemination of information about, and successful practices in, charter schools. For CSP grants awarded in FY 2017 and later years, an SE must use not less than 90 percent of

CSP funds to award subgrants to eligible applicants to open and prepare for the operation of new charter schools; open and prepare for the operation of replicated high-quality charter schools; or to expand high-quality charters schools. An SE must also reserve not less than 7 percent of funds to provide technical assistance to eligible applicants and authorized public chartering agencies.

C. Developer Grants and State Entity Subgrants

As noted above, SEAs or SEs receiving a CSP grant are authorized to make subgrants to eligible applicants. If an eligible SEA or SE elects not to participate in this program, or its application is not approved, eligible applicants, including charter schools that operate in the state, may apply directly to the secretary for a grant. Prior to FY 2017, an eligible applicant (i.e., charter school developer or charter school) was limited to receiving not more than one grant or subgrant for planning and initial implementation activities and not more than one grant or subgrant for dissemination activities, unless the charter school is granted a waiver. A charter school was authorized to apply to the SEA for funds to carry out dissemination activities if the charter school was in operation for at least three consecutive years and demonstrated overall success, including substantial progress in improving student achievement; high levels of parent satisfaction; and the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school. A charter school could receive a dissemination grant or subgrant, whether or not the charter school applied for or received funds under the CSP for planning or implementation.

For CSP grants awarded in FY 2017 and later years, an eligible applicant may apply for a grant or subgrant to open and prepare for the operation of a new charter school; open and prepare for the operation of a replicated high-quality charter school; or to expand a high-quality charter school. An applicant is limited to receiving a grant or subgrant for a period of not more than five years, of which an eligible applicant may use not more than 18 months for planning and program design. An eligible applicant may not receive more than one grant or subgrant for each individual charter school for a five-year period, unless the eligible applicant demonstrates that such individual charter school has at least three years of improved educational results for students enrolled in the charter school, with respect to the elements described in section 4310(8)(A) and (D) of the ESEA, as amended by the ESSA. The CSP no longer authorizes separate grants or subgrants for dissemination activities.

D. Grants to Charter Management Organizations for the Replication and Expansion of High-Quality Charter Schools

The Consolidated Appropriations Act, 2010 (Pub. L. No. 111-117, 123 Stat. 3264, December 16, 2009) authorized the secretary to make awards to nonprofit charter management organizations (CMOs) and other not-for-profit entities for the replication and expansion of successful charter school models. This authority was extended in subsequent appropriations acts through FY 2016. Similar authority is now codified in statute under the ESEA, as amended by the ESSA. Under the new law, the secretary is authorized to award competitive grants to nonprofit CMOs to enable them to open and

prepare for the operation of one or more replicated high-quality charter schools or to expand one or more high-quality charter schools.

E. National Dissemination Grants

Prior to FY 2017, CSP Grants for National Leadership Activities were awarded to support efforts by eligible entities to improve the quality of charter schools by providing technical assistance and other types of support on issues of national significance and scope. For CSP FY 2017 and later years, the CSP will award National Dissemination Grants on a competitive basis to support efforts by eligible entities to support the charter school sector and increase the number of high-quality charter schools available to our Nation's students by disseminating best practices regarding charters schools.

Source of Governing Requirements

This program was authorized by Title V, Part B, Subpart 1 of the ESEA, as amended by NCLB (20 USC 7221-7221j), for awards made in FY 2016 and earlier years. CSP Replication and Expansion grants were authorized under the Department's appropriations acts from FY 2010, through FY 2016 (see e.g., Consolidated Appropriations Act, 2016 (2016 Appropriations Act) (Pub. L. No. 114-113)).

Beginning with FY 2017 grant awards, this program is authorized by Title IV, Part C of the ESEA, as amended by the ESSA (20 USC 7221-7221j). There are no program-specific regulations. However, 34 CFR Part 76, Subpart H prescribes administrative requirements that states and local educational agencies must follow when allocating funds to new or expanding charter schools under ED's formula grant programs.

The transition provisions under the ESEA, as amended by the ESSA, as clarified by the 2016 Appropriations Act, also apply.

Availability of Other Program Information

Information on this program can be found in the following documents posted on ED's website:

1. Charter Schools Program, Nonregulatory Guidance (January 2014) at http://www2.ed.gov/programs/charter/fy14cspnonregguidance.doc;

2. Guidance on the Use of Funds to Support Preschool Education (December 2014) at http://www2.ed.gov/programs/charter/csppreschoolfaqs.doc; and

3. Dear Colleague Letter on Flexibility for Recipients of Charter Schools Program Grants in FY 2016 and Earlier (November 2017) at https://oese.ed.gov/offices/office-of-discretionary-grants-support-services/charter-school-programs/state-entities/funding-and-legislation/.

4. Charter Schools Program Final Rule for priorities, requirements, definitions, and selection criteria for State Entity Grants, Developer Grants, and CMO Grants (July 2022) at https://www.federalregister.gov/documents/2022/07/06/2022-14445/final-priorities-requirements-definitions-and-selection-criteria-expanding-opportunity-through

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	Y	N	N	Y	N	N	Y	N

A. Activities Allowed or Unallowed

See also Part 4, 84.000 ED Cross-Cutting Section.

1. *Use of Funds by SEAs*

Funds must be used to award subgrants to eligible applicants. For grants awarded under the ESEA, as amended by NCLB, funds may also be used to establish a revolving loan fund for eligible applicants that have received implementation subgrants, for state dissemination activities, and for administrative costs of the program. For grants awarded under the ESEA, as amended by the ESSA, funds may be used for administration, which may include providing technical assistance to subgrantees and authorized public chartering agencies.

2. *Use of Funds by Eligible Applicants*

a. *ESEA, as amended by NCLB*

(1) Each eligible applicant may use these funds in accordance with its approved application to plan and implement a charter school, or to disseminate information about the charter school and successful practices in charter schools (20 USC 7221c(f)(2)).

(2) An eligible applicant receiving a CSP grant or subgrant may use funds for (1) post-award planning and design of the educational program, which may include (a) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and (b) professional development of teachers and other staff who will work in the charter school; and (2) initial implementation of the charter school, which may include (a) informing the community about the school; (b) acquiring necessary equipment and educational materials and supplies; (c) acquiring or developing curriculum materials; and (d) other initial operational costs that cannot be met from state or local sources (20 USC 7221c(f)(3)).

(3) A charter school receiving funds for dissemination activities may use funds to assist other schools in adapting the charter school's program (or certain aspects of the charter school's program), or to disseminate information about the charter school, through such activities as (1) assisting other individuals with the planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers, and that agree to be held to at least as high a level of accountability as the assisting charter school; (2) developing partnerships with other public schools, including charter schools, designed to improve student performance in each of the schools participating in the partnership; (3) developing curriculum materials, assessments, and other materials that promote increased student achievement and are based on successful practices within the assisting charter school; and (4) conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student performance in other schools (20 USC 7221c(f)(6)(B)).

b. *ESEA, as amended by the ESSA*

(1) Each eligible applicant may use the funds in accordance with its approved application to open and prepare for the operation of a new charter school, open and prepare for the operation of a

replicated high-quality charter school or expand a high-quality charter school.

(2) In addition, an eligible applicant receiving a CSP grant or subgrant must use the funds for one or more of the following activities:

(a) Preparing teachers, school leaders, and specialized instructional support personnel, including through paying the costs associated with (A) providing professional development; and (B) hiring and compensating, during the eligible applicant's planning period specified in the application for subgrant funds that is required under this section, one or more of the following:

(i) Teachers

(ii) School leaders

(iii) Specialized instructional support personnel

(b) Acquiring supplies, training, equipment (including technology) and educational materials (including developing and acquiring instructional materials).

(c) Carrying out necessary renovations to ensure that a new school building complies with applicable statutes and regulations, and minor facilities repairs (excluding construction).

(d) Providing one-time, startup costs associated with providing transportation to students to and from the charter school.

(e) Carrying out community engagement activities, which may include paying the cost of student and staff recruitment.

(f) Providing for other appropriate, non-sustained costs related to the activities described in subsection (b)(1) when such costs cannot be met from other sources.

3. *Grants for the Replication and Expansion of High-Quality Charter Schools*

a. Grant funds may be used to replicate or expand a high-quality charter school. Specifically, for grants awarded under the ESEA, as amended by NCLB, funds may be used for (i) post-award planning and design of the educational program; and (ii) initial implementation of the charter school

(see paragraph 2.b, above). For grants awarded under the ESEA, as amended by the ESSA, funds may be used to open and prepare for the operation of new charter schools and replicated high-quality charter schools and expand high-quality charter schools.

b. For grants awarded under the ESEA, as amended by NCLB, grant funds also may be used for initial operational costs associated with the expansion or improvement of the entity's oversight or management of its schools provided that the specific schools being created or expanded under the grant are beneficiaries of such expansion or improvement.

c. A charter school that has received replication and expansion of high-quality charter schools funds is not eligible to receive funds for the same purpose under section 5202(c)(2) of the ESEA (i.e., other funding under this program), including for planning and program design or the initial implementation of a charter school (20 USC 7221c(f)(3); Program Announcements issued in the *Federal Register* May 24, 2010 (75 FR 28789-28795); July 12, 2011 (76 FR 40890-40898); March 6, 2012 (77 FR 13304-13311); June 20, 2014 (79 FR 35323-35333); June 12, 2015 (80 FR 33499-33510); May 10, 2016 (81 FR 28837-28847); January 13, 2017 (82 FR 4322-4332); November 30, 2018 (83 FR 61610-61619); November 26, 2019 (84 FR 65134-65142); and November 10, 2022 (87 FR 67876-67888).

B. Allowable Costs/Cost Principles

See Part 4, 84.000 ED Cross-Cutting Section.

C. Cash Management

See Part 4, 84.000 ED Cross-Cutting Section.

E. Eligibility

1. Eligibility for Individuals

Not Applicable

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

Not Applicable

3. Eligibility for Subrecipients

a. An "eligible applicant" is a charter school developer that has applied to an authorized public chartering authority to operate a charter school and has provided that authority with adequate and timely notice of its application for funding under the CSP ((20 USC 7221i(6)).

b. A "charter school" is a public school that

(1) In accordance with a specific state statute authorizing the granting of charters to schools, is exempt from significant state or local rules that inhibit the flexible operation and management of public schools;

(2) Is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

(3) Operates in pursuit of a specific set of educational objectives determined by the authorized public chartering agency;

(4) Provides a program of elementary or secondary education, or both;

(5) Is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

(6) Does not charge tuition;

(7) Complies with federal civil rights laws;

(8) Is a school to which parents choose to send their children and admits students on the basis of a lottery, if more students apply than can be accommodated;

(9) Agrees to comply with the same federal and state audit requirements as do other elementary and secondary schools in the state, unless such requirements are specifically waived for the purpose of this program;

(10) Meets all applicable federal, state, and local health and safety requirements;

(11) Operates in accordance with state law;

(12) Has a written performance contract with the authorized public chartering agency in the state that includes a description of how student performance will be measured in charter schools pursuant to state assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school; and

(13) May serve children in early childhood education programs or postsecondary students. Under the ESEA, as amended by the ESSA, a charter school may automatically enroll students who are

in the immediate prior grade of an affiliated charter school, as long as the charter school complies with the lottery requirement when admitting other students ((20 USC 7221i(2)).

c. The term "developer" means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators, and other school staff, parents, or other members of the local community in which a charter school project will be carried out.

A for-profit entity does not qualify as an eligible applicant for purposes of the CSP. However, a CSP grant recipient may enter into a contract with a for-profit entity for the provision of goods and services (20 USC 7221i(5)).

d. A "high-quality charter school" is a charter school that:

(1) Shows evidence of strong academic results, which may include strong student academic growth, as determined by the state;

(2) Has no significant issues in the areas of student safety, financial and operational management, or statutory or regulatory compliance;

(3) Has demonstrated success in significantly increasing student academic achievement, including graduation rates where applicable, for all students served by the charter school; and

(4) Has demonstrated success in increasing student academic achievement, including graduation rates where applicable, for each of the subgroups of students, as defined in section 1111(c)(2) of the ESEA, as amended by the ESSA (20 USC 7221i(8)).

I. Procurement and Suspension and Debarment

See Part 4, 84.000 ED Cross-Cutting Section.

IV. OTHER INFORMATION

Certain compliance requirements that apply to multiple ESEA programs are discussed once in the ED Cross-Cutting Section of this Supplement (84.000) rather than being repeated for each individual program. When applicable, Section III references the ED Cross-Cutting Section for these requirements. Also, as discussed in the ED Cross-Cutting Section, SEAs and LEAs, including charter school LEAs, may have been granted waivers from certain compliance requirements. Further, the Other Information section in 84.000 also provides information that is relevant to this program. (See other Information, 1. Consolidated Administrative Funds).

DEPARTMENT OF EDUCATION

ASSISTANCE LISTING 84.287 TWENTY-FIRST CENTURY COMMUNITY LEARNING CENTERS

I. PROGRAM OBJECTIVES

The objective of this program is to establish or expand community learning centers (Centers) that provide students with academic enrichment opportunities during non-school hours or periods when school is not in session (e.g., before school, after school, or during summer recess) to complement the students' regular academic program. Centers, which can be located in elementary or secondary schools or other similarly accessible facilities, provide a range of high-quality services to support student learning and development, including tutoring and mentoring, homework help, academic enrichment (such as hands-on science or technology programs), and community service opportunities, as well as music, arts, sports and cultural activities. At the same time, Centers help working parents by providing a safe environment for students during non-school hours or periods when school is not in session and offer families of participation students active and meaningful engagement in their child's education.

Under the 21st Century Community Learning Centers (21st CCLC) program, funds flow to state educational agencies (SEAs) by formula, based on each state's share of Title I, Part A funds. SEAs, in turn, use their allocations to make competitive subgrants to eligible entities, which consist of local educational agencies (LEAs), community-based organizations (CBOs), Indian tribes or tribal organizations, and other public or private entities, or consortia of two or more of such agencies, organizations, or entities.

II. PROGRAM PROCEDURES

Source of Governing Requirements

This program is authorized under Title IV, Part B of the Elementary and Secondary Education Act of 1965 (ESEA). Additional information regarding the ESEA is available at https://oese.ed.gov/offices/office-of-formula-grants/school-support-and-accountability/the-elementary-secondary-education-act-the-every-student-succeeds-act-of-2016/every-student-succeeds-act-essa/. The text of the 21st CCLC program can be found beginning on page 226 at https://www.govinfo.gov/content/pkg/COMPS-748/pdf/COMPS-748.pdf.

Availability of Other Program Information

1. Nita M. Lowey 21st Century Community Learning Centers Non-Regulatory Guidance (September 4, 2024) to https://www.ed.gov/sites/ed/files/2024-09/OESE%2021st%20CCLC%20Non-Regulatory%20Guidance%202024.pdf.

2. Title VIII, Part F of the Elementary and Secondary Education Act of 1965: Equitable Services for Eligible Private School Children, Teachers, and Other

Educational Personnel (July 17, 2023) https://www2.ed.gov/about/inits/ed/non-public-education/files/esea-titleviii-guidance-2023.pdf.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	N	N	N	Y	N	Y	Y

A. Activities Allowed or Unallowed

See also Part 4, 84.000 ED Cross-Cutting Section.

1. *Activities Allowed*

a. *SEAs*

SEAs may use 21st CCLC program funds for the following:

(1) Competitive subawards (20 USC 7172(c)(1)).

(2) State administration (20 USC 7172(c)(2)):

(a) The administrative costs of carrying out its responsibilities under the program;

(b) Establishing and implementing a peer review process for subgrant applications; and

(c) Awarding funds to eligible entities, in consultation with other state agencies responsible for administering youth development and adult education programs.

b. State activities (20 USC 7172(c)(3))

(1) Monitoring and the evaluation of programs and activities.

(2) Providing capacity building, training, and technical assistance.

(3) Conducting a comprehensive evaluation (directly, or through a grant or contract) of the effectiveness of programs and activities.

(4) Providing training and technical assistance to eligible entities that are applicants for, or recipients of, subawards under this program.

(5) Ensuring that any eligible entity that receives an award under this part from the state aligns the activities provided by the program with challenging state academic standards.

(6) Ensuring that any such eligible entity identifies and partners with external organizations, if available, in the community.

(7) Coordinating funds received under this part with other federal and state funds to implement high-quality programs.

(8) Providing a list of prescreened external organizations, as described under section 4203(a)(11) of the ESEA.

(9) Working with teachers, principals, parents, the local workforce, the local community, and other stakeholders to review and improve state policies and practices to support the implementation of effective programs.

c. *LEAs, CBOs, and Other Public or Private Entities (20 USC 7175)*

Subrecipients may use funds to carry out a broad array of activities during non-school hours or periods when school is not in session (e.g., before and after school, during summer recess) that advance student academic achievement and support student success, including---

(1) Academic enrichment learning programs, mentoring programs, remedial education programs, and tutoring services, that are aligned with---

(A) the challenging State and academic standards and any local academic standards and
(B) local curricula that are designed to improve student academic achievement;

(2) Well-rounded education activities, including such activities that enable students to be eligible for credit recovery or attainment;

(3) Literacy education programs including financial literacy programs and environmental literacy programs;

(4) Programs that support a healthy and active lifestyle, including nutritional education and regular, structured physical activity programs;

(5) Services for individuals with disabilities;

(6) Programs that provide after school activities for students who are English learners that emphasize language skills and academic achievement;

(7) Cultural programs;

(8) Telecommunications and technology education programs;

(9) Expanded library service hours;

(10) Parenting skills program that promote parental involvement and family literacy;

(11) Programs that provide assistance to students who have been truant, suspended, or expelled to allow the students to improve their academic achievement;

(12) Drug and violence prevention programs and counseling programs;

(13) Programs that build skills in science, technology, engineering, and mathematics (STEM), “including computer science, and that foster innovation in learning by supporting nontraditional STEM education teaching methods;” as stated in the United States Code; and

(14) Programs that partner with in-demand fields of the local workforce or build career competencies and career readiness and ensure that local workforce and career readiness skills are aligned with the Carl D. Perkins Career and Technical Education Act of 2006 (20 USC 2301 et seq.) and the Workforce Innovation and Opportunity Act (29 USC 3101 et seq.).

Note that a subrecipient may provide one or more of these activities, consistent with the SEA's approved consolidated state plan and the subrecipient's 21st CCLC program application to the SEA.

Under 20 USC 7174(a)(2)a subrecipient may use funds to conduct authorized activities during the school day that—

(a) Are part of an expanded learning program that provides students at least 300 additional program hours before, during, or after the traditional school day;

(b) Supplement but do not supplant regular school day requirements; and

(c) Are carried out jointly by an LEA receiving funds under Title I, Part A of the ESEA and another eligible entity and that propose to target services to students, and their families, who primarily attend schools: (1) implementing comprehensive or targeted support and improvement activities under section 1111(d) of the ESEA or other schools determined by an LEA to be in need of intervention and support to improve student academic achievement and other outcomes and (2) that enroll students who may be at risk for academic failure, dropping out of school, involvement in criminal or delinquent activities, or who lack strong positive role models.

B. Allowable Costs/Cost Principles

See Part 4, 84.000 ED Cross-Cutting Section.

C. Cash Management

See Part 4, 84.000 ED Cross-Cutting Section.

J. Program Income

1. See 2 CFR 200.307 Program Income located at https://www.ecfr.gov/cgi-bin/text-idx?node=se2.1.200_1307&rgn=div8. A recipient or subrecipient that earns program income must deduct the amount of program income from the amount of the Federal award unless it has received prior written approval from ED to add the amount of program income to the amount of the Federal award. If the recipient or subrecipient receives prior written approval to add the amount of program income

to the Federal award, the program income must be used for the purposes and under the conditions of the Federal award.

M. Subrecipient Monitoring

See 2 CFR 200.332 Requirements for Pass-through Entities located at eCFR :: 2 CFR 200.332 -- Requirements for pass-through entities.

N. Special Tests and Provisions

1. Participation of Private School Children

See Part 4, 84.000 ED Cross-Cutting Section.

IV. OTHER INFORMATION

Note: Certain compliance requirements that apply to multiple ED programs are discussed once in the ED Cross-Cutting Section of this Supplement (84.000) rather than being repeated in each individual program. Where applicable, Section III references the ED Cross-Cutting Section for these requirements. Further, the Other Information section in 84.000 also provides information that is relevant to this program.

DEPARTMENT OF EDUCATION

ASSISTANCE LISTING 84.365 ENGLISH LANGUAGE ACQUISITION STATE GRANTS

I. PROGRAM OBJECTIVES

The objective of Title III, Part A of the Elementary and Secondary Education Act (ESEA) is to improve the education of English learners (ELs) by helping them attain English proficiency and meet challenging state academic standards. The program also provides enhanced instructional opportunities for immigrant children and youths.

II. PROGRAM PROCEDURES

A. Overview

The Department of Education (ED) provides Title III, Part A funds to each state educational agency (SEA) on the basis of a statutory formula that takes into account the number of ELs and immigrant children and youth in each state. To receive funds, an SEA must submit to ED for approval either (1) an individual state plan as provided under Section 3113 of the ESEA (20 USC 6823), or (2) a consolidated plan that includes Part A of Title III in accordance with Section 8302 of the ESEA (20 USC 7842). The plan must be updated to reflect substantive changes.

SEAs use Title III, Part A funds for administration, to carry out state activities, and to make two types of subgrants to LEAs.

B. Subprograms/Program Elements

The two types of subgrants are (1) for school districts that have experienced a significant increase in the number of immigrant children and youth in their schools, and (2) for school district to use to serve EL children. In order to receive one of these subgrants, an LEA must submit to the SEA a plan under either Section 3116 of the ESEA (20 USC 6826) or an approved consolidated plan under Section 8302 of the ESEA (20 USC 7842).

LEAs that receive immigrant subgrants use those funds to pay for enhanced instructional opportunities for immigrant children. LEAs receiving EL subgrants must support activities that increase the English proficiency and academic achievement of ELs by providing effective language instruction educational programs, supplemental activities, and professional development for teachers and school leaders relating to ELs (20 USC 6825). In addition, LEAs receiving subgrants under Part A of Title III are required to assess the English language proficiency of the ELs they serve (20 USC 6823). SEAs are required to develop statewide entrance and exit procedures for ELs and assist subgrantees in meeting the state’s long-term goals for progress towards English language proficiency.

Source of Governing Requirements

This program is authorized by Title III, Part A of the ESEA (20 USC 6821 through 6871, 7011 through 7014). There are no program regulations; however, the general ESEA requirements in 34 CFR Part 299 apply.

Availability of Other Program Information

Other program information is available at https://oese.ed.gov/offices/office-of-formula-grants/school-support-and-accountability/english-language-acquisition-state-grants/.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	Y	N	N	N	Y	Y

A. Activities Allowed or Unallowed

See also Part 4, 84.000 ED Cross-Cutting Section.

Certain compliance requirements which apply to multiple ESEA programs are discussed once in the ED Cross-Cutting Section of this Supplement (84.000) rather than being repeated in each individual program. When applicable, Section III references the ED

Cross-Cutting Section for these requirements. Also, as discussed in the ED Cross-Cutting Section, SEAs and LEAs may have been granted waivers from certain compliance requirements.

1. *Activities Allowed*

a. *SEAs*

SEAs must use funds under this program for the following purposes:

(1) To make subgrants (20 USC 6821(b)(1), 6824).

(2) State administration (20 USC 6821(b)(3)).

(3) One or more of the following state activities (20 USC 6821(b)(2)):

(a) Establishing and implementing statewide entrance and exit procedures for ELs.

(b) Professional development and other activities, which may include assisting personnel in meeting state and local certification and licensing requirements for teaching ELs.

(c) Planning, evaluation, administration, and interagency coordination related to LEA subgrants.

(d) Providing technical assistance and other forms of assistance to LEA subgrantees.

(e) Providing recognition, which may include providing financial awards, to subgrantees that have significantly improved EL achievement and progress in meeting the state ELP goal and academic standards.

b. *LEAs*

(1) LEAs receiving immigrant subgrants shall use the funds awarded to pay for activities that provide enhanced instructional opportunities for immigrant children and youth. These activities include (20 USC 6825(e)):

(a) Family literacy, parent outreach, and training activities designed to assist parents and families to become active participants in the education of their children.

(b) Support for personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth.

(c) Provision of tutorials, mentoring, and academic or career counseling for immigrant children and youth.

(d) Identification and acquisition of curricular materials, educational software, and technologies to be used in the program carried out with funds.

(e) Basic instruction services that are directly attributable to the presence in the school district of immigrant children and youth, including the payment of costs of providing additional classroom supplies, costs of transportation, or such other costs as are directly attributable to such additional basic instruction services.

(f) Other instruction services that are designed to assist immigrant children and youth to achieve in elementary schools and secondary schools in the United States, such as programs of introduction to the educational system and civics education.

(g) Activities, coordinated with community-based organizations, institutions of higher education, private sector entities, or other entities with expertise in working with immigrants, to assist parents and families of immigrant children and youth by offering comprehensive community services.

(2) LEAs receiving EL subgrants use the funds for the following purposes, which, as stated may be required or discretionary:

(a) Administrative costs (20 USC 6825(b)).

(b) *Required Activities* – An LEA is required to use EL subgrant funds to:

(i) Increase the English proficiency of ELs by providing effective language instruction educational programs that meet the needs of ELs and demonstrate success in increasing English proficiency and student academic achievement (20 USC 6825(c)(1)).

(ii) Provide effective professional development to classroom teachers (including teachers in classroom settings that are not the settings of language instruction educational programs), principals, administrators, and other school or community-based organizational personnel (20 USC 6825(c)(2)).

(iii) Provide and implement other effective activities that supplement language instruction educational programs, which must include parent, family, and community engagement activities, and may include coordination with related programs (20 USC 6825(c)(3)).

c. *Authorized Activities* – An LEA may, but is not required to, use EL subgrant funds for the following activities (20 USC 6825(d)):

(1) Upgrading program objectives and effective instruction strategies.

(2) Improving the instruction program for ELs by identifying, acquiring, and upgrading curricula, instruction materials, educational software, and assessment procedures.

(3) Providing tutorials and academic or vocational education for ELs and intensified instruction.

(4) Developing and implementing effective preschool, elementary school or secondary school language instruction educational programs that are coordinated with other relevant programs and services.

(5) Improving the English proficiency and academic achievement of ELs.

(6) Providing community participation programs, family literacy services, and parent and family outreach and training activities to ELs and their families to improve the English language skills of ELs and to assist parents and families in helping their children to improve their academic achievement and becoming active participants in the education of their children.

(7) Improving the instruction of ELs, which may include ELs with disabilities, by providing for (i) the acquisition or development of educational technology or instructional materials; (ii) access to, and participation in, electronic networks for materials, training, and communication; and (iii) incorporation of these resources into curricula and programs.

(8) Offering early college, high school, or dual or concurrent enrollment courses designed to help ELs achieve success in postsecondary education.

B. Allowable Costs/Cost Principles

See Part 4, 84.000 ED Cross-Cutting Section.

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort

2.1 Level of Effort – *Maintenance of Effort*

See Part 4, 84.000 ED Cross-Cutting Section.

2.2 Level of Effort – *Supplement Not Supplant*

See Part 4, 84.000 ED Cross-Cutting Section.

3. Earmarking

SEAs

a. SEAs can reserve up to 5 percent of their entire grant to carry out state activities and for administration (**Note:** Under the circumstances described in paragraph 3a (1) an SEA can have a reservation for administration that exceeds 5 percent) (20 USC 6821(b)(2)):

(1) SEAs are authorized to reserve up to 2.5 percent of their grant, or $175,000, whichever is greater, for the costs of administration. Because SEAs can use up to $175,000 of their grant for administration, they may, because of that option, reserve more than 5 percent of their grant for administration (20 USC 6821(b)(3)).

(2) SEA reserved funds not used for administration can be used to carry out one or more of the state activities (see III.A.1.c) (20 USC 6821(b)(2)).

b. A SEA must expend at least 95 percent for subgrants to LEAs that submit approvable plans under either Section 3116 of the ESEA, (20 USC 6826) or an approvable consolidated plan under Section 8305 of the ESEA (20 USC 7845) as follows (20 USC 6821, 6824(a)):

(1) *Immigrant Subgrants* – SEAs are required to reserve not more than 15 percent of their grants for subgrants to LEAs that have experienced a significant increase, as compared to the average of the two preceding fiscal years, in the percentage or numbers of immigrant children and youth, who have enrolled, during the fiscal year for which the grant is made, in public and nonpublic elementary and secondary schools in the geographic areas served by the LEA. In awarding these subgrants, SEAs must equally consider LEAs that have limited or no experience in serving immigrant children and youth and the quality of the local plans that the LEAs submit under Section 3116 of the ESEA (20 USC 6826). While an SEA must make at least one award, SEAs have discretion to award these subgrants on a competitive, formula, or some other basis (20 USC 6824(d)).

(2) *EL Subgrants* – SEAs are required to use funds not used for state activities, SEA administration, or immigrant subgrants to award subgrants to LEAs, or consortia of LEAs, to serve ELs. SEAs shall allocate EL subgrants to their LEAs on a formula basis. The formula is based on the number of ELs in schools served by a particular LEA as a percentage of the number of such ELs in the entire state. The SEA, however, shall not award a subgrant if the amount of the subgrant, under the statutory formula for EL subgrants, would be less than $10,000 (20 USC 6824).

c. *LEA Administrative Costs* **–** An LEA receiving an EL subgrant may use no more than 2 percent of that subgrant for administrative costs (20 USC 6825(b)).

H. Period of Performance

See Part 4, 84.000 ED Cross-Cutting Section.

M. Subrecipient Monitoring

See Part 4, 84.000 ED Cross-Cutting Section.

N. Special Tests and Provisions

1. Participation of Private School Children

See Part 4, 84.000 ED Cross-Cutting Section.

2. Access to Federal Funds for New or Significantly Expanded Charter Schools

See Part 4, 84.000 ED Cross-Cutting Section.

IV. OTHER INFORMATION

Certain compliance requirements that apply to multiple programs are discussed once in the ED Cross-Cutting Section of this Supplement (84.000) rather than being repeated in each individual program. When applicable, Section III references 84.000 for these requirements. Further, Section IV (Other Information) of the Cross-Cutting Section also provides information that is relevant to this program. (See Other Information, 1. Consolidation of Administrative Funds and 2. Schoolwide Programs)."

DEPARTMENT OF EDUCATION

ASSISTANCE LISTING 84.367A SUPPORTING EFFECTIVE INSTRUCTION STATE GRANTS (formerly Improving Teacher Quality State Grants)

I. PROGRAM OBJECTIVES

The objective of the Supporting Effective Instruction state grant program (formerly Improving Teacher Quality state grants program) in Title II, Part A of the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the Every Student Succeeds Act (ESSA) (Pub. L. No. 114-95), is to provide funds to state educational agencies (SEAs), and local educational agencies (LEAs) to: (1) increase student achievement consistent with the challenging state academic standards, (2) improve the quality and effectiveness of teachers, principals, and other school leaders, (3) increase the number of teachers, principals, and other school leaders who are effective in improving student academic achievement in schools, and (4) provide low-income and minority students greater access to effective teachers, principals, and other school leaders.

II. PROGRAM PROCEDURES

A. Overview

Funds are obtained by a state on the basis of the Department of Education's (ED) approval of either (1) an individual state plan as provided in Section 2101 of the ESEA (20 USC 6611) or (2) a consolidated application that includes the program, in accordance with Section 8302 of the ESEA (20 USC 7842).

B. Equitable Service

After timely and meaningful consultation with appropriate private school officials, SEAs and LEAs must provide services to teachers and other educational personnel in private schools on an equitable basis that address their needs under the program and are equitable to the level of services provided to teachers and other educational personnel in the SEA and LEA (see generally ESEA section 8501).

Source of Governing Requirements

This program is authorized by Title II, Part A, of the ESEA, as amended by the ESEA sections 2101-2104 (which is 20 USC 6611-6614). The program purpose and definitions in ESEA Title II, sections 2101 and 2102 (20 USC 6601 and 6602) also apply to this program.

While there are no program regulations, general ESEA requirements in 34 CFR parts 76, 77, and 299 apply. See also Part 4, 84.000 ED Cross Cutting Section.

Availability of Other Program Information

1. Building Systems of Support for Excellent Teaching and Leading – Non-Regulatory

Guidance (September 27, 2016)
https://www2.ed.gov/policy/elsec/leg/essa/essatitleiipartaguidance.pdf

2. Improving Teacher Quality State Grants – Non-Regulatory Guidance (October 5, 2006)
https://oese.ed.gov/files/2019/09/guidance-2.pdf

3. Non-Regulatory Guidance: Fiscal Changes and Equitable Services Requirements Under the Elementary and Secondary Education Act of 1965 (ESEA), as Amended by the Every Student Succeeds Act (ESSA) (November 21, 2016)
https://www2.ed.gov/policy/elsec/leg/essa/essaguidance160477.pdf

4. Non-Regulatory Guidance: Title VIII, Part F of the Elementary and Secondary Education Act of 1965: Equitable Services for Eligible Private School Children, Teachers, and Other Educational Personnel (July 17, 2023).
https://www2.ed.gov/about/inits/ed/non-public-education/files/esea-titleviii-guidance-2023.pdf

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	Y	N	N	N	N	Y	Y

A. Activities Allowed or Unallowed

See also Part 4, 84.000 ED Cross-Cutting Section.

Certain compliance requirements that apply to multiple ESEA programs are discussed once in the Department of Education (ED) Cross-Cutting Section of this Supplement (84.000) rather than being repeated in each individual program. When applicable, Section III references the Cross-Cutting Section for these requirements. Also, as discussed in the Cross-Cutting Section, SEAs and LEAs may have been granted waivers from certain compliance requirements.

1. *Activities Allowed*

   a. State Use of Funds

      (1) State Administration and Activities – SEAs have the authority to set aside 5 percent of a state's total allocation to carry out statewide activities related to improving educator quality. Allowable state-level activities are identified in Section 2101(c)(4) of the ESEA. While not an exhaustive list, examples of allowable activities include:

      (2) Carrying out programs that establish, expand, or improve alternative routes for state certification of teachers, principals, or other school leaders;

      (3) Carrying out activities that focus on ensuring teachers have the necessary subject-matter knowledge and teaching skills, as demonstrated through measures determined by the state, and principals or other school leaders have the instructional leadership skills to help teachers teach and to help students meet such challenging state academic standards;

      (4) Reforming and teacher, principal, or other school leader certification, recertification, licensing, or tenure systems or preparation program standards and approval processes to ensure that they are aligned with such challenging state standards;

      (5) Developing, or assisting local educational agencies in, developing career opportunities and advancement initiatives that promote professional growth and emphasize multiple career paths; and

      (6) Developing, or assisting local educational agencies in developing, strategies that provide differential pay, or other incentives, to recruit and retain teachers in high-need academic subjects and teachers, principals, or other school leaders, in low-

income schools and school districts (Section ESEA 2101(c)(4) (20 USC 6611(c)(4))).

b. SEAs may use a certain amount (not more than 3 percent of the amount reserved for subgrants to LEAs under Section 2101(c)(1)) for one or more of the activities for principals or other school leaders described in Section 2101(c)(4). For more information, about this additional SEA reservation of funds, please see Part 3 of the *Non-Regulatory Guidance for Title II, Part A: Building Systems of Support for Excellent Teaching and Leading*, available at https://www2.ed.gov/policy/elsec/leg/essa/essatitleiipartaguidance.pdf (ESEA Section 2101(c)(3)).

c. LEA Use of Funds- After conducting meaningful consultation, as required by ESEA Section 2102(b)(3), LEAs may use funds for a broad range of activities designed to improve educator effectiveness that are identified in ESEA Section 2103(b). While not an exhaustive list, examples of allowable activities include:

(1) Providing "professional development" (as the term is defined in ESEA Section 8101(42) (20 USC 7801(42))) to teachers, instructional leadership teams, principals, or other school leaders that is focused on improving teaching and student learning and achievement;

(2) Developing and implementing initiatives to recruit, hire, and retain teachers, principals, and other school leaders;

(3) Providing training, technical assistance, and capacity-building in local educational agencies to assist teachers, principals, or other school leaders with selecting and implementing formative assessments, designing classroom-based assessments, and using data from such assessments to improve instruction and student academic achievement carrying out initiatives that provide teacher, paraprofessional, principal, or other school leader advancement and professional growth, and an emphasis on leadership opportunities, multiple career paths, and pay differentiation. LEAs also may use funds to hire teachers to reduce class size (ESEA sections 2103(b) (20 USC 6613(b))).

2. *Activities Unallowed*

a. SEAs may use not more than 1 percent of their total Title II allocation for state administration activities.

b. SEAs may also use not more than 2 percent of the state's total Title II, Part A state allocation to establish or expand teacher, principal, or other school leader preparation academies to prepare teachers, principals, and other

school leaders to serve in high-need schools. For more information, please see the guidance described in A.1.a.ii, above (ESEA Section 2101(c)(4)(B)(xii)).

B. Allowable Costs/Cost Principles

(All grantees) See Part 4, 84.000 ED Cross-Cutting Section.

E. Eligibility

1. Eligibility for Individuals

Not Applicable

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

Not Applicable

3. Eligibility for Subrecipients

a. LEAs apply to the SEAs for program funds. The amount of each LEA's allocation that an SEA provides is based solely on the following formula:

(1) Twenty percent of the funds must be distributed to LEAs based on the relative numbers of individuals ages 5 through 17 who reside in the area the LEA serves (based on the most recent Census data, as determined by the secretary); and

(2) Eighty percent of the funds must be distributed to LEAs based on the relative numbers of individuals ages 5 through 17 who reside in the area the LEA serves and who are from families with incomes below the poverty line (based on the most recent Census data, as determined by the secretary) (ESEA Section 2102(a)).

G. Matching, Level of Effort, Earmarking

1. Matching (LEAs)

Not Applicable

2. Level of Effort

2.1 **Level of Effort** – *Maintenance of Effort*

(SEAs/LEAs) See Part 4, 84.000 ED Cross-Cutting Section.

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

(SEAs/LEAs) See Part 4, 84.000 ED Cross-Cutting Section.

3. Earmarking

a. LEA Subgrant Reservation: SEAs must reserve not less than 95 percent of their Title II allocation for subgrants to LEAs (Section 2101(c)(1) of the ESEA).

(1) Additionally, SEAs may reserve not more than 3 percent of the amount reserved for subgrants to LEAs under Section 2101(c)(1) for one or more of the activities for principals or other school leaders described in Section 2101(c)(4). For more information, about this additional SEA reservation of funds, please see Part 3 of the *Non-Regulatory Guidance for Title II, Part A: Building Systems of Support for Excellent Teaching and Leading*, available at https://www2.ed.gov/policy/elsec/leg/essa/essatitleiipartaguidance.pdf (ESEA Section 2101(c)(3)).

b. State Administration and Activities – SEAs have the authority to set aside 5 percent of a state's total allocation to carry out statewide activities related to improving educator quality. (ESEA Section 2101(c)(1) and (4)).

(1) Limitation on administration: Within this 5 percent, SEAs may use not more than 1 percent of their total Title II allocation for state administration. (ESEA Section 2101(c)(2)).

(2) Limitation on statewide activities reservation: SEAs may reserve not more than 2 percent of the state's total Title II, Part A state allocation to establish or expand teacher, principal, or other school leader preparation academies to prepare teachers, principals, and other school leaders to serve in high-need schools. For more information, please see the guidance described in A.1.a.ii, above (ESEA Section 2101(c)(4)(B)(xii)).

c. See Part 4, 84.000 ED Cross-Cutting Section.

N. Special Tests and Provisions

1. Participation of Private School Children (SEAs/LEAs)

See Part 4, 84.000 ED Cross-Cutting Section.

2. Access to Federal Funds for New or Significantly Expanded Charter Schools

See Part 4, 84.000 ED Cross-Cutting Section.

IV. OTHER INFORMATION

Funds under the Small, Rural School Achievement (SRSA) program (Assistance Listing 84.358A) may be used for activities allowed under other programs, including this program Title II, Part A.

Expenditures for allowable activities under Title II, Part A from funds awarded for the SRSA Funds Program should be included in the audit universe and total expenditures of Assistance Listing 84.358A (i.e., from the program from which they originated) for purposes of (1) determining Type A programs and (2) completing the Schedule of Expenditures of Federal Awards (SEFA).

See Part IV. Other Information, 1. Consolidation of Administrative Funds, 2. Schoolwide Programs, and 3. Transferability of the 84.000 ED Crosscutting Section.

Certain compliance requirements that apply to multiple ED programs, including Title II, Part A, are discussed once in the ED Cross-Cutting Section of this Supplement (84.000) rather than being repeated in each individual program. Where applicable to the Perkins V requirements, references are made to the specific part of the ED Cross-Cutting Section.

DEPARTMENT OF EDUCATION

ASSISTANCE LISTING 84.424 STUDENT SUPPORT AND ACADEMIC ENRICHMENT PROGRAM

I. PROGRAM OBJECTIVES

The objective of the Student Support and Academic Enrichment Grant program in Title IV, Part A of the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the Every Student Succeeds Act (ESSA) (Pub. L. No. 114-95), is to provide funds to state educational agencies (SEAs) and local educational agencies (LEAs) to improve students' academic achievement by increasing the capacity of states, LEAs, schools, and local communities to: 1) provide all students with access to a well-rounded education; 2) improve school conditions for student learning; and 3) improve the use of technology in order to improve the academic achievement and digital literacy of all students.

II. PROGRAM PROCEDURES

Funds are obtained by a state on the basis of the Department of Education's (ED) approval of either 1) an individual state plan as provided in Section 4103 of the ESEA (20 USC 7113) or 2) a consolidated application that includes the program, in accordance with Section 8302 of the ESEA (20 USC 7842).

Source of Governing Requirements

This program is authorized by Title IV, Part A of the ESEA, as amended by the ESSA (Pub. L. No. 114-95) (20 USC 7101-7122). The program purpose and definitions in Title IV, Part A of the ESEA, sections 4101 and 4102 (20 USC 7111 and 7112) also apply to this program. While there are no program regulations, general ESEA requirements in 34 CFR Part 299 apply.

Availability of Other Program Information

a. Student Support and Academic Enrichment Grants Non-Regulatory Guidance (October 21, 2016) https://www2.ed.gov/policy/elsec/leg/essa/essassaegrantguid10212016.pdf.

b. Provisions in the Consolidated Appropriations Act of 2017 That Relate to the Title IV, Part A Student Support and Academic Enrichment Grant Program https://safesupportivelearning.ed.gov/sites/default/files/ProvisionsConsolidatedAppropriationsAct2017_Title%20IVASSAE.pdf.

c. Non-Regulatory Guidance: Fiscal Changes and Equitable Services Requirements Under the Elementary and Secondary Education Act of 1965 (ESEA), as Amended by the Every Student Succeeds Act (ESSA) (November 21, 2016) https://www2.ed.gov/policy/elsec/leg/essa/essaguidance160477.pdf.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	Y	Y	N	N	N	N	Y

A. Activities Allowed or Unallowed

See also Part 4, 84.000 ED Cross-Cutting Section.

1. *Activities Allowed*

   a. *State Use of Funds*

      (1) *Subgrants to LEAs* (Section 4104(a)(1) of the ESEA (20 USC 7114(a)(1))) – SEAs must reserve not less than 95 percent of their Title IV, Part A allocation for subgrants to LEAs.

      (2) *State Administration* (Section 4104(a)(2) of the ESEA (20 USC 7114(a)(2))) – SEAs may reserve up to 1 percent of their Title IV, Part A allocation for administrative costs.

      (3) *State Activities* (Section 4104(a)(3) of the ESEA (20 USC 7114(a)(3))) – States may reserve the remainder of funds not reserved for subgrants or administrative costs for state activities. Examples of allowable state-level activities are identified in

Section 4104(b) of the ESEA and may include monitoring and providing technical assistance and capacity building to LEAs; identifying and eliminating state barriers to the coordination and integration of programs, initiatives, and funding streams that meet the purposes of the program; and otherwise supporting LEAs in carrying out activities in the three Title IV, Part A program content areas: well-rounded education, safe and healthy students, and effective use of technology.

b. *LEA Use of Funds*

LEAs may use funds for a broad span of activities designed to improve student academic achievement by improving conditions for learning in three areas: well-rounded education (examples of allowable activities in section 4107 of the ESEA), safe and healthy students (examples of allowable activities in section 4108 of the ESEA), and effective use of technology (examples of allowable activities in section 4109 of the ESEA).

Under Section 4106(e)(2)(C)–(E) of the ESEA, an LEA or consortium of LEAs that receives $30,000 or more in Title IV, Part A funds, must use:

(1) Not less than 20 percent of funds to support one or more of the activities authorized under section 4107 pertaining to well-rounded educational opportunities;

(2) Not less than 20 percent of funds to support one or more activities authorized under section 4108 pertaining to safe and healthy students; and

(3) A portion of funds to support one or more activities authorized under section 4109 pertaining to the effective use of technology, including an assurance that it will not use more than 15 percent of the funds reserved for this section for purchasing technology infrastructure as described in section 4109(b).

Under section 3511 of Division A of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Pub. L. No. 116-136, the Department provided authority for LEAs that receive $30,000 or more to receive waivers of 1) the content area spending requirements in sections 4106(e)(2)(C), (D), and (E) – the requirements to use a minimum percentage of Title IV, Part A funds for activities under sections 4107, 4108, and 4109 for fiscal year (FY) 2019 funds and any available FY 2018 carryover funds; and 2) the spending limitation in section 4109(b) – the 15 percent limit on the use of funds under section 4109 to purchase technology infrastructure for FY 2019 funds and any available FY 2018 carryover funds.

c. *Transferability*

Funds under the Small Rural Schools Achievement (SRSA) Alternative Uses of Funds Program (Assistance Listing 84.358A) may be used for activities allowed under other programs, including this program. Expenditures under Assistance Listing 84.424 from funds awarded for the SRSA Alternative Uses of Funds Program should be included in the audit universe and total expenditures of Assistance Listing 84.424 (i.e., from the program from which they originated) for purposes of (1) determining Type A programs, and (2) completing the Schedule of Expenditures of Federal Awards (SEFA).

See Part 4, 84.000 ED Cross-Cutting Section.

B. Allowable Costs/Cost Principles

(All grantees) See Part 4, 84.000 ED Cross-Cutting Section.

C. Cash Management

See Part 4, 84.000 ED Cross-Cutting Section.

E. Eligibility

1. Eligibility for Individuals

Not Applicable

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

Not Applicable

3. Eligibility for Subrecipients

a. LEAs or consortia of LEAs are the eligible subrecipients (section 4106(a)-(b) of the ESEA).

b. LEAs apply to the SEAs for program funds. The amount of each LEA's allocation that an SEA provides is determined by formula in the same proportion as to the LEA's prior year's Title I, Part A allocation (Section 4105(a)(1) of the ESEA). In order to receive an allocation under Title IV, Part A, an LEA must have received a Title I, Part A allocation the previous fiscal year.

c. However for the 2017–2018 school year, SEAs had the option of awarding subgrants on a competitive basis pursuant to authority provided in the 2017 Consolidated Appropriations Act, Pub. L. No. 115-31 available here: https://safesupportivelearning.ed.gov/sites/default/files/ProvisionsConsoli

datedAppropriationsAct2017_Title%20IVASSAE.pdf. Such competitive subgrants must be not less than $10,000.

G. Matching, Level of Effort, Earmarking

1. Matching (LEAs)

Not Applicable

2. Level of Effort

2.1 Level of Effort – *Maintenance of Effort (SEAs/LEAs)*

Not Applicable

2.2 Level of Effort – *Supplement Not Supplant (SEAs/LEAs)*

See Part 4, 84.000 ED Cross-Cutting Section.

3. Earmarking

See Part 4, 84.000 ED Cross-Cutting Section.

H. Period of Performance

(All grantees) See Part 4, 84.000 ED Cross-Cutting Section.

N. Special Tests and Provisions

1. Participation of Private School Children (SEAs/LEAs)

See also Part 4, 84.000 ED Cross-Cutting Section.

2. Access to Federal Funds for New or Significantly Expanded Charter Schools

See Part 4, 84.000 ED Cross-Cutting Section.

IV. OTHER INFORMATION

See Part 4, 84.000 ED Cross-Cutting Section.

DEPARTMENT OF EDUCATION

ASSISTANCE LISTING 84.425 EDUCATION STABILIZATION FUND (ESF)

ESF INTRODUCTION

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was signed into law on March 27, 2020, and provided $30.75 billion for the Education Stabilization Fund (ESF) to prevent, prepare for, and respond to coronavirus, domestically or internationally. The Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSA Act), was signed into law on December 27, 2020, and provided an additional $81.88 billion for the ESF programs. Finally, the American Rescue Plan Act of 2021 (ARP Act) was enacted on March 11, 2021, and included approximately $165 billion for the ESF.

Although funds from the CARES, CRRSA, and ARP Acts were allocated to the U.S. Department of Education (ED) under a single Federal program (ESF), ED awarded ESF funds to grantees under 23 subprograms (one subprogram, 84.425Q, was awarded only to for-profit institutions and therefore not included in this Compliance Supplement). An alphabetic character at the end of the 84.425 Assistance Listing Number (ALN) was used to delineate the specific subprogram. Each subprogram has its own funding requirements and compliance requirements.

The ESF Compliance Supplement is broken down into two sections. Section 1 of the ESF Compliance Supplement identifies the objectives and compliance requirements of the subprograms generally focused on elementary and secondary education. Section 2 identifies the objectives and compliance requirements of the subprograms focused on higher education.

The table below identifies the subprograms included in each section by name and Assistance Listing Number with alphabetic character identifier. It also identifies the subprograms that are not included in the Compliance Supplement. For those subprograms not addressed in the Compliance Supplement, auditors must refer to Part 7 of the Compliance Supplement, "Guidance for Auditing Programs Not Included in This Compliance Supplement" and, where applicable, Notices Inviting Applications and other award documentation.

ESF Section	Assistance Listing No. with Alpha	Subprogram Name
Section 1		
	84.425A	Education Stabilization Fund–State Educational Agency (Outlying Areas) (ESF-SEA)
	84.425C	Governor's Emergency Education Relief (GEER) Fund
	84.425D	Elementary and Secondary School Emergency Relief (ESSER) Fund
	84.425H	Education Stabilization Fund – Governors (Outlying Areas) (ESF-Governor)
	84.425R	Coronavirus Response and Relief Supplemental Appropriations Act, 2021 – Emergency Assistance to Non-Public Schools (CRRSA EANS) program

ESF Section	Assistance Listing No. with Alpha	Subprogram Name
	84.425U	American Rescue Plan - Elementary and Secondary School Emergency Relief (ARP ESSER)
	84.425V	American Rescue Plan - Emergency Assistance to Non-Public Schools (ARP EANS) program
	84.425X	American Rescue Plan–State Educational Agency (Outlying Areas) (ARP-OA SEA)
Section 2		
	84.425E	Higher Education Emergency Relief Fund (HEERF) Student Aid
	84.425F	HEERF Institutional Aid
	84.425J	HEERF Historically Black Colleges and Universities (HBCUs)
	84.425K	HEERF Tribally Controlled Colleges and Universities (TCCUs)
	84.425L	HEERF Minority Serving Institutions (MSIs)
	84.425M	HEERF Strengthening Institutions Program (SIP)
	84.425N	HEERF Fund for the Improvement of Postsecondary Education (FIPSE) Formula Grant
	84.425P	Institutional Resilience and Expanded Postsecondary Opportunity (HEERF IREPO)
	84.425S	HEERF Supplemental Assistance to Institutions of Higher Education (SAIHE) program
	84.425T	HEERF Supplemental Support Under American Rescue Plan (SSARP) Program
Neither Section 1 nor Section 2		
	84.425B	Discretionary Grants: Rethink K-12 Education Models Grants
	84.425G	Discretionary Grants: Reimagining Workforce Preparation Grants
	84.425W	American Rescue Plan – Elementary and Secondary School Emergency Relief –Homeless Children and Youth
	84.425Y	American Rescue Plan – American Indian Resilience in Education (AIRE)

OTHER INFORMATION

Major Program Determination

Many auditees will have received and expended funds under multiple ESF subprograms. For major program purposes, auditors must evaluate 84.425 in its entirety. All ESF subprogram expenditures, even those expenditures of subprograms not addressed in this ESF Compliance Supplement, must be considered as part of the ESF program for major program determination purposes.

Identifying Subawards on the SEFA and Data Collection Form

For purposes of SEFA and Data Collection Form (Form SF-SAC) reporting, auditees should identify the individual subprogram(s) the funds were expended under, including each separate Assistance Listing Number (ALN) with the applicable alpha character. A total for the ESF in its entirety should also be provided. Auditees may need to determine which subprogram funds were expended through review of grant documents and inquiry of the source agency.

In order to identify more precisely subprogram expenditures, while also incorporating guidance issued by OMB on separately identifying COVID-19 expenditures, ED issued a memo to grantees on August 4, 2021, requesting that auditees include on the Federal Awards page of the Data Collection Form: (1) whether the program is novel coronavirus 2019 (COVID-19) relief assistance; and (2) the subprogram Assistance Listing Number alpha.

Therefore, to apply this requirement to the ESF subprograms, on the Federal Awards workbook for the submission, under Column D: Additional Award Identification, include the phrase "COVID-19" to be consistent with OMB's guidance in Appendix VII of the Compliance Supplement. Then place a comma (,) after COVID-19 and include the full Assistance Listing number and capitalized alpha character (A, B, C, etc.)

Example: A grantee listing the program "Higher Education Emergency Relief Fund – Student Aid Portion" (ALN 84.425E) on the SEFA would complete the Federal Awards page of the Data Collection Form in the following manner:

A	B	C	D	E
Award Reference (auto generated)	Federal Agency Prefix	ALN Three-Digit Extension	Additional Award Identification	Federal Program Name
1	84	425	COVID-19, 84.425E	COVID 19 Education Stabilization Fund

Note: Please note the inclusion of "COVID-19, 84.425E" in column D for the COVID-19 Higher Education Emergency Relief Fund – Student Aid Portion subprogram.

Consolidation of Administrative Funds (SEAs and LEAs)

State and local administrative funds for ESSER, GEER, and EANS (84.425C, D, R, U, and V) that are consolidated (as described in Part 4 ED Cross-Cutting, III.A.1, "Activities Allowed or Unallowed – Consolidation of Administrative Funds (SEAs and LEAs")) should be included in the audit universe and the total expenditures of the programs from which they originated for purposes of (1) determining Type A programs and (2) completing the Schedule of Expenditures of Federal Awards (SEFA). A footnote showing, by program, amounts of administrative funds consolidated is encouraged.

ESF SECTION 1 – ELEMENTARY AND SECONDARY EDUCATION

ASSISTANCE LISTING 84.425A EDUCATION STABILIZATION FUND – STATE EDUCATIONAL AGENCY (OUTLYING AREAS)

ASSISTANCE LISTING 84.425C GOVERNOR'S EMERGENCY EDUCATION RELIEF FUND

ASSISTANCE LISTING 84.425D ELEMENTARY AND SECONDARY SCHOOL EMERGENCY RELIEF FUND

ASSISTANCE LISTING 84.425H EDUCATION STABILIZATION FUND – GOVERNORS (OUTLYING AREAS)

ASSISTANCE LISTING 84.425R CORONAVIRUS RESPONSE AND RELIEF SUPPLEMENTAL APPROPRIATIONS ACT, 2021 – EMERGENCY ASSISTANCE TO NON-PUBLIC SCHOOLS (CRRSA EANS)

ASSISTANCE LISTING 84.425U AMERICAN RESCUE PLAN – ELEMENTARY AND SECONDARY SCHOOL EMERGENCY RELIEF (ARP ESSER)

ASSISTANCE LISTING 84.425V AMERICAN RESCUE PLAN – EMERGENCY ASSISTANCE TO NON-PUBLIC SCHOOLS (ARP EANS)

ASSISTANCE LISTING 84.425X AMERICAN RESCUE PLAN – OUTLYING AREAS STATE EDUCATIONAL AGENCY (ARP-OA-SEA)

I. PROGRAM OBJECTIVES

CARES Act

For each of the subprograms under the CARES Act, a recipient submitted a unique application in the form of a Certification and Agreement for Funding applicable to the program (see "Source of Governing Requirements").

The objective of the GEER Fund (84.425C) is to provide local educational agencies (LEAs), institutions of higher education (IHEs), and other education-related entities with emergency assistance as a result of the Coronavirus Disease 2019 (COVID-19).

The objective of the ESSER Fund (84.425D) is to provide State educational agencies (SEAs) and LEAs, including charter schools that are LEAs, with emergency relief funds to address the impact that COVID-19 has had, and continues to have, on elementary and secondary schools across the nation.

The objective of the ESF-SEA (84.425A) and ESF-Governor Funds (84.425H) is to allocate funds to the Outlying Areas—American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands—for the purpose of providing SEAs and LEAs (ESF-

SEA) and SEAs, LEAs, IHEs, and other education-related entities (ESF-Governor) with emergency assistance to address the impact of COVID-19.

CRRSA Act

For each of the subprograms funded under the CRRSA Act (ESSER II, GEER II, ESF II-SEA and ESF II-Governor), ED made awards as supplements to the CARES Act awards, and recipients were not required to submit another Certification and Agreement.

ED made CRRSA EANS awards to each Governor with an approved Certification and Agreement. CRRSA EANS does not apply to the Outlying Areas.

The objective of the CRRSA EANS (84.425R) subprogram is to provide Governors with a reservation of funds under the CRRSA Act to provide services or assistance to eligible non-public schools to address the impact that COVID-19 has had, and continues to have, on non-public school students and teachers in the state. The SEA administers the CRRSA EANS subprogram on behalf of the Governor.

ARP Act

For each of the programs funded under the ARP Act (ARP ESSER, ARP EANS, and ARP-OA SEA), ED made new awards and included additional terms and conditions for the use of those funds.

The objectives of the ARP ESSER Fund (84.425U) and of the ARP-OA SEA Fund (84.425X) are to provide SEAs and LEAs with emergency relief funds to help schools return safely to in-person instruction, maximize in-person instructional time, sustain the safe operation of schools, and address the academic, social, emotional, and mental health impacts of the COVID-19 pandemic on the Nation's students.

The objective of the ARP EANS (84.425V) program is to provide Governors with additional funds under the ARP Act to provide services or assistance to eligible non-public schools to address the impact that COVID-19 has had, and continues to have, on non-public school students and teachers in the state. Like CRSSA EANS, the SEA administers the ARP EANS program on behalf of the Governor.

Note: For purposes of this Section 1 of the 2023 Compliance Supplement, references to the ESF are to the programs generally focused on elementary and secondary education, which are identified on page 1 of this Section.

Note: For purposes of this document, ESSER refers to ESSER I, ESSER II, and ARP ESSER funds, while ESSER I refers only to funds under the CARES Act; ESSER II refers only to funds under the CRRSA Act; and ARP ESSER refers only to funds under the ARP Act. ESF-SEA refers to ESF I-SEA and ESF II-SEA funds, while ESF I-SEA refers only to funds under the CARES Act; ESF II-SEA refers only to funds under the CRRSA Act; and ARP-OA SEA refers only to funds under the ARP Act. Finally, GEER refers to both GEER I and GEER II funds, while GEER I refers only to funds under the CARES Act and GEER II refers only to funds under the CRRSA Act. Similarly, ESF-Governor refers to both ESF I-Governor and ESF II-Governor

funds, while ESF I-Governor refers only to funds under the CARES Act and ESF II-Governor refers only to funds under the CRRSA Act. CRRSA EANS refers to funds under the CRRSA Act and ARP EANS refers to funds under the ARP Act.

II. PROGRAM PROCEDURES

A. GEER Fund

Under the GEER Fund, ED allocated funds to Governors, as well as the mayor of the District of Columbia; 60 percent was based on each State's population of individuals ages 5 through 24 and 40 percent was based on the number of children counted under section 1124(c) (indicators of poverty) of the Elementary and Secondary Education Act of 1965 (ESEA). The Governor or mayor uses GEER funds to: (1) provide emergency support through grants to LEAs that the SEA deems to have been most significantly impacted by COVID-19; (2) provide emergency support through grants to IHEs serving students within the State that the Governor determines have been most significantly impacted by COVID-19; and (3) provide support to any other IHE, LEA, or education-related entity within the State that the Governor or mayor deems essential for carrying out emergency educational services. In order to receive GEER funds under the CARES Act, a Governor submitted to ED a completed "Certification and Agreement." The CRRSA Act authorized additional funding for the GEER Fund, which ED distributed as supplemental awards (GEER II). GEER I and GEER II are subject to all of the same requirements (with the exception of equitable services for LEAs under GEER II).

B. CRRSA EANS and ARP EANS

Under the CRRSA EANS program, ED awarded grants by formula to each Governor (or the mayor of the District of Columbia) with an approved "Certification and Agreement" to provide services or assistance to eligible non-public schools (for purposes of the CRRSA EANS program, an eligible non-public school is an elementary or secondary school that— is non-profit; is accredited, licensed, or otherwise operates in accordance with State law; was in existence prior to March 13, 2020, the date COVID-19 was declared a national emergency; and did not, and will not, apply for and receive a loan under the Small Business Administration's Paycheck Protection Program (PPP) (15 USC 636(a)(37)) that is made on or after December 27, 2020. This limitation applies for as long as the non-public school is a participant in the CRRSA EANS program.) to address the impact that COVID-19 has had, and continues to have, on non-public school students and teachers in the State.

Under the ARP EANS program, ED awarded grants by formula to each Governor (or the mayor of the District of Columbia) with an approved application to provide services or assistance to eligible non-public schools. The same eligibility requirements for non-public schools apply under the ARP EANS program as did under the CRRSA EANS program with one exception. Under the ARP EANS program, an SEA may provide services or assistance only to non-public schools that (1) enroll a significant percentage of students from low-income families and (2) are most impacted by COVID-19. The

Notice of Final Requirements established 40 percent as the poverty threshold, but gave States the option of proposing an alternate significant poverty percentage. Each State was required to identify in its application the threshold to be used in determining if a non-public school enrolls a significant percentage of students from low-income families and the factor or factors to be used in determined which non-public schools are most impacted by COVID-19. States' approved applications may be found here: https://oese.ed.gov/arp-eans-awards/.

A non-public school that participates in the CRRSA EANS or ARP EANS program is not a recipient of Federal financial assistance, and therefore is not subject to requirements that apply to subrecipients (e.g., single audit requirements, SEFA reporting).

C. ESSER Fund

Under ESSER I, ED allocated funds to each SEA by a formula based on the State's fiscal year (FY) 2019 share of funds under Title I, Part A (84.010) of the ESEA. An SEA, in turn, allocated ESSER I funds to LEAs by formula based on FY 2019 Title I, Part A allocations. In order to receive an ESSER I allocation under the CARES Act, an SEA submitted to the Department a completed "Certification and Agreement."

The CRSSA Act provided an additional $54.3 billion for the ESSER Fund, which ED distributed as supplemental awards (ESSER II). These ESSER II awards to SEAs are in the same proportion as each State received funds under Title I, Part A of the ESEA for FY 2020. The SEA, in turn, allocated ESSER II funds to LEAs by formula based on FY 2020 Title I, Part A allocations.

ESSER I and ESSER II have the same Assistance Listing alpha number and are subject to virtually all of the same requirements, except for one main difference: an LEA that receives ESSER I funds under the CARES Act (Section 18005) must provide equitable services to students and teachers in the same manner as provided under section 1117 of Title I, Part A of the ESEA. ESSER II is not subject to the equitable services requirement; rather the CRRSA Act included $2.75 billion for the separate CRRSA EANS program.

The ARP Act provided $122 billion for the ESSER Fund, providing funds to SEAs and LEAs to meet the urgent needs of schools and students. On March 17, 2021, the Department awarded each State the first two-thirds of its ARP ESSER allocation. On April 21, 2021, ED released a State Plan template for the ARP ESSER Fund, which is designed to promote comprehensive planning by SEAs and LEAs. Once ED approved a SEA's plan, it made the SEA's remaining ARP ESSER allocation available to the SEA.

ARP ESSER allocations were based on the proportion that each State received under Title I, Part A of the ESEA for FY 2020. While ARP ESSER has a different alpha character (84.425U), it is subject to most of the same requirements as ESSER II except for the following: an SEA must reserve certain amounts of its ARP ESSER State-level funds for specific purposes, and an LEA that receives ARP ESSER funds must submit to the SEA an ARP LEA plan for the use of funds, must engage in meaningful stakeholder

consultation when developing its ARP LEA plan, must submit and make publicly available a plan for the safe return to in-person instruction and continuity of services, and must reserve at least 20 percent of its ARP ESSER award to address learning loss.

D. ESF-SEA and ESF-Governor (Outlying Areas)

Under the ESF-SEA Fund, ED allocated funds to SEAs in the Outlying Areas based on the same proportion that each Outlying Area received under Title I, Part A of the ESEA in the most recent fiscal year. By statute, ED used this same formula to make allocations to States under the ESSER Fund. In order to receive ESF I-SEA funds, an SEA submitted to ED a completed "Certification and Agreement." The ESF II-SEA funds were awarded to each Outlying Area under the same grant terms and conditions that applied to the ESF I-SEA funds.

Under the ESF-Governor Fund, ED allocated funds to Governors in the Outlying Areas, with 60 percent of the award based on population ages 5 to 24 and 40 percent of the award based on the relative number of children counted under section 1124(c) (indicators of poverty) of the ESEA. By statute, ED used this same formula to make allocations to Governors under the GEER Fund. In order to receive ESF I-Governor funds, Governors submitted to ED a completed "Certification and Agreement." The ESF II-Governor funds were awarded to each Outlying Area under the same grant terms and conditions that applied to the ESF I -Governor funds.

Under ARP-OA SEA, ED allocated funds to the SEAs in the Outlying Areas based on the same proportion as each Outlying Area received under Title I, Part A of the ESEA for FY 2020. ARP-OA SEA grant terms and conditions were attached to each SEA's grant award notification. Each SEA received its full ARP-OA SEA allocation within 30 days of enactment of the ARP Act.

Source of Governing Requirements

These programs are authorized, as applicable, by the CARES Act, Pub. L. No. 116-136, 134 Stat. 281 (Mar. 27, 2020), the CRRSA Act, Pub. L. No. 116-260 (December 27, 2020), and the ARP Act, Pub. L. No. 117-2 (March 11, 2021). The regulations in 34 CFR Part 76 (State-Administered Programs), 2 CFR Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards), and 31 CFR Part 205 (Cash Management Improvement Act) apply to these programs.

On April 22, 2021, ED established requirements for the ARP ESSER Fund under section 2001 of the ARP Act. The requirements cover meaningful stakeholder consultation, LEA ARP ESSER plan requirements, and LEA plans for the safe return to in-person instruction and continuity of services, https://www.federalregister.gov/documents/2021/04/22/2021-08359/american-rescue-plan-act-elementary-and-secondary-school-emergency-relief-fund.

Additionally, on July 13, 2021, ED established final requirements for the ARP EANS program. The requirements clarified the statutory requirements applicable to the ARP EANS program, including the requirement to provide services or assistance to non-public schools that enroll a

significant percentage of students from low-income families and are most impacted by COVID-19 (see https://www.govinfo.gov/content/pkg/FR-2021-07-13/pdf/2021-14862.pdf).

Finally, the application each SEA or Governor completed and signed prior to receiving a grant award also form the basis of the governing requirements for those programs for which ED required Certification and Agreements or applications:

1. Certification and Agreement for Funding under the Education Stabilization Fund Program Elementary and Secondary School Emergency Relief Fund (ESSER I Fund) https://oese.ed.gov/files/2020/04/ESSERF-Certification-and-Agreement-2.pdf

2. Certification and Agreement for Funding under the Education Stabilization Fund Program Governor's Emergency Education Relief Fund (GEER I Fund) https://oese.ed.gov/files/2020/04/GEER-Certification-and-Agreement.pdf

3. Certification and Agreement for Funding under the CRRSA Act Emergency Assistance to Non-Public Schools program (CRRSA EANS) https://oese.ed.gov/files/2021/01/Final_EANS_CertificationandAgreement_FY21_1.11.21.pdf

4. Certification and Agreement for Funding under the Education Stabilization Fund-State Educational Agency Fund (ESF-SEA) https://oese.ed.gov/files/2020/05/SEA-ESF-OA-Certification-and-Agreement.pdf

5. Certification and Agreement for Funding under the Education Stabilization Fund-Governors Fund (ESF-Governor Fund) https://oese.ed.gov/files/2020/05/Governors-ESF-OA-Certification-and-Agreement.pdf

6. Application for Funding, Emergency Assistance to Non-Public Schools (EANS) program under the American Rescue Plan Act of 2021 (ARP Act) https://oese.ed.gov/files/2021/07/ARP-EANS-Application-7.7.21_FINAL.pdf

7. Approved State Applications for the Emergency Assistance to Non-Public Schools (EANS) program under the American Rescue Plan Act of 2021 (ARP Act) https://oese.ed.gov/arp-eans-awards/

8. State Plans for the American Rescue Plan Elementary and Secondary School Emergency Relief funds, https://oese.ed.gov/offices/american-rescue-plan/american-rescue-plan-elementary-and-secondary-school-emergency-relief/stateplans/

Availability of Other Program Information

A number of documents posted on ED's website provide clarity regarding the GEER Fund, ESSER Fund, EANS program, ESF-SEA Fund, and ESF-Governor Fund requirements in this Compliance Supplement.

ESF

1. Education Stabilization Fund Website https://oese.ed.gov/offices/education-stabilization-fund/

2. American Rescue Plan Website https://oese.ed.gov/offices/american-rescue-plan/

3. Frequently Asked Questions on the Maintenance of Effort Requirements Applicable to the CARES Act Programs – May 2020 https://oese.ed.gov/files/2020/06/CARES-Act-Programs-Maintenance-of-Effort-FAQ.pdf

4. Guidance on Maintenance of Effort Requirements and Waiver Requests under the Elementary and Secondary School Emergency Relief (ESSER) Fund and the Governor's Emergency Education Relief (GEER) Fund – 8.15.22-Update_MOE-Chart-with-waiver-FAQs-Rounding-and-Appendices-Updated1.pdf

5. Frequently Asked Questions - Elementary and Secondary School Emergency Relief Programs Governor's Emergency Education Relief Programs Use of Funds: ESSER-and-GEER-Use-of-Funds-FAQs-December-7-2022-Update.pdf (ed.gov)

GEER Fund

1. Frequently Asked Questions about the Governor's Emergency Education Relief Fund (GEER Fund) https://oese.ed.gov/files/2020/05/FAQs-GEER-Fund.pdf) Website: https://oese.ed.gov/offices/education-stabilization-fund/governors-emergency-education-relief-fund/

2. Fact Sheet for GEER II https://oese.ed.gov/files/2021/01/FINAL_-GEER_FactSheet_1.8.21.pdf

3. Communication to Grantees on Activities Continuing Beyond the Obligation and Liquidation Periods: TA-on-activities-continuing-beyond-E3d.pdf (ed.gov)

EANS Program

1. Frequently Asked Questions, Emergency Assistance to Non-Public Schools (EANS) Program as authorized by the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSA Act) and the American Rescue Plan Act of 2021 (ARP Act) https://oese.ed.gov/files/2021/09/Final-EANS-FAQ-Update-9.17.21.pdf

2. ARP EANS Final Requirements https://www.federalregister.gov/documents/2021/07/13/2021-14862/american-rescue-plan-act-emergency-assistance-to-non-public-schools-program

3. Disposition of Equipment and Supplies, an Addendum to Frequently Asked Questions, Emergency Assistance to Non-Public School (EANS) Program https://oese.ed.gov/files/2023/01/EANS-Disposition-FAQs-Addendum-FINAL-1.23.23.pdf

4. Communication to Grantees on EANS Services and Assistance After the Period of Performance Ends, EANS-Services-and-Assistance-After-End-of-Period-of-Performance.pdf (ed.gov) and TA-on-activities-continuing-beyond-E3d.pdf (ed.gov)

ESSER Fund

1. Frequently Asked Questions about the Elementary and Secondary School Emergency Relief Fund (ESSER Fund) https://oese.ed.gov/files/2020/05/ESSER-Fund-Frequently-Asked-Questions.pdf

2. Fact Sheet for ESSER II https://oese.ed.gov/files/2021/01/Final_ESSERII_Factsheet_1.5.21.pdf

3. Fact Sheet for ARP ESSER https://oese.ed.gov/files/2021/03/FINAL_ARP-ESSER-FACT-SHEET.pdf

4. Assurances for American Rescue Plan – Elementary and Secondary School Emergency
Relief (ARP ESSER) Grant Award https://oese.ed.gov/files/2021/03/ARP-ESSER-Grant-Award-Assurances_FINAL2.pdf

5. ARP ESSER Methodology and Allocation Table – March 17, 2021 https://oese.ed.gov/files/2021/03/FINAL_ARP-ESSER-Methodology-and-Table.pdf

6. ARP ESSER Methodology and Allocation Table Revised – June 25, 2021 https://oese.ed.gov/files/2021/06/Revised-ARP-ESSER-Methodology-and-Allocation-Table_6.25.21_FINAL.pdf

7. Frequently Asked Questions – American Rescue Plan Elementary and Secondary School Emergency Relief (ESSER) Program – Maintenance of Equity (MOEquity) Requirements –2023-01-23-Update_22-0471-moequity-FAQs_Final-Version.pdf (ed.gov)

8. A Resources page, which includes links to Frequently Asked Questions documents as well as to materials used during technical assistance meetings or Office Hours https://oese.ed.gov/offices/american-rescue-plan/american-rescue-plan-elementary-and-secondary-school-emergency-relief/resources/

9. Communication to Grantees on Activities Continuing Beyond the Obligation and Liquidation Periods: TA-on-activities-continuing-beyond-E3d.pdf (ed.gov)

ESF-SEA, ESF-Governor, and ARP OA-SEA

1. Website: https://oese.ed.gov/offices/education-stabilization-fund/outlying-areas/

2. Frequently Asked Questions – Education Stabilization Fund-State Educational Agency (ESF-SEA) https://oese.ed.gov/files/2020/09/ESF-SEA-Final-FAQs.pdf

3. Frequently Asked Questions – Education Stabilization Fund-Governors (ESF-Governor) https://oese.ed.gov/files/2020/09/ESF-Governor-Final-FAQs.pdf

4. Frequently Asked Questions – Outlying Areas Education Stabilization Fund and American Rescue Plan Programs for State Educational Agencies & Outlying Areas Education Stabilization Fund Governors Program https://oese.ed.gov/files/2021/11/ARP-OA-SEA-FAQs-FINAL.pdf

5. Fact Sheet – American Rescue Plan Outlying Areas State Educational Agencies Fund (ARP-OA SEA) https://oese.ed.gov/files/2021/11/ARP-OA-SEA-Fact-Sheet-FINAL.pdf

6. State Educational Agency Plan for the American Rescue Plan Outlying Areas State Educational Agencies Fund https://oese.ed.gov/files/2021/06/ARP-OA-SEA-Implementation-Plan-Template_Final.pdf

7. ARP OA-SEA Allocation Table https://oese.ed.gov/files/2021/04/ARP-OAs-Methodology-and-Table.docx

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the Federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	N	N	N	Y	Y	Y

A. Activities Allowed or Unallowed

See Part 4, 84.000 ED Cross-Cutting Section for requirements applicable to Consolidation of Administrative Funds for ESSER, GEER, EANS, and the ESF Outlying Areas program (84.425A, C, D, H R, U, V, and X) and for requirements applicable to Schoolwide Programs for ESSER & GEER (84.425C, D, and U).

Governors and SEAs must demonstrate that costs incurred by Governors, SEAs, and subrecipients are allowable under the relevant statutory and regulatory provisions, assurances, and Certification and Agreement, and consistent with the purpose of the ESF, which is "to prevent, prepare for, and respond to COVID-19." The Outlying Areas must ensure that expenditures under ESF-SEA and ESF-Governor are consistent with the allowable uses of funds set forth in the signed Certification and Agreement and that expenditures under ARP-OA-SEA are consistent with the grant conditions and assurances attached to the ARP-OA SEA Grant Award Notification (GAN).

1. *Activities Allowed*

   a. *GEER Funds* - Under section 18002(c) of the CARES Act and Section 312 of the CRRSA Act, GEER I and GEER II funds may be used to:

      (1) Provide emergency support through grants to LEAs that the SEA deems have been most significantly impacted by coronavirus to support the ability of such LEAs to continue to provide educational services to their students and to support the on-going functionality of the LEA;

      (2) Provide emergency support through grants to IHEs serving students within the State that the Governor determines have been most significantly impacted by coronavirus to support the ability of such institutions to continue to provide educational services and support the on-going functionality of the institution; and

(3) Provide support to any other institution of higher education, LEA, or education-related entity within the State that the Governor deems essential for carrying out emergency educational services to students for authorized activities described in section 18003(d)(1) of the CARES Act or the HEA, the provision of childcare and early childhood education, social and emotional support, and the protection of education-related jobs.

b. *ESF-Governor Funds*- Governors in the Outlying Areas may use ESF-Governor funds to:

(1) Provide emergency support through grants to SEAs and, where applicable, to LEAs to address impacts of the coronavirus in elementary and secondary schools and to support the ability of these agencies to continue to provide educational services to their students and to support the ongoing functionality of the SEA and, where applicable, LEAs (note that SEAs may also subgrant funds received to LEAs);

(2) Provide emergency support through grants to IHEs to address the impacts of the coronavirus on IHEs and to support the ability of such institutions to continue to provide educational services and support the ongoing functionality of the institutions; and

(3) Provide support to any IHE, LEA, or education-related entity within the Outlying Area that the Governor deems essential for carrying out emergency educational services to students, the provision of childcare and early childhood education, social and emotional support, and the protection of education-related jobs.

Governors may also use a reasonable and necessary amount of the ESF-Governor funds for administrative costs related to the allocation and management of the funds. Entities that receive ESF-Governor funds may also use a reasonable and necessary amount of the funds for administrative costs related to the management of the funds.

c. *CRRSA EANS and ARP EANS Funds*- The CRRSA Act, Pub. L. No. 116-260 (December 27, 2020) authorizes the CRRSA EANS program. A non-public school may apply to receive services and assistance from the SEA to address educational disruptions resulting from COVID-19 for:

(1) Supplies to sanitize, disinfect, and clean school facilities;

(2) Personal protective equipment (PPE);

(3) Improving ventilation systems, including windows or portable air purification systems;

(4) Training and professional development for staff on sanitization, the use of PPE, and minimizing the spread of infectious diseases;

(5) Physical barriers to facilitate social distancing;

(6) Other materials, supplies, or equipment to implement public health protocols, including guidelines and recommendations from the Centers for Disease Control for reopening and operation of school facilities to effectively maintain health and safety of students, educators, and other staff;

(7) Expanding capacity to administer coronavirus testing to effectively monitor and suppress the virus, to conduct surveillance and contact tracing activities, and to support other activities related to coronavirus testing for students, teachers, and staff;

(8) Educational technology (including hardware, software, connectivity, assistive technology, and adaptive equipment) to assist students, educators, and other staff with remote or hybrid learning;

(9) Redeveloping instructional plans, including curriculum development, for remote or hybrid learning or to address learning loss;

(10) Leasing sites or spaces to ensure safe social distancing;

(11) Reasonable transportation costs;

(12) Initiating and maintaining education and support services or assistance for remote or hybrid learning or to address learning loss; or

(13) Reimbursement for the expenses of any services or assistance described above that a non-public school incurred on or after March 13, 2020, except for the following:

- Improvements to ventilation systems (including windows), except for portable air purification systems, which may be reimbursed.

- Any expenses reimbursed through a loan guaranteed under the Paycheck Protection Program (15 USC 636(a)) prior to December 27, 2020.

- Staff training and professional development on sanitization, the use of PPE, and minimizing the spread of COVID-19.

- Developing instructional plans, including curriculum development, for remote or hybrid learning or to address learning loss.

- Initiating and maintaining education and support services or assistance for remote or hybrid learning or to address learning loss.

An SEA may provide these services or assistance directly to a nonpublic school or through a contract with an individual, association, agency, or organization.

Control of funds for services or assistance provided to a non-public school under the CRRSA EANS program and title to materials, equipment, and property purchased with CRRSA EANS funds, must be in a public agency, and a public agency must administer such funds, services, assistance, materials, equipment, and property. In addition, all services or assistance provided under the CRRSA EANS program must be secular, neutral, and non-ideological.

The above requirements also apply to the ARP EANS program except that under section 2002(b) of the ARP Act an SEA may not use ARP EANS funds to provide reimbursements to a non-public school for costs the school incurred to address the impact of COVID-19.

Note: For comprehensive information about allowable uses of funds under the EANS program, please see Frequently Asked Questions Emergency Assistance to Non-Public Schools Program available at Final-EANS-FAQ-Update-9.17.21.pdf (ed.gov). Please also see additional guidance about permitting under very limited circumstances services to extend for a reasonable period beyond the end of the obligation and liquidation period (https://oese.ed.gov/files/2023/06/TA-on-activities-continuing-beyond-E3d.pdf).

d. *ESSER Funds*

LEAs may use ESSER funds for a wide range of activities to address needs arising from the coronavirus pandemic. Section 18003(d) of the CARES Act provides a list of allowable LEA ESSER I activities. Section 313(3) of the CRRSA Act includes “additional” LEA allowable uses of funds under ESSER II, in particular addressing learning loss; preparing schools for reopening; and testing, repairing, and upgrading projects to improve air quality in school buildings; however, all of these uses already are permitted under the CARES Act even though not explicitly listed. Section 2001(e) of the ARP Act further expands LEA allowable uses of funds under ARP ESSER to include providing mental health supports, including through the implementation of evidence-based full-service

community schools; and developing strategies and implementing public health protocols including, to the greatest extent practicable, policies in line with guidance from the Centers for Disease Control and Prevention (CDC) on reopening and operating schools to effectively maintain the health and safety of students, educators, and other staff. ED has clarified that SEAs, LEAs and schools may use funding under ESSER I, ESSER II, and ARP ESSER to support a very wide range of activities, including activities indirectly linked to the impact of COVID-19, as outlined in the ED Volume 2 COVID Handbook, available at https://www2.ed.gov/documents/coronavirus/reopening-2.pdf, provided such uses are consistent with statutory requirements and the Uniform Guidance in 2 CFR Part 200.

LEAs may use ESSER funds to support:

(1) Any activity authorized by the ESEA of 1965, including the Native Hawaiian Education Act and the Alaska Native Educational Equity, Support, and Assistance Act (20 USC 6301 et seq.), the Individuals with Disabilities Education Act (20 USC 1400 et seq.) ("IDEA"), the Adult Education and Family Literacy Act (20 USC 1400 et seq.), the Carl D. Perkins Career and Technical Education Act of 2006 (20 USC 2301 et seq.) ("the Perkins Act"), or subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 USC 11431 et seq.).

(2) Coordination of preparedness and response efforts of LEAs with State, local, tribal, and territorial public health departments, and other relevant agencies to improve coordinated responses among such entities to prevent, prepare for, and respond to coronavirus.

(3) Providing principals and others school leaders with the resources necessary to address the needs of their individual schools.

(4) Activities to address the unique needs of low-income children or students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth, including how outreach and service delivery will meet the needs of each population.

(5) Developing and implementing procedures and systems to improve the preparedness and response efforts of LEAs.

(6) Training and professional development for staff of the LEA on sanitation and minimizing the spread of infectious diseases.

(7) Purchasing supplies to sanitize and clean the facilities of an LEA, including buildings operated by such agency.

(8) Planning for and coordinating during long-term closures, including for how to provide meals to eligible students, how to provide technology for online learning to all students, how to provide guidance for carrying out requirements under the IDEA (20 USC 1401 et seq.), and how to ensure other educational services can continue to be provided consistent with all Federal, State, and local requirements.

(9) Purchasing educational technology (including hardware, software, and connectivity) for students who are served by the LEA that aids in regular and substantive educational interaction between students and their classroom instructors, including low-income students and students with disabilities, which may include assistive technology or adaptive equipment.

(10) Providing mental health services and supports.

(11) Planning and implementing activities related to summer learning and supplemental afterschool programs, including providing classroom instruction or online learning during the summer months and addressing the needs of low-income students, students with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care.

(12) Addressing learning loss among students, including low-income students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and children and youth in foster care, of the local educational agency, including by—

- Administering and using high-quality assessments that are valid and reliable, to accurately assess students' academic progress and assist educators in meeting students' academic needs, including through differentiating instruction.

- Implementing evidence-based activities to meet the comprehensive needs of students.

- Providing information and assistance to parents and families on how they can effectively support students, including in a distance learning environment.

- Tracking student attendance and improving student engagement in distance education.

(13) School facility repairs and improvements to enable operation of schools to reduce risk of virus transmission and exposure to environmental health hazards, and to support student health needs.

(14) Inspection, testing, maintenance, repair, replacement, and upgrade projects to improve the indoor air quality in school facilities, including mechanical and non-mechanical heating, ventilation, and air conditioning systems, filtering, purification and other air cleaning, fans, control systems, and window and door repair and replacement.

(15) Developing strategies and implementing public health protocols including, to the greatest extent practicable, policies in line with guidance from the Centers for Disease Control and Prevention for the reopening and operation of school facilities to effectively maintain the health and safety of students, educators, and other staff.

(16) Other activities that are necessary to maintain the operation of and continuity of services in LEAs and continuing to employ existing staff of the LEA.

Note: For comprehensive information about allowable uses of funds under ESSER and GEER, please see Frequently Asked Questions Elementary and Secondary School Emergency Relief (ESSER) Programs Governor's Emergency Education Relief (GEER) available at ESSER-and-GEER-Use-of-Funds-FAQs-December-7-2022-Update.pdf (ed.gov), including E-3.d permitting under very limited circumstances services to extend for a reasonable period beyond the end of the obligation and liquidation period. Additional guidance on this topic may be found at https://oese.ed.gov/files/2023/06/TA-on-activities-continuing-beyond-E3d.pdf.

Note: An LEA that receives ESSER I funds under the CARES Act (Section 18005) must provide equitable services to students and teachers in the same manner as provided under section 1117 of Title I, Part A of the ESEA. ESSER II and ARP ESSER are not subject to the equitable services requirement; rather the CRRSA Act and ARP Act include the separate EANS programs to address the needs of non-public school students and teachers. For more information about the major similarities and differences between ESSER I and ESSER II, see the Fact Sheet for ESSER II, available at https://oese.ed.gov/files/2021/01/Final_ESSERII_Factsheet_1.5.21.pdf and differences among ESSER I, ESSERII and ARP ESSER available at: https://oese.ed.gov/files/2021/03/FINAL_ARP-ESSER-FACT-SHEET.pdf.

e. *ESF-SEA Funds*

The Outlying Areas may use ESF-SEA funds for any of the following activities listed in section 18003(d) of the CARES Act:

(1) Any activity authorized by the Elementary and Secondary Education Act of 1965 (ESEA), including the Native Hawaiian Education Act and the Alaska Native Educational Equity, Support, and Assistance Act (20 USC 6301 et seq.), the Individuals with Disabilities Education Act (20 USC 1400 et seq.) (IDEA), the Adult Education and Family Literacy Act (20 USC 1400 et seq.), the Carl D. Perkins Career and Technical Education Act of 2006 (20 USC 2301 et seq.) (the Perkins Act), or subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (McKinney-Vento) (42 USC 11431 et seq.).

(2) Coordination of preparedness and response efforts of LEAs with State, local, tribal, and territorial public health departments, and other relevant agencies, to improve coordinated responses among such entities to prevent, prepare for, and respond to coronavirus.

(3) Providing principals and others school leaders with the resources necessary to address the needs of their individual schools.

(4) Activities to address the unique needs of low-income children or students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth, including how outreach and service delivery will meet the needs of each population.

(5) Developing and implementing procedures and systems to improve the preparedness and response efforts of LEAs.

(6) Training and professional development for staff of the LEA on sanitation and minimizing the spread of infectious diseases.

(7) Purchasing supplies to sanitize and clean the facilities of a LEA, including buildings operated by such agency.

(8) Planning for and coordinating during long-term closures, including for how to provide meals to eligible students, how to provide technology for online learning to all students, how to provide guidance for carrying out requirements under IDEA (20 USC 1401 et seq.) and how to ensure other educational services can continue to be provided consistent with all Federal, State, and local requirements.

(9) Purchasing educational technology (including hardware, software, and connectivity) for students who are served by the LEA that aids in regular and substantive educational interaction between students and their classroom instructors, including low-income students and students with disabilities, which may include assistive technology or adaptive equipment.

(10) Providing mental health services and supports.

(11) Planning and implementing activities related to summer learning and supplemental afterschool programs, including providing classroom instruction or online learning during the summer months and addressing the needs of low-income students, students with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care.

(12) Other activities that are necessary to maintain the operation of and continuity of services in LEAs and continuing to employ existing staff of the LEA.

f. *ARP-OA SEA Funds*

The Outlying Areas may use ARP-OA SEA funds for any of the following activities listed in section 2001(e) and (f) of the ARP Act:

(1) Evidence-based interventions, such as summer learning or summer enrichment, extended day, comprehensive afterschool programs, or extended school year programs, and ensure that such interventions respond to students' academic, social, and emotional needs and address the disproportionate impact of the coronavirus on the student subgroups described in section 1111(b)(2)(B)(xi) of the ESEA (20 USC 6311(b)(2)(B)(xi)), students experiencing homelessness, and children and youth in foster care.

(2) Any activity authorized by the ESEA.

(3) Any activity authorized by the IDEA.

(4) Any activity authorized by the Adult Education and Family Literacy Act (AEFLA).

(5) Any activity authorized by the Perkins Act.

(6) Coordination of preparedness and response efforts of LEAs with State, local, tribal, and territorial public health departments, and

other relevant agencies, to improve coordinated responses among such entities to prevent, prepare for, and respond to coronavirus.

(7) Activities to address the unique needs of low-income children or students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth, including how outreach and service delivery will meet the needs of each population.

(8) Developing and implementing procedures and systems to improve the preparedness and response efforts of LEAs.

(9) Training and professional development for staff of the LEA on sanitation and minimizing the spread of infectious diseases.

(10) Purchasing supplies to sanitize and clean the facilities of an LEA, including buildings operated by such agency.

(11) Planning for, coordinating, and implementing activities during long-term closures, including providing meals to eligible students, providing technology for online learning to all students, providing guidance for carrying out requirements under the IDEA and ensuring other educational services can continue to be provided consistent with all Federal, State, and local requirements.

(12) Purchasing educational technology (including hardware, software, and connectivity) for students who are served by the LEA that aids in regular and substantive educational interaction between students and their classroom instructors, including low-income students and children with disabilities, which may include assistive technology or adaptive equipment.

(13) Providing mental health services and supports, including through the implementation of evidence-based full-service community schools.

(14) Planning and implementing activities related to summer learning and supplemental afterschool programs, including providing classroom instruction or online learning during the summer months and addressing the needs of low-income students, children with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care.

(15) Addressing the academic impact of lost instructional time among students, including low-income students, children with disabilities,

English learners, racial and ethnic minorities, students experiencing homelessness, and children and youth in foster care, of the LEA, including by—

- Administering and using high-quality assessments that are valid and reliable, to accurately assess students' academic progress and assist educators in meeting students' academic needs, including through differentiating instruction;
- Implementing evidence-based activities to meet the comprehensive needs of students;
- Providing information and assistance to parents and families on how they can effectively support students, including in a distance learning environment; and
- Tracking student attendance and improving student engagement in distance education.

(16) School facility repairs and improvements to enable operation of schools to reduce risk of virus transmission and exposure to environmental health hazards, and to support student health needs.

(17) Inspection, testing, maintenance, repair, replacement, and upgrade projects to improve the indoor air quality in school facilities, including mechanical and non-mechanical heating, ventilation, and air conditioning systems, filtering, purification and other air cleaning, fans, control systems, and window and door repair and replacement.

(18) Developing strategies and implementing public health protocols including, to the greatest extent practicable, policies in line with guidance from the CDC for the reopening and operation of school facilities to effectively maintain the health and safety of students, educators, and other staff.

(19) Other activities that are necessary to maintain the operation of and continuity of services in LEAs and continuing to employ existing staff of the LEA.

(20) A reasonable and necessary amount for administrative costs and emergency needs, as determined by the SEA, to address issues responding to coronavirus.

B. Allowable Costs/Cost Principles

See Part 4, 84.000 ED Cross-Cutting Section for requirements applicable to Documentation of Employee Time and Effort for ESSER, GEER, and EANS (84.425C, D, R, U, and V).

1. For ESSER I, ESSER II, ARP ESSER, ESF I-SEA, ESF II-SEA, and ARP OA-SEA Funds, auditors should refer to the Cost Principles for States, Local Governments, and Indian Tribes.

2. For GEER I, GEER II, ESF I-Governor, and ESF II-Governor Funds, a Governor (or the mayor of the District of Columbia) has broad discretion for awarding funds under these subprograms to States, local governments and Indian tribes, educational institutions, or nonprofit organizations. In order to determine which requirements, apply, auditors should examine how each respective Governor allocated the funds to subrecipients to determine which cost principles apply for each subrecipient.

3. The requirements in the Uniform Guidance apply to expenditures of ESSER, ESF-SEA, and ARP-OA SEA funds, including the requirements related to documenting personnel expenses in 2 CFR section 200.430(i). This would mean, for example, that an LEA maintains the records it generally maintains for salaries and wages, including for employees in leave status as permitted under CARES Act Section 18003(d)(12), except that an LEA must maintain time distribution records (sometimes called "time and effort" reporting) if an individual employee is splitting their time between activities that may be funded under ESSER or GEER and activities that are not allowable under ESSER or GEER. However, there are very few situations when an employee of an LEA would perform multiple activities that are not allowable under ESSER or GEER, and thus would be required to maintain time distribution records, given that an LEA is authorized to use funds on "activities that are necessary to maintain the operation of and continuity of services in [an LEA] and continuing to employ existing staff of the [LEA]" in order to "prevent, prepare for, and respond to" the COVID-19 pandemic (Section 18003(d)(12)).

CARES Act Section 18003(d)(12) and CRRSA Act Section 315 authorize grantees to continue to pay employees and Section 18002(c)(3) of the CARES Act allows LEAs, SEAs, IHEs, and other subrecipients to use funds to protect education-related jobs; the authority includes paying staff who are on leave because schools are closed due to COVID-19. Accordingly, ESSER and GEER funds may be used for that purpose even in the absence of a policy that specifically addresses these circumstances.

F. Equipment/Real Property Management

Consistent with 2 CFR section 200.311 (real property), section 200.313 (equipment), and section 200.439 (equipment and other capital expenditures), ESF (with the exception of CRRSA EANS: 84.425R & ARP EANS: 84.425V) funds may be used for these purposes. Specifically, recipients and subrecipients may use ESF funds to purchase equipment. Capital expenditures for general and special purpose equipment purchases are subject to prior approval by ED or the pass-through entity. In addition, with prior approval by the ED or the pass-through entity, recipients and subrecipients may also use ESF funds to purchase real property, perform construction or minor remodeling, and for improvements

to land, buildings, or equipment that meet the overall purpose of the ESF program, which is "to prevent, prepare for, and respond to" the COVID-19 pandemic.

If Governors (or the Mayor of the District of Columbia), SEAs, and subrecipients propose to use ESF funds for construction, they must comply with any applicable requirements in 34 CFR section 76.600 and 34 CFR sections 75.600–75.617. Approved construction projects must also comply with all applicable Uniform Guidance requirements, as well as ED's regulations regarding construction, that may be applicable, at 34 CFR section 76.600.

Please note that recipients and subrecipients may use ESF funds for minor remodeling without triggering the Department's construction regulations in 34 CFR section 76.600 and 34 CFR sections 75.600–75.617. Minor remodeling means minor alterations in a previously completed building. The term also includes the extension of utility lines, such as water and electricity, from points beyond the confines of the space in which the minor remodeling is undertaken but within the confines of the previously completed building. The term does not include building construction, structural alterations to buildings, building maintenance, or repairs. See 34 CFR Part 77.1(b). For more information on requirements and flexibilities with regard to utilizing ESF funds for construction please see: https://oese.ed.gov/files/2021/06/HVAC_Use-of-funds-F06-17-2021.pdf and https://oese.ed.gov/files/2021/06/ARP-ESSER-Plan-Office-Hours-6.3.21.pdf.

Any purchases with ESF funds in this category are subject to applicable inventory control, log maintenance, and disposition requirements consistent with Part 3, Section F, "Equipment/Real Property Management" of the Compliance Supplement.

Governors, SEAs, and subrecipients must receive prior approval for capital expenditures for equipment acquisition or improvements to land, buildings, or equipment.

1. For capital equipment or improvements to land, buildings, or equipment that were purchased with grant funds, the Governor (or mayor of the District of Columbia) or SEA must receive prior approval from ED.

2. For capital equipment or improvements to land, buildings, or equipment that were purchased with grant funds, the Governor or SEA, as the pass-through entity, must provide prior approval to subrecipients.

3. For construction, the pass-through entity must have considered applicable ED construction requirements as part of the pass-through entity's prior approval process for construction. For example, if an LEA proposed renovating a school building to increase the filters or ventilation to its HVAC system, the pass-through entity must ensure compliance with applicable construction regulations (such as 34 CFR 75.609 (Safety and Health standards) and 75.616 (Energy Conservation)).

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort (SEA/Governor)

State Maintenance of Effort (MOE) – SEA and Governor
ESSER II, GEER II, EANS, and ARP ESSER

Under section 317 of the CRRSA Act, for FY 2022, a State that receives ESSER II, GEER II, or EANS funds under the CRRSA Act must:

a. Maintain State support for elementary and secondary education in FY 2022 at least at the proportional level of the State's support for elementary and secondary education relative to the State's overall spending, averaged over FYs 2017, 2018, and 2019; and

b. Maintain State support for higher education in FY 2022 at least at the proportional level of the State's support for higher education relative to the State's overall spending, averaged over FYs 2017, 2018, and 2019.

Under section 2004(a) of the ARP Act, a State that receives ARP ESSER funds must meet the above MOE requirement in *each* of FYs 2022 and 2023.

The CRRSA and ARP Acts have two MOE baselines:

a. Elementary and secondary education baseline, which averages the percentages of total State spending that are used to support elementary and secondary education over the three baseline years (FYs 2017, 2018, and 2019).

b. Higher education baseline, which averages the percentages of total State spending that are used to support higher education over the three baseline years (FYs 2017, 2018, and 2019).

Under the CRRSA Act: A State demonstrates MOE for FY 2022 by:

a. Comparing the percentage of total State spending used to support elementary and secondary education in FY 2022 to the baseline percentage; and

b. Comparing the percentage of total State spending used to support higher education in FY 2022 to the baseline percentage.

Under the ARP Act: A State demonstrates the above comparisons for both FY 2022 and FY 2023 relative to the baseline percentages.

When comparing the FY 2022 or FY 2023 percentages to the baseline percentage, the State, at its discretion, may round the difference to the nearest whole number using standard rounding procedures. See page 5 in August 2022 updated MOE FAQs.

A State may also include Coronavirus Relief Funds (CRF) awarded under the CARES Act and Coronavirus State and Local Fiscal Recovery Funds (SLFRF) awarded under the ARP Act by the Department of the Treasury that are spent on elementary and secondary education or higher education as State support for education when determining maintenance of effort under section 18008 of the CARES Act, section 317 of the CRRSA Act, and section 2004(a) of the ARP Act. See updated Question 3(a) in August 2022 updated MOE FAQs.

Auditors should separately corroborate the amounts reported for State support for elementary and secondary education for FY 2022 and FY 2023 with data representing either actual State expenditure data or data representing final appropriated or allocated amounts. A State may rely on either set of data to meet this requirement. Similarly, auditors should corroborate the amounts reported for state support for higher education for FY 2022 and separately for FY2023 with data representing either actual State expenditure data or data representing final appropriated or allocated amounts. A State must use data on actual State expenditures to demonstrate overall spending, consistent with the statutory reference to "overall State spending."

- For more information on how each State complies with the MOE requirements, including which funding sources a State must exclude when determining whether it has maintained effort, see Guidance on Maintenance of Effort Requirements and Waiver Requests under the Elementary and Secondary School Emergency Relief (ESSER) Fund and the Governor's Emergency Education Relief (GEER) Fund 8.15.22-Update_MOE-Chart-with-waiver-FAQs-Rounding-and-Appendices-Updated1.pdf).

3. Earmarking - SEA

ESSER

An SEA must allocate at least 90 percent of ESSER funds to LEAs using the statutorily prescribed formula. Under ESSER I and ESSER II, an SEA may, but is not required to, reserve up to 10 percent of its funds for emergency needs as determined by the SEA.

ARP ESSER

For ARP ESSER, under section 2001(f) of the ARP Act, each SEA must reserve: (1) at least 5 percent of ARP ESSER funds for evidence-based interventions that address the academic impact of lost instructional time (i.e., learning loss); (2) at least 1 percent of ARP ESSER funds for evidence-based summer enrichment programs; and (3) at least 1 percent of ARP ESSER funds for evidence-based comprehensive afterschool programs. The interventions that are implemented with the reserved funds must respond to students' social, emotional, mental health, and academic needs and address the disproportionate impact of COVID-19 on students from low-income families, students of color, English learners, children with disabilities, students experiencing homelessness, children and youth in foster care, and migratory students and consistent with States' approved ARP ESSER State plans.

The remainder, if any, of ARP ESSER funds not allocated to LEAs or reserved for mandatory set-asides or administrative costs (up to 3 percent, depending on the amount otherwise reserved) may be used for emergency needs as determined by the SEA to address issues responding to COVID-19.

Allowances for Administrative Costs:

- Under section 18001(e) of the CARES Act and section 313(e) of the CRRSA Act, an SEA may reserve up to half of one percent of its total ESSER I and ESSER II allocations for administrative costs, including both direct and indirect administrative costs. This reservation must come from the portion of funds that the SEA reserves and not the funds that must be allocated to LEAs.

  Under section 2001(f)(4) of the ARP Act, an SEA may reserve not more than half of one percent of the State's total ARP ESSER award may be reserved for administrative costs, including both direct and indirect administrative costs. This reservation must come from the portion of funds that the SEA reserves for emergency needs and not the funds that must be allocated to LEAs or that must be reserved for specific purposes (i.e., learning loss, summer learning, and afterschool programming).

- Under section 312(d)(5) of the CRRSA Act, an SEA may reserve up to half of 1 percent of its total allocation or up to $200,000, whichever is greater, to administer the EANS program. This allowance applies to both the CRRSA EANS and ARP EANS programs.

- Under the GEER Fund, a Governor may charge as an expense to the GEER fund an amount that is reasonable and necessary to effectively administer the program consistent with cost principles in the Uniform Guidance.

ARP-OA SEA

Outlying Area SEAs must reserve (1) not less than 20 percent of their ARP-OA SEA allocation to carry out, directly or through subgrants or contracts, activities to address the academic impact of lost instructional time by supporting the implementation of evidence-based interventions; (2) a portion of their ARP-OA SEA allocation to carry out, directly or through subgrants to LEAs or through contracts, the implementation of evidence-based summer enrichment programs; and (3) a portion of their ARP-OA SEA allocation to carry out, directly or through subgrants to LEAs or through contracts, the implementation of evidence-based comprehensive afterschool programs.

L. Reporting

1. Financial Reporting

Not Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Annual Reporting – *(SEA/Governor, LEA/subrecipient)*

ESSER, GEER, and EANS grantees must submit an annual performance report with data on expenditures, planned expenditures, subrecipients, and uses of funds, including for mandatory reservations. LEAs/subrecipients submit data to the SEA/Governor for the SEA's/Governor's report.

a. Report Title: *ESF – ESSER Recipient Data Collection Form*
OMB PRA Number: *OMB No. 1810-0749*
Report Authority: 20 U.S.C. 1221e-3, 1231a, and 3474)
[72 FR 3702, Jan. 25, 2007, as amended at 79 FR 76094, Dec. 19, 2014] and § 76.720 State and Outlying Areas reporting requirements
Reporting period: *Report submitted annually in the spring, based on State fiscal years. Timetables for reporting can be found at https://covid-relief-data.ed.gov/grantee-help, but timeliness is not subject to audit.*
Link to report and report instructions: *https://covid-relief-data.ed.gov/grantee-help*

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

1. Line 3.b1 LEA expenditures by ESSER Subgrant fund, expenditure category, and object code
2. Line 3.b10 Number of specific positions supported with ESSER Funds

3. Line 3.c Allocation of ESSER funds to schools and criteria used to allocate funds to schools
4. Line 5.a Full Time Equivalent positions

b. Report Title: *ESF – GEER Recipient Data Collection Form*
OMB PRA Number: *OMB No. 1810-0748*
Report Authority:20 U.S.C. 1221e-3, 1231a, and 3474)
[72 FR 3702, Jan. 25, 2007, as amended at 79 FR 76094, Dec. 19, 2014] and § 76.720 State and Outlying Areas reporting requirements
Reporting period: *Report submitted annually in the spring, based on State fiscal years. Timetables for reporting can be found at https://covid-relief-data.ed.gov/grantee-help, but timeliness is not subject to audit.*
Link to report and report instructions: *https://covid-relief-data.ed.gov/grantee-help*

Key Line Items - The following line items contain critical information: Lines 2.c and 2.d Reporting on administrative and non-administrative expenditures by Governors

1. Line 9.a Reporting on LEA expenditures by GEER Subgrant fund and expenditure category
2. Lines 10.a and 11.a Reporting on IHE expenditures by GEER Subgrant fund and expenditure category
3. Lines 12.a and 13.a Reporting on Other education-related entity expenditures by GEER Subgrant fund and expenditure category

c. Report Title: *ESF – EANS Recipient Annual Reporting Data Collection Form*
OMB PRA Number: *OMB No. 1810-0765*
Report Authority: 20 U.S.C. 1221e-3, 1231a, and 3474)
[72 FR 3702, Jan. 25, 2007, as amended at 79 FR 76094, Dec. 19, 2014] and § 76.720 State and Outlying Areas reporting requirements. Reporting period: *Report submitted annually in the spring, based on State fiscal years. Timetables for reporting can be found at https://covid-relief-data.ed.gov/grantee-help, but timeliness is not subject to audit.*
Link to report and report instructions: *https://covid-relief-data.ed.gov/grantee-help*

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

1. Line 3a.-6a. Reporting on CRRSA EANS Funds Returned to the Governor
2. Line 13 Reporting on SEA Obligations (including reimbursements) by allowable activity for CRRSA EANS
3. Line 15 Reporting on Non-public schools receiving services or assistance under CRRSA EANS

4. Special Reporting for Federal Funding Accountability and Transparency Act (SEA/Governor)

See Part 3.L for audit guidance.

Grantees must submit monthly FFATA data through FSRS.gov. This monthly subaward data reported by States, along with data on awards to States and expenditures by States, are pulled into the ESF Transparency Portal.

N. Special Tests and Provisions

1. Wage Rate Requirements (SEA/Governor, LEA or Other Subrecipient)

Recipients (States or SEAs) and subrecipients (including LEAs) that use ESF funds for minor remodeling, renovation or construction contracts that are over $2,000 and use laborers and mechanics must meet Davis-Bacon prevailing wage requirements. For information about the prevailing wages in the applicable region, see the Department of Labor (DOL) regional office: https://www.dol.gov/agencies/whd/government-contracts/construction/regions.

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section for a general description of the compliance requirements, the related audit objectives, and suggested audit procedures.

2. Participation of Private School Children (SEA/Governor, LEA)

See Part 4, 84.000 ED Cross-Cutting Section for requirements applicable to the participation of private school students under GEER I and ESSER I, as well as ESF-SEA, ESF-Governor, and ARP-OA SEA (84.425 A, C, D, H, and X).

3. Identifying Non-Public Schools under ARP EANS that Enroll a Significant Percentage of Students from Low-Income Families and are Most Impacted by the COVID-19 Emergency (SEA)

Compliance Requirements Under section 2002(a) of the ARP Act, services or assistance to non-public schools under the ARP EANS program are limited to "non-public schools that enroll a significant percentage of [students from low-income families] and are most impacted by the [COVID–19] emergency." Related to these requirements, a Governor, in his or her application for ARP EANS funds, was required to identify the significant poverty percentage and factors of COVID-19 impact it would use, after approval by the Secretary, to determine which non-public schools are eligible to receive services or assistance. Under the EANS program, the statute designates the SEA as the administrator of the program. SEAs were advised (see this August 2022 communication) that "proportionality" is a methodology and not an allowable data source to determine non-public school eligibility under ARP EANS. Data used to determine the eligibility of non-public schools must be actual data that maps to students.

Audit Objectives Determine whether SEAs have implemented the significant poverty percentage and factors of COVID-19 impact in the Governor's approved application.

Suggested Audit Procedures

a. Verify that the SEA implemented the relevant criteria to determine whether a non-public school enrolled a significant percentage of students from low-income families and was most impacted by COVID-19.

ESF SECTION 2 – HIGHER EDUCATION (HIGHER EDUCATION EMERGENCY RELIEF FUND (HEERF))

ASSISTANCE LISTING 84.425E HEERF STUDENT AID

ASSISTANCE LISTING 84.425F HEERF INSTITUTIONAL AID

ASSISTANCE LISTING 84.425J HEERF HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCUs)

ASSISTANCE LISTING 84.425K HEERF TRIBALLY CONTROLLED COLLEGES AND UNIVERSITIES (TCCUs)

ASSISTANCE LISTING 84.425L HEERF MINORITY SERVING INSTITUTIONS (MSIs)

ASSISTANCE LISTING 84.425M HEERF STRENGTHENING INSTITUTIONS PROGRAM (SIP)

ASSISTANCE LISTING 84.425N HEERF FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION (FIPSE) FORMULA GRANT

ASSISTANCE LISTING 84.425P HEERF INSTITUTIONAL RESILIENCE AND EXPANDED POSTSECONDARY OPPORTUNITY (IREPO) PROGRAM

ASSISTANCE LISTING 84.425S HEERF SUPPLEMENTAL ASSISTANCE TO INSTITUTIONS OF HIGHER EDUCATION (SAIHE) PROGRAM

ASSISTANCE LISTING 84.425T HEERF SUPPLEMENTAL SUPPORT UNDER AMERICAN RESCUE PLAN (SSARP) PROGRAM

Note on *Applicability to Proprietary Institutions of Higher Education***:** One subprogram, Assistance Listing 84.425Q, was awarded only to Proprietary Institutions of Higher Education and therefore is not included in this Compliance Supplement, which only applies to Public and Private Nonprofit Institutions of Higher Education. Proprietary Institutions, however, have a separate auditing requirement and may be required to submit an audit to ED using the Audit Guide developed by the ED Office of the Inspector General (OIG). Please see more information here: https://oig.ed.gov/non-federal-audits/higher-education-emergency-relief-fund-heerf-audits

I. PROGRAM OBJECTIVES

The objective of the HEERF program is to use HEERF grant funds to "prevent, prepare for, and respond to coronavirus" through grants to eligible institutions. Each subprogram (denoted by separate Assistance Listing alpha) has specific funding requirements, as described below.

II. PROGRAM PROCEDURES

Overview

Coronavirus Aid, Relief, and Economic Security Act (CARES Act) – HEERF I

The CARES Act appropriated approximately $14 billion to the Office of Postsecondary Education for HEERF (referred to herein as HEERF I subprograms or funding).

HEERF I funding was distributed via several different subprograms, which were continued for HEERF II and HEERF III. First, 90 percent ($12.56 billion) under Section 18004(a)(1) of the CARES Act was distributed to institutions using a formula based on student enrollment, in which at least 50 percent must be reserved to provide students with emergency financial aid grants to help cover expenses related to the disruption of campus operations due to coronavirus ("Student Aid;" Assistance Listing 84.425E) and the remainder of which may be used to cover any costs associated with significant changes to the delivery of instruction due to the coronavirus ("Institutional Aid"; Assistance Listing 84.425F). A total of 7.5 percent ($1.05 billion) was distributed under Section 18004(a)(2) of the CARES Act for grants for Historically Black Colleges and Universities (HBCUs), Tribally Controlled Colleges and Universities (TCCUs), and other Minority Serving Institutions (MSIs) as well as other institutions eligible for the Strengthening Institutions Program (SIP) under parts A and B of title III, parts A and B of title V, and Subpart 4 of Part A of title VII of the Higher Education Act of 1965, as amended (HEA), to address needs directly related to the coronavirus (Assistance Listings 84.425J, 84.425K, 84.425L, and 84.425M). Finally, a total of 2.5 percent ($349 million) was distributed under Section 18004(a)(3) of the CARES Act for additional funds for institutions under Part B of title VII of the HEA, through the Fund for the Improvement of Postsecondary Education (FIPSE), to prioritize institutions that ED has determined have the greatest unmet needs. ED distributed these funds under a formula grant for institutions that received less than $500,000 under other parts of Section 18004 (Assistance Listing 84.425N) and under a competitive grant (Institutional Resilience and Expanded Postsecondary Opportunity (IREPO) Grant, Assistance Listing 84.425P).

Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) – HEERF II

The CRRSAA provided an additional $22.7 billion for institutions through the HEERF (referred to herein as HEERF II subprograms or funding). Of this amount, over $20 billion was available for supplements and new formula grants to assist public and private nonprofit colleges and universities in preparing for, preventing, and responding to coronavirus. Funding was appropriated for the existing (a)(1), (a)(2) and (a)(3) subprograms previously authorized under the CARES Act, with some changes.

Allocations to institutions under Section 314(a)(1) of CRRSAA (the analogous provision of Section 18004(a)(1) of the CARES Act) were based on a formula that includes the relative shares of Federal Pell Grant recipients, the relative shares of non-Pell Grant recipients, and the relative shares of Federal Pell and non-Pell Grant recipients exclusively enrolled in distance education prior to the coronavirus emergency.

The CRRSAA provided a minimum amount of funding that each institution must devote towards financial aid grants to students. In addition, funds allocated for students enrolled exclusively in distance education may be used only for financial aid grants to students.

For CRRSAA (a)(3) funds, ED created the Supplemental Assistance to Institutions of Higher Education (SAIHE) subprogram (Assistance Listing 84.425S) with seven categories (absolute priorities) of funding specified in a notice inviting applications and described in the CRRSAA (a)(3) SAIHE Certification and Agreement. Generally, institutions that received grants under the SAIHE subprogram must use funds for either the allowable institutional uses or making additional emergency financial aid grants to students, as specified in the CRRSAA (a)(3) SAIHE Certification and Agreement.

American Rescue Plan (ARP) – HEERF III

The ARP provided an additional $39.6 billion for institutions through the HEERF (referred to herein as HEERF III subprograms or funding) with funding appropriated through existing subprograms previously authorized under the CRRSAA. The ARP, with some changes, was a continuation of the CRRSAA (a)(1), (a)(2), and (a)(3) subprograms.

The ARP established two new required uses of HEERF III institutional grant funds for public and private nonprofit institutions in which a portion of funds must be used to: (a) implement evidence-based practices to monitor and suppress coronavirus in accordance with public health guidelines; and (b) conduct direct outreach to financial aid applicants about the opportunity to receive a financial aid adjustment due to the recent unemployment of a family member or independent student, or other circumstances, described in section 479A of the HEA.

Source of Governing Requirements

The main sources of governing requirements are the CARES Act, Pub. L. No. 116-136 (March 27, 2020); the CRRSAA, Pub. L. No. 116-260 (December 27, 2020); the ARP, Pub. L. No. 117-2 (March 11, 2021); and the Consolidated Appropriations Act, 2022 (Pub. L. No. 117-103).

In addition to the required SF-424 form, a completed certification and agreement was required as part of the application used to award HEERF I funds under each Assistance Listing alpha. HEERF I grantees who received Institutional and/or Student Aid funds received HEERF II grant awards automatically with a supplemental agreement attached. Eligible institutions that did not receive HEERF I Institutional and/or Student Aid funds had to submit a certification and agreement as part of their applications for HEERF II funds. Similarly, HEERF II grantees who received Institutional and/or Student Aid funds received HEERF III grant awards automatically with a supplemental agreement attached. Eligible institutions that did not receive HEERF II Institutional and/or Student Aid funds had to submit a certification and agreement as part of their applications for HEERF III funds.

The certification and agreements and supplemental agreements help form the basis of the governing requirements for these subprograms:

1. Student Aid Fund (Assistance Listing 84.425E)

a. *HEERF I* – (a)(1) Student Aid PortionAgreement Certification and Agreement

b. *HEERF II* – (a)(1) Student Aid Portion Supplemental Agreement

c. *HEERF II* – (a)(1) Student Aid Portion Certification and Agreement (Gold C&A)

d. *HEERF III* – (a)(1) Student Aid Portion Supplemental Agreement

e. *HEERF III* – (a)(1) Student Aid Portion Certification and Agreement

2. Institutional Aid Fund (Assistance Listing 84.425F)

a. *HEERF I* – (a)(1) Institutional Portion Certification and Agreement

b. *HEERF II* – (a)(1) Institutional Portion Supplemental Agreement

c. *HEERF II* – (a)(1) Institutional Portion Certification and Agreement (Blue C&A)

d. *HEERF III* – (a)(1) Institutional Portion Supplemental Agreement

e. *HEERF III* – (a)(1) Institutional Portion Certification and Agreement

3. (a)(2) Programs (Assistance Listings 84.425J, 84.425K, 84.425L, 84.425M)

a. *HEERF I* – (a)(2) Programs Certification and Agreement

b. *HEERF II* – (a)(2) Programs Supplemental Agreement

c. *HEERF II* – (a)(2) Programs Certification and Agreement (Purple C&A)

d. *HEERF III* – (a)(2) Programs Supplemental Agreement

e. *HEERF III* – (a)(2) Programs Certification and Agreement

4. (a)(3) Programs (Assistance Listings 84.425N, 84.425S, and 84.425T)

a. *HEERF I* – (a)(3) FIPSE Formula Certification and Agreement

b. *HEERF I* – (a)(3) IREPO Notice Inviting Applications (NIA)

b. *HEERF II* – (a)(3) SAIHE Certification and Agreement

c. *HEERF III* – (a)(3) SSARP Certification and Agreement

Furthermore, the regulations in the Education Department General Administrative Regulations (EDGAR) 34 CFR parts 75, 77, 81, 82, 84, 86, 97, 98, and 99; the OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (non-procurement) in 2 CFR Part 180, as adopted and amended as regulations of ED in 2 CFR Part 3485; and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200,

as adopted and amended as regulations of ED in 2 CFR Part 3474 (Uniform Guidance) also apply.

Availability of Other Program Information

Rulemaking for Student Eligibility

On May 14, 2021, ED published its Final Rule (FR) regarding eligibility to receive emergency financial aid grants to students under HEERF. It was effective the same day. The FR constitutes ED's binding final rule regarding student eligibility for HEERF assistance and amends ED's position to allow any individual who is or was enrolled (as defined in 34 CFR 668.2) at an eligible institution (as defined in 34 CFR 600.2) on or after March 13, 2020, the date of declaration of the national emergency concerning the novel coronavirus disease, to receive HEERF assistance.

Frequently Asked Questions (FAQs) and Other Guidance

Several documents posted on ED's HEERF I website, HEERF II website, and HEERF III website contain information pertinent to the compliance requirements described in this compliance supplement. ED strongly encourages auditors to regularly check the HEERF websites for updated FAQs and other pertinent guidance and reporting information. Earlier-released documents listed may also be applicable to later subprograms. The information below is current as of August 2023:

FAQs

1. ARP HEERF III FAQs (May 11, 2021, and updated October 27, 2022) (this is the most comprehensive set of FAQs for the HEERF grant program)

2. CARES Act HEERF Rollup FAQs (Compilation of all five previously-released HEERF FAQ documents in one document) (updated November 20, 2020)

3. CRRSAA HEERF II Section 314(a)(1) Frequently Asked Questions (January 14, 2021, and updated March 19, 2021)

4. HEERF Lost Revenue FAQs (March 19, 2021)

5. Using American Rescue Plan and Other Pandemic Relief Funds to Provide Incentives to Students to Get the COVID-19 Vaccination (July 2021)

6. HEERF (a)(2) Construction FAQs (May 2022)

Webinars

7. HEERF Quarterly Reporting Webinar Information and Notes (June 23, 2022)

8. Overview of HEERF funds in the American Rescue Plan for Public and Private Institutions (June 2021)

Other Materials

9. HEERF I and HEERF II Comparison Fact Sheet (January 14, 2021, and updated March 19, 2021)

10. HEERF Notice of Interpretation for Period of Allowable HEERF Expenses (March 22, 2021)

11. HEERF Period of Allowable Expenses Grant Records Notice (March 19, 2021)

12. Fund for the Improvement of Postsecondary Education; Supplemental Assistance to Institutions of Higher Education CRRSAA a3 NIA (March 29, 2021)

13. Fund for the Improvement of Postsecondary Education; Supplemental Support under American Rescue Plan (SSARP) ARP a3 NIA (February 3, 2022)

14. HEERF Quarterly Reporting Changes June 2022 (June 17, 2022)

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the Federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	Y	Y	Y	N	Y	N	N

A. Activities Allowed or Unallowed

Institutions must demonstrate that costs incurred are allowable under the relevant statutory provisions and consistent with the purpose of the ESF "to prevent, prepare for, and respond to coronavirus." In general, the CARES Act authorized broad uses of HEERF funds, with specific standards for the different subprograms described below.

The CRRSAA expanded the allowable uses for supplemental awards and new awards made under Section 314(a)(1) of the CRRSAA. The expanded use of funds authority also applies to unexpended HEERF I funds as of December 27, 2020 (the date of enactment of the CRRSAA).

The ARP is largely a continuation of the CRRSAA subprograms but added two new required uses of HEERF III institutional portion grant funds for public and private nonprofit institutions and eliminated the institutional use of funds "to carry out student support activities authorized by the HEA that address needs related to coronavirus."

Auditors are strongly encouraged to review the FAQ documents and guidance materials which provide specific examples that help interpret these statutory standards.

1. *Activities Allowed*

   a. *Emergency Financial Aid Grants to Students (Student Aid Portion)*

   For the (a)(1) Student Aid Portion (Assistance Listing 84.425E), disbursements made under the Student Aid Portion are required to be made directly to students. ED's final rule (Eligibility to Receive Emergency Financial Aid Grants to Students under the Higher Education Emergency Relief Programs, May 14, 2021) on student eligibility for HEERF states that all students who are or were enrolled in an institution of higher education on or after the date of the declaration of the national emergency due to the coronavirus (March 13, 2020) are eligible for emergency financial aid grants from the HEERF, regardless of whether they completed a FAFSA or are eligible for Title IV.

HEERF I Student Aid Portion funds expended prior to December 27, 2020: These funds must be paid to the student "for expenses related to the disruption of campus operations due to coronavirus (including eligible expenses under a student's cost of attendance, such as food, housing, course materials, technology, health care, and child-care)" (CARES Act Section 18004(c)).

HEERF II, and HEERF III, and HEERF I fund liquidated (spent) on or after December 27, 2020*:* These funds must be used to provide financial aid grants to students (including students exclusively enrolled in distance education), which may be used for "any component of the student's cost of attendance or for emergency costs that arise due to coronavirus, such as tuition, food, housing, healthcare (including mental health care), or child care" (CRRSAA section 314(c)(3); ARP section 2003).

The CRRSAA and ARP requires that schools prioritize students with exceptional need, such as students who receive Pell Grants. However, students do not need to be Pell recipients or students who are eligible for Pell grants in order to receive a financial aid grant.

Beyond Pell eligibility, other types of exceptional need could include students who may be eligible for other Federal or State need-based aid or have faced significant unexpected expenses either for themselves or that would affect their financial circumstances, such as the loss of employment, reduced income, or food or housing insecurity. In addition, the CRRSAA and ARP explicitly states that emergency financial aid grants to students may be provided to students exclusively enrolled in distance education provided they have exceptional need (HEERF III FAQs questions 11 and 12).

Institutions may not condition the receipt of financial aid grants to students on continued or future enrollment in the institution and may not require a student to consent to the application of the financial aid grants to satisfy a student's outstanding account balance as a condition of receipt of or eligibility for the financial aid grant. Institutions that add preconditions to receiving a financial aid grant that thwart this requirement may be subjected to oversight and corrective action.

Institutions may use funds under the Institutional Portion Aid Fund to provide additional emergency financial aid grants to students. If an institution chooses to do so, then those funds are subject to the requirements described in the institution's applicable Student Aid Portion (ALN 84.425E) Certification and Agreement and/or Supplemental Agreement and the *Emergency Financial Aid Grants to Students (Student Aid Portion)* section above.

As it relates to expenditures under the HEERF II and HEERF III (a)(1) Student Aid Portion or for additional emergency financial aid grants made using other HEERF grant funds, ED required that (1) the institution had a documented plan to distribute funds to students, (2) that institutions prioritized grants to students with exceptional need, (3) that the institution did not place any restrictions on the expenditure of those funds beyond what is in the statute, above, (4) the institution expended the entirety of the Student Aid Portion grant on Emergency financial aid grants to students, and (5) that the institution did not reimburse itself for any costs or expenses previously issued to students.

b. *Institutional Costs (Institutional Aid, (a)(2), and (a)(3) Funds)*

HEERF I Institutional Aid funds liquidated (spent) prior to December 27, 2020*:* For the (a)(1) Institutional Portion (Assistance Listing 84.425F), allowable expenditures incurred and liquidated prior to December 27, 2020, must have been "to cover any costs associated with significant changes to the delivery of instruction due to the coronavirus, so long as such costs do not include payment to contractors for the provision of pre-enrollment recruitment activities; endowments; or capital outlays associated with facilities related to athletics, sectarian instruction, or religious worship" (CARES Act Section 18004(c)).

Other allowable expenditures under the HEERF I Institutional Aid Fund included additional emergency financial grants made to students (in accordance with the requirements of the Student Aid Fund). Additionally, institutions also could have reimbursed themselves for refunds previously made to students on or after March 13, 2020, if those refunds were necessitated by significant changes to the delivery of instruction, including interruptions in instruction, due to the coronavirus. Please see questions 31 and 44 from the HEERF I CARES Act Rollup FAQs for more information. Generally, lost revenue was not a permissible expenditure under the HEERF I Institutional Aid Fund.

HEERF II, HEERF III, and HEERF I fund, liquidated (spent) on or after December 27, 2020. Beginning December 27, 2020, any unused HEERF I Institutional funds, new HEERF II Institutional funds, HEERF III Institutional Aid Funds may be used to defray expenses associated with coronavirus (including lost revenue, reimbursement for expenses already incurred, technology costs associated with a transition to distance education, faculty and staff trainings, and payroll) and to make additional financial grants to students (CRRSAA Section 314(c) (1-3); ARP Section 2003). HEERF I and HEERF II funds may also have been used to carry out student support activities authorized by the HEA that address needs related to coronavirus. The ARP eliminated this use of funds for HEERF III.

The following table describes this distinction:

Institutional Portion	Date	Uses of funds are specified in…
CARES Act HEERF I	For allowable expenditures incurred on or after March 13, 2020, and liquidated (spent) prior to December 27, 2020.	CARES Act section 18004(c)
CARES Act HEERF I	For allowable expenditures incurred on or after March 13, 2020, and liquidated (spent) on or after December 27, 2020.	CRRSAA section 314(c) (1-3)
CRRSAA HEERF II	For allowable expenditures incurred on or after March 13, 2020.	CRRSAA section 314(c) (1- 3)
ARP HEERF III	For allowable expenditures incurred on or after March 13, 2020.	CRRSAA section 314(c)(1), (c)(3), and ARP section 2003(5)

Required uses of ARP HEERF III Institutional Portion grant funds: ARP created two new requirements that a portion of HEERF III institutional funds must be used (a) to implement evidence-based practices to monitor and suppress coronavirus in accordance with public health guidelines; and (b) conduct direct outreach to financial aid applicants about the opportunity to receive a financial aid adjustment due to the recent unemployment of a family member or independent student, or other circumstances, described in section 479A of the HEA (see HEERF III FAQs questions 21 and 28–35).

HEERF I (a)(2) and (a)(3) subprograms: For the HEERF I (a)(2) subprograms, (Assistance Listings 84.425J, 84.425K, 84.425L, and 84.425M) and HEERF I (a)(3) FIPSE Formula Grant (Assistance Listing 84.425N), funds "may be used to defray expenses, including lost revenue, reimbursement for expenses already incurred, technology costs associated with a transition to distance education, faculty and staff trainings, payroll incurred by institutions and for grants to students for any component of the student's cost of attendance (as defined under section 472 of the HEA), including food, housing, course materials, technology, health care, and child care" (CARES Act Sections 18004(a)(2) and 18004(a)(3)).

HEERF II and HEERF III (a)(2) and (a)(3) subprograms: New HEERF II (a)(2) and (a)(3) funds and new HEERF III (a)(2) and (a)(3) funds (under Assistance Listings 84.425J, 84.425K, 84.425L, 84.425M, 84.425S, and 84.425T) may also be used under the allowable uses of funds detailed in CRRSAA Section 314(c) above, unless otherwise specified in the Certification and Agreement.

Excise Tax for CRRSAA HEERF II: Institutions that were required to pay an excise tax for tax year 2019 based on investment income under section 3968 of the Internal Revenue Code may only use their HEERF II funds for financial aid grants to students, or for sanitation, personal protective equipment, or other general health and safety expenses related to the coronavirus emergency, and such institutions' allocations are reduced by 50 percent, unless a waiver has been obtained from ED (CRRSAA Section 314(d)(6)). The ARP eliminated this requirement for HEERF III funds.

Construction and Real Property Expenditures under HEERF (a)(2) subprograms (Assistance Listings 84.425J, 84.425K, 84.425L, and 84.425M): Under the Consolidated Appropriations Act, 2022 (Pub. L. No. 117-103), as of March 15, 2022, HEERF (a)(2) program subgrantees may expend their HEERF (a)(2) grant funds on construction and real property for projects that are connected to the purpose of the ESF program to "prevent, prepare for, and respond to coronavirus." Any HEERF (a)(2) grantees taking advantage of this flexibility will have to receive approval from ED for their specific construction and real property projects supported by HEERF (a)(2) grant funds. HEERF (a)(2) grantees cannot use their (a)(2) grant funds on construction or real property associated with facilities related to athletics, sectarian instruction, or religious worship.

Please note that (a)(2) subprogram grantees may use HEERF grant funds for minor remodeling without triggering the requirements to follow 34 CFR sections 75.600–75.615 and receiving approval from ED. Minor remodeling means minor alterations in a previously completed building. The term also includes the extension of utility lines, such as water and electricity, from points beyond the confines of the space in which the minor remodeling is undertaken but within the confines of the previously completed building. The term does not include building construction, structural alterations to buildings, building maintenance, or repairs. See 34 CFR Part 77.1(b) and HEERF III FAQ questions 23 and 24.

c. *IREPO Subprogram:* Under the IREPO subprogram (Assistance Listing 84.425P), the use of funds is specified in the IREPO NIA and the approved application for grant funds the applicant submitted as part of the program.

d. *SAIHE Subprogram:* Under the SAIHE subprogram (Assistance Listing 84.425S), depending on the absolute priority an institution applied for and received SAIHE grant funds under, the uses and limitations for that institutions' SAIHE funds are specified in the (a)(3) SAIHE Certification and Agreement.

e. *SSARP Subprogram:* Under the SSARP subprogram (Assistance Listing 84.425T), depending on the absolute priority an institution applied for and

received SSARP grant funds under, the uses and limitations for that institutions' SSARP funds are specified in the (a)(3) SSARP Certification and Agreement.

f. *Grantees on Route or Stop Pay Status*: Additionally, some institutions' grants may have been placed on Route Pay or Stop Pay Status as indicated by a notification the grantee would have received from ED. This requires ED approval of a spending plan prior to the grantee drawing down funds or the submission of single requests with documentation. Auditors should ensure that in these circumstances that the grantee expended their HEERF grant funds consistent with the ED-approved spending plan or required documentation for single requests for funds.

B. Allowable Costs/Cost Principles

The Uniform Guidance Cost Principles described in 2 CFR Part 200, Subpart E, apply to the HEERF subprogram. As described earlier, for the HEERF subprograms covered in this section, institutions generally have broad uses of funds. Some items of cost in Subpart E of the Uniform Guidance require prior approval under 2 CFR section 200.407 by ED. However, in its HEERF II FAQs published on January 14, 2021, and HEERF III FAQs published on May 11, 2021, ED waived prior approval for certain items of cost (as described in questions 20 and 45, respectively).

1. HEERF grant funds must not be used for:

   a. funding contractors for the provision of pre-enrollment recruitment activities;

   b. marketing or recruitment (see HEERF III FAQs question 27 for information on reengagement activities);

   c. endowments;

   d. capital outlays associated with facilities related to athletics, sectarian instruction, or religious worship;

   e. senior administrator or executive salaries, benefits, bonuses, contracts, incentives, stock buybacks, shareholder dividends, capital distributions, and stock options, or any other cash or other benefit for a senior administrator or executive;

   f. religious worship, instruction, or proselytization or equipment or supplies to be used for religious worship, instruction, or proselytization; or

   g. construction or purchase of real property, excluding HEERF (a)(2) *(Assistance Listings 84.425J, 84.425K, 84.425L, and 84.425M)* grantees*.

Please see also HEERF III FAQs question 22 for more information.

*With the exception of HEERF (a)(2) grantees using their (a)(2) grant funds that receive prior approval from ED, grantees are prohibited from using HEERF funding for the acquisition of real property or construction under 34 CFR section 75.533. This includes using HEERF grant funds on capital projects, including deferred maintenance and capital improvement.

However, this general prohibition on construction and acquisition of real property does not extend to activities that meet the definition of "minor remodeling" under 34 CFR section 77.1. Minor remodeling means minor alterations in a previously completed building, for purposes associated with the coronavirus. The term also includes the extension of utility lines, such as water and electricity, from points beyond the confines of the space in which the minor remodeling is undertaken but within the confines of the previously completed building The term does not include permanent building construction, structural alterations to buildings, building maintenance, or repairs (see also HEERF III FAQs questions 23 and 24).

Reasonable direct administrative costs and indirect costs at an institution's approved negotiated indirect cost rate may be charged against Assistance Listing 84.425F (the Institutional portion). An institution may not apply an indirect cost rate to its estimated amount of lost revenue.

No administrative costs and no indirect costs are allowed to be charged against Assistance Listing 84.425E (the Student Aid Portion), as CARES Act Section 18004(c), CRRSAA Section 314 (c)(3), and ARP 2003 require that these funds be used to provide emergency financial aid grants to students. All administrative costs must be reasonable and necessary and conform to Cost Principles described in 2 CFR Part 200 Subpart E of the Uniform Guidance (see HEERF II FAQs Question 18 and HEERF III FAQs questions 43 and 44).

C. Cash Management

For CRRSAA HEERF II and ARP HEERF III, the Certification and Agreement and/or Supplemental Agreement indicate that Student Aid (ALN 84.425E) should be disbursed within 15 calendar days of the drawdown from ED's grant management system (G5), while Institutional Aid Portion, (a)(2), and (a)(3) funds (all other ALNs) should be disbursed within 3 calendar days of the drawdown from G5.

For lost revenue, the "obligation" occurs on the date the institution completes its estimate of its amount of lost revenue after the estimation period.

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort

Not Applicable

3. Earmarking

Institutions must use no less than 50 percent of funds received under Section 18004(a)(1) of the CARES Act to provide emergency financial aid grants to students for expenses related to the disruption of campus operations due to coronavirus. Conversely, institutions may use up to 50 percent of the funds they receive under Section 18004(a)(1) to "cover any costs associated with significant changes to the delivery of instruction due to the coronavirus so long as such costs do not include payment to contractors for the provision of pre-enrollment recruitment activities, including marketing and advertising; endowments; or capital outlays associated with facilities related to athletics, sectarian instruction, or religious worship." See https://www2.ed.gov/about/offices/list/ope/heerfInstitutionalcertificationagreement42020v2a.pdf.

Section 314(d)(5) of the CRRSAA requires institutions to provide at least the same amount of funding in financial aid grants to students as was required to be provided under its original Student Aid HEERF I allocation amount. The minimum amount of CRRSAA Section 314(a)(1) funding that each institution must devote towards financial aid grants to students is represented in the "Student Aid" (Assistance Listing 84.425E) of their supplement of new Student Aid award and included in the HEERF II Allocation Table.

Additionally, an institution that utilizes the expanded use of funds authority under the CRRSAA for its unspent HEERF I funds must ensure at least 50 percent of the funds it received under CARES Act section 18004(a)(1) (generally, its HEERF I Student Aid award) is used for financial aid grants to students.

Under ARP, the amount of funds that a public and private nonprofit institution must devote to financial aid grants to students is the full amount allocated under the Student Aid (84.425E) subprogram of HEERF III.

The division of the (a)(1) funds into the Student Aid and Institutional Aid was made by ED. Each were given as separate grant awards, the Student Aid under Assistance Listing 84.425E and the Institutional Aid under Assistance Listing 84.425F.

The order of incurring costs which will be attributed to the Student Aid and Institutional Aid is not relevant to the earmarking requirement but, rather, the relationships between these two portions must be met and measured by the end of the period of performance. Therefore, testing this requirement is only applicable at the end of the period of performance as defined below.

ARP created two new requirements that a portion of HEERF III institutional funds must be used (a) to implement evidence-based practices to monitor and suppress coronavirus in accordance with public health guidelines; and (b) conduct direct outreach to financial aid applicants about the opportunity to receive a financial aid adjustment due to the recent unemployment of a family member or independent student, or other circumstances, described in section 479A of the HEA by the end of the performance period. As noted in Question 35 of the ARP HEERF III ARP FAQs, institutions must document how the amount of the HEERF grant spent on these two required activities was reasonable and necessary given the unique needs and circumstances of the institution (see HEERF III FAQs questions 21 and 28–35).

Under the SAIHE subprogram (Assistance Listing 84.425S), depending on the absolute priority an institution applied for and received SAIHE grant funds under, the uses and limitations for that institutions' SAIHE funds are specified in the (a)(3) SAIHE Certification and Agreement.

Under the SSARP subprogram (Assistance Listing 84.425T), depending on the absolute priority an institution applied for and received SSARP grant funds under, the uses and limitations for that institutions' SSARP funds are specified in the (a)(3) SSARP Certification and Agreement.

H. Period of Performance

Period of Performance: In the CARES Act, CRRSAA, and ARP Certification and Agreements, all institutions were given one calendar year (12 months) from the date of award in their HEERF Grant Award Notifications (GAN) to complete the performance of their HEERF grants.

Institutions generally must expend their HEERF grant funds within one year from the date when ED processed the most recent obligation of funds for each specific grant. Thus, institutions that received a supplemental award under ARP have one year to spend all remaining HEERF I, HEERF II, and new HEERF III funds for each grant from the date their HEERF III supplemental award is made. The specific period of performance will be indicated in Box 6 of the institution's most recent GAN. (See HEERF III FAQs Question 39.)

Note: The performance period was extended to June 30, 2023, as of April 24, 2022, for all HEERF grant awards in an open status (grant awards that had not entered the closeout phase and had a balance of $1,000 or more). Institutions were also permitted to submit a No Cost Extension by June 20, 2023, if they could adequately demonstrate that any remaining HEERF grant funds expended during this additional period would not be used merely for the purpose of using unobligated balances, as required by 2 CFR § 200.308(e)(2). If approved, institutions received an extension until June 30, 2024, for institutional grant funds (84.425F, 84.425J, 84.425K, 84.425L, 84.425M, 84.425N, and 84.425S) and until December 31, 2023, for student grant funds (84.425E). A copy of the

No Cost Extension Request Form, with additional information, is available at https://www2.ed.gov/about/offices/list/ope/heerfnocostextension2023.pdf.

Pre-award Costs: For CARES Act HEERF I awards, institutions were allowed to incur pre-award costs consistent with 2 CFR section 200.458 and 34 CFR section 75.263 on or after March 13, 2020, the date of the declaration of the national emergency due to the coronavirus, to the date of their HEERF grant award for their (a)(1) Institutional Portion, (a)(2), and (a)(3) funds as long as those expenditures would have been allowable if incurred after the date of the HEERF grant award.

For the (a)(1) Student Aid, institutions were only able to refund themselves for institutionally-funded emergency grants to students that were made (1) for authorized expenses related to the disruption of campus operations due to coronavirus as set forth in Section 18004(c) of the CARES Act; (2) to students eligible to receive emergency financial aid grants under the CARES Act; and (3) on or after March 13, 2020, the date the of the declaration of the national emergency due to the coronavirus.

For the HEERF II and HEERF III awards, funds may be used for all costs incurred on or after March 13, 2020.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

a. Annual Report

a. Title of Report: HEERF I, II, & III Annual Performance Report Form
PRA Number: 1840-0850
Reporting Cycle: Annual Reports cover calendar year HEERF expenditures. Year 3 reporting covering 2022 data will be published in 2024 on the ESF data website (https://covid-relief-data.ed.gov/). Year 4 reporting covering calendar year 2023 will begin in the Summer of 2024. The reporting portal generally opens in the Spring or Summer each year, but the exact open and close dates for each year will be published on the HEERF Reporting page:

https://www2.ed.gov/about/offices/list/ope/heerfreporting.html
https://www2.ed.gov/about/offices/list/ope/heerfreporting.html
Authoritative Requirement: CARES Act 18004(e); CRRSAA 314(e); 2 CFR 200.328; 2 CFR section 200.329; 34 CFR 75.720(b)
Blank Copy of the Report: The forms for each year are available at https://covid-relief-data.ed.gov/grantee-help/heerf
Report Instructions: User guides for each year are available at https://covid-relief-data.ed.gov/grantee-help/heerf

Key Line Items:

1. Institutional expenditures for "Implementing evidence-based practices to monitor and suppress coronavirus in accordance with public health guidelines" and "Conducting direct outreach to financial aid applicants." (Question 9a)

b. Quarterly Report

b. Title of Report: Quarterly Budget and Expenditure Reporting for all HEERF I, II, and III grant funds
PRA Number: 1840-0849
Reporting Cycle: The reporting period is a calendar quarter. An institution must post each quarterly report on its primary website no later than 10 days after the end of each calendar quarter.
Authoritative Requirement: CARES Act 18004(e); CRRSAA 314(e); 2 CFR 200.328; 2 CFR section 200.329;
Blank Copy of the Report:
https://www2.ed.gov/about/offices/list/ope/heerfquarterlyreport2022.pdf
Report Instructions: Instructions included at the bottom of the form. Also see Question 36 on the ARP FAQs and Reporting Tips here.

Key Line Items:

1. Numbers of students and amounts disbursed for Emergency Financial Aid Grants Awarded to Students by category during the quarter (Question 2b)
2. Institutional expenditures during the quarter by category (Question 3b)
3. Sources of lost revenue (Question 3c) These are estimates reported by the institution, so the auditor is only expected to trace the reported estimates to records that accumulate or summarize the estimates.

ED understands that timeliness of report postings may be unique and challenging to audit, particularly because auditors are asked to verify information posted on a webpage which may not be accessible during audit fieldwork. For these public reporting requirements, auditors may accept as evidence of compliance, contemporarily produced emails, webmaster logs, or other relevant documentation establishing a good-faith indication that the institution posted the required information at approximately the timelines and using the specific reporting templates described in Question 36 on the ARP FAQs.

4. Special Reporting for Federal Funding Accountability and Transparency Act

Not Applicable

GULF COAST ECOSYSTEM RESTORATION COUNCIL

ASSISTANCE LISTING 87.051 GULF COAST ECOSYSTEM RESTORATION COUNCIL COMPREHENSIVE PLAN COMPONENT PROGRAM

I. PROGRAM OBJECTIVES

The primary objective of this program, authorized by the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act), is to disburse funds to eligible entities for the purpose of restoring and protecting the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast region using the best available science. Projects and programs must achieve one or more of the seven objectives listed in the Gulf Coast Ecosystem Restoration Council (RESTORE Council) Comprehensive Plan: (1) restore, enhance, and protect habitats, (2) restore, improve, and protect water resources, (3) protect and restore living coastal and marine resources, (4) restore and enhance natural processes and shorelines, (5) promote community resilience, (6) promote natural resource stewardship and environmental education, and (7) improve science-based decision-making processes.

II. PROGRAM PROCEDURES

The RESTORE Act established the Gulf Coast Restoration Trust Fund (Trust Fund) to hold 80 percent of the administrative and civil penalties paid by parties responsible for the Deepwater Horizon oil spill after July 6, 2012, plus interest on investments. Amounts in the Trust Fund are allocated among the five components: Direct Component, Comprehensive Plan Component, Spill Impact Component, National Oceanic and Atmospheric Administration RESTORE Act Science Program, and Centers of Excellence Research Grants Program. The RESTORE Council, whose members are the states of Alabama, Florida, Louisiana, Mississippi, and Texas; the Administrator of the US Environmental Protection Agency; and the secretaries of the US departments of the Interior, Commerce, Agriculture, Homeland Security, and Army (Federal Servicing Agencies), is responsible for administering the Comprehensive Plan Component and the Spill Impact Component (Assistance Listing 87.052).

Through the Comprehensive Plan Component, the RESTORE Council makes grants and enters into Interagency Agreements (IAAs) for ecological restoration of the Gulf Coast Region. Thirty percent of the penalties paid into the Trust Fund is used for grants and IAAs to support eligible activities proposed by the RESTORE Council members. Recipients of grants and IAAs may choose to make subawards to complete eligible activities, if approved by the RESTORE Council.

Source of Governing Requirements

The primary source of program requirements is the RESTORE Act (Subtitle F of Pub. L. No. 121-141) (33 USC 1321(t) and 33 USC 1321 note). Program implementing regulations are in 31 CFR Part 34.

Availability of Other Program Information

Other program information regarding grants and IAAs under the Comprehensive Plan Component of the RESTORE Act is available at the RESTORE Council website at (https://www.restorethegulf.gov).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	N	Y	Y	N	N	Y	Y

A. Activities Allowed or Unallowed

1. *Activities Allowed*
   All allowed activities must be included in, and conform to, the following:

   a. The activities set forth in the RESTORE Act at 33 USC 1321 (t)(1)(B)(i) and 33 USC 1321 (t)(1)(B)(ii);

   b. The priority criteria set forth in the RESTORE Act at 33 USC 1321 (t)(2)(D)(iii); and

c. The description of the goals and objectives outlined in the RESTORE Council's Comprehensive Plan, the approved Funded Priorities List Addendum(s) to such Comprehensive Plan, and the grant or subgrant agreement.

B. Allowable Costs/Cost Principles

As per 2 CFR Part 200 and Standard Terms and Conditions of each individual grant award.

F. Equipment and Real Property Management

As per 2 CFR Part 200 and Standard Terms and Conditions of each individual grant award.

H. Period of Performance

As per 2 CFR Part 200 and Standard Terms and Conditions of each individual grant award.

I. Procurement and Suspension and Debarment

The acquisition of land, or interests in land, can only be from a willing seller (31 CFR section 34.803(f)).

M. Subrecipient Monitoring

As per 2 CFR Part 200 and Standard Terms and Conditions of each individual grant award.

1. Activities Unallowed

Activities that were included in any claim for compensation presented after July 6, 2012, to the Oil Spill Liability Trust Fund authorized by 26 USC 9509 (31 CFR section 34.200(a)(3)) are unallowed.

N. Special Tests and Provisions

1. Wage Rate Requirements

Under the Comprehensive Plan Component, for contracts that exceed $2,000 that are for the construction, alteration, or repair of treatment works as defined at 33 USC 1292(2), all laborers and mechanics employed by contractors and subcontractors must be paid wages at rates not less than those prevailing for the same type of work on similar construction in the immediate locality, as determined by the secretary of Labor, in accordance with the Wage Rate Requirements (33USC 1372).

See Wage Rate Requirements Cross-Cutting Section (page 4-20.001-4).

GULF COAST ECOSYSTEM RESTORATION COUNCIL

ASSISTANCE LISTING 87.052 GULF COAST ECOSYSTEM RESTORATION COUNCIL OIL SPILL IMPACT PROGRAM

I. PROGRAM OBJECTIVES

The primary objective of this program, authorized by the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act), is to disburse funds to eligible entities for the purpose of restoring and protecting the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast region using the best available science in accordance with an approved State Expenditure Plan.

II. PROGRAM PROCEDURES

The RESTORE Act established the Gulf Coast Restoration Trust Fund (Trust Fund) to hold 80 percent of the administrative and civil penalties paid by parties responsible for the Deepwater Horizon oil spill after July 6, 2012, plus interest on investments. Amounts in the Trust Fund are allocated among the five components: Direct Component, Comprehensive Plan Component, Spill Impact Component, National Oceanic and Atmospheric Administration RESTORE Act Science Program, and Centers of Excellence Research Grants Program. The Gulf Coast Ecosystem Restoration Council (RESTORE Council) is responsible for administering the Comprehensive Plan Component (Assistance Listing 87.051) and the Spill Impact Component.

Through the Spill Impact Component, the RESTORE Council makes grants for the ecological and economic restoration of the Gulf Coast Region. Thirty percent of the penalties paid into the trust fund is divided among the five Gulf Coast States, the states of Alabama, Florida, Louisiana, Mississippi, and Texas, for eligible projects or programs contained in a State Expenditure Plan, which is submitted by the state and approved by the RESTORE Council chairperson. Recipients may choose to make subawards to complete eligible activities, if approved by the RESTORE Council.

Source of Governing Requirements

The primary source of program requirements is the RESTORE Act (Subtitle F of Pub. L. No. 121-141) (33 USC 1321(t) and 33 USC 1321 note). Program implementing regulations are in 31 CFR Part 34.

Availability of Other Program Information

Other program information regarding grants made under the Spill Impact Component of the RESTORE Act is available at the RESTORE Council website at https://www.restorethegulf.gov.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	N	Y	Y	N	N	Y	Y

A. Activities Allowed or Unallowed

1. *Activities Allowed*

All activities must be included in, and conform to, the description in the goals and Comprehensive State Expenditure Plan, submitted to and approved by the RESTORE Council Chairperson, and the recipient's grant or subgrant agreement**.** Activities must contribute to the overall economic and ecological recovery of the Gulf Coast and may include the following:

a. Restoration and protection of the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast Region;

b. Mitigation of damage to fish, wildlife, and natural resources;

c. Implementation of a federally approved marine, coastal, or comprehensive conservation management plan, including fisheries monitoring;

d. Workforce development and job creation;

e. Improvements to or on state parks located in coastal areas affected by the Deepwater Horizon oil spill;

f. Infrastructure projects benefitting the economy or ecological resources, including port infrastructure;

g. Coastal flood protection and related infrastructure;

h. Promotion of tourism in the Gulf Coast Region, including promotion of recreational fishing;

i. Promotion of the consumption of seafood harvested from the Gulf Coast Region;

j. Planning assistance;

k. Administrative costs; and

l. The nonfederal share of the cost of any project or program authorized by federal law that is also an eligible activity under the RESTORE Act (31 CFR sections 34.2, 34.200(b) and 34.201203).

B. Allowable Costs/Cost Principles

As per 2 CFR Part 200 and Standard Terms and Conditions of each individual grant award.

F. Equipment and Real Property Management

As per 2 CFR Part 200 and Standard Terms and Conditions of each individual grant award.

H. Period of Performance

As per 2 CFR Part 200 and Standard Terms and Conditions of each individual grant award.

I. Procurement and Suspension and Debarment

The acquisition of land, or interests in land, can only be from a willing seller (31 CFR section 34.803(f)).

M. Subrecipient Monitoring

As per 2 CFR Part 200 and Standard Terms and Conditions of each individual grant award.

1. Activities Unallowed

Activities that were included in any claim for compensation presented after July 6, 2012, to the Oil Spill Liability Trust Fund authorized by 26 USC 9509 (31 CFR section 34.200(a)(3)) are unallowable.

N. Special Tests and Provisions

Wage Rate Requirements

Under the Spill Impact Program, for contracts that exceed $2,000 that are for the construction, alteration, or repair of treatment works as defined at 33 USC 1292(2), all laborers and mechanics employed by contractors and subcontractors must be paid wages at rates not less than those prevailing for the same type of work on similar construction in the immediate locality, as determined by the secretary of labor, in accordance with the Wage Rate Requirements (33 USC 1372).

See Wage Rate Requirements Cross-Cutting Section (page 4-20.001-4).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.044 SPECIAL PROGRAMS FOR THE AGING – TITLE III, PART B—GRANTS FOR SUPPORTIVE SERVICES AND SENIOR CENTERS

ASSISTANCE LISTING 93.045 SPECIAL PROGRAMS FOR THE AGING, TITLE III, PART C, NUTRITION SERVICES

ASSISTANCE LISTING 93.053 NUTRITION SERVICES INCENTIVE PROGRAM

I. PROGRAM OBJECTIVES

Grants for Supportive Services and Senior Centers

The objective of this program is to assist states and area agencies on aging in facilitating the development and implementation of a comprehensive, coordinated system for providing long-term care in home and community-based settings, in a manner responsive to the needs and preferences of older individuals and their family caregivers, by—

a. collaborating, coordinating activities, and consulting with other local public and private agencies and organizations responsible for administering programs, benefits, and services related to providing long-term care;

b. conducting analyses and making recommendations concerning strategies for modifying the local system of long-term care to better—

   (1) respond to the needs and preferences of older individuals and family caregivers;

   (2) facilitate the provision, by service providers, of long-term care in home and community-based settings; and

   (3) target services to older individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings;

c. implementing, through the agency or service providers, evidence-based programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals; and

d. providing for the availability and distribution (through public education campaigns, Aging and Disability Resource Centers, the Area Agency on aging itself, and other appropriate means) of information relating to—

   (1) the need to plan for long-term care; and

(2) the full range of available public and private long-term care (including integrated long-term care) programs, options, service providers, and resources (Older Americans Act [OAA] Section 305(a)(3)).

The target population for these supportive services is individuals with the greatest economic and social need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas), and older individuals at risk for institutional placement (OAA Section 306(a)(1)); however; proof of age (or income) shall not be required as a condition of receiving services.

Supportive services may include a full range of economic and social services, including, but not limited to (1) access services (transportation, health services, including mental health services, outreach, information and assistance); (2) legal assistance and other counseling services; (3) health screening services (including mental health screening); (4) ombudsman services; (5) provision of services and assistive devices (including provision of assistive technology services and assistive technology devices); (6) services designed to support states, area agencies on aging, and local service providers in carrying out and coordinating activities for older individuals with respect to mental health services, including outreach for, education concerning, and screening for such services, and referral to such services for treatment; (7) activities to promote and disseminate information about life-long learning programs, including opportunities for distance learning; and (8) services designed to assist older individuals in avoiding institutionalization and to assist individuals in long-term care institutions who are able to return to their communities any other services necessary for the general welfare of older individuals (OAA Section 321). Nutrition services are provided under a separate authorization, as described below. Organizations funded under this program and the nutrition services program (see below) also receive funds from other federal sources as well as from nonfederal sources.

On March 11, 2021, the American Rescue Plan Act of 2021 (P.L. 117-2) was signed into law. Section 2921 of the law appropriated funds to carry out various Parts of the Older Americans Act of 1965 (OAA). Organizations funded under this program and the nutrition services program (see below) must expend American Rescue Plan Act grant awards funded to carry out Older Americans Act services and activities and meet all compliance requirements as defined by the Older Americans Act and State and local policy.

Grants for Nutrition Services

The purposes of this grant program are to (1) reduce hunger, food insecurity, and malnutrition; (2) promote socialization of older individuals; and (3) promote the health and well-being of older individuals by helping them gain access to nutrition and other disease prevention and health promotion services to delay the onset of adverse health conditions resulting from poor nutritional health or sedentary behavior (OAA Section 330). Services are provided through this program to individuals aged 60 or older, in a congregate setting or in-home. These services include meals, nutrition education, nutrition counseling, and nutrition screening and assessment, as appropriate (OAA sections 331, 336, and 339). This program is clustered with grants for supportive services and senior centers for purposes of this program supplement since these services, although

separately earmarked, fall under the overall state planning process and process for allocation of funds.

Nutrition Services Incentive Program (NSIP)
The objective of this grant program is to provide resource incentives to encourage and reward effective and efficient performance in the delivery of nutritious meals to older individuals. The Administration on Aging (AoA) is responsible for this program. This program is included as part of this cluster because of its direct relationship to the nutrition services program.

II. PROGRAM PROCEDURES

A. Overview

The AoA, a component of the Department of Health and Human Services, administers the supportive services and senior centers program and the nutrition services program in cooperation with states, sub-state agencies, and other service providers. The states receive a formula grant from AoA, which is used by the State Unit on Aging (State Agency) both for its planning, administration, and evaluation of these programs as well as to pass through to other entities.

Planning and Service Areas (PSAs) are designated by the State Agency in accordance with AoA guidelines after considering the geographical distribution of the service populations, location of available services, available resources, other service area boundaries, location of units of general-purpose local government, and other factors. An Area Agency on Aging (Area Agency) is then designated by the state for each PSA after considering the views of affected local governments (states that had a single statewide planning and service area in place before the fiscal year (FY) 1981 had the option to continue that method of operation; there are currently eight states in this category; Alaska, Delaware, Nevada, New Hampshire, North Dakota, Rhode Island, South Dakota, and Wyoming). A single Area Agency may serve more than one PSA. The area agencies, which may be public or private nonprofit agencies or organizations, develop and administer counterpart area aging plans, as approved by the State Agency, and, in turn, provide subgrants to or contract with public or private service providers for the provision of services. State agencies are required to develop policies governing all aspects of programs operated under the state plan and to monitor their implementation, including assessing performance for quality and effectiveness and specifying data system requirements to collect necessary and appropriate data (45 CFR section 1321.9(a); 45 CFR section 1321.9(a)(1); 45 CFR section 1321.9(b)).

With limited exceptions (e.g., ombudsman services, information and assistance, case management), the State Agency and the area agencies are precluded from the direct provision of services, unless providing the services is necessary to ensure an adequate supply of services, the services are related to the agency's administrative functions, or where services of comparable quality can be provided more economically by the agency.

Federal funds may pay for only a portion of the costs of administration and services. The State Agency is required to provide a matching share from other sources.

The term "case management service" means a service provided to an older individual, at the direction of the older individual or a family member of the individual (i) by an individual who is trained or experienced in the case management skills that are required to deliver the services and coordination described below; and (ii) to assess the needs, and to arrange, coordinate, and monitor an optimum package of services to meet the needs, of the older individual. Case management includes services and coordination such as (i) comprehensive assessment of the older individual (including the physical, psychological, and social needs of the individual); (ii) development and implementation of a service plan with the older individual to mobilize the formal and informal resources and services identified in the assessment to meet the needs of the older individual, including coordination of the resources and services with any other plans that exist for various formal services, such as hospital discharge plans; and with the information and assistance services provided under the OAA; (iii) coordination and monitoring of formal and informal service delivery, including coordination and monitoring to ensure that services specified in the plan are being provided; (iv) periodic reassessment and revision of the status of the older individual with the older individual or, if necessary, a primary caregiver or family member of the older individual; and (v) in accordance with the wishes of the older individual, advocacy on behalf of the older individual for needed services or resources (OAA Section 102(11)).

AoA administers NSIP in cooperation with states, sub-state agencies, and other service providers. Under Sections 311(b)(1) and (d)(1) of the OAA, states receive a cash grant from AoA, based on the formula in the OAA. The amount of a state's grant is determined by dividing the number of meals served to eligible persons in the state during the preceding federal fiscal year by the number of such meals served in all states and tribes and applying the resulting ratio to the amount of funds available. Under OAA Section 311(d)(1), a state may choose to use all or any part of its grant to obtain commodities distributed by the United States Department of Agriculture (USDA) through state-distributing agencies. The amount a state chooses to use in commodities, as well as administrative costs from USDA associated with the purchase of commodities, are deducted from the state's grant from AoA. AoA transfers funds to USDA. USDA remains responsible for the overall management of the commodities program, including ordering, purchasing, and delivery of the requested commodities. (See also IV, "Other Information.")

B. State Plan and Area Plans

A state plan, approved by AoA, is a prerequisite to funding of the supportive services and nutrition programs; however, the state plan covers the totality of AoA programs for which the state is the recipient under the OAA. The state plan is developed based on input from the area agencies as well as input from the affected populations as a result of public hearings. The state plan addresses how the state intends to comply with the various requirements of the OAA and, specifically for Title III, its program objectives,

designation of Planning and Service Areas (PSAs), and specification of the intrastate allocation formula for distribution of funds to each PSA. The state plan also contains assurances required by the Act and implementing regulations.
Unless a state is not in compliance with Title III requirements, the state plan may be submitted on a two-, three-, or four-year cycle, at the option of the state, with annual revisions (OAA Section 307(a)), as appropriate; however, AoA funding is provided annually. States found to be in noncompliance may be required to submit their state plans annually until they are determined to comply. Area plans are prepared and submitted to the state for approval for either two, three, or four years, with annual adjustments, as necessary (OAA Section 306(a)).

Source of Governing Requirements

These programs are authorized under parts B and C, respectively, of Title III of the OAA, as amended, which is codified at 42 USC 3021-3030. These programs may also be referred to as Part B (supportive services and senior centers) and Part C1 (congregate nutrition services) and C2 (home-delivered nutrition services). Grants to Indian tribes for similar purposes are authorized under another title of the OAA and are not included in this supplement. Implementing regulations are published in 45 CFR Part 1321.

The NSIP is authorized in Title III of the OAA, as amended, which is codified at 42 USC 3030a. There are no implementing regulations.

Availability of Other Program Information

Additional information about nutrition and supportive services, as reauthorized in 2020 by Pub. L. No. 116-131 is available at the AoA website at https://acl.gov/about-acl/administration-aging.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	N	N	Y	Y	Y	N

A. Activities Allowed or Unallowed

1. *State Agency*

   a. State agencies may use any amount of Title III-B (supportive services) funding necessary to conduct an effective ombudsman program (42 USC 3024 (d)(1)(B)).

   b. Grant funds may be used for state plan administration, including state plan preparation, evaluation of activities carried out under the plan, the collection of data and the conduct of analyses related to the need for services, dissemination of information, short-term training, and demonstration projects (42 USC 3028 (a)).

   c. No supportive services, nutrition services, or in-home services may be provided directly by the State Agency unless the State Agency determines that direct provision of services is necessary to ensure an adequate supply of services, where such services are related to the agency's administrative functions, or where such services of comparable quality can be provided more economically by the State Agency (42 USC 3027(a)(8)(A)).

   d. Distribution of funding within the State must be allocated as described in the State Plan Attachment C Intrastate Funding Formula (IFF) as approved by the Assistant Secretary for Aging to subrecipients, Area Agencies on Aging (if applicable), (42 USC 3025(a)(2)(C)).

2. *Area Agency*

   Supportive Services and Senior Centers and Nutrition Services

   a. Funds may be used for plan administration, operation of an advisory council, activities related to advocacy, planning, information sharing, and other activities leading to development or enhancement within the designated service area(s) of comprehensive and coordinated community-

based systems of service delivery to older persons (45 CFR section 1321.55).

b. If approved by the State Agency, an Area Agency may use service funds for program development and coordination activities (45 CFR section 1321.27(h))

c. No supportive services, nutrition services, or in-home services may be provided directly by an Area Agency except if, in the judgment of the State Agency, direct provision of services is necessary to ensure an adequate supply of services, where such services are related to the agency's administrative functions, or where such services of comparable quality can be provided more economically by the agency (42 USC 3027 (a)(8)).

3. *Service Providers*

Supportive Services and Senior Centers and Nutrition Services

a. Funds may be used to assist in the operation of multipurpose senior centers and to meet all or part of the costs of compensating professional and technical personnel required for center operation (42 USC 3030d (b)(2)).

b. Funds may be used for nutrition services and supportive services consistent with the terms of the agreement between the Area Agency and the service provider (42 USC 3026(a)(1), 3030d(a), and 3030e).

c. Funds may be used for services associated with access to supportive services for in-home services, and for legal assistance (42 USC 3026 (a)(2)).

d. Nutrition services may be provided to older individuals' spouses, who may not be eligible for these services in their own right, on the same basis as they are provided to older individuals and may be made available to handicapped or disabled individuals who are less than 60 years old but who reside in housing facilities occupied primarily by older individuals at which congregate nutrition services are provided (42 USC 3030g-21(2)(I)).

e. In accordance with procedures established by the area agencies, nutrition project administrators may offer meals to individuals providing volunteer services during meal hours and to individuals with disabilities who reside at home with eligible individuals (42 USC 3030g-21(2)(H)).

f. Funds may be used for the provision of home-delivered meals to older individuals (42 USC 3030f).

g. Funds may be used to acquire (in fee simple or by lease for ten years or more), alter, or renovate existing facilities or to construct new facilities to serve as multipurpose senior centers for not less than ten years after the acquisition, or 20 years after completion of construction unless waived by the assistant secretary for aging (42 USC 3030b).

G. Matching, Level of Effort, Earmarking

1. Matching

a. Title III Supportive Services and Nutrition Services and American Rescue Plan Supportive Services and Nutrition Services Grants

(1) State–State Plan Administration

(a) States must contribute from state or local sources at least 25 percent of the cost of state plan administration as their matching share. This may include cash or in-kind contributions by the state or third parties (42 USC 3028 (a)(1) and 42 USC 3029 (b); 45 CFR section 1321.9(c)(2)(ii)(J)(1)).

(2) State and Area Agencies – Area Plan Administration

State and area agencies, in the aggregate, must contribute at least 25 percent of the costs of administration of area plans (42 USC 3024 (d)(1)(A); 45 CFR section 1321.9(c)(2)(ii)(J)(1)).

(a) *State* – Since this match is computed based on the aggregate of all area agencies in the state, the auditor's testing of the amount of this match is performed at the State Agency.

(b) *Area Agencies* – The auditor's testing of the allowability of the matching (e.g., from an allowable source and in compliance with the administrative requirements and allowable costs/cost principles requirements) should be performed at the area agencies.

(3) Service Provision

All services, whether provided by the State Agency, an Area Agency, or other service providers (excluding any ombudsman services provided under the authority of 42 USC 3024 (d)(1)(D)) must be funded with a nonfederal match of at least 15 percent. One-third of the required 15 percent match must come from state sources (42 USC 3029 (b)(2)). This percentage must be met on a statewide basis. Funds for ombudsman services provided under the

authority of 42 USC 3024 (d)(1)(B) are not required to be matched (42 USC 3024 (d)(1)(D); 45 CFR section 1321.9(c)(2)(ii)(J)(2)).

b. Nutrition Services Incentive Programs (NSIP) Grants

(1) There is no match requirement (45 CFR section 1321.9(c)(2)(ii)(J)(4)(ii)).

2. Level of Effort

State – The State Agency must spend for both services and administration at least the average amount of state funds it reported as spent under the state plan for these activities for the three previous fiscal years. If the State Agency reports as spent less than this amount, the assistant secretary for aging reduces the state's allotments for supportive and nutrition services under this part by a percentage equal to the percentage by which the state reduced its expenditures (42 USC 3029 (c); 45 CFR section 1321.9(c)(2)(vi)). See III. L.3., "Reporting – Financial Reporting," for the reporting requirement regarding maintenance of effort.

2.1 Level of Effort – *Maintenance of Effort*

Not Applicable

2.2 Level of Effort – *Supplement Not Supplant*

Supportive Services and Senior Centers

a. Funds expended by a state or unit of general-purpose local government (including an Area Agency on Aging) to provide services shall supplement, and not supplant, any federal, state, or local funds (42 USC 3030d(d); 45 CFR section 1321.9(c)(2)(xvi)).

Nutrition Services

a. Not Applicable.

3. Earmarking

a. *State*

(1) Overall expenditures for administration are determined by the State agency's status as set forth below unless a waiver is granted by the assistant secretary for aging (42 USC 3028 (b)):

(a) A State agency that serves a State with multiple planning and service areas, not listed in (1)(b) below, shall have available the greater of 5 percent or $750,000 of the total Title III award (42 USC 3028(b)(2)(A)); or

(b) Guam, United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands shall have available the greater of 5 percent or $100,000 of the total Title III award (42 USC 3028(b)(2)(B)).

(2) After a state determines the amount to be applied to state plan administration under 42 USC 3028 (b), the state may:

(a) Use up to (and including) 10 percent of that amount available for the administration of area plans where the state calculates the 10 percent based on the amount remaining after deducting the amount to be applied to state plan administration (42 USC 3024(d)(1)(A)); and

(b) Use any amounts available to the state for state plan administration that the state determines are not needed for that purpose to supplement the amount available for administration of area plans (42 USC 3028(a)(2)).

(3) Any state, which has been designated as a single planning and service area, may elect to be subject to (42 USC 3028(a)(3)):

(a) state plan administration limit (42 USC 3028(b)(2)(A)); or

(i) 5 percent of the total amount of the allotments made to a State under sections 3024(a)(1) and 3030s-1(f); or
(ii) $750,000.

(b) area plan administration limit of the allotments made to a State under sections 3024(a)(1) and 3030s-1(f) (42 USC 3028(a)(3)).

(4) A state may transfer:

(a) Up to 40 percent of a state's separate allotments for congregate (C1) and home-delivered (C2) nutrition services between those two allotments with approved transfer (42 USC 3028 (b); 45 CFR section 1321.9(c)(2)(iii)(C)(1)).

(b) Not more than 30 percent between programs under Part B and Part C (parts C1 and/or C2) for use as the state considers appropriate (42 USC 3028(b); 45 CFR section 1321.9(c)(2)(iii)(C)(2)).

(c) An additional 10 percent may be transferred between C1 and C2 with an AoA waiver (42 USC 3028(b); 45 CFR section 1321.9(c)(2)(iii)(C)(1)(ii)).

(d) A waiver may be requested to transfer an amount, which is above the allowable 30 percent between parts B and C (42 USC 3030c-3(b)(4); 45 CFR section 1321.9(c)(2)(iii)(C)(2)(i)).

A State Agency may not delegate to an Area Agency or any other entity the authority to make such transfers (42 USC 3028(b)(6); 45 CFR section 1321.9(c)(2)(iii)(B)).

(5) The State Agency will not fund program development and coordinated activities as a cost of supportive services for the administration of area plans until it has first spent 10 percent of the total of its combined allotments under this program on the administration of area plans (45 CFR section 1321.27(h)(1)).

b. *Area Agency*

As provided in agreements with the State Agency, area agencies earmark portions of their allotment. The typical earmarks are:

(1) A maximum amount or percentage for program development and coordination activities by that agency (42 USC 3024(d)(1)(D); 45 CFR section 1321.27(h)(3)).

(2) A minimum amount or percentage for services related to access, in-home services, and legal assistance (42 USC 3026(a)(2); 45 CFR section 1321.9(c)(2)(v)).

J. Program Income

1. Service providers are required to provide an opportunity to individuals being served under all parts B and C services programs to make voluntary contributions for services received. These voluntary contributions are considered program income and must be used to expand a service funded under the Title III grant award pursuant to which the income was originally collected. The State Agency must use the addition alternative when reporting income. Program income may not be used to match Title III without prior approval from ACL (42 USC 3030c-2(b); 45 CFR section 1321.9(c)(2)(x)(D)(1); 45 CFR section 1321.9(c)(2)(xii)(A); 45 CFR section 1321.9(c)(2)(xii)(B); 45 CFR section 1321.9(c)(2)(xii)(C); 45 CFR section 1321.9(c)(2)(xii)(E); 45 CFR section 1321.9(c)(2)(xii)(B)).

2. Cost-sharing fees may be collected from Title III-B services except for information and assistance, outreach, benefits counseling, or case management services. Cost sharing is not allowed for Title III-C congregate and home-delivered meal services or Title VII Elder Rights Services (ombudsman, legal services, elder abuse prevention, or other consumer protection services) or any services delivered through Tribal organizations (42 USC 3030c-2(a)(2); 45 CFR section 1321.9(c)(2)(xi)); 45 CFR section 1321.9(c)(2)(xi)(D)(3)(i); 45 CFR

section 1321.9(c)(2)(xi)(D)(3)(ii); 45 CFR section 1321.9(c)(2)(xi)(D)(3)(iii); 45 CFR section 1321.9(c)(2)(xi)(D)(3)(iv)).

L. Reporting

For State Agency-

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* - Not Applicable.

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* -Not Applicable.

c. SF-*425*, Federal Financial Reports- Semi-Annual (OMB No. 4040-0014)-Applicable.

d. Supplemental Form and Instructions to the Financial Status Report for all AoA Title III Grantees- (OMB No. 0985-0083)-Applicable.

2. Performance Reporting

Not Applicable

3. Special Reporting

Report Title: Certification of Maintenance of Effort

OMB PRA Number: OMB No. 0985-0083

Authoritative Requirement for Report: 42 USC 3029 (c); 45 CFR section 1321.9(c)(2)(vi)

Reporting period/submission date: Submitted yearly.

Report Link: A blank copy of the form (https://acl.gov/sites/default/files/AoA_Form_Grants_Certification_of_Maintenance_Effort_508_final.pdf) and reporting instructions (https://acl.gov/sites/default/files/AoA_Form_Grants_MOE_LTCO_INSTRUCTIONS_508_final.pdf) are hyperlinked here.

Key Line Item(s):

a. State Resources Expended: The State must certify State Resources Expended for the fiscal year in OMB No. 0985-0083. The resources included in this amount must be verifiable and may not include non-State expenditures or non-State in-kind resources, to ensure compliance with 42 USC 3029 (c); 45 CFR section 1321.9(c)(2)(vi)).

b. Subsequent submissions may be accepted when there is an identified error in reporting, this is submitted to the ACL fiscal operations specialist and/or ACL regional administrator. Auditors should test the most recent submission was warranted and for accuracy. Resubmissions are a rare occurrence.

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3. L for audit guidance.

M. Subrecipient Monitoring

1. *State Agency*

State Agencies have subrecipients that must be monitored, including area agencies (where applicable) and other subrecipients (45 CFR 1321.9). There are currently eight states that are single planning and service areas that do not have area agencies, these states are Alaska, Delaware, Nevada, New Hampshire, North Dakota, Rhode Island, South Dakota, and Wyoming. See Section II. Program Procedures A. Overview.

IV. OTHER INFORMATION

The NSIP program may include both cash payments to states and the use of cash to purchase commodities from USDA and for USDA administrative expenses. Assistance in the form of commodities is considered federal awards expended in accordance with 2 CFR section 200.40 definition of “federal financial assistance” and should be valued in accordance with 2 CFR section 200.502(g). Therefore, both cash expenditures for the purchase of food and the value of commodities received from the state distribution agencies should be (1) used when determining Type A programs and (2) included in the Schedule of Expenditures of Federal Awards in accordance with 2 CFR section 200.510(b).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.090 GUARDIANSHIP ASSISTANCE

I. PROGRAM OBJECTIVES

The objective of the Guardianship Assistance program is to help agencies authorized to administer Title IV-E programs to provide kinship guardianship assistance payments under Title IV-E of the Social Security Act, as amended, for relatives taking legal guardianship of children who have been in foster care.

II. PROGRAM PROCEDURES

The Guardianship Assistance program is administered at the federal level by the Children's Bureau, Administration on Children, Youth and Families, Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS). Funding is available (at the option of the Title IV-E agency) to the 50 states, the District of Columbia, Puerto Rico and federally recognized Indian tribes, Indian tribal organizations, and tribal consortia (hereinafter referred to as tribes) with approved Title IV-E plans, based on a Title IV-E plan and amendments, as required by changes in statutes, rules, and regulations submitted to and approved by the ACF Children's Bureau Associate Commissioner.

The Guardianship Assistance program provides federal matching funds to Title IV-E agencies with approved Title IV-E plans that provide ongoing assistance and/or non-recurring payments to relatives who have assumed legal guardianship of eligible children for whom they previously cared for as foster parents and enter into a guardianship assistance agreement. This funding became available beginning on October 7, 2008, with the enactment of amendments to the Social Security Act through the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub. L. No. 110-351). The state or tribal Title IV-E agency may implement and claim allowable guardianship assistance program costs beginning on the first day of the quarter in which an approvable Title IV-E plan amendment is submitted to ACF to implement the Guardianship Assistance program (45 CFR section 1356.20(d)(8)). The program is considered an open-ended entitlement program and allows the state (including the District of Columbia and Puerto Rico) or tribe to be funded at a specified percentage (federal financial participation (FFP)) for program costs for eligible children.

The designated Title IV-E agency for this program also administers ACF funding provided for other Title IV-E programs, e.g., Adoption Assistance (Assistance Listing 93.659); Foster Care (Assistance Listing 93.658) and John H. Chafee Foster Care Program for Successful Transition to Adulthood (Assistance Listing93.674), as well as the Child Welfare Services (Assistance Listing 93.645) and Promoting Safe and Stable Families (Assistance Listing93.556) programs (Title IV-B of the Social Security Act, as amended) (Assistance Listing 93.556) funds available to states and those tribes qualifying for at least a minimum grant of $10,000), and the Social Services Block Grant program (Assistance Listing 93.667) (Title XX of the Social Security Act, as amended) (states only). The Title IV-E agency may either directly administer the

Guardianship Assistance program or supervise its administration by local level agencies. Where the program is administered by a state, in accordance with the approved Title IV-E plan, it must be in effect in all political subdivisions of the state, and, if administered by them, program requirements must be mandatory upon them. Where the program is administered by a tribe, it must be in effect in all political subdivisions within the tribal service area(s) and for all populations to be served under the plan. If the program is administered by a political subdivision of a tribe, program requirements must be mandatory upon them (42 USC 671(a)(1-4) and 42 USC 679B(c)(1)(B)).

Source of Governing Requirements

The Guardianship Assistance program is authorized by Title IV-E of the Social Security Act, as amended (42 USC 670 *et seq.*). Implementing regulations are at 45 CFR parts 1355, 1356, and 1357.

States and tribes are required to adopt and adhere to their own statutes and regulations for program implementation, consistent with the requirements of Title IV-E and an approved Title IV-E plan.

Availability of Other Program Information

The Children's Bureau manages a policy issuance system that provides further clarification of the law and guides states and tribes in implementing the Guardianship Assistance program. This information may be accessed at https://www.acf.hhs.gov/cb/laws-policies.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/ Real Property Management	Matching, Level of Effort, Earmarking	Period Of of Performance	Procurement/Suspension &and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	Y	N	N	N	Y	N	N

A. Activities Allowed or Unallowed

1. *Kinship Guardianship Assistance Payments*

Funds may be expended for kinship guardianship assistance payments made on behalf of eligible children (see III.E.1, "Eligibility – Eligibility for Individuals") in the amount (subject to limitations in this paragraph) and manner prescribed in a negotiated, written, and binding kinship guardianship assistance agreement entered into with the prospective relative guardian (42 USC 673(d)(1)(A)(i)). Kinship guardianship assistance payments are made to relative guardians (as defined in an approved Title IV-E plan) based on the circumstances of the relative guardian and the needs of the child (42 USC 673(d)(1)(B)(i)). Kinship guardianship assistance payments cannot exceed the amount of the foster care maintenance payment the child would have received in a foster family home; however, the amount of the payments may be up to 100 percent of the foster care maintenance payment rate which would have been paid on behalf of the child if the child had remained in a foster family home (42 USC 673(d)(2)).

2. *Administrative Costs*

a. Funds may be expended for costs directly related to the administration of the program. Approved public assistance cost allocation plans (states) or approved cost allocation methodologies (tribes) will identify which costs are allocated and claimed under this program (45 CFR section 1356.60(c)).

b. Funds may be expended as specified in a kinship guardianship assistance agreement for the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child (if the child meets program eligibility requirements), to the extent the total cost does not exceed $2,000 (42 USC 673(d)(1)(B)(iv)).

c. Funds expended by the Title IV-E agency for guardianship placements (including nonrecurring costs) are considered an administrative

expenditure and are subject to the matching requirements in III.G.1.e (42 USC 674(a)(3)(E)).

3. *Training*

a. Funds may be expended for training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the agency administering the plan (42 USC 674(a)(3)(A)).

b. Funds may be expended for short-term training of relative guardians; state/tribe-licensed or state/tribe-approved child welfare agencies providing services to children receiving Title IV-E assistance; child abuse and neglect court personnel; agency, child, or parent attorneys; guardians ad litem; and court appointed special advocates (42 USC 674(a)(3)(B)).

4. *Demonstration Projects*

Under Section 1130 of the Social Security Act, Title IV-E agencies may be granted authority to operate a demonstration project as set forth in ACF-approved terms and conditions. Any such terms and conditions identify the specific provisions of the Social Security Act that are waived, the additional activities that are allowable, the scope and duration (which may not exceed a maximum of five total years unless specifically approved for further continuation) of the demonstration project and the methodology for determining cost neutrality (either a matched comparison group or a capped allocation). All approved demonstration projects were required to end no later than September 30, 2019 (42 USC 1320a–9 and Section 201 of Pub. L. No. 112-34).

B. Allowable Costs/Cost Principles

Both states and tribes are subject to the requirements of OMB Circular A-87 (2 CFR part 225)/2 CFR part 200, subpart E, as implemented by HHS at 45 CFR part 75. States also are subject to the cost allocation provisions and rules governing allowable costs of equipment of 45 CFR part 95 (45 CFR sections 1355.57, 95.503, and 95.705).

E. Eligibility

1. Eligibility for Individuals

Kinship guardianship assistance payments may be paid on behalf of a child only if program eligibility is established through one of the following methods:

a. *General Eligibility*

All of the following requirements must be met to establish general eligibility:

(1) The child was removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child (42 USC 673(d)(3)(A)(i)(I)).

(2) The child was eligible for foster care maintenance payments under 42 USC 672 while residing for at least six consecutive months in the home of the prospective relative guardian (42 USC 673(d)(3)(A)(i)(II)).

(3) The Title IV-E agency determined that being returned home or adopted are not appropriate permanency options for the child (42 USC 673(d)(3)(A)(ii)).

(4) The Title IV-E agency determined that the child demonstrates a strong attachment to the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child (42 USC 673(d)(3)(A)(iii)).

(5) With respect to a child who has attained 14 years of age, the child has been consulted regarding the kinship guardianship arrangement (42 USC 673(d)(3)(A)(iv)).

(6) The kinship guardianship assistance agreement must be a written and binding document entered into through negotiations with the prospective relative guardian and contain information concerning; the amount of, and manner in which, each kinship guardianship assistance payment will be provided under the agreement, and the manner in which the payment may be adjusted periodically, in consultation with the relative guardian, based on the circumstances of the relative guardian and the needs of the child (42 USC 673(d)(1)(A)(i) and 673(d)(1)(B)(i)).

(7) A kinship guardianship assistance agreement that meets, or is amended to meet, all the requirements of 42 USC 673(d)(1) must be in place with a prospective relative guardian prior to the establishment of the legal guardianship. Payments may only begin once the relative guardian has committed to care for the child and has assumed legal guardianship for the child for whom they have cared as foster parents and for whom they have committed to care on a permanent basis (42 USC 671(a)(28) and 675(7)).

(8) Any relative guardian must satisfactorily have met a criminal records check, including a fingerprint-based checks of national crime information databases (as defined in 28 USC 534(e)(3)(A)), and for checks described in 42 USC 671(a)(20)(B) on any relative guardian and any other adult living in the home of any relative

guardian, before the relative guardian may receive kinship guardianship assistance payments on behalf of the child (42 USC 671(a)(20)(C)).

(9) Once a child is determined eligible to receive Title IV-E kinship guardianship assistance payments, he or she remains eligible in accordance with the terms of the kinship guardianship assistance agreement and the payments can continue until: (a) attainment of the age of 18 (or attainment of age 21 if the Title IV-E agency determines that the child has a mental or physical disability which warrants the continuation of assistance); (b) the Title IV-E agency determines that the relative guardian(s) is no longer legally responsible for the support of the child; (c) the Title IV-E agency determines the child is no longer receiving any support from the relative guardian(s); or (d) the occurrence of an event described in the kinship guardianship assistance agreement which requires suspension or discontinuation of kinship guardianship assistance payments (42 USC 673(a)(4)(A) and (B); 42 USC 673(d)(1) and Child Welfare Policy Manual section 8.5A Q/A#3).

A Title IV-E agency may amend its Title IV-E plan to provide for a definition of a "child" as an individual who has not attained 19, 20, or 21 years old (as the Title IV-E agency may elect) (42 USC 675(8)(B)(iii)). This definition of a child will then permit payment of kinship guardianship assistance for a child who is over age 18 (where the Title IV-E agency does not determine that the child has a mental or physical disability which warrants the continuation of assistance up to age 21) only if such a youth is part of an kinship guardianship assistance agreement that is in effect under Section 473 of the Social Security Act and the youth had attained 16 years of age before the agreement became effective. As an additional requirement, a youth over age 18 must also (as elected by the Title IV-E agency) be (a) completing secondary school (or equivalent); (b) enrolled in post-secondary or vocational school; (c) participating in a program or activity that promotes or removes barriers to employment; (d) employed 80 hours a month; or (e) incapable of any of these due to a documented medical condition (42 USC 675(8)(B)).

b. *Sibling Eligibility*

(1) The child and any sibling of the eligible child (established under the General Eligibility requirements listed in paragraph E.1.a) may be placed in the same kinship guardianship arrangement if the state/tribal agency and the relative agree on the appropriateness of the arrangement for the siblings (42 USC 673(d)(3)(B)(i) and 42 USC 671(a)(31).

(2) Kinship guardianship assistance payments may be paid pursuant to a kinship guardianship assistance agreement (in accordance with requirements in paragraph E.1.a.(6)) on behalf of each sibling so placed. If kinship guardianship assistance payments are paid on behalf of the sibling, the Title IV-E agency must pay (in accordance with a kinship guardianship assistance agreement) the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child, to the extent the total cost does not exceed $2,000. The sibling does not have to meet the eligibility criteria in 42 USC 673(d)(3)(A) to receive kinship guardianship assistance payments or for the legal guardian to be reimbursed for the nonrecurring expenses related to costs of the legal guardianship (42 USC 673(d)(3)(B)(ii)).

(3) Siblings of an eligible child must also individually meet the requirements specified in paragraphs E.1.a.(7) and (9) (42 USC 671(a)(28); 675(7) 42 USC 673(a)(4)(A) and (B); and 42 USC 675(8)(B)).

c. *Title IV-E Guardianship Waiver Post-Demonstration Projects*

(1) After the termination of a demonstration project relating to guardianship conducted by a state under Section 1130 of the Social Security Act, children who, as of September 30, 2008, were receiving assistance or services under the project are deemed to be eligible under the approved Title IV-E state plan for the same assistance and services under the same terms and conditions that applied during the conduct of the project (42 USC 674(g)).

(2) Post-demonstration assistance and services to eligible children assisted in accordance with terminated guardianship related demonstration projects as noted in paragraph E.1.c.(1) is eligible for Title IV-E claiming whether or not the state opts to operate a Guardianship Assistance program pursuant to 42 USC 673(d) (42 USC 674(g)).

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

The percentage of required state/tribal funding and associated federal funding ("federal financial participation") varies by type of expenditure as follows:

a. Third party in-kind contributions cannot be used to meet the state's cost sharing requirements (Child Welfare Policy Manual Section 8.1F.Q#2 8/16/02). 45 CFR section 75.306 is not applicable to this program (45 CFR sections 1355.30(i) and 1355.30(n)(1); 45 CFR section 201.5(e)). Tribes directly operating a Title IV-E program are permitted to use in-kind funds from any allowable third-party sources to provide up to the full required non-federal share of administrative or training costs (42 USC 679c(c)(1)(D); 45 CFR section 1356.68(c)).

b. *Kinship Guardianship Assistance Payments* – The percentage of Title IV-E funding in kinship guardianship assistance payments will be the FMAP percentage. This percentage varies by state and is available at http://www.aspe.hhs.gov/health/fmap.htm (42 USC 674(a)(1); 45 CFR section 1356.60(a)).

Separate tribal FMAP rates, which are based upon the tribe's service area and population, apply to Guardianship Assistance program assistance payments incurred by tribes that are participating in Title IV-E programs through either direct operation of an approved Title IV-E plan or through operation of a Title IV-E agreement or contract with a state Title IV-E agency. The methodology for calculating tribal FMAP rates was provided through a final notice in the *Federal Register* that is available at http://www.gpo.gov/fdsys/pkg/FR-2011-08-01/pdf/2011-19358.pdf. Information on specific tribal FMAP rates for many tribes applicable for each FY and a table where such rates can be calculated for unlisted tribes is posted on the Children's Bureau's website and is available at https://www.acf.hhs.gov/cb/focus-areas/tribes.The calculated FMAP rate for each tribe applies unless it is exceeded by the FMAP rate for any state in which the tribe is located (42 USC 679B(d) and 42 USC 679B(e)).

c. *Staff Training* – The percentage of federal funding in expenditures for short- and long-term training at educational institutions of employees or prospective employees (including travel and per diem) is 75 percent (42 USC 674(a)(3)(A) and (B); 45 CFR section 1356.60(b)).

d. *Professional Partner Training* – The percentage of federal funding in expenditures for short-term training of relative guardians; state/tribe-licensed or state/tribe-approved child welfare agencies providing services to children receiving Title IV-E assistance; child abuse and neglect court personnel; agency, child or parent attorneys; guardians ad litem; and, court

appointed special advocates is 75 percent in FY 2013 and thereafter (42 USC 674(a)(3)(B)).

e. *Administrative Costs*

(1) The percentage of federal funding for non-recurring Title IV-E agency kinship guardianship placement expenditures (not to exceed $2,000 for each kinship guardianship) is 50 percent (42 USC 674(a)(3)(E)).

(2) The percentage of federal funding of all other allowable administrative expenditures is 50 percent (42 USC 674(a)(3)(E)).

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

d. *Form CB-496, Title IV-E Programs Quarterly Financial Report (OMB No. 0970-0510)* – Title IV-E agencies report current expenditures and information on children assisted for the quarter that has just ended and estimates of expenditures and children to be assisted for the next quarter. Prior quarter adjustment (increasing and decreasing) expenditures applicable to earlier quarters must also be separately reported on this form.

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

Part 1, Expenditures, Estimates and Caseload Data, columns (a) through (d) (Sections C and E (Guardianship Assistance Program))

Part 2, Prior Quarter Expenditure Adjustments – Guardianship Assistance, columns (a) through (d)

Part 3, Foster Care, Adoption Assistance and Guardianship Assistance Demonstration Projects, columns (a) through (e)

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

Not Applicable

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.153 COORDINATED SERVICES AND ACCESS TO RESEARCH FOR WOMEN, INFANTS, CHILDREN, AND YOUTH

I. PROGRAM OBJECTIVES

The objective of this program is to provide family-centered care in an outpatient or ambulatory care setting (directly or through contracts or memoranda of understanding) for low-income, uninsured, and medically underserved women, infants, children, and youth with HIV.

II. PROGRAM PROCEDURES

The Department of Health and Human Services (HHS) administers the Ryan White HIV/AIDS Program (RWHAP) Part D Coordinated Services for Women, Infants, Children, and Youth (WICY) through the Health Resources and Services Administration's (HRSA) HIV/AIDS Bureau (HAB). The RWHAP Part D WICY programs provide family-centered outpatient or ambulatory care settings (directly or through contracts or memoranda of understanding) for low-income, uninsured, and medically underserved women, infants, children, and youth with HIV. Recipients can also provide additional support services to patients and affected family members. Grants under the RWHAP Part D WICY are awarded to public and nonprofit private entities, including health facilities operated by or pursuant to a contract with the Indian Health Service (42 USC 300ff-71(a)). Services may be provided directly by the recipient or through contractual agreements or memoranda of understanding with other service providers.

Source of Governing Requirements

The RWHAP Part D WICY is authorized under Section 2671 of Title XXVI of the PHS Act, as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009 (Pub. L. No. 111-87) and is codified at 42 USC 300ff-71. The Minority AIDS Initiative (MAI) is authorized under Section 2693(b)(2)(D) of the PHS Act (42 USC 300ff-121(b)(2)(D)).

The RWHAP Part D WICY has no program-specific program regulations.

Availability of Other Program Information

Further information about the RWHAP Part D WICY is available at https://ryanwhite.hrsa.gov.

Additional information on allowable uses of funds under the RWHAP Part D WICY is contained in policy notices and standards found at https://ryanwhite.hrsa.gov/grants/policy-notices

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	N	N	Y	Y	Y	N	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. Funds may be used for family-centered care involving outpatient or ambulatory care, directly or through contracts or memoranda of understanding, for women, infants, children, and youth with HIV. This includes the provision of professional, diagnostic, and therapeutic services by a primary care provider, or a referral to and provision of specialty care; and services that sustain program activity and contribute to or help improve those services (42 USC 300ff-71(a) and (h)(3)).

   Funds are not required to be used for primary care services when payments are available for such services from other sources (including Titles XVIII, XIX, and XXI of the Social Security Act) (42 USC 300ff-71(i)).

   b. Funds may be used for the following support services for patients: (1) family-centered care, including case management; (2) referrals for

additional services, including inpatient hospital services, treatment for substance abuse and mental health services, and other social and support services as appropriate; (3) additional services necessary to enable the patient to participate in the RWHAP Part D WICY, including services to recruit and retain youth with HIV; and (4) provision of information and education on opportunities to participate in HIV/AIDS-related clinical research (42 USC 300ff-71(b)). Affected family members (people not identified with HIV) may be eligible for RWHAP support services in limited situations, but these services for affected individuals must always benefit people with HIV. Examples include, but are not limited to, mental health services, and respite care. Services to non-affected family members who meet these criteria may not continue after the death of the RWHAP client. Refer to HAB Policy Clarification Notice #16-02: Ryan White HIV/AIDS Program Services: Eligible Individuals & Allowable Uses of Funds for further information on circumstances in which affected family members may be eligible to receive RWHAP-funded support services.

c. Funds must be used for the establishment of a clinical quality management program to assess the extent to which HIV health services are consistent with the most recent Public Health Service guidelines for the treatment of HIV/AIDS and related opportunistic infections, and, as applicable, to develop strategies for ensuring that such services are consistent with the guidelines for improvement in the access to and quality of HIV health services (42 USC 300ff-71(f)(2)). Policy Clarification Notice #15-02 https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/grants/pcn-15-02-cqm.pdf.

d. Funds may be used for administrative expenses, which are defined as funds used by recipients for grant management and monitoring activities, including costs related to any staff or activity other than the provision of services. Indirect costs included in a federally negotiated indirect rate are considered part of administrative costs (see III.G.3, “Matching, Level of Effort, Earmarking – Earmarking,” for a limitation on expenditures for administrative costs) (42 USC 300ff-71(f)(1), (h)(1), and (h)(2)). Funds may be used for administrative expenses; no more than 10 percent on administrative expenses.

2. *Activities Unallowed*

a. Funds may not be used for AIDS programs or to develop materials, designed to promote or encourage, directly, intravenous drug abuse or sexual activity, whether homosexual or heterosexual (42 USC 300ff-84).

b. Funds may not be used to purchase sterile needles or syringes for the hypodermic injection of any illegal drug (Consolidated Appropriations Act, 2016 (Pub. L. No. 114-113), Division H, Title V, Section 520, and subsequent appropriations, as applicable). Other elements of syringe

services programs may be allowable if in compliance with applicable HHS and HRSA-specific guidance.

c. Funds may not be used to purchase or improve land or to purchase, construct, or make permanent improvements to any building (Funding Opportunity Announcement, Section IV.6).

d. Funds may not be used to make cash payments to intended recipients of RWHAP services (Policy Clarification Notice #16-02, Ryan White HIV/AIDS Program Services: Eligible Individuals and Allowable Uses of Funds https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/grants/service-category-pcn-16-02-final.pdf).

e. Charges that are billable to third-party payors (e.g., private health insurance, prepaid health plans, Medicaid, Medicare, HUD, and other RWHAP funding including ADAP).

f. To directly provide housing or health care services (e.g., HIV care, counseling, and testing) that duplicate existing services.

g. Pre-Exposure Prophylaxis (PrEP) or nonoccupational Post-Exposure Prophylaxis (nPEP) medications or related medical services. As outlined in the November 16, 2021, RWHAP and PrEP program letter, the RWHAP legislation provides grant funds to be used for the care and treatment of people with HIV, thus prohibiting the use of RWHAP funds for PrEP medications or related medical services, such as physician visits and laboratory costs. However, RWHAP Part D funds can be used toward Psychosocial Support Services, a component of family-centered care, which may include counseling and testing and information on PrEP to eligible clients' partners and affected family members, within the context of a comprehensive PrEP program. https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/hiv-care/prep-dcl-november-2021-508.pdf

h. Fundraising expenses.

i. Lobbying activities and expenses.

j. International travel.

J. Program Income

The Notice of Award provides guidance on the use of program income. The addition method is used for the Ryan White HIV/AIDS Program Part D. Program income must be used for activities described in III.A.1, "Activities Allowed."

L. Reporting

1. Financial Reporting

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

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3. L for audit guidance.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.210 TRIBAL SELF-GOVERNANCE PROGRAM – IHS COMPACTS/FUNDING AGREEMENTS

ASSISTANCE LISTING 93.441 INDIAN SELF-DETERMINATION

I. PROGRAM OBJECTIVES

The Indian Self-Determination and Education Assistance Act (ISDEAA), also known as P.L. 93-638, authorizes American Indian/Alaska Native (AI/AN) Tribes and Tribal Organizations (T/TO) to contract for the administration and operation of certain Federal programs which provide services to AI/AN and their members. Under the ISDEAA, T/TOs have the option to either (1) assume control over health care programs and services that the IHS would otherwise provide (referred to as Title V Self-Governance Compacting or the TSGP) or (2) administer programs and services the IHS would otherwise provide (referred to as Title I Self-Determination Contracting) These options are not exclusive; Tribes may choose to combine them based on their individual needs and circumstances.

Title V – Self Governance Compacting

The objective of this program is to "improve and perpetuate the government-to-government relationship between Indian tribes and the United States and to strengthen tribal control over federal funding and program management" by enabling T/TOs to assume control over Programs, Services, Functions, and Activities (or portions thereof) (PSFAs) of the Indian Health Service (IHS), Department of Health and Human Services (HHS).

Title I – Self Determination Contracting

The objective of this program is to enable T/TOs to enter into a self-determination contract to assume the management and operation of PSFAs for the delivery of health care to AI/ANs by transferring the responsibility for the administration and provision of health services from the government to tribal leadership.

II. PROGRAM PROCEDURES

Title V – Self Governance Compacting

Title V of the ISDEAA (Pub. L. No. 106-260), which was signed into law on August 18, 2000, provided permanent self-governance authority within IHS. A Self-Governance compact is a legally binding and mutually enforceable written agreement, including such terms as the parties intend to control year after year, that affirms the government-to-government relationship between a Self-Governance Tribe and the United States. As a result, the provisions of compacts vary significantly, with only minimal cross-cutting compliance requirements.

A funding agreement (FA) is a legally binding and mutually enforceable written agreement that identifies the PSFAs that the Self-Governance T/TOs will carry out, the funds being transferred from Service Unit, Area, and Headquarters levels in support of those PSFAs, and such other terms as are required, or may be agreed upon, under Title V. FAs may be multi-year agreements. Title V compactors that enter into a Self-Governance compact may provide health care services directly at facilities operated by the compactor or by operating a Purchased/Referred Care (PRC) (formerly known as contract health services) program as part of the FA. PRC is any health service that is: (A) delivered based on a referral by, or at the expense of, an Indian health program; and (B) provided by a public or private medical provider or hospital that is not a provider or hospital of the Indian health program, 25 USC 1603(5).

Title I – Self Determination Contracting

Title I of the ISDEAA, which was signed into law on January 4, 1975, applies to Federally-recognized Tribes or Tribal organizations that contract with the Indian Health Service (IHS) to plan, conduct, and administer one or more individual programs, functions, services or activities under P.L 93-638, or portions thereof, including construction programs that the IHS would otherwise provide for Indians because of their status as Indians.
An annual funding agreement (AFA) is a legally binding and mutually enforceable written agreement that identifies the PSFAs that the Title I Self-Determination T/TO will carry out, the funds being transferred from the Service Unit, Area, and Headquarters levels in support of those PSFAs, and such other terms as are required, or may be agreed upon, under Title I. AFAs are one-year agreements and must be re-negotiated annually.

Title I T/TO contractors who enter into a Self-Determination contract may provide health care services directly at facilities operated by the contractor or by operating a Purchased/Referred Care (PRC) (formerly known as contract health services) program as part of the AFA.

Source of Governing Requirements

Title V of the ISDEAA, as amended, is codified at 25 USC 5381 et seq. Title I of the ISDEAA, as amended, is codified at 25 USC 5321 et seq.

Regulations concerning the general principles and program requirements for carrying out the Indian health programs are found in 42 CFR Part 136. Regulations implementing ISDEAA Title V and establishing the IHS Tribal Self-Governance program are found in 42 CFR Part 137 et seq. Regulations implementing ISDEAA Title I are found in 25 CFR Part 900.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a

direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information**.**

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	N	Y	N	Y	N	N	Y

A. Activities Allowed or Unallowed

1. Funds may be used to carry out and deliver health services to PSFAs. The FA or AFA generally identifies the PSFAs to be performed or administered by the T/TO (25 USC 5329; 25 USC 5385(d)).

2. A Self-Governance T/TO may incur costs that are reasonable in amount and appropriate to the investment responsibilities of the Self-Governance Tribe (42 CFR 137.101(c)).

3. For Self-Determination Tribes, minimum financial management requirements are identified in 25 CFR 900.45.

4. Funds provided under compacts, funding agreements, or grants made under Titles I or V may be used to meet matching or cost participation requirements under any other federal or nonfederal program; when used in this manner, they are considered nonfederal funds but are still subject to Single Audit requirements. 25 USC 5325(j); 25 USC 5392(d).

B. Allowable Costs/Cost Principles

1. A Self-Governance or Self-Determination T/TO must apply the applicable OMB cost principles, except as modified by 25 USC 5325, other provisions of law, or any exemptions to applicable OMB circulars subsequently granted by OMB (42 CFR 137.167, 25 CFR 900.37).

2. For PRC, the T/TO is the payer of last resort (25 USC 1623(b); 42 CFR 136.61). Before seeking payment from the T/TO, the PRC provider must first seek payment from all alternate resources, such as health care providers and institutions; health care programs including programs under the Social Security Act (i.e., Medicare or Medicaid); state or local health care programs; and private insurance. When a third-party liability is established after the claim is paid, reimbursement from the third party should be sought.

C. Cash Management

Self-Governance or Self-Determination T/TOs may retain and spend interest earned on any funds paid under a compact or FA to carry out governmental or health purposes (25 USC 5324(b) (Title I); 25 USC 5388(h) (Title V).

E. Eligibility

1. Eligibility for Individuals

a. *Eligibility for Direct Care Services.* Self-Governance and Self-Determination T/TOs must follow IHS eligibility requirements, which are summarized below. 25 USC 5324(g), 5386(e), and 5397(e).

(1) Individuals of Indian descent belonging to the Indian community served by the local facilities and program are eligible to receive services. An individual may be regarded as within the scope of the Indian health and medical service if the individual is regarded as an Indian by the community in which the individual lives as evidenced by such factors as tribal membership, enrollment, residence on tax-exempt land, ownership of restricted property, active participation in tribal affairs, or other relevant factors in keeping with the general Bureau of Indian Affairs practices in the jurisdiction (42 CFR 136.12(a)).

(2) Services will also be made available, as medically indicated, to a non-Indian woman pregnant with an eligible Indian's child during the period of pregnancy through postpartum (generally about six weeks after delivery). In cases when the woman is not married to the eligible Indian under applicable state or tribal law, paternity must be acknowledged in writing by the Indian or determined by order of a court of competent jurisdiction (42 CFR 136.12(a)).

(3) Medically indicated services will also be provided to non-Indian members of an eligible Indian's household if a medical officer in charge determines that this is necessary to control acute infectious disease or a public health hazard (42 CFR 136.12(a)).

(4) In accordance with 25 USC 1680c(a)-(b), certain children and spouses who would otherwise be ineligible are considered eligible.

(5) Subject to charges, services may be provided to ineligible persons in accordance with the criteria in Section 813 of the Indian Health Care Improvement Act, or in the case of an emergency, as an act of humanity. 25 USC 1680c(c), 1680c(d)(2), and 42 CFR 136.14.

b. *Eligibility for PRC (refers to contract medical care or services provided under referral)*

(1) To qualify for PRC:

(a) An individual must meet the requirements of 42 CFR 136.12 (42 CFR 136.23(a)); and

(b) Must either reside in the United States and on a reservation located within a PRC Delivery Area (PRCDA) (formerly known as a Contract Health Service Delivery Area or CHSDA) as defined under 42 CFR 136.22; or, if the individual does not reside on a reservation, reside within a PRCDA; and

(c) Be a member of the tribe or tribes located on that reservation or of the tribes or tribes for which the reservation was established, or maintain close economic and social ties with said tribe or tribes (42 CFR 136.23(a)).

(2) *Students* – Students continue to be eligible for PRC during their full-time attendance at programs of vocational, technical, or academic education, including normal school breaks and for a period not to exceed 180 days after the completion of their studies (42 CFR 136.23(b)(1)).

(3) *Transients* – Transient persons, such as those who are in travel or are temporarily employed, remain eligible for PRC during their absence (42 CFR 136.23(b)(2)).

(4) *Other Persons* – Other persons who leave the PRCDA in which they are eligible and are neither transients nor students remain eligible for PRC for a period not to exceed 180 days from such departure (42 CFR 136.23(c)).

(5) *Foster Children* – Indian children who are placed in foster care outside a PRCDA by order of a court of competent jurisdiction and who were eligible for PRC at the time of the court order shall continue to be eligible for PRC while in foster care (42 CFR 136.23(d)).

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

H. Period of Performance

Title V

1. An FA shall have the terms mutually agreed to by the parties. Absent a reassumption or notification from a T/TO that it is withdrawing or retroceding, or the operation of one or more PSFAs identified in the FA, the FA shall remain in full force and effect until a subsequent FA is executed (42 CFR 137.55).

2. All funds paid to a T/TO in accordance with a compact or FA shall remain available until expended (25 USC 5388(i)).

Title I

1. The AFA shall have the term mutually agreed to by the parties (25 USC 5324(c)(l). Absent a reassumption or notification from a T/TO that is withdrawing or retroceding, the operation of one or more PFSAs identified in the AFA, the FA shall remain in full force and effect until an AFA is negotiated (25 CFR 900 Subpart P).

2. All funds paid to a T/TO in accordance with a Contract or AFA shall remain available until expended (25 USC 5329(c)(b)(9)(A)).

J. Program Income

1. For direct care services, the T/TO is eligible to pursue reimbursement from all applicable sources (25 USC 1621e, 42 USC 1395qq, and 42 USC 1396j).

2. All Medicare, Medicaid, or other program income earned by a T/TO shall be treated as supplemental funding to that negotiated in the FA. The T/TO may retain all such income and expend such funds in the current year or future years except to the extent that the Indian Health Care Improvement Act (25 USC 1601 et seq.) provides otherwise for Medicare and Medicaid receipts (25 USC 5325 and 25 USC 5388(j)). Reimbursements received or recovered shall be credited to the T/TO, and may be used as provided in 25 USC 1641 (25 USC 1621f). Such funds shall not result in any offset or reduction in the amount of funds the T/TO is authorized to receive under its FA in the year the program income is received or for any subsequent fiscal year (25 USC 5325(m)(2); 25 USC 5388(j)).

3. *Use of Funds Collected through HHS* – T/TOs electing to receive Medicare and Medicaid reimbursement through HHS shall first use such income to make any improvements in the hospital or clinic that may be necessary to achieve or maintain compliance with the conditions and requirements applicable generally to facilities of such type under Medicare or Medicaid programs (25 USC 1641(c)(1)(B)).

N. Special Tests and Provisions

1. Character Investigations by Indian Tribes and Tribal Organizations

Compliance Requirements The Indian Child Protection and Family Violence Prevention Act (25 USC 3201 *et seq.*) requires T/TOs that receive funds under the ISDEAA to conduct an investigation of the character of each individual who is employed or is being considered for employment by such T/TO in a position that involves regular contact with, or control over, Indian children. 25 USC 3207(c); 34 USC 20351. The Act further states that the T/TO may employ only individuals in those positions if they meet standards of character that are no less stringent than those prescribed by the regulations, which are outlined in 42 CFR 136.405, and only after an individual has been the subject of a satisfactory background investigation as described in 42 CFR 136.406. T/TOs may conduct their background investigations, contract with private firms, or request that a Federal or State agency conduct investigations. FBI fingerprint checks are required and may only be received or evaluated by government agencies, including T/TOs, and may not be disseminated to private entities. T/TOs can provisionally hire individuals before completion of a satisfactory background investigation only if, at all times before receipt of the satisfactory background investigation and when Indian children are in the care of the individual, the individual is within sight and under the supervision of someone on staff that has a completed satisfactory background investigation.

Audit Objectives Determine whether T/TOs are performing the required background character investigations of employees or those being considered for employment at Tribal healthcare facilities.

Suggested Audit Procedures

a. Obtain and review policies and procedures for the performance of background investigations for employees.

b. Perform tests of selected security and personnel files of healthcare facilities employees occupying positions that have regular contact with or control over Indian children visiting T/TO healthcare facilities within the scope of the individual's duties and responsibilities or contact with those Indian children on a recurring and foreseeable basis to verify:

(1) A suitability determination was conducted based on the T/TO's policy and procedure for adjudicating eligibility for employment (42 CFR 136.411).

(2) The minimum standards of character were met following a satisfactory background investigation that includes a review of (42 CFR 136.406):

(a) Documentation regarding the individual's trustworthiness, through inquiries with the individual's references and places of employment and education by reviewing a screenshot from the Clearance Verification System (CVS) or the Certificate of Investigation (COI), both showing whether a successful final adjudicative determination was made;

(b) The CVS screenshot or the COI document will also disclose whether the criminal history check (Fingerprint Special Agency Check (SAC), and/or (State Criminal History Repository (SCHR)) was conducted, which includes a fingerprint check through the Criminal Justice Information Services Division of the Federal Bureau of Investigation (FBI), under procedures approved by the FBI, and inquiries to State and Tribal law enforcement agencies for the previous five years of residence listed on the individual's application; and

(c) Evidence that a determination has been made as to whether the individual has been found guilty of or entered a plea of nolo contendere or guilty to any felonious offense or any of two or more misdemeanor offenses under Federal, State, or Tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact, or prostitution; crimes against persons; or offenses committed against children.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.217 FAMILY PLANNING – SERVICES

I. PROGRAM OBJECTIVES

The purpose of the Family Planning – Services Project Grant (FPSPG) program is to provide funds for the education, counseling, and comprehensive medical and social services necessary to enable individuals to freely determine the number and spacing of their children; and, by doing so, to help improve pregnancy outcomes, reduce infertility, and promote the health of females, males, and their families.

II. PROGRAM PROCEDURES

The FPSPG program is administered by the Office of the Secretary (OS)/Office of the Assistant Secretary for Health (OASH), a component of the Department of Health and Human Services (HHS). Within OS, the Office of Population Affairs is responsible for the program. The program has no statutory funds allocation formula: HHS makes discretionary grant awards the amounts of which are based on estimates of the amounts necessary for successful project performance. Any public or private nonprofit entity located in a state (which includes one of the 50 United States, District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the U.S. Virgin Islands, American Samoa, the U.S. Outlaying Islands (Midway, Wake, et al.), the Marshall Islands, the Federated State of Micronesia, and the Republic of Palau) is eligible to apply for a grant under this program. Faith-based organizations and American Indian/Alaska Native/Native American organizations are also eligible to apply for Title X family planning services grants. The entity applying for the grant should identify existing as well as non-Title X resources available to address the needs for family planning services within the identified service area to ensure resources and services are not duplicated. In furtherance of maximizing access and best serving individuals in need in the service areas, entities should make reasonable efforts to avoid duplication of effort in the provision of services across the Title X network.

Family planning services under the FPSPG program must be voluntary and must be made available without coercion and with respect for the privacy, dignity, and social and religious beliefs of the individuals being served. To the extent possible, entities that receive grants shall encourage family participation in projects assisted under this program.

Source of Governing Requirements

The FPSPG is authorized under Title X of the Public Health Service Act, as amended (42 USC 300 et seq.). The implementing regulations are at 42 CFR Part 59, Subpart A). In addition, sterilization of clients as part of the Title X project must be consistent with Public Health Service (PHS) sterilization regulations (42 CFR Part 50, Subpart B). Grants administration regulations at 45 CFR Part 75 (“Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards”) and other relevant regulations also apply to Title X awards.

Availability of Other Program Information

Additional information is available on the HHS Office of Population Affairs website at https://opa.hhs.gov/.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	N	N	Y	Y	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

a. *Provision of Services* – A project supported by the FPSPG must provide a broad range of family planning methods and services, including infertility services and services for adolescents. Services that may be funded for a particular project are identified in the grant application. They may include:

(1) *Medical services* – These include providing information on all FDA-approved methods of contraception (including natural family planning methods); counseling services; physical examinations, including cancer detection and laboratory tests; issuance of

contraceptive supplies; periodic follow-up examinations; and referral to other medical facilities when medically indicated.

(2) *Social services* – These include counseling, referral to and from other social and medical service agencies, and any ancillary services which may be necessary to facilitate clinic attendance.

(3) *Information and education* – These activities are designed to achieve community understanding of the program's objectives, inform the community of the availability of services, and promote continued participation in the project by persons likely to benefit from its services (42 CFR sections 59.5(a)(1) and (b)).

b. *Purchase of Services* – If the grantee obtains services for its clients by contract or other similar arrangements with service providers, it must do so according to agreements with the providers that specify payment rates and procedures (42 CFR section 59.5(b)(9)).

2. *Activities Unallowed*

No Title X funds shall be used in projects where abortion is a method of family planning (42 CFR section 59.5(a)(5)).

G. Matching, Level of Effort, Earmarking

1. Matching

The federal share of a FPSPG project's costs may never equal 100 percent nor be less than 90 percent (with certain exceptions). The federal and nonfederal shares are stated in the Notice of Grant Award issued to the grantee (42 CFR sections 59.7(b) and (c)).

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.224 HEALTH CENTER PROGRAM (COMMUNITY HEALTH CENTERS, MIGRANT HEALTH CENTERS, HEALTH CARE FOR THE HOMELESS, AND PUBLIC HOUSING PRIMARY CARE)

ASSISTANCE LISTING 93.527 GRANTS FOR NEW AND EXPANDED SERVICES UNDER THE HEALTH CENTER PROGRAM

I. PROGRAM OBJECTIVES

The purpose of the Health Center Program (HCP) grants under the Health Center Program Cluster is to improve the health of the nation's underserved communities by ensuring continued access to comprehensive, culturally competent, quality primary health care services regardless of ability to pay. HCP grants support a variety of community-based and patient-directed public and private nonprofit organizations that provide primary and preventive healthcare services to the nation's underserved.

II. PROGRAM PROCEDURES

The purpose of the HCP grants is to support the costs of operating health centers that serve medically underserved populations.

HCP grants are awarded and administered at the federal level by the Bureau of Primary Health Care (BPHC), Health Resources and Services Administration (HRSA), and Department of Health and Human Services (HHS.) Based on applications submitted to and approved by HRSA, grants are provided to public and private nonprofit organizations, including tribal, faith-based, and community-based organizations. Factors considered include the current availability of services in the geographical area and the population to be served. Grantees may provide services directly or enter into service and care arrangements via contracts or other formal referral arrangements.

The authorizing statute for the HCP requires health centers to annually develop and submit to HRSA a budget that reflects expenses and revenues (including HCP grant(s)) necessary to accomplish the health center project service delivery plan. As such, the total budget must include projections from all revenue sources, including fees, premiums, and third-party reimbursements reasonably expected to be received to support operations; and state, local, private, and other operational funding provided to the health center. The amount of the HCP grant funding to be provided by HRSA may not exceed the amount by which the projected cost of operations exceeds the projected non-grant revenue sources (42 USC 254b(e)(5)(A), (k)(3)(D), and (k)(3)(I)(i) and 42 CFR section 51c.106).

Source of Governing Requirements

The HCP is authorized under Section 330 of the Public Health Service Act, as amended by Section 10503 of The Patient Protection and Affordable Care Act (Pub. L. No. 111-148). The statutory provisions are codified at 42 USC 254b. The implementing program regulations for Community Health Centers (CHCs) and Migrant Health Centers (MHCs) are codified at 42 CFR parts 51c and 56, respectively. The Health Care for the Homeless (HCH) and Public Housing Primary Care (PHPC) components do not have program-specific regulations.

American Rescue Plan (ARP) Act (Pub. L. No. 117-2) provided one-time funding to current Health Center Program award recipients and look-alikes to prevent, mitigate, and respond to COVID-19 and to enhance healthcare services and infrastructure. As with HCP operating awards, unallowable costs include fundraising and the construction of facilities. Other unallowable costs include purchasing or upgrading an electronic health record that is not certified by the Office of the National Coordinator for Health IT (ONCHIT;) new construction activities, including additions or expansions; major alteration and renovation (A/R) projects valued at $500,000 or greater in total federal and non-federal costs (excluding the cost of allowable moveable equipment); installation of a permanently affixed modular or prefabricated building; facility or land purchases; or significant exterior site work such as new parking lots or stormwater structures. Additionally, these funds may not be used for costs already paid for by other state or federal programs, HCP operational funding, or Coronavirus Preparedness and Response Supplemental Appropriations Act (CPRSAA), Coronavirus Aid, Relief, and Economic Security (CARES) Act, or ARP Act funding.

Availability of Other Program Information

Other program information is available from the HRSA website at https://bphc.hrsa.gov/, https://bphc.hrsa.gov/compliance, and https://www.hrsa.gov/grants/manage-your-grant/policies-regulations-guidance.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	N	Y	Y	N	Y	N	Y

A. Activities Allowed or Unallowed

1. *Activities Allowed*

a. Required primary health services include:

(1) Basic health services related to family medicine, internal medicine, pediatrics, obstetrics, or gynecology that are furnished by physicians and, when appropriate, by physician assistants, nurse practitioners, and nurse midwives (42 USC 254b(b)(1)(A)(i)(I)).

(2) Diagnostic laboratory and radiological services (42 USC 254b(b)(1)(A)(i)(II)).

(3) Preventive health services, including prenatal and perinatal services; appropriate cancer screening; well-child services; immunizations against vaccine-preventable diseases; screenings for elevated blood lead levels, communicable diseases, and cholesterol; pediatric eye, ear, and dental screenings; voluntary family planning services; and preventive dental services (42 USC 254b(b)(1)(A)(i)(III)).

(4) Emergency medical services (42 USC 254b(b)(1)(A)(i)(IV)).

(5) Pharmaceutical services, as may be appropriate for particular centers (42 USC 254b(b)(1)(A)(i)(V)).

(6) Referrals to providers of medical services (including specialty referral when medically indicated) and other health-related services (including substance abuse and mental health services) (42 USC 254b(b)(1)(A)(ii)).

(7) Patient case management services (including counseling, referral, and follow-up services) and other services designed to assist health center patients in establishing eligibility for and gaining access to

federal, state, and local programs that provide or financially support the provision of medical, social, educational, housing, or other related services (42 USC 254b(b)(1)(A)(iii)).

(8) Services that enable individuals to use the services of the health center (including outreach and transportation services and, if a substantial number of the individuals in the population served by the center are of limited English-speaking ability, the services of appropriate personnel fluent in the language spoken by a predominant number of such individuals) (42 USC 254b(b)(1)(A)(iv)).

(9) Education of patients and the general population served by the health center regarding the availability and proper use of health services (42 USC 254b(b)(1)(A)(v)).

(10) Substance abuse services for grantees with HCH grants (42 USC 254b(h)(2)).

b. Additional health services that may be provided as appropriate to meet the health needs of the population to be served include:

(1) Behavioral and mental health and substance abuse services 42 USC 254b(2)(A).

(2) Recuperative care services (42 USC 254b(b)(2)(B)).

(3) Environmental health services, including the detection and alleviation of unhealthful conditions associated with water supply, chemical, and pesticide exposures, air quality, or exposure to lead; sewage treatment; solid waste disposal; rodent and parasitic infestation; field sanitation; housing; and other environmental factors related to health (42 USC 254b(b)(2)(C)).

(4) For MHCs, special occupation-related health services for migratory and seasonal agricultural workers, including screening for and control of infectious diseases (including parasitic diseases) and injury prevention programs (including prevention of exposure to unsafe levels of agricultural chemicals including pesticides) (42 USC 254b(b)(2)(D)).

c. Funds may be used for the reimbursement of members of the grantee's governing board, if any, for reasonable expenses incurred because they participated in board activities (42 CFR sections 51c.107(b)(3) and 56.108(b)(3)).

d. Funds may be used for the cost of insurance for medical emergencies and out-of-area coverage (42 CFR section 51c.107(b)(6)).

e. Funds may be used for the acquisition and lease of buildings and equipment (including the costs of amortizing the principal of and paying the interest on, loans for equipment) (42 USC 254b(e)(2)).

f. Funds may be used for the costs of providing training related to the provision of required primary health care services and additional health services and to the management of health center programs (42 USC 254b(e)(2)).

2. *Activities Unallowed*

a. Federal funds awarded under the HCP may not be expended for any abortion. These limitations do not apply to an abortion (1) if the pregnancy is the result of an act of rape or incest; or (2) in the case when a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed (Further Consolidated Appropriations Act, 2024 (Pub. L. No. 118-47)). Refer to https://www.hrsa.gov/sites/default/files/hrsa/grants/manage/gpb2024-02e-legislative-mandates-grants-fy24.pdf. for further details on legislative mandates that limit the use of funds on HRSA grants and cooperative agreements including that federal funds may not be expended for health benefits coverage that includes abortion.

b. Federal funds awarded under the HCP may not be used to purchase sterile needles or syringes for the hypodermic injection of any illegal drug, provided that this limitation does not apply to the use of funds for elements of a program other than making such purchases if the relevant state or local health department, in consultation with the Centers for Disease Control and Prevention, determines that the state or local jurisdiction, as applicable, is experiencing, or is at risk for, a significant increase in hepatitis infections or an HIV outbreak due to injection drug use, and such program is operating in accordance with state and local law (Further Consolidated Appropriations Act, 2024 (Pub. L. No. 118-47)).

B. Allowable Costs/Cost Principles

Costs charged to federal funds under the HCP award funds must comply with the cost principles at 45 CFR Part 75, Subpart E, and any other requirements or restrictions on the use of federal funding.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

a. *Uniform Data System (UDS) (OMB No. 0915-0193)* – This system comprises two separate sets of reports that are submitted annually, the Universal Report and Grant Reports. The conditions for their use are:

i. Grantees that receive a single grant under the HCP or that receive CHC funding only are required to complete the *Universal Report*.

ii. Grantees that receive multiple awards (in addition to or other than CHC funding) must complete a *Universal Report* for the combined grants and individual *Grant Reports* for their HCH, MHC, and PHPC funding, if applicable.

The Key Line Items described below indicate which report would be reviewed based on the type of HCP grant award received. See UDS Resources for additional detail available at: https://bphc.hrsa.gov/data-reporting/uds-training-and-technical-assistance. UDS reporting manuals for previous years are available at: https://bphc.hrsa.gov/data-reporting/uds-training-and-technical-assistance/reporting-guidance#resources.

This information collection is mandatory under the HCP authorized by section 330 of the Public Health Service (PHS) Act (42 U.S.C. 254b)

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

1. The total number of patients (Table 4: Selected Patient Characteristics, Income as a Percent of Poverty Guidelines, Universal Report, Line 6 Column a) reflects the total number of health center patients served during the calendar year. Duplication in the patient count information is of specific concern for this key line item.
[Universal Report and if applicable, Grant Report]

2. Total Physician Clinic and Virtual Visits (Table 5: Staffing and Utilization, Line 8, Columns b (clinic visits) and b2 (virtual visits)) capture the total numbers of patient visits, delivered in-clinic and delivered virtually, attributed to physician personnel. Reported

visits must meet the criteria for a countable visit as defined in the UDS Reporting Manual.
[Universal Report and if applicable, Grant Report]

3. Total NPs, PAs, and CNMs Clinic and Virtual Visits (Table 5: Staffing and Utilization, Line 10a, columns b (clinic visits) and b2 (virtual visits)) captures total numbers of patient visits, delivered in-clinic and delivered virtually, attributed to Nurse Practitioners (NP), Physician Assistants (PA), and Certified Nurse-Midwives (CNM). Reported visits must meet the criteria for a countable visit as defined in the UDS Reporting Manual.
[Universal Report and if applicable, Grant Report]

~~4.~~ Total accrued cost before donations and after allocation of overhead (Table 8A: Financial Costs Line 17 Column c) captures data on total financial costs of all in-scope activities provided in the calendar year.
[Universal Report Only]

5. Total accrued medical staff and other medical costs after allocation of overhead excluding lab and x-ray costs (Table 8A: Financial Costs, Line 1, Column C and Table 8A, Line 3, Column C) captures the total cost After Allocation of Facility and Non-clinical Support Services for Medical Personnel and Medical/Other Direct costs.
[Universal Report Only]

6. Total BPHC Health Center Program grant(s) drawn down for the period from January 1 to December 31, of the calendar measurement year (Table 9E: Other Revenues, Line 1g, Column a).
[Universal Report Only]

7. Total accrued BPHC COVID-19 Supplemental grant(s) draw-down from January 1 to December 31, of the calendar measurement year (Table 9E: Other Revenues, Line 1q, Column a).
[Universal Report Only]

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3. L for audit guidance.

N. Special Tests and Provisions

1. Sliding Fee Discounts

Compliance Requirements Health centers must prepare and apply a sliding fee discount schedule (SFDS) so that the amounts owed for health center services by eligible patients are adjusted (discounted) based on the patient's ability to pay as follows:

a. Sliding fee discounts are applied to fees for health center services provided to all individuals and families with annual incomes at or below 200 percent of the Federal Poverty Guidelines (FPG);

b. A full discount is applied to fees for health center services provided to individuals and families with annual incomes at or below 100 percent of the FPG, or the health center applies only a nominal charge;

c. Fees for health center services are discounted based on gradations in family size and income for individuals and families with incomes above 100 and at or below 200 percent of the FPG; and

d. No sliding fee discount is applied to fees for health center services provided to individuals and families with annual incomes above 200 percent of the FPG.

(42 USC 254b(k)(3)(E), (F), and (G); 42 CFR sections 51c.303(e), (f), and (g); and 42 CFR sections 56.303(e), (f), and (g))

Audit Objectives Determine whether the health center has applied sliding fee discounts to patient charges consistent with its sliding fee discount schedule.

Suggested Audit Procedures

a. Review the health center's sliding fee discount schedule(s).

b. Review a sample of financial records for patients treated during the audit period to determine whether patient charges were appropriately adjusted based on income and family size by applying the health center's sliding fee discount schedule. (Note: Auditors are not required to test any documentation used to establish or verify income.)

2. Compliance with Further Consolidated Appropriations Act

Compliance Requirements Federal funds awarded under the HCP may not be expended for any abortion. These limitations do not apply to an abortion (1) if the pregnancy is the result of an act of rape or incest; or (2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the

pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed (Further Consolidated Appropriations Act, 2024 (Pub. L. No. 118-47)).

Audit Objectives: Determine whether the health center performs abortions and if so, whether it has policies and procedures in place to ensure compliance with the Further Consolidated Appropriations Act, 2024 (Pub. L. No. 118-47).

Suggested Audit Procedures

a. Inquire of the health center staff and examine the accounting records to determine whether any abortions were performed during the audit period. If not, no further procedures need to be undertaken by the auditor.

b. If abortions were performed during the period, determine whether policies and procedures are in place that address the appropriate use of federal funds awarded under the HCP, specifically related to ensuring that HCP grant funds are not used for abortion activities unless one of the exceptions in the Further Consolidated Appropriations Act described above is met. If no policies are in place, proceed to c. If policies are in place, proceed to d.

c. If internal controls over compliance with the Further Consolidated Appropriations Act described above that preclude certain abortion activities are absent or likely to be ineffective, see the alternative procedures in 2 CFR section 200.514(c)(4), including assessing the control risk at the maximum and considering whether reporting is required because of ineffective internal control.

d. Plan the testing of internal controls to support a low assessed level of control risk for compliance with the Further Consolidated Appropriations Act described above, which precludes certain abortion activities, and perform the testing of internal control as planned.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.268 IMMUNIZATION COOPERATIVE AGREEMENTS

I. PROGRAM OBJECTIVES

The objective of the Immunization Cooperative Agreement program is to reduce and ultimately eliminate vaccine preventable diseases (VPDs) by increasing and maintaining high immunization coverage. Emphasis is placed on populations at highest risk for under-immunization and disease, including children eligible under the Vaccines for Children (VFC) program.

II. PROGRAM PROCEDURES

The Immunization Cooperative Agreements program consists of two parts: discretionary Section 317 immunization funding and VFC financed with mandatory Medicaid (Assistance Listing 93.778) funding.

The objective of the discretionary Section 317 Immunization Cooperative Agreement program is to reduce and ultimately eliminate VPDs by increasing and maintaining high immunization coverage. Emphasis is placed on populations at highest risk for under-immunization and disease, which includes VFC-eligible children. The statute refers to development of programs for all individuals for whom vaccines are recommended, including infants, children, adolescents, and adults. The intent of the discretionary Section 317 funding is to supplement, not supplant, each grantee's immunization effort at the state/local level. The Centers for Disease Control and Prevention (CDC), through its cooperative agreement guidance, has identified the following areas of activity for programmatic emphasis and funding prioritization: reduce the number of indigenous cases of VPDs; ensure that all children are appropriately vaccinated; improve vaccine safety surveillance; increase routine vaccination coverage levels for adolescents; and increase the proportion of adults who are vaccinated annually against influenza and who have ever been vaccinated against pneumococcal disease.

VFC, which is authorized by and financed through Title XIX of the Social Security Act (Medicaid), is activity-based financial assistance and direct assistance in the form of vaccine-purchase funds and program operations funds to support implementation of the VFC program. VFC is administered by CDC and is funded entirely by the federal government. VFC funds are provided to eligible organizations to develop and operate programs designed to ensure effective delivery of vaccination services to eligible children through enrolled providers of medical care. Grantees are required to encourage a variety of providers to participate in the VFC program and to administer vaccines in an appropriate cultural context. Grantees also are required to ensure that providers comply with the requirements of the VFC program. Other criteria, detailed in annual cooperative agreement application guidance documents, may also apply.

Under VFC, children from birth through 18 years of age are eligible for VFC-purchased vaccine if they are Medicaid-eligible, American Indian/Alaskan Native, or without health insurance.

Children who are insured but whose insurance does also not cover vaccination are eligible to receive VFC vaccine at federally qualified health centers or rural health clinics. The intent of the VFC program is to increase vaccination coverage levels by reducing financial barriers to vaccination. The VFC program ensures that all eligible children receive the benefits of all recommended vaccines, thus strengthening immunity levels in their communities. The program also ensures that access to newly recommended vaccines for children in low-income and uninsured families does not lag behind that for children in middle- and upper-income families. In addition, the program helps to ensure that there is an adequate supply of routinely recommended vaccines when public health emergencies occur, including vaccine supply shortages.
VFC and Section 317 financial assistance (FA) is provided/obligated directly to immunization grantees for administrative and operations costs. Similarly, Section 317 FA is obligated to grantees for the purchase of vaccines not available through federal contracts. Funds for direct assistance (DA) vaccines are maintained at CDC and are periodically obligated to manufacturer contracts. Grantees are given estimated target budgets for their DA vaccine purchase needs. CDC uses these budgets as a control mechanism for vaccine orders.

Vaccines will be maintained by a federally contracted third party distributor that receives orders from and ships vaccine to providers. Periodically, when the federal distributors' inventory reaches certain minimum thresholds, the distributor makes a request to CDC for replenishment vaccines. CDC reviews these requests and assigns funding sources to them (VFC or 317) based on the aggregate of grantee-submitted spend plans. Orders for the vaccines are processed and sent to the appropriate manufacturer(s), referencing funds that were previously obligated to the manufacturer contracts. The manufacturer fulfills the order and ships the vaccines to the federally contracted distributor.

Source of Governing Requirements

These programs are authorized under 42 USC 247b, 42 USC 243, 42 USC 300aa-3, 300aa-25, and 300aa-26, 42 USC 1396s. Regulations specific to discretionary Section 317 grants may be found at 42 CFR Part 51b.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	N	Y	N	N	Y	N	Y

A. Activities Allowed or Unallowed

1. Discretionary Section 317 cooperative agreements funds may be used to establish and maintain a preventive health service program, including:

   a. Research into the prevention and control of diseases that may be prevented through vaccination;

   b. Demonstration projects for the prevention and control of such diseases;

   c. Public information and education programs for the prevention and control of such diseases;

   d. Education, training, and clinical skills improvement activities in the prevention and control of such diseases for health professionals; and

   e. Operational activities associated with the conduct of a successful immunization program (42 USC 247b(k)(1)).

2. The VFC program is intended primarily as a vaccine purchase and supply program for eligible children. VFC funds may be expended to support costs associated with the following:

   a. VFC vaccine ordering;

   b. VFC vaccine distribution for grantees that have not transitioned to a federally contracted vaccine distributor; and

   c. Direct VFC program operations, such as provider recruitment and enrollment, overall VFC program coordination, vaccine management and accountability, VFC provider accountability and site visit assessments, and VFC program evaluation (42 USC 1396s).

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

d. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Control, Accountability, and Safeguarding of Vaccine

Compliance Requirements Effective control and accountability must be maintained for all vaccine under the VFC program. Vaccine must be adequately safeguarded and used solely for authorized purposes (42 USC 1396s). This includes administration only to VFC program-eligible children, as defined in 42 USC 1396s(b)(2)(A)(i) through (A)(iv), regardless of the child's parent's ability to pay (42 USC 1396s(c)(2)(C)(iii)).

Audit Objectives Determine whether the grantee provides oversight of program-enrolled providers to ensure that proper control and accountability is maintained for vaccine, vaccine is properly safeguarded (based on guidance provided by CDC), and VFC-eligibility screening is conducted.

Suggested Audit Procedures

a. Determine if the grantee has a written procedure for overseeing program-enrolled providers that allows for sampling of provider's inventory records and assessment of storage procedures. Grantees are not required to sample the records of all providers.

b. Determine if the grantee sampled the provider's inventory records to ensure proper recording of receipt, transfer, and usage of vaccine.

c. Determine if the grantee reviewed the provider's storage of vaccine for proper safeguarding, including risks of loss from theft, expiration, or improper storage temperature.

d. Determine if the grantee reviewed a sample of provider medical records for documentation of eligibility screening.

e. Determine if the necessary follow-up procedures were followed if any deficiencies were identified.

2. Record of Immunization

Compliance Requirements A record of vaccine administered shall be made in each person's permanent medical record (or in a permanent office log or file to which a legal representative shall have access upon request) (42 USC 300aa-25), which includes:

a. Date of administration of the vaccine;

b. Vaccine manufacturer and lot number of the vaccine; and

c. Name and address and, if appropriate, the title of the health care provider administering the vaccine.

Audit Objectives Determine whether the grantee provides oversight of vaccinating providers to ensure that the required information has been recorded for vaccine recipients.

Suggested Audit Procedures

a. Determine if the grantee has a written procedure for ensuring that the required information has been recorded for vaccine recipients.

b. Determine if the grantee tested a sample of vaccination records to ascertain if the required information was maintained.

c. Determine if the grantee took any follow-up action if the required records and information were not maintained.

IV. OTHER INFORMATION

After the end of each month and after the end of each federal fiscal year, CDC advises each grantee of the value of all federally funded vaccine which was distributed, in lieu of cash,

directly to the grantee and/or on behalf of the grantee to vaccinating providers located in the grantee's geographical area. The annual dollar value of federally funded vaccine should be treated by the grantee as expenditures under a federal award for purposes of determining audit coverage and reporting on the Schedule of Expenditures of Federal Awards. Vaccinating providers and vaccinated individuals are not considered subrecipients; therefore, the value of vaccine received is not considered as expenditures under a federal award for purposes of determining audit coverage and reporting for those entities.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.423 1332 STATE INNOVATION WAIVERS

I. PROGRAM OBJECTIVES

The purpose of the State Innovation Waiver (1332 waiver) is to permit states to pursue innovative strategies for providing their residents with access to high-quality, affordable health insurance while retaining the basic protections of the PPACA (42 USC § 18052). The 1332 waivers allow states to implement innovative ways to provide access to quality health care that is at least as comprehensive and affordable as would be provided absent the waiver, provides coverage to a comparable number of residents of the state as would be provided coverage absent a waiver, and does not increase the federal deficit.

II. PROGRAM PROCEDURES

Section 1332 provides the secretaries of Health and Human Services (HHS) and the US Department of the Treasury (the Treasury) (collectively referred to in this document as "the Departments") with the discretion to approve a state's proposal to waive specific provisions of the PPACA (42 USC § 18052), provided the proposal meets certain requirements (stated above). Upon receipt of an application, the Centers for Medicare & Medicaid Services' (CMS) Center for Consumer Information and Insurance Oversight (CCIIO) and Treasury's Office of Tax Policy will coordinate the review and approval process with the Departments and applicable federal agencies (this may vary based on the type of application). CCIIO will provide coordination support, including management of the State Innovation Waiver mailbox. A state seeking a waiver should apply by submitting a completed application in electronic format to stateinnovationwaivers@cms.hhs.gov.

A State Innovation Waiver Cross-Component Work Group (1332 workgroup) includes subject matter experts and key contacts from the departments and other federal agencies, as needed, to examine the scope of each application. Each application is examined to certify that a waiver meets the guardrail requirements including the comprehensiveness standard (as required under the statute). While the 1332 workgroup does not have approval authority itself, it will ensure that the Departments are involved at all levels of the application review process prior to rendering a final decision. Each waiver application is reviewed for completeness, and then approved or denied, as appropriate.

Once a state's 1332 waiver application has been reviewed and approved, there is a coordinated grants management and oversight and monitoring process. The grant funding is linked to pass-through funding calculations, which are completed annually based on data that states must report back to the departments every year to fulfill regulatory oversight, monitoring, and compliance requirements. The state is entitled to the equivalent of forgone exchange financial assistance (e.g., Premium Tax Credits) that the state would have received absent the waiver. This requires modeling both the waiver and non-waiver health insurance markets in the state, specifically

exchange premiums, and the resulting financial assistance the state would have received absent the waiver. This provides for little discretion related to the amount of pass-through funding and grant-award amount except to devise the most appropriate methodology to model the waiver and non-waiver markets in the state. State Innovation Waivers are available for effective dates beginning on or after January 1, 2017. Funds are available for expenditure by grantees for a period of up to five years effective on the date specified in the grant specific terms and conditions (STCs), and states have the option to extend their waiver program beyond the initial five-year period of performance.

Source of Governing Requirements

The 1332 waiver program is authorized by the PPACA (Pub. L. No. 111-148) (March 23, 2010), which was amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152). The Departments promulgated implementing regulations in 2012, which are codified at 45 CFR Part 155 (Health and Human Services) and 31 CFR Part 33 (Treasury), respectively.

Availability of Other Program Information

1. CCIIO has published general program information, including guidance on application requirements on its website at https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_State_Innovation_Waivers-.html.

2. CCIIO has also developed a checklist for Section 1332 State Innovation Waiver applications, including specific items applicable to high-risk pool/state-operated reinsurance program applications at https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/Checklist-for-Section-1332-State-Innovation-Waiver-Applications-5517-c.pdf.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	N	N	Y	N	Y	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

a. Individual awards are based on the waiver application approved by the Departments and are subject to the STCs in the Notice of Award (NoA). Activities are allowable as indicated in the grant STCs.

b. 1332 waivers allow the state to waive certain provisions of PPACA and the Internal Revenue Code (IRC) to allow for state innovation. Activities are allowable (as approved in the waiver application approval process) that enable the state to:

(1) Modify or eliminate qualified health plan (QHP) certification and the exchanges as the vehicle for determining eligibility for subsidies and enrolling consumers in coverage.

(a) *Waives Part I of Subtitle D of the PPACA related to the establishment of QHPs.*

(b) *Waives Part II of Subtitle D of the PPACA related to the establishment of health insurance exchanges and related activities.*

(2) Modify the rules governing covered benefits and subsidies.

(a) *Waives Section 1402 of the PPACA related to cost-sharing subsidies to eligible individuals who purchase non-group health insurance through a health insurance exchange.*

(b) *Waives Section 36B of IRC related to premium tax credits to eligible individuals who purchase non-group health insurance through an exchange.*

(3) Modify or eliminate penalties on large employers who fail to offer affordable coverage to their full-time employees.

(a) *Waives Section 4980H of the IRC shared responsibility requirement for large employers (employer mandate).*

(b) *Waives Section 5000A of the IRC related to the requirement for individuals to maintain health insurance coverage (individual mandate).*

c. 1332 waiver funds may be used for all program services consistent with the four criteria or "guardrails" in the statute:

(1) *Comprehensive Coverage* – States must provide coverage that is "at least as comprehensive" as coverage absent the waiver.

(2) *Affordable Coverage* – States must provide "coverage and cost-sharing protections against excessive out-of-pocket spending that are at least as affordable" as coverage absent the waiver.

(3) *Scope of Coverage* – States must provide coverage to "at least a comparable number of residents" as would have been covered without the waiver.

(4) *Federal Deficit* – The waiver must not increase the federal deficit.

(a) 1332 waivers allow states to modify the rules regarding covered benefits, subsidies, insurance marketplaces, and individual and employer mandates **only** if they meet these statutory "guardrails."

2. *Activities Unallowed*

a. 1332 waiver funds may not be used for any program activities that are beyond the scope of the "guardrails" or are not consistent with the state's approved waiver application and the grant STCs.

b. Promotional items and capital or operating costs unassociated with the approved activities are not allowable.

B. Allowable Costs/Cost Principles

1. Costs charged to federal funds under the 1332 Waiver program must comply with the cost principles at 45 CFR Part 75, Subpart E, and any other requirements or restrictions on the use of federal funding outlined in the grant STCs.

2. Grantees should supplement 1332 waiver funds with state funds or other sources of funding to implement the waiver program as needed. States are responsible for

making up any budget shortfalls to ensure that they fully implement the activities of their waiver program.

3. Grantees must comply with the HHS Grants Policy Statement and have approved documentation to prove pass-through funds were used for approved 1332 waiver activities. Sufficient evidence (as indicated in the approved waiver application) is required to substantiate any drawdown of funding from the Payment Management System (PMS).

4. Prospective and retroactive payments are allowed depending on the business model and grantee need in congruence with the STCs.

   a. Grantees may make **prospective drawdowns** of funds prior to the completion of approved, funded activities after providing sufficient evidence of need when requesting to drawdown funds (as outlined in the waiver application).

   b. Grantees may make **retroactive drawdowns** of funds as reimbursement for invoices received following completion of approved waiver activities (Reinsurance and Small Business Health Options program waivers fall under this category).

5. Agreed upon indirect costs are allowable using the current approved Negotiated Indirect Cost Rate Agreement.

C. Cash Management

1. Under the 1332 Waiver program, funds awarded in a fiscal year are not required to be expended in that same fiscal year. Grantees may roll over unused funds awarded during the prior year for use in the following fiscal year for purposes of implementing the waiver program.

2. Grantees must comply with the HHS Grants Policy Statement and are required to maintain written policies and procedures to minimize the time elapsing between the transfer of funds from PMS and the disbursement of those funds by the recipient. The amount of time a grantee holds funds may not exceed three days. However, grantees are permitted to have access to the entire award amount in PMS until business needs dictate that they drawdown funds for the 1332 Waiver program.

3. Grantees must comply with the fiscal and budgetary reporting requirements and the grant STCs (SF424 and SF424a).

4. Unless otherwise specified in the grant STCs, grantees will request funds directly from PMS and are not able to hold drawdown funds in their bank account for longer than three days. All funds must either be distributed by the grantee or returned to the Treasury within three days.

5. Grantees are encouraged to use the cash-basis accounting method.

6. Grantees are not required to track the hourly wages of each employee that was paid by the grant vs. paid by program revenue. It is not a program requirement that these employees be tracked by the hour, but rather tracked by a percentage.

I. Procurement and Suspension and Debarment

1. States must comply with the same policies and procedures they use for procurements from their nonfederal funds. Nonfederal entities other than states, including those operating federal programs as subrecipients of states, must follow the procurement standards set out in 2 CFR 200. They must use their own documented procurement procedures, which reflect applicable state and local laws and regulations, provided that the procurements conform to applicable federal statutes and the procurement requirements identified in 2 CFR 200.

2. Nonfederal entities and contractors are subject to the non-procurement debarment and suspension regulations. Grantees must regularly monitor the System for Award Management (SAM) for suspensions and debarments prior to issuing any subawards or contracts. Any parties that are debarred, suspended, or otherwise excluded are ineligible for participation in federal assistance programs or activities.

3. Grantees must comply with the requirement to maintain an active SAM registration. This requires that grantees review and update Central Contractor Registration (CCR) information at least annually after the initial registration, and more frequently if required by changes in the information.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable.

2. Performance Reporting

Not Applicable

3. Special Reporting

Not applicable.

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L. for audit guidance.

M. Subrecipient Monitoring

See Part 3.M. for audit guidance.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.472 TITLE IV-E PREVENTION PROGRAM

I. PROGRAM OBJECTIVES

The objective of the Prevention program is to permit agencies authorized to administer Title IV-E programs to prevent the removal of children from their homes by providing time-limited prevention services for mental health, substance abuse, and in-home parent skill-based programs for children or youth who are candidates for foster care, pregnant or parenting youth in foster care, and the parents or kin caregivers of those children and youth.

II. PROGRAM PROCEDURES

Overview

The Prevention program is administered at the federal level by the Children's Bureau, Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS). Funding is provided (at the option of the Title IV-E agency) to the 50 states, the District of Columbia, Puerto Rico, the US Virgin Islands, and federally recognized Indian tribes, Indian tribal organizations, and tribal consortia with approved Title IV-E plans, based on a Title IV-E plan and amendments, as required by changes in statutes, rules, and regulations submitted to and approved by the ACF Children's Bureau Associate Commissioner.

The Prevention program provides federal matching funds to Title IV-E agencies with an approved five-year Title IV-E prevention program plan (five-year plan) for provision of time-limited prevention services consisting of mental health and substance abuse prevention and treatment services provided by qualified clinicians, and in-home parent skill-based programs that include parenting skills training, parent education, and individual and family counseling that have been rated and approved by the Title IV-E Prevention Services Clearinghouse and are identified in the state's five-year plan. This funding became available for periods on or after October 1, 2019 with the enactment of amendments to the Social Security Act through Public Law (P.L.) 115-123, Family First Prevention Services Act on February 9, 2018 (42 USC 674(a)(6)). The state or tribal Title IV-E agency may implement and claim allowable Prevention program costs beginning on the first day of the quarter in which an approvable five-year Title IV-E prevention plan is submitted to ACF to implement the Prevention program (45 CFR section 1356.20(c)(8)). The program is considered an open-ended entitlement program and allows the state (including the District of Columbia, Puerto Rico, and the US Virgin Islands) or tribe to be funded at a specified percentage (federal financial participation (FFP)) for program costs for eligible children. The program also provides matching funds for administrative or training costs associated with serving these eligible children.

The designated state or tribal agency for this program, which is authorized under Title IV-E of the Social Security Act, as amended, also administers ACF funding provided for other Title IV-E programs (e.g., (Foster Care (Assistance Listing 93.658); Adoption Assistance (Assistance Listing 93.659); Guardianship Assistance (Assistance Listing 93.090) at agency option; Kinship Navigator (Assistance Listing 93.471) at agency option; and John H. Chafee Foster Care

Program for Successful Transition to Adulthood (Assistance Listing 93.674), as well as Child Welfare Services (Assistance Listing 93.645) and Promoting Safe and Stable Families (Assistance Listing 93.556) programs (Title IV-B of the Social Security Act, as amended) (Assistance Listing 93.556) funds available to states and those tribes qualifying for at least a minimum award of $10,000); and the Social Services Block Grant program (Assistance Listing 93.667) (Title XX of the Social Security Act, as amended) (states only)).

The Title IV-E agency may either directly administer the Prevention program or supervise its administration by local-level governmental agencies. The program must be administered in accordance with the approved Title IV-E plan (including the five-year plan) and all program requirements. The Title IV-E agency is not required to provide services in all of its Title IV-E service area, nor is the Title IV-E agency required to provide the same type of prevention services in all of its Title IV-E service area (42 USC 671(a)(1), 42 USC 671(e)(1), and 42 USC 679c(c)(1)(C)(i)(IV) and (c)(1)(E)).

Source of Governing Requirements

The Prevention program is authorized by Title IV-E of the Social Security Act, as amended (42 USC 670 et seq.). This includes those amendments made by the Family First Prevention Services Act (Pub. L. No. 115-123), the Substance Use–Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (Pub. L. No. 115-271), and the Family First Transition Act within Section 602, Subtitle F, Title I, Division N of the Further Consolidated Appropriations Act, 2020 (Pub. L. No. 116-94).

States and tribes are required to adopt and adhere to their statutes and regulations for program implementation, consistent with the requirements of Title IV-E and the approved Title IV-E plan. General Title IV-E program and plan requirements (including regulations at 45 CFR 1355 and 1356) that are not specifically limited to the Title IV-E foster care maintenance payment or adoption assistance programs also apply to the Title IV-E prevention program. These provisions address topics such as agency organization and program administration, program audits and monitoring, confidentiality of information, and fair hearings (42 USC 671(a)(2), 671(a)(4) through 671(a)(9)(A) and (B), 671(a)(12), 671(a)(13), and 671(a)(32)).

The regulations at 45 CFR Part 75 specifying uniform administrative requirements, cost principles, and audit requirements for HHS awards apply to the Prevention program. However, in accordance with 45 CFR sections 75.101(e)(1)(iii) and 75.101(e)(2), except for 45 CFR section 75.202, the guidance in Subpart C of 45 CFR Part 75 does not apply.

Availability of Other Program Information

The Children's Bureau manages a policy issuance system that provides further clarification of the law and guides states and tribes in implementing the Prevention program. This information and links to further information on the Prevention program may be accessed at https://www.acf.hhs.gov/cb/laws-policies and Title IV-E Prevention Program | The Administration for Children and Families (hhs.gov).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	Y	N	N	N	Y	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

a. *Delivery of Prevention Services and Programs to Eligible Recipients* - Funds may be expended for provision of services for mental health and substance abuse prevention and treatment services provided by qualified clinicians, and in-home parent skill-based programs that include parenting skills training, parent education, and individual and family counseling that are identified in the Title IV-E agency's five-year Title IV-E prevention program plan. The needs of the child, parent, or caregiver for the services must be directly related to the safety, permanence, or wellbeing of the child or to preventing the child from entering foster care. These services may be provided for not more than a 12-month period that begins on the date on which a child is identified in a prevention plan as a child who is a candidate for foster care as a pregnant or as a parenting foster youth in need of services or programs as specified above. The provision of prevention services may continue until the last day of the 12th month if services were provided for the entire 12-month period, or if services are provided for less than the entire 12-month period, the end of the month in which the child's Title IV-E prevention services ended. A Title IV-E

agency may provide Title IV-E prevention services to or on behalf of the same child for additional 12-month periods, including for contiguous 12-month periods if it determines and documents in the child's prevention plan that the otherwise eligible candidate for foster care or pregnant/parenting youth continues to meet the requirements for either designation in the child's prevention plan (42 USC 671(e)(1-5), and 42 675(13)).

For state Title IV-E agencies, Title IV-E prevention services and programs must have been rated and approved by the Title IV-E Prevention Services Clearinghouse: https://preventionservices.acf.hhs.gov/. For tribal Title IV-E agencies, the practice criteria may be determined by the tribe for family services and programs services that are adapted to the culture and context of the tribal communities served and must be described in the five-year Title IV-E prevention program plan. On or after June 30, 2024, tribes providing Title IV-E prevention services and programs operating under a Title IV-E agreement with a Title IV-E agency (state or tribe) in accordance with section 472(a)(2)(B)(ii) of the Social Security Act (Act) may also determine the practice criteria for family services and programs services that are adapted to the culture and context of the tribal communities served. The practice criteria must then be described in the Title IV-E agency's five-year Title IV-E prevention program plan (42 USC 671(e)(4)(C), 42 USC 671(e)(5), 42 USC 679c(c)(1)(E)(i) the Child Welfare Policy Manual section 8.6 Q/A's #1-2 available at https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=630.

Title IV-E prevention services must be provided under an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma and in accordance with recognized principles of a trauma-informed approach and trauma-specific interventions to address trauma's consequences and facilitate healing (42 USC 671(e)(4)(B)).

At least 50 percent of the amounts expended by the state for a federal fiscal year (FFY) for the Title IV-E prevention program as provision of services costs must be for services that meet the well-supported practice criteria in FFY2024 and in all subsequent FFYs (42 USC 674(a)(6)(A)(ii)).

b. *Administrative Costs* – Title IV-E agencies may claim Title IV-E prevention administrative costs beginning on the effective date of the state's approved five-year prevention plan. Allowable agency activities may include developing necessary processes and procedures to establish, revise, and implement the provision of prevention services for eligible individuals, policy development, program management, and data collection and reporting.

Child-specific administrative costs may be claimed for allowable activities from the beginning of the month in which the child is identified in a prevention plan until the end of the 12th month, if services were provided for the entire 12-month period, or if the services are provided for less than the entire 12-month period, the end of the month the child's Title IV-E prevention services ended. These Title IV-E prevention services could include amounts paid by another source (e.g., Medicaid), if the child has a Title IV-E prevention plan in accordance with section 471(e)(4)(A) of the Act and the prevention services listed in that plan are being provided.

Child-specific allowable administrative activities are those that comport with or are closely related to one of the listed activities at 45 CFR 1356.60(c)(2), such as the development and maintenance of the child's prevention plan as defined in section 471(e)(4)(A) of the Act and case management activities such as verification and documentation of program eligibility, referral to services, and outreach to provide information and coordinate services and connect families with resources including providing child care to facilitate a parent or kin caretaker participation in provision of prevention services. Administrative costs for data collection and reporting may be claimed beyond the child's Title IV-E prevention service period to meet the requirements in section 471(e)(4)(E) of the Act (42 USC 674(a)(6)(B)(i) and Child Welfare Policy Manual section 8.6C.1 Q/A's #1-4 available at https://acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=641).

c. *Training Costs* – Funds may be expended for training for personnel employed or preparing for employment by the Title IV-E agency or by the local agency administering the plan in the political subdivision and of the members of the staff of state/tribal-licensed or approved child welfare agencies providing services to children who are candidates for foster care and pregnant/parenting foster youth (and their parents or kin caregivers). Allowable training topics include how to determine who is eligible for the Title IV-E prevention program, how to identify and provide appropriate services, and how to oversee and evaluate the ongoing appropriateness of the services (42 USC 674(a)(6)(B)(ii)).

d. *Cost Allocation Plan* – All state agency costs, which include administrative and training costs but exclude service provision costs, must be in accordance with a state's approved public assistance cost allocation plan (PACAP). For tribal Title IV-E agencies, these costs are addressed in an approved Cost Allocation Methodology (CAM). The implementation of the Title IV-E prevention program may require submission of an amendment to a state's PACAP or a tribe's CAM (45 CFR Part 95, Subpart E and Program Instruction ACYF-CB-PI-10-13 available at https://www.acf.hhs.gov/cb/policy-guidance/pi-10-13).

2. *Activities Unallowed*

a. *Child Protective Services Investigatory Activities* – Performance of investigations, physical or mental examinations or evaluations are not allowable administrative costs for the Title IV-E prevention program (45 CFR 1356.60(c)(2)).

b. *Prevention Services and Programs Practice Criteria* – For state Title IV-E agencies, funds may not be used for prevention services or programs that ACF determines do not meet the applicable criteria as promising, supported, or well-supported practices (42 USC 671(e)(4)(C)).

c. *Payor of Last Resort* – If the cost of providing a Title IV-E prevention service to an individual would have been paid from another public or private source if not for the enactment of the Title IV-E prevention program, a Title IV-E agency is not considered to be a legally liable third party for the cost of providing such services to that individual with one exception; a Title IV-E agency may use Title IV-E prevention program funding under section 474(a)(6) of the Act to pay a provider for these services to prevent delaying the timely provision of appropriate early intervention services (pending reimbursement from the public or private source that has ultimate responsibility for the payment) (42 USC 671(e)(10)(C)).

B. Allowable Costs/Cost Principles

Both states and tribes are subject to the requirements of 2 CFR Part 200, Subpart E, as implemented by HHS at 45 CFR Part 75. States also are subject to the cost allocation provisions and rules governing allowable costs of equipment of 45 CFR Part 95 (45 CFR sections 1355.57, 95.503, and 95.705).

E. Eligibility

1. Eligibility for Individuals

Prevention services benefits may be paid on behalf of a child described in section 471(e)(2) of the Act and their parents or kin caregivers, only if all of the following requirements are met:

a. *Child's Prevention Plan* – The child is identified in a prevention plan as either "a candidate for foster care" as defined in section 475(13) of the Act but can remain safely at home or in a kinship placement with receipt of services or programs, or as "a pregnant or parenting foster youth" (term not further defined in statute or policy) in need of Title IV-E prevention services. This identification must occur in advance of the services being provided (42 USC 671(e)(2)).

b. *Candidate for Foster Care* – For a child who is identified as a "child who is a candidate for foster care," the child's prevention plan must:

• identify the child as being at imminent risk of entering foster care (without regard to whether the child would be eligible for Title IV-E foster care maintenance payments, title IV-E adoption assistance or Title IV-E kinship guardianship assistance payments), but who can remain safely in the child's home or in a kinship placement as long as the Title IV-E prevention services that are necessary to prevent the entry of the child into foster care are provided;
• identify the foster care prevention strategy for the child so that the child may remain safely at home, live temporarily with a kin caregiver until reunification can be safely achieved, or live permanently with a kin caregiver; and
• list the services to be provided to or on behalf of the child to ensure the success of that prevention strategy (42 USC 671(e)(4)(A)(i)).

A child may not be simultaneously in foster care and a "child who is a candidate for foster care." If a child who had been identified as a candidate for foster care under the Title IV-E prevention program enters foster care, reimbursement for the child under the Title IV-E prevention program must end once the child enters foster care (45 CFR 1355.20).

c. *Pregnant or Parenting Foster Youth* – For a child who is identified as a pregnant or parenting foster youth, the child's prevention plan must:

• be included in the youth's foster care case plan;
• list the services to be provided to or on behalf of the youth to ensure that the youth is prepared (in the case of a pregnant foster youth) or able (in the case of a parenting foster youth) to be a parent; and
• describe the foster care prevention strategy for any child born to the youth (42 USC 671(e)(4)(A)(ii)).

d. *Age* – The definition of a "child" for the Title IV-E prevention program is someone who has not yet attained age 18 or, if so elected by the Title IV-E agency in its Title IV-E plan, not attained age 19, age 20 or age 21 (42 USC 671(e)(4)(A)(i) and (ii)).

For a Title IV-E agency that defines the age of a child as including a youth aged 18 or older, an otherwise eligible "child who is a candidate for foster care" who has attained age 18 could be eligible for the Title IV-E prevention program if:

• a Title IV-E adoption assistance or guardianship assistance agreement is in effect with respect to the youth (that went into effect after the child attained 16 years of age);
• the youth's adoption or guardianship arrangement is at risk of a disruption or dissolution that would result in a foster care placement (section 475(13) of the Act);
• the youth meets the state's education/employment conditions as elected under Title IV-E; and
• the youth has not yet reached the state's highest elected age under Title IV-E (19, 20 or 21).

For a Title IV-E agency that defines the age of a child as including a youth aged 18 or older, a youth who is an otherwise eligible pregnant or parenting youth in foster care who has attained age 18 could be eligible for the Title IV-E prevention program if:
• the youth meets the state's education/employment conditions as elected under Title IV-E; and
• the youth has not yet reached the state's highest elected age under Title IV-E (19, 20 or 21).

e. *Eligibility End Date Based on Age of the Youth* – If an otherwise eligible youth will be attaining age 18 (or a higher elected applicable age definition for a child per the Title IV-E agency's Title IV-E plan), provision of Title IV-E prevention services for or on behalf of that youth can continue only until the day the youth attains that age. Title IV-E prevention child-specific administrative costs for such a youth may continue until the end of the month in which the youth no longer meets the applicable definition of a child (Program Instruction ACF-ACYF-CB-PI-24-07 available at State Requirements for Electing Title IV-E Prevention and Family Services and Programs).

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

Not Applicable

3. **Eligibility for Subrecipients**

Not Applicable

G. Matching, Level of Effort, Earmarking

1. **Matching**

The percentage of required state/tribal funding and associated federal funding ("federal financial participation") varies by type of expenditure as follows:

a. Third party in-kind contributions cannot be used to meet the non-federal cost sharing requirements for the Title IV-E prevention program. 45 CFR section 75.306 is not applicable to this program, (45 CFR sections 1355.30(i) and 1355.30(n)(1); 45 CFR section 201.5(e)). Although tribes directly operating Title IV-E foster care, adoption assistance and guardianship assistance programs are permitted to use in-kind funds from any allowable third-party sources to provide up to the full required non-federal share of administrative or training costs (42 USC. 679c(c)(1)(D)(iv), and 45 CFR 1356.68(c)), this provision does not apply to the Title IV-E prevention program (Child Welfare Policy Manual Section 8.1F.Q/A #2).

b. *Prevention Services Provision of Services Costs* – The percentage of Title IV-E funding in prevention services or programs provision costs is 50 percent for periods through FFY 2026 and will be at the applicable state or tribal FMAP rate for periods beginning in FFY 2027 and later (42 USC 674(a)(6)(A)(i)).

c. *Administrative Costs* – The percentage of Title IV-E funding for the proper and efficient administration of the Title IV-E prevention five-year plan is 50 percent for all periods this plan is in effect (42 USC 674(a)(6)(B)(i).

d. *Training Costs* – The percentage of Title IV-E funding for training of personnel employed or preparing for employment by the Title IV-E agency or by the local agency administering the plan in the political subdivision and of the members of the staff of State or Tribe-licensed or State or Tribe-approved child welfare agencies providing Title IV-E prevention services is 50 percent for all periods this plan is in effect (42 USC 674(a)(6)(B)(ii).

e. *Prohibition on Use of Non-Title IV – E Prevention Services Expenditures as a Source of Non-Federal Match* – Title IV-E agencies may not use state expenditures made under a federal program other than the Title IV-E prevention program or under another state program for foster care prevention activities for the state share of expenditures under the Title IV-E prevention program (42 USC 671(e)(8)).

2. **Level of Effort**

2.1 Level of Effort – *Maintenance of Effort*

Not Applicable.

2.2 Level of Effort – *Supplement Not Supplant*

a. States must use Title IV-E prevention services to supplement, and not supplant base year (FFY 2014 or, if applicable, an optional alternate of FFY 2015 or FFY 2016) "state foster care prevention expenditures" as defined in the statute. State foster care prevention expenditures for each FFY may not be less than the amount of the expenditures for the applicable base FFY (42 USC 671(e)(7)).

b. States administering the Title IV-E prevention program must report state expenditures for foster care prevention services and activities for the base year and for such FFYs thereafter as are necessary to determine whether the state is complying with the maintenance of effort requirement (42 USC 671(e)(7)(D)).

3. **Earmarking**

a. For state Title IV-E agencies, at least 50 percent of the amounts expended for provision of services by the state for a FFY for the Title IV-E prevention program must be for services that meet the well-supported practice criteria in FFY 2024 and in each subsequent FFY. This provision is not applicable to tribes participating in the Title IV-E prevention program either through direct administration of a Title IV-E five-year plan or through a Title IV-E agreement as per section 472(a)(2)(B)(ii) of the Act with a Title IV-E agency (42 USC 674(a)(6)(A)(ii) and Child Welfare Policy Manual section 8.6 Q/A #2 available at https://acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=630).

L. Reporting

1. **Financial Reporting**

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

d. *CB-496, Title IV-E Programs Quarterly Financial Report (OMB No. 0970-0510)* – Title IV-E agencies report current expenditures and information on children assisted for the quarter that has just ended and estimates of expenditures and children to be assisted for the next quarter. Prior quarter adjustment (increasing and decreasing) expenditures applicable to earlier quarters must also be separately reported on this form.

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

1. Part 1 [Expenditures and Estimates (Including Caseload Data)]
a). Lines 37 – 38b [expenditures for agency delivery of allowable prevention services and programs meeting differing practice level criteria (i.e., well-supported, supported and, promising) made directly by the Title IV-E agency to a provider or to a pass-through organization other than a tribe with a title IV-E section 472(a) agreement]

   b). Line 40 [Prevention Services Administrative Costs – Prevention Planning and Agency Management.]

   c.) Line 60a [Number of Children: Agency Title IV-E Prevention Services – Any Services (Current Quarter)]

2. Part 2 [Prior Quarter Expenditure Adjustments – Prevention Services] in funding category codes as follows:

   PWP – Prevention Services Provision - Well Supported Practices (Part 1, Line 37)
   PSP – Prevention Services Provision - Supported Practices (Part 1, Line 38a)
   PPP – Prevention Services Provision - Promising Practices Part 1, Line 38b)
   PAM – Prevention Services Administrative Costs – Prevention Planning and Agency Management (Part 1, Line 40)

2. **Performance Reporting**

   Not Applicable.

3. **Special Reporting**

   Not Applicable

4. **Special Reporting for Federal Funding Accountability and Transparency Act**

   See Part 3.L for audit guidance.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.489 CHILD CARE DISASTER RELIEF

ASSISTANCE LISTING 93.575 CHILD CARE AND DEVELOPMENT BLOCK GRANT

ASSISTANCE LISTING 93.596 CHILD CARE MANDATORY AND MATCHING FUNDS OF THE CHILD CARE AND DEVELOPMENT FUND

I. PROGRAM OBJECTIVES

The Child Care and Development Fund (CCDF) provides funds to states, territories, and Indian tribes (tribes) to increase the availability, affordability, and quality of child care services. Funds are used to subsidize child care for families with low incomes where the parents are working or attending training or educational programs, as well as for activities to promote overall child care quality for all children, regardless of subsidy receipt.

II. PROGRAM PROCEDURES

The Office of Child Care (OCC), Administration for Children and Families (ACF), Department of Health and Human Services (HHS), administers the CCDF. The CCDF consists of three distinct funding sources: Discretionary Fund (Assistance Listing 93.575), Mandatory Fund (Assistance Listing 93.596), and Matching Fund (Assistance Listing 93.596). Some states, territories, and tribes are also eligible for Child Care Disaster Relief funds (Assistance Listing 93.489); these funds may be used for any allowable CCDF activity as well as for construction or renovation of child care facilities to support recovery from specified federally declared disasters and emergencies. Additionally, under the Temporary Assistance for Needy Families (TANF) program (Assistance Listing 93.558), a state may transfer TANF funds to CCDF and, if so, the funds transferred are treated as Discretionary Funds (42 USC 604(d); 45 CFR section 98.54(a)). To receive funds, a state, territory, or tribe must submit a CCDF plan to OCC containing specific information and assurances. The plan serves as the application for funding for states, territories, and tribes, and is effective for three years. For states, the three-year plans relevant to this audit period cover the FY2022-2024 Plan and the FY2025-2027 Plan. For tribes, the three-year plans relevant to this audit period cover FY2023-2025 (see “Source of Governing Requirements” below for more context).

Following ACF approval of the plan, funds are awarded to a Lead Agency based on statutory/regulatory formulas. The Lead Agency is the designated state, territorial or tribal entity that is accountable for administering the CCDF program. State awards are not adjusted by separate direct federal funding of counterpart tribal programs within the state. As long as statutory and regulatory requirements are met, recipients have flexibility in designing programs and offering services. For example, CCDF funds may be used in collaborative efforts with Head Start (Assistance Listing 93.600), including Early Head Start, programs to provide comprehensive child care and development services for children who are eligible for both programs. The coordination and collaboration between Head Start/Early Head Start and the

CCDF are strongly encouraged by sections 640(g)(1)(D) and (E), 640(h), 641(d)(2)(H)(v), and 642(e)(3) of the Head Start Act in the provision of full working day, full calendar year comprehensive services. To implement such collaborative programs, which share, for example, space, equipment, or materials, recipients may layer several funding streams so that seamless services are provided.

Pub. L. No. 102-477

Tribes may operate the CCDF program under a consolidated Pub. L. No. 102-477 plan. Pub. L. No. 102-477 refers to the Indian Employment, Training, and Related Services Demonstration Act of 1992, which was amended by the Indian Employment, Training, and Related Services Consolidation Act of 2017 (Pub. L. No. 106-568). The purpose of this law is to provide for the integration of employment, training, and related services to improve the effectiveness of those services. Under Pub. L. No. 102-477, funds received from a program must be used and spent in accordance with the applicable rules for that program, subject to any waivers granted by the Secretary of HHS. Tribes participating under Pub. L. No. 102-477 submit consolidated plans and reports to the Department of the Interior, which serves as the lead federal agency for Pub. L. No. 102-477. The separate 477 Cluster is applicable for an audit of an Indian tribal government's approved 477 plan. See IV, "Other Information" – Tribal CCDF recipients under a Pub. L. No. 102-477 Project (477).

Source of Governing Requirements

CCDF Discretionary Funds (Assistance Listing 93.575) are authorized by the CCDBG Act of 1990, as amended (most recently by the CCDBG Act of 2014 (Pub. L. No. 113-186), discussed further below), and codified at 42 USC 9857 et seq. Discretionary Funds are subject to annual appropriation; FY 2024 Discretionary CCDF Funds were appropriated in the FY2024 Further Consolidated Appropriations Act (Pub. L. No. 118-47). The Mandatory and Matching Funds (Assistance Listing 93.596) are authorized under section 418 of Title IV-A of the Social Security Act as amended and codified at 42 USC 618. The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (Pub. L. No. 116-136) and the Consolidated Appropriations Act of 2021 and Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA Act) of 2021 (Pub. L. No. 116-260) provided supplemental appropriations to prevent, prepare for, and respond to the coronavirus. The American Rescue Plan Act (ARP Act) (Pub. L. No. 117-2) (https://www.congress.gov/public-laws/117th-congress) provided supplemental funds for child care stabilization to support the child care sector during and after the COVID-19 public health emergency as well as additional supplemental appropriations that can be used for broader CCDF purposes and are not limited to addressing coronavirus impacts. The Child Care Disaster Relief funds (Assistance Listing 93.489) are appropriated by the Supplemental Appropriations for Disaster Relief Act of 2019 (Pub. L. No. 116-20) and the FY2023 Consolidated Appropriations Act (Pub. L. 117-328).

Information in this document related to CCDF funding appropriated by the CARES Act (Pub. L. No. 116-136), CRRSA Act (Pub. L. No. 116-260), and ARP Act (Pub. L. No. 117-2) is relevant to territory and tribal Lead Agencies. State Lead Agencies finished spending these funds prior to the audit period covered by this Compliance Supplement, but all territory and many tribal Lead Agencies received waivers providing additional time to use these funds.

The CCDF (i.e., Assistance Listings 93.575, 93.596, and 93.489) is subject to the regulations at 45 CFR Parts 98 and 99. On March 1, 2024, HHS published a final rule that revised some CCDF regulations (89 FR 15366). The final rule went into effect on April 30, 2024, but state and territory Lead Agencies may request and receive waivers until November 30, 2024 to be effective no later than August 1, 2026 to provide additional time to implement select provisions (Program Instruction ACF-OCC-CCDF-PI-24-03). Many provisions of the final rule do not apply to tribal Lead Agencies, but tribal Lead Agencies may also request and receive relevant waivers until August 1, 2025 to be effective through August 1, 2026 (Program Instruction CCDF-ACF-PI-2024-05).

The Act does not address how most of its provisions apply to tribal Lead Agencies, so this is clarified in regulations that indicate that tribal Lead Agencies are subject to a tiered set of requirements based on the size of their CCDF funding allocation. For the FY2023-2025 CCDF plan cycle, the allocation size was based on the FY 2016 allocation.

- Other than 45 CFR sections 75.202 and 75.351 through 75.353, CCDF is not subject to the post-federal award or cost principles requirements in 45 CFR Part 75, subparts C, D, and E. In accordance with 45 CFR section 75.101(d), only limited portions of Federal regulations at 45 CFR Part 75 are applicable to the CCDF programs.
  - Subpart A, "Acronyms and Definitions," remains applicable.
  - Subpart B, "General Provisions," remains applicable.
  - Subpart C, "Pre-Award Requirements," Not Applicable except section 75.202 remains applicable to the Federal awarding agency.
  - Subpart D, "Post-Award Requirements" Not Applicable except sections 75.351through 75.353 remain applicable, except for Tribal recipients as noted under 45 CFR §98.84. For more information, see the CCDF Tribal Construction or Major Renovation Terms and Conditions.
  - Subpart E, "Cost Principles." Not Applicable in its entirety, except for Tribal recipients as noted under 45 CFR section 98.84.
  - Subpart F, "Audit Requirements," remains applicable.

Note: HHS is in process of adopting 2 CFR Part 200, which is anticipated to take full effect beginning in FY 2026.

Availability of Other Program Information

OCC's website (https://www.acf.hhs.gov/occ) provides general information on this program.

For guidance on CCDF CARES Act funding, see Information Memorandum 2020-01 at https://www.acf.hhs.gov/occ/policy-guidance/ccdf-discretionary-funds-appropriated-cares-act-public-law-116-136-passed-law

For guidance on CCDF CRRSA Act funding, see Information Memorandum 2021-01 at https://www.acf.hhs.gov/occ/policy-guidance/ccdf-discretionary-funds-appropriated-crrsa-act-public-law-116-260-signed-law

For guidance on CCDF ARP Act supplemental funding, see Information Memorandum 2021-03 at https://acf.gov/sites/default/files/documents/occ/CCDF-ACF-IM-2021-03.pdf

For guidance on CCDF ARP Act stabilization funding, see Information Memorandum 2021-02 at https://acf.gov/sites/default/files/documents/occ/CCDF-ACF-IM-2021-02.pdf

For FAQs on CCDF COVID supplemental funding, see: https://www.acf.hhs.gov/occ/faq/stabilizing-child-care-and-covid-19-faqs

For guidance on the applicability of uniform administrative requirements (45 CFR Part 75) to CCDF, see: https://www.acf.hhs.gov/occ/policy-guidance/uniform-administrative-requirements-cost-principles-and-audit-requirements

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	Y	Y	N	N	Y	N	Y

A. Activities Allowed or Unallowed

1. *Activities Allowed for CCDF Funds Other Than ARP Act Stabilization Funds*

a. Funds may be used for child care services in the form of certificates, grants, or contracts (42 USC 9858cI(2)(A)). The 2024 CCDF final rule requires that state and territory Lead Agencies provide some portion of direct child care services via grants or contracts, including at a minimum for children in underserved geographic areas, infants and toddlers, and children with disabilities (45 CFR section 98.30(b)(1)). Lead Agencies needing additional time to implement grants or contracts may request and receive waivers effective through August 1, 2026.

b. Funds may be used for activities that improve the quality or availability of child care services, consumer education, and parental choice (42 USC 9858e).

c. Funds may be used for activities that improve access to child care services, including the use of procedures to permit enrollment of homeless children (after an initial eligibility determination) while required documentation is obtained; training and technical assistance on identifying and serving homeless children and their families; and specific outreach to homeless families (42 USC 9858c(c)(3)(B)(I)).

d. Funds may be used for any other activity that the Lead Agency deems appropriate to (a) promote parental choice; (b) provide comprehensive consumer education information to help parents and the public make informed choices about child care services and promote involvement by parents and family members in the development of their children in child care settings; (c) deliver high-quality, coordinated early childhood care and education services to maximize parents' options and support parents trying to achieve independence from public assistance; (d) improve the overall quality of child care services and programs by implementing the health, safety, licensing, training and oversight standards established in the CCDBG Act and in state law and regulations; (e) improve child care and development of participating children; and (f) increase the number and percentage of low-income children in high-quality child care settings (42 USC 9857 and 9858c(c)(3)(B)).

e. Improvements or upgrades to a facility which are not specified under the definitions of construction or major renovation (see III.A.2.c(1) below) may be considered minor remodeling and are, therefore, allowed as follows:

(1) For other than sectarian organizations, funds may be used for the minor remodeling of child care facilities

(2) For sectarian organizations, funds may be used for the renovation or repair of facilities only to the extent that it is necessary to bring the facility into compliance with the health and safety standards required by 42 USC 9858c(c)(2)(F) (42 USC 9858d(b)).

f. Supplemental funds appropriated by the CARES Act (Pub. L. No. 116-136) and the CRRSA Act (Pub. L. No. 116-260) may be used for allowable CCDF purposes to prevent, prepare for, and respond to the coronavirus. For example, funds from both of these supplemental appropriations may be used to provide continued payments and assistance to child care providers in the case of decreased enrollment or closures related to coronavirus and to assure that they can remain open or reopen. Lead Agencies may use CCDF CARES Act funds to reimburse allowable costs incurred before the enactment of the CARES Act (March 27, 2020), and may use CCDF CRRSA Act funds to reimburse allowable costs incurred before the enactment of the CRRSA Act (December 27, 2020). The CARES Act and the CRRSA Act did not include a time limit for how far back lead agencies are allowed to use funds to reimburse allowable costs. Additional flexibilities in the use of CARES Act and CRRSA Act funds are noted in other sections of this document, including E.1. Eligibility for Individuals and G.3. Earmarking. Only territory and tribal Lead Agencies may be spending CARES Act or CRRSA Act funds during this audit period; state Lead Agencies finished spending these funds prior to the audit period covered by this Compliance Supplement.

g. Additional supplemental discretionary funds provided by the ARP Act (other than the stabilization funds) are not limited to addressing coronavirus but can be spent for any allowable CCDF uses.

2. *Activities Allowed for CCDF ARP Act Stabilization Funds*

a. States, territories, and tribes shall use stabilization funds appropriated by the ARP Act (Pub. L. No. 117-2) to make awards to child care providers to support the stability of the child care sector during and after the COVID-19 public health emergency. Child care providers may use stabilization funds to cover the following expenses: (A) personnel costs, including payroll and salaries or similar compensation for an employee (including any sole proprietor or independent contractor), employee benefits, premium pay, or costs for employee recruitment and retention; (B) rent (including rent under a lease agreement) or payment on any mortgage obligation, utilities, facility maintenance or improvements, or insurance; (C) personal protective equipment, cleaning and sanitization supplies and services, or training and professional development related to health and safety practices; (D) purchases of or updates to equipment and supplies to respond to the COVID–19 public health emergency; (E) goods and services necessary to maintain or resume child care services; and (F) mental health supports for children and employees. Lead agencies may

make ARP stabilization funds available to qualified child care providers for allowable costs incurred after enactment of the ARP Act, as well as to reimburse them for their allowable costs incurred after the declaration of the public health emergency (on January 31, 2020) but before the enactment of the ARP Act (March 11, 2021). Only territory and tribal Lead Agencies may be spending ARP Act stabilization funds during this audit period; state Lead Agencies finished spending these funds prior to the audit period covered by this Compliance Supplement.

3. *Activities Unallowed*

a. No funds may be expended through any grantor contract for child care services for any sectarian purpose or activity, including sectarian worship or instruction (42 USC 9858k(a)).

b. Regarding services to students enrolled in grades 1 through 12, no funds may be used for services provided during the regular school day, for any services for which the students receive academic credit toward graduation, or for any instructional services that supplant or duplicate the academic program of any public or private school (42 USC 9858k(b)).

c. No funds can be used for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or facility (42 USC 9858d(b)).

(1) "Construction" is defined as the erection of a facility that does not currently exist. Prior to April 30, 2024, "Major renovation" was considered a permanent improvement and is defined as (1) structural changes to the foundation, roof, floor, exterior, or load-bearing walls of a facility, or the extension of a facility to increase its floor area; or (2) extensive alteration of a facility such as to significantly change its function and purpose, even if such renovation does not include any structural change (45 CFR section 98.2). Effective April 30, 2024, "major renovation" means any renovation that has a cost equal to or exceeding $350,000 in CCDF funds for child care centers and $50,000 in CCDF funds for family child care homes. If renovation costs exceed these thresholds and do not include: (1) Structural changes to the foundation, roof, floor, exterior or load-bearing walls of a facility, or the extension of a facility to increase its floor area; or (2) Extensive alteration of a facility such as to significantly change its function and purpose for direct child care services, even if such renovation does not include any structural change; and improve the health, safety, and/or quality of child care, then it shall not be considered major renovation (45 CFR section 98.2, as revised by CCDF final rule published March 1, 2024).

(2) *Exception:* Tribal Lead Agencies may use funds for the construction and major renovation of child care facilities with ACF approval (42 USC 9858m(c)(6); 45 CFR Part 98.

(3) *Exception:* State, territory, and tribal Lead Agencies may use Child Care Disaster Relief Funds (Assistance Listing 93.489) for alteration, renovation, construction, equipment, and other capital improvement costs, including for child care facilities without regard to section 658F(b) of the CCDBG Act, with ACF approval, and for other expenditures related to child care, as necessary to meet the needs of areas affected by Hurricanes Fiona and Ian, (Pub. L. No. 116-20) (Pub. L. No. 117-328).

B. Allowable Costs/Cost Principles

As indicated in Appendix I to the Supplement, "Federal Programs Excluded from the A-102 Common Rule and Portions of 2 CFR Part 200," recipients (Lead Agencies) expend and account for CCDF funds in accordance with the laws and procedures they use for expending and accounting for their own funds (45 CFR section 98.67). To facilitate parent choice, increase program quality, build supply, and better reflect the cost of providing care, it is permissible for a Lead Agency to pay an eligible child care provider the Lead Agency's established payment rate, which may be more than the price charged to children not receiving CCDF subsidies (45 CFR section 98.45(g)).

E. Eligibility

1. Eligibility for Individuals

Eligibility for Children Receiving CCDF Subsidies. Lead Agencies must have procedures in place for documenting and verifying eligibility in accordance with the following federal requirements, as well as the specific eligibility requirements selected by each Lead Agency in its approved plan. A Lead Agency is the designated state, territorial, or tribal entity to which the CCDF award is issued and that is accountable for administering the CCDF program. Procedures for documenting and verifying eligibility may be performed directly by the Lead Agency or other agencies engaged in the administration of CCDF. At the Lead Agency's option, enrollment in other benefit programs or documents or verification used for other benefit programs may be used to verify eligibility as appropriate (45 CFR section 98.21(g)).

a. For state Lead Agencies and territory Lead Agencies, and those tribal Lead Agencies with Grant Year 2016 allocations of at least $250,000, children must be under age 13 (or up to age 19, if incapable of self-care or under court supervision), who reside with a family whose income does not exceed 85 percent of state/territorial/tribal median income for a family of the same size and reside with a parent (or parents) who is working or attending a job-training or education program; or need, or are receiving,

protective services. Lead Agencies may choose to provide services during periods of job search. Tribal Lead Agencies may elect to use state or tribal median income (42 USC 9858n(4); 45 CFR sections 98.20(a) and 98.81(b)). Tribal Lead Agencies also have the option for categorical eligibility (considering any Indian child within the service area eligible for services) if the tribe's median income is below 85 percent of the state median income, provided that services go to those with the highest need.

State, territory, and tribal Lead Agencies may use supplemental funds appropriated by the CARES Act (Pub. L. No. 116-136), the CRRSA Act (Pub. L. No. 116-260), and the ARP Act (Pub. L. No. 117-2) to provide child care assistance to health care sector employees, emergency responders, sanitation workers, and other workers deemed essential during the response to the coronavirus, without regard to the income eligibility requirements. The Lead Agency may define which workers are considered essential in accordance with any relevant state, territorial, and tribal laws or policies.

b. State Lead Agencies, territory Lead Agencies, as well as those tribal Lead Agencies with Grant Year 2016 allocations of at least $250,000, must establish minimum 12-month eligibility periods before re-determining eligibility of CCDF families and must consider a child to be eligible between eligibility re-determinations, regardless of (1) changes in income (as long as income does not exceed 85 percent of state/territory/tribal median income); or (2) temporary changes in participation in work, training, or education activities. If a parent experiences a non-temporary loss of job, education, or training that affects eligibility, Lead Agencies have the option—but are not required—to terminate assistance before the next re-determination (i.e., before the end of the minimum 12-month eligibility period). However, if a Lead Agency exercises this option, the Lead Agency must provide (before terminating the subsidy) a period of continued assistance of at least three months to allow parents to engage in job search, resume work, or attend an education or training program as soon as possible. (42 USC 9858c(c)(2)(N)). State and territory Lead Agencies must have policies and procedures to ensure that each child receiving services has a minimum 12-month eligibility period, including when incorporating additional eligible children in the family (e.g., siblings or foster siblings) (45 CFR section 98.21(d)). In cases where multiple children in the same family have initial eligibility determined at different points in time, Lead Agencies can align eligibility periods to the new child's eligibility period so that all the children's eligibility re-determinations occur at the same point in time to limit burden (89 FR 15376).

c. Because a child meeting eligibility requirement at the most recent eligibility determination or re-determination is considered eligible between re-determinations as described in paragraph b. above, any

payment for such a child shall not be considered an error or improper payment due to a change in the family's circumstances (45 CFR sections 98.21(a)(4) and 98.68(c)(2)). There is no federal requirement for Lead Agencies to recoup CCDF overpayments, except in instances of fraud as defined by the Lead Agency (45 CFR section 98.68(b)(2)).

d. At a Lead Agency's option, a child may be considered presumptively eligible for up to three months and begin to receive child care subsidy prior to full documentation and eligibility determination if the Lead Agency first obtains a less burdensome minimum verification requirement from the family. If, after full documentation is provided, a child is determined ineligible, the Lead Agency shall ensure that a child care provider is paid and shall not recover funds paid or owed to a child care provider for services provided as a result of the presumptive eligibility determination except in cases of fraud or intentional program violation by the provider. Any CCDF payment made on behalf of a presumptively eligible child prior to final eligibility determination shall not be considered an error or improper payment and will not be subject to disallowance so long as the payment was not for a service period longer than the period of presumptive eligibility (i.e., for up to three months) (45 CFR section 98.21(e)).

e. States and territories must have procedures to permit enrollment of homeless children (after an initial eligibility determination) while required documentation is obtained. The enrollment grace period for children experiencing homelessness is not subject to the three-month limit that applies to periods of presumptive eligibility for other children. States and territories must also have a grace period that allows children experiencing homelessness and children in foster care to receive services while providing families a reasonable time to take any necessary action to comply with immunization and health and safety requirements.

f. State and territory Lead Agencies must establish a sliding fee scale, based on family size, income, and other appropriate factors, that provide for cost-sharing by families that receive CCDF child care services (42 USC 9858c(c)(3)(B)(i); 45 CFR section 98.45(l)). Under the 2024 CCDF final rule, a family's co-payment, regardless of the number of children in care, may not exceed 7 percent of family income. Lead Agencies needing additional time to implement this co-payment cap may request and receive waivers effective through August 1, 2026. Tribal Lead Agencies are not required to establish family co-payments, but Tribal Lead Agencies that choose to implement co-payments must cap them at no more than 7 percent of family income. Lead Agencies may exempt from making co-payment families whose incomes are at or below 150 percent of the poverty level, that have children in foster or kinship care or otherwise need protective services, that are experiencing homelessness, that have children who have a disability, that are enrolled in Head Start or Early

Head Start, or that meet other criteria established by the Lead Agency. Lead Agencies must establish a payment rate schedule for child care providers caring for subsidized children (45 CFR section 98.45). To facilitate parent choice, increase program quality, build supply, and better reflect the cost of providing care, a Lead Agency may pay a child care provider the Lead Agency's established payment rate, which may be more than the price charged to children not receiving CCDF subsidies. (45 CFR section 98.45(g)). State, territory, and tribal Lead Agencies may use supplemental funds appropriated by the CRRSA Act (Pub. L. No. 116-260) for costs of providing relief from copayments and tuition payments for families and for paying that portion of the child care provider's costs ordinarily paid through family copayments.

g. Under the 2024 CCDF final rule, state and territory Lead Agencies must (unless the Lead Agency can demonstrate that such practices are not generally-accepted for a type of child care setting): (1) base payment to child care providers on a child's authorized enrollment rather than attendance, or adopt an alternative approach justified in the Lead Agency's approved CCDF Plan if paying based on enrollment is not practicable; and (2) pay providers in advance of or at the beginning of the delivery of child care services. (42 USC 9858c(c)(2)(S), 45 CFR section 98.45(m)(1) and (2)). Lead Agencies needing additional time to implement these policies may request and receive waivers until November 30, 2024 to be effective no later than August 1, 2026. Lead Agencies are not required to limit authorized child care services strictly based on the work, training, or educational schedule of the parent(s) or the number of hours the parent(s) spend in work, training, or educational activities (45 CFR section 98.21(g)).

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

The award of CCDF funds to a tribe shall not affect the eligibility of any Indian child to receive CCDF services in the state or states in which the tribe is located (42 USC 9858m(c)(5); 45 CFR section 98.80(d)).

3. Eligibility for Subrecipients

Lead agencies determine eligibility for any subrecipients used to implement portions of the CCDF program, such as entities implementing quality improvement activities.

4. Eligibility for Child Care Providers Receiving CCDF ARP Act Stabilization Funds

Information below related to stabilization funds appropriated by the ARP Act (Pub. L. No. 117-2) is relevant to territory and tribal Lead Agencies. State Lead Agencies finished spending these funds prior to the audit period covered by this

Compliance Supplement, but all territory and many tribal Lead Agencies received waivers providing additional time to use these funds.

States, territories, and tribes shall use stabilization funds appropriated by the ARP Act to make payments to qualified child care providers to support the stability of the child care sector during and after the COVID-19 public health emergency. To be qualified to receive stabilization funds, a provider on the date of application for the award must either be: (1) open and available to provide child care services, or (2) closed due to public health, financial hardship, or other reasons relating to the COVID-19 public health emergency. In addition, the provider must either (1) be eligible to serve children who receive CCDF subsidies at the time of application for stabilization funds, or (2) be licensed, regulated, or registered in the state, territory, or tribe as of March 11, 2021, and meet applicable state and local health and safety requirements at the time of application for stabilization funds.

Child care providers include centers, family child care providers, and other providers that meet the qualifying eligibility criteria. Child care stabilization funds included in the ARP Act are for the benefit of qualified child care providers and are considered payments made to beneficiaries of a federal program. Qualified providers receiving ARP Act Stabilization funds are therefore not categorized as "sub-recipients" as defined at 45 CFR section 75.2 but instead as beneficiaries. The Single Audit Act requirements at 45 CFR Subpart F and the sub-recipient monitoring requirements at 45 CFR section 75.352 do not apply to beneficiaries.

In their application for stabilization funds, a child care provider must certify:

1. That the provider will, when open and providing services, implement policies in line with guidance and orders from corresponding state, territorial, tribal, and local authorities and, to the greatest extent possible, implement policies in line with guidance from the Centers for Disease Control and Prevention (CDC).

2. For each employee, the provider must pay at least the same amount in weekly wages and maintain the same benefits for the duration of the stabilization funding.

3. The provider will provide relief from copayments and tuition payments for the families enrolled in the provider's program to the extent possible and prioritize such relief for families struggling to make either type of payment.

Lead Agencies must maintain documentation for child care providers receiving ARP Act stabilization funds to verify that child care providers met eligibility criteria and that the providers gave the required certifications as part of their applications for funding.

G. Matching, Level of Effort, Earmarking

The matching and maintenance of effort (MOE) requirements apply only to the Matching Fund (Assistance Listing 93.596). The state's matching and MOE expenditures are closely related. For a state to receive the allotted share of the Matching Fund, the state must meet the MOE requirement and obligate the Mandatory Fund by year end (see III.H, "Period of Performance"). The matching and MOE amounts are reported on the CCDF Financial Report (ACF-696) (see III.L., "Reporting – Financial Reporting"). The matching and MOE requirements only apply to state lead agencies, and do not apply at the subrecipient level.

1. Matching

a. A state is eligible for federal matching funds (limit specified in 42 USC 618 and 45 CFR section 98.63) only for those allowable state expenditures that exceed the state's MOE requirement, provided all of the Mandatory Funds (Assistance Listing 93.596) allocated to the state are also obligated by the end of the fiscal year (45 CFR section 98.53).

b. State expenditures will be matched at the Federal Medical Assistance Percentage (FMAP) rate for the applicable fiscal year. To be eligible an activity must be allowable and be described in the approved state plan (45 CFR section 98.53). Information about FMAP rates, matching fund amounts, and other CCDF allocation amounts can be found at https://acf.hhs.gov/occ/grant-funding/ccdf-funding-allocations.

c. Private or public donated funds may be counted as state expenditures for this purpose subject to the limitations in 45 CFR section 98.53.

d. No more than 30 percent of state matching claims may be for pre-kindergarten services (45 CFR section 98.53(h)(3)). The same expenditure may not be used for both MOE and matching purposes (45 CFR sections 98.53(d) and 98.53(h)).

2. Level of Effort

2.1 Level of Effort – *Maintenance of Effort*

If a state requests Matching Funds (Assistance Listing 93.596), state MOE (non-federal) funds for child care activities must be expended in the year for which Matching Funds are claimed in an amount that is at least equal to the state's share of expenditures for FY 1994 or 1995 (whichever is greater) under former sections 402(g) and (i) of the Social Security Act (42 USC 618). Private or public donated funds may be counted as state expenditures for this purpose (45 CFR section 98.53).

No more than 20 percent of the MOE requirement may be met with state expenditures for pre-kindergarten services. The same expenditure may not

be used for both MOE and matching purposes (45 CFR sections 98.53(d) and 98.53(h)).

2.2 Level of Effort – *Supplement Not Supplant*

The annual appropriations law for CCDF Discretionary Funds (Assistance Listing 93.575), the CARES Act (Pub. L. No. 116-136), and the CRRSA Act (Pub. L. No. 116-260) all specify that funds shall be used to supplement, not supplant State general revenue funds for child care assistance for low-income families. Funds appropriated by the ARP Act (Pub. L. No. 117-2) shall be used to supplement and not supplant other federal, state, and local public funds expended to provide child care services for eligible individuals.

3. Earmarking

a. *Administrative Earmark* – A state/territory Lead Agency may not spend on administrative costs more than five percent of total CCDF awards expended from each fiscal year's allotment (i.e., the total of Assistance Listings 93.575, 93.596, and 93.489 except certain supplemental funding listed later in this section) and any state expenditures for which Matching Funds (Assistance Listing 93.596) are claimed (42 USC 9858c(c)(3)(C); Pub. L. No. 116-20; 45 CFR section 98.52).

Tribal Lead Agencies are allowed 15 percent of the amount expended from each fiscal year's allotment under Assistance Listings 93.575, 93.596, and 93.489 (except certain supplemental funding listed later in this section) for administrative costs. Tribes with at least 50 children under age 13 are provided a base amount, which may be expended for any purpose consistent with the purpose and requirements of the CCDF. Tribes with fewer than 50 children who are members of a consortium receive a pro rata amount of the base amount in proportion to the number of children under age 13 in relation to 50. The base amount is not included in the amount against which the administrative earmark is calculated. For FY 2017 and later fiscal years, the base amount was $30,000 (45 CFR sections 98.61(c), 98.83(h), and 98.83(i)).

The administrative spending cap for state, territory, and tribal Lead Agencies applies to a Lead Agency's aggregate expenditures from a fiscal year's allotment, which may occur over a multi-year period. Therefore, the administrative spending cap is calculated on total expenditures at the end of the liquidation period for a fiscal year's allotment. The administrative spending cap does not apply separately to expenditures that occur within a given fiscal year.

With limited exceptions (listed in the next sentence), the administrative costs maximum applies to all CCDF expenditures in the aggregate,

including supplemental CCDF funding provided by the CARES Act (Pub. L. No. 116-136), the CRRSA Act (Pub. L. No. 116-260), and the ARP Act (Pub. L. No. 117-2). The administrative cost cap does not apply to the stabilization funds provided by ARP, supplemental funds made available by the FY2023 Consolidated Appropriations Act for necessary child care expenses directly related to the consequences of Hurricanes Fiona and Ian (Pub. L. 117-328) (Assistance Listing 93.489), and to any supplemental funds made available by the Supplemental Appropriations for Disaster Relief Act of 2019 (Pub. L. No. 116-20) (Assistance Listing 93.489) spent on construction and renovation.

The following activities are not considered administrative costs (45 CFR section 98.54(b)):

(1) Eligibility determination and redetermination.

(2) Preparation and participation in judicial hearings.

(3) Child care placement.

(4) Recruitment, licensing, inspection, review, and supervision of child care placements.

(5) Rate-setting.

(6) Resource and referral services.

(7) Training of child care staff.

(8) Establishment and maintenance of computerized child care information systems.

(9) Establishment and operation of a certificate program.

Child care stabilization funds provided by the ARP are not subject to the CCDF administrative cost limitation. Rather, a state or territory that receives these funds shall reserve not more than 10 percent to administer stabilization funds, provide technical assistance and support for applying for and accessing the funding opportunity, publicize the availability of the funds, carry out activities to increase the supply of child care, and provide technical assistance to help child care providers. A tribal lead agency may reserve up to 20 percent of stabilization funds for these activities.

b. *Quality Earmark* – For FY 2020 and succeeding fiscal years, states and territory Lead Agencies must spend on quality activities, as provided in the state/territorial plan, not less than nine percent of CCDF funds expended from each fiscal year's allotment (i.e., the total of Assistance Listings 93.575, 93.596, and 93.489 except certain supplemental funding

listed later in this section) and any state expenditures for which Matching Funds (Assistance Listing 93.596) are claimed (45 CFR section 98.53). States and territory Lead Agencies must spend at least an additional three percent from each fiscal year's allotment on quality improvement for infants and toddlers (45 CFR section 98.50(b)).

All tribal Lead Agencies must spend at least nine percent from each fiscal year's allotment on quality activities for FY 2022 and succeeding fiscal years. Tribal Lead Agencies with CCDF allocations of $250,000 and higher must spend at least an additional three percent from each fiscal year's allotment on quality improvement for infants and toddlers starting in FY 2019. The base amount (discussed in paragraph 3. a above, *Administrative Earmark*) is not included in the amount against which the quality earmark is calculated.

The quality and infant/toddler quality spending requirements for state, territory, and tribal Lead Agencies apply to a Lead Agency's aggregate expenditures from a fiscal year's allotment, which may occur over a multi-year period. Therefore, the quality and infant/toddler quality spending requirements is calculated on total expenditures at the end of the liquidation period for a fiscal year's allotment. The quality and infant-toddler quality spending requirements do not apply separately to expenditures that occur within a given fiscal year (45 CFR sections 98.50(b), 98.53(a), and 98.83(g)).

Quality spending requirements do not apply to supplemental funds provided by the CARES Act (Pub. L. No. 116-136), the CRRSA Act (Pub. L. No. 116-260), the ARP Act (Pub. L. No. 117-2), the FY2023 Consolidated Appropriations Act for necessary child care expenses directly related to the consequences of Hurricanes Fiona and Ian, and any supplemental funds made available by the Supplemental Appropriations for Disaster Relief Act of 2019 spent on construction and renovation.

c. *Direct Spending Earmarks*

(1) From the aggregate amount of Discretionary funds (Assistance Listing 93.575) and Disaster Relief funds (Assistance Listing 93.489) provided for a year (except certain supplemental funding listed later in this section), state Lead Agencies, territory Lead Agencies, as well as those tribal Lead Agencies with allocations of at least $250,000 may reserve funds for administrative costs (up to the maximum described in paragraph 3. a above, *Administrative Earmark*) and the minimum amount required for quality activities (described in paragraph 3. b above, *Quality Spending Earmark*).

(2) From the remainder, the Lead Agency must use not less than 70 percent to fund direct services. In addition, states and territories

must spend not less than 70 percent of the Mandatory and federal and state share of Matching funds (Assistance Listing 93.596) to provide child care assistance to families who: (1) receive Temporary Assistance for Needy Families (TANF) assistance; (2) are attempting through work activities to transition off TANF; and (3) are at risk of becoming dependent on TANF . The direct services spending requirements apply to a Lead Agency's aggregate expenditures from a fiscal year's allotment, which may occur over a multi-year period. Therefore, the direct services spending requirements is calculated on total expenditures at the end of the liquidation period for a fiscal year's allotment. The direct services spending requirements do not apply separately to expenditures that occur within a given fiscal year. (45 CFR section 98.50(e) and (f)).

(3) Direct spending requirements do not apply to supplemental funds provided by the CARES Act (Pub. L. No. 116-136), the CRRSA Act (Pub. L. No. 116-260), the ARP Act (Pub. L. No. 117-2), the FY2023 Consolidated Appropriations Act for necessary child care expenses directly related to the consequences of Hurricanes Fiona and Ian, and any supplemental funds made available by the Supplemental Appropriations for Disaster Relief Act of 2019 spent on construction and renovation.

H. Period of Performance

With limited exceptions, described below, the determination of whether funds have been obligated or liquidated will be based on state or local law, or, if there is no applicable state or local law, the regulation at 45 CFR section 75.2 (45 CFR section 98.60(d)(5)).

Obligations may include subawards or contracts that require payment of funds to a third party (e.g., subrecipient or contractor). However, the following are not considered third party subrecipients or contractors: a local office of the Lead Agency; another entity at the same level of government as the Lead Agency; or a local office of another entity at the same level of government as the Lead Agency (45 CFR section 98.60(d)(6).

In instances where the Lead Agency issues child care certificates, funds for child care services provided through a certificate will be considered obligated when a certificate is issued to a family in writing. In instances where third party agencies issue certificates on the Lead Agency's behalf, the obligation of funds occurs upon entering into agreement through a subaward or contract with such agency, rather than when the third party issues certificates to a family (45 CFR section 98.60(d)(7)).

1. Discretionary Funds (Assistance Listing 93.575) must be obligated by the end of the succeeding fiscal year after award and expended by the end of the third fiscal year after award (42 USC 9858h(c); 45 CFR section 98.60).

2. Mandatory Funds (Assistance Listing 93.596) for states must be obligated by the end of the fiscal year in which they are awarded if the state also requests Matching Funds (Assistance Listing 93.596). If no Matching Funds are requested for the fiscal year, then the Mandatory Funds (Assistance Listing 93.596) are available until liquidated (45 CFR section 98.60(d)).

3. Mandatory Funds (Assistance Listing 93.596) for territories must be obligated by the end of the fiscal year in which they are awarded and liquidated by the end of the succeeding fiscal year after award.

4. Mandatory Funds (Assistance Listing 93.596) for tribes must be obligated by the end of the succeeding fiscal year after award and liquidated by the end of the third fiscal year after award (45 CFR section 98.60(e)).

5. Matching Funds (Assistance Listing 93.596) must be obligated by the end of the fiscal year in which they are awarded and liquidated by the end of the succeeding fiscal year after award (45 CFR section 98.60(d)).

6. Child Care Disaster Relief Funds (Assistance Listing 93.489) made available by the Supplemental Appropriations for Disaster Relief Act of 2019 and not used for construction or renovation must be obligated by the end of the succeeding fiscal year after award and expended by the end of the third fiscal year after award (Pub. L. No. 116-20).

7. Child Care Disaster Relief Funds (Assistance Listing 93.489) made available by the Supplemental Appropriations for Disaster Relief Act of 2019 and used for construction or renovation must be obligated in the fiscal year of award or the succeeding three fiscal years, and expended by the end of the fifth fiscal year after award (Pub. L. No. 116-20).

8. Child Care Disaster Relief Funds (Assistance Listing 93.489) provided by the FY2023 Consolidated Appropriations Act for necessary child care expenses directly related to the consequences of Hurricanes Fiona and Ian must be obligated in the fiscal year of award or the succeeding three fiscal years, and expended by the end of the fifth fiscal year after award (Pub. L. 117-328).

For example, availability periods for the grant year 2024 funds awarded on any date in FY 2024 (October 1, 2023, through September 30, 2024):

If Source of Obligation Is –	Obligation must Be Made by End of –	Obligation must Be Liquidated by End of –
FY 2024 Discretionary (Assistance Listing 93.575)	FY 2025(i.e., by 9/30/2025)	FY 2026 (i.e., by 9/30/2026)
FY 2024 Mandatory (State) (Assistance Listing 93.596)	FY 2024 (i.e., by 9/30/2024 but ONLY if Matching Funds are used)	No requirement for liquidation by a specific date
FY 2024 Mandatory (Territories) (Assistance Listing 93.596)	FY 2024 (i.e., by 9/30/2024)	FY 2025 (i.e., by 9/30/2025)
FY 2024 Mandatory (Tribes) (Assistance Listing 93.596)	FY 2025 (i.e., by 9/30/2025)	FY 2026 (i.e., by 9/30/2026)
FY 2024 Matching (Assistance Listing 93.596)	FY 2024 (i.e., by 9/30/2024)	FY 2025 (i.e., by 9/30/2025)
FY 2024 Supplemental Funds Related to Hurricanes Fiona and Ian (Assistance Listing 93.575)	FY 2027 (i.e., by 9//30/2027)	FY 2028 (i.e., by 9/30/2028)
FY 2024 Mandatory and Discretionary Funds used for Construction or Major Renovation (Tribes)	FY 2026 (i.e., by 9/30/2026)	FY 2028 (i.e., by 9/30/2028)

TANF funds (Assistance Listing 93.558) transferred to the CCDF during a fiscal year are treated as Discretionary Funds of the year they are transferred for purposes of the period of availability (45 CFR section 98.54(a)(1)).

Instead of the obligation and liquidation requirements cited above, tribes are required to obligate CCDF funds used for construction or major renovation by the end of the second fiscal year following the fiscal year for which the award is issued, and to liquidate such funds by the end of the second succeeding fiscal year following the obligation deadline (45 CFR section 98.84(e)).

Supplemental funds provided under the CARES Act (Pub. L. No. 116-136), the CRRSA Act (Pub. L. No. 116-260), and the ARP Act (Pub. L. No. 117-2) have specific obligation and liquidation timeframes that are outlined below:

If Source of Obligation Is –	Obligation must Be Made by End of –	Obligation must Be Liquidated by End of –
FY 2020 Discretionary supplemental funds provided under the CARES Act (Pub. L. No. 116-136) (Assistance Listing 93.575)	FY 2022 (i.e., by 9/30/2022)	FY 2023 (i.e., by 9/30/2023)
FY 2021 Discretionary supplemental funds provided under the CRRSA Act (Pub. L. No. 116-260) (Assistance Listing 93.575)	FY 2022 (i.e., by 9/30/2022)	FY 2023 (i.e., by 9/30/2023)
FY 2021 Discretionary supplemental funds provided under the ARP Act (Pub. L. No. 117-2) (Assistance Listing 93.575)	FY 2023 (i.e., by 9/30/2023)	FY 2024 (i.e., by 9/30/2024)
FY 2021 Child care stabilization funds provided by the ARP Act (Pub. L. No. 117-2) (Assistance Listing 93.575)	FY 2022 (i.e., by 9/30/2022)	FY 2023 (i.e., by 9/30/2023)

Only territory and tribal Lead Agencies may be spending ARP Act stabilization funds during this audit period; state Lead Agencies finished spending these funds prior to the audit period covered by this Compliance Supplement.

In accordance with the CCDBG Act of 2014 and 45 CFR section 98.19, The OCC approved waivers for some tribes and territories, upon request, to extend the obligation and liquidation periods of some CCDF funding (both regular CCDF and COVID supplemental funds). The extended obligation and liquidation dates should be verified through the waiver approval letter(s) provided by ACF to the Lead Agency.

L. Reporting

1. Financial Reporting

a. SF-270, Request for Advance or Reimbursement - Not Applicable.

b. SF-271, Outlay Report and Request for Reimbursement for Construction Program -Not Applicable.

c. SF-425, Federal Financial Report – Not Applicable.

d. ACF-696, *Child Care and Development Fund Financial Report (OMB No 0970-0510)* is due quarterly from states and territories. These reports are required instead of the SF-425, *Federal Financial Report* (financial status). Each fiscal year's expenditure report must be separate; therefore, multiple reports may be required if awards from more than one fiscal year are expended in a given quarter. Any funds transferred from TANF are treated as Discretionary Funds for reporting on the ACF-696 for the year they are transferred (42 USC 604(d); 45 CFR section 98.54(a)). The fourth quarter submission of the ACF-696 includes narrative reports describing services and activities funded by each of the supplemental

funding sources [i.e., Disaster Relief (Pub. L. No. 116-20) (Pub. L. 117-328), CARES Act (Pub. L. No. 116-136), CRRSA Act (Pub. L. No. 116-260), and ARP Act supplemental (Pub. L. No. 117-2)].

e. The ACF-696T, *Child Care and Development Fund Financial Report for Tribes* (OMB No. 0970-0510) is due annually from tribes except for tribes operating their CCDF program under a Pub. L. No. 102-477 plan. These reports are required instead of the SF-425, Federal Financial Report (financial status). Each fiscal year's expenditure report must be separate; therefore, multiple reports may be required if awards from more than one fiscal year are expended in a given year. The ACF-696T includes narrative reports describing services and activities funded by each of the supplement funding sources (i.e., Disaster Relief, CARES Act, CRRSA Act, and ARP Act supplemental).

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3. L for audit guidance.

N. Special Tests and Provisions

The following Special Tests and Provisions apply only to CCDF Lead Agencies and do not apply at the subrecipient level.

1. Health and Safety Requirements

Compliance Requirements As part of their CCDF plans, Lead Agencies must certify that procedures are in effect (e.g., monitoring and enforcement) to ensure that providers serving children who receive subsidies comply with all applicable health and safety requirements. This includes verifying and documenting that child care providers (unless they meet an exception, e.g., family members who are caregivers or individuals who object to immunization on certain grounds) serving children who receive subsidies meet requirements pertaining to health and safety. These requirements must address eleven specific areas—including first aid and CPR, safe sleeping practices, and administration of medication—and child care workers must be trained in these areas (42 USC 9858c(c)(2)(I); 45 CFR section 98.41).

Audit Objectives Determine whether Lead Agencies ensure that child care providers serving children who receive subsidies meet applicable health and safety requirements.

Suggested Audit Procedures

a. Request that the Lead Agency identify state health and safety requirements for child care providers serving children who receive subsidies.

b. Review the Lead Agency's procedures, including any monitoring and enforcement procedures, for ensuring child care provider compliance with relevant health and safety requirements for those providers serving children who receive subsidies. This review should include, at a minimum, relevant information in the Lead Agency's CCDF Plan.

c. Review a sample of Lead Agency files for child care providers serving children who receive subsidies to verify that the Lead Agency followed its procedures for ensuring child care provider compliance with relevant state health and safety requirements, including training requirements.

2. Fraud Detection and Repayment

Compliance Requirements Lead Agencies shall recover child care payments that are the result of fraud. These payments shall be recovered from the party responsible for committing the fraud (45 CFR section 98.60).

Audit Objectives Determine if the Lead Agency correctly identified and reported fraud and took steps to recover payment.

Suggested Audit Procedures

a. Review the Lead Agency's procedures for identifying and recovering payments resulting from fraud, including the Lead Agency's definition of fraudulent child care payments.

b. Request documentation of any fraudulent payments that have been identified by the Lead Agency. If fraudulent payments occurred, review a sample of those payments to verify that the Lead Agency followed its procedures related to authenticating that a payment was fraudulent, and recovering payment as applicable.

3. Tribal Lead Agencies - Protection of Federal Interest in Real Property and Facilities

Compliance Requirements CCDF can only be used for construction or major renovation of child care facilities in two instances: (1) a tribal Lead Agency that is approved to use CCDF for construction or major renovation; or (2) a state, territory, or tribal Lead Agency that is approved to use Disaster Relief funds (Assistance Listing 93.489) for construction or major renovation. The requirements for construction and renovation of child care facilities by tribal Lead Agencies are described in 45 CFR section 98.84. As required by this section, OCC established uniform procedures in program instruction CCDF-ACF-PI-2023-01, "Procedures for Requests for Tribal Lead Agencies to Use Child Care and Development Fund (CCDF) Funds for Construction or Renovation of Child Care Facilities" (https://www.acf.hhs.gov/sites/default/files/documents/occ/CCDF-ACF-PI-2023-01.pdf). The requirements for using Disaster Relief funds (Assistance Listing 93.489) for construction and renovation are described in program instruction CCDF-ACF-PI-2019-06 (https://www.acf.hhs.gov/sites/default/files/documents/occ/ccdf_acf_pi_2019_06.pdf.

Facilities activities (construction, major renovation, and disposition) are initiated through the submission of Form SF-429 (cover sheet) and applicable Attachments B (*Request to Acquire, Improve or Furnish*) or C *(Disposition or Encumbrance Request*).

In instances where federal interest provisions apply, at the commencement of construction or major renovation of a facility with CCDF funds, the tribal Lead Agency must record a Notice of Federal Interest in the appropriate official records of the jurisdiction in which the facility will be located (unless the facility will be located on tribal lands held in trust by the US government). In the case of Disaster Relief funds (Assistance Listing 93.489), federal interest is limited to 10 years and does not apply to privately-owned family child care homes. The full requirements for the protection of the federal interest are described in program instructions CCDF-ACF-PI-2019-06, CCDF-ACF-2020-01, and CCDF-ACF-2023-01.

Audit Objectives Determine whether the federal interest in real property and facilities is protected by the required Notice of Federal Interest and language content and the required prior written approvals obtained from ACF.

Suggested Audit Procedures

a. Review the appropriate documentation (e.g., Lead Agency's general ledger accounts and the meeting minutes of its governing body) and inquire of the tribal Lead Agency's management to identify if any of the following transactions, which are subject to the requirements for protecting the federal interest, occurred during the audit period and, if so, that the required prior written approvals were obtained from ACF:

    (1) Construction or major renovation of a facility, including a modular unit.

(2) Sale, lease, or encumbrance, such as a mortgage of real property or a facility (including modular units).

(3) Changes in approved use of facilities.

b. For construction, or major renovation during the audit period, ascertain if the Notice of Federal Interest was required, and if so, whether it was properly recorded in the locality's official real property records and, for a modular unit, if this Notice was properly posted in a conspicuous place. A Notice is not required for a facility on tribal lands held in trust by the US government; however, there is still a federal interest in any facility constructed or renovated with CCDF funds.

c. Review the Notices of Federal Interest and mortgage agreements and other security instruments executed during the audit period to ascertain if the documents include the required language content.

d. For sales, leases, encumbrances, and property used for a different purpose during the audit period, review the change in use to ascertain if the tribal Lead Agency obtained and complied with the requirement for ACF prior written approval.

4. Child Care Provider Eligibility for ARP Act Stabilization Funds

Compliance Requirements To be qualified to receive ARP Act stabilization funds, a provider on the date of application for the award must either be: (1) open and available to provide child care services, or (2) closed due to public health, financial hardship, or other reasons relating to the COVID-19 public health emergency. In addition, the provider must either (1) be eligible to serve children who receive CCDF subsidies at the time of application for stabilization funds, or (2) be licensed, regulated, or registered in the state, territory, or tribe as of March 11, 2021, and meet applicable state and local health and safety requirements at the time of application for stabilization funds. In their application for stabilization funds, a child care provider must certify:

a. That the provider will, when open and providing services, implement policies in line with guidance and orders from corresponding state, territorial, tribal, and local authorities and, to the greatest extent possible, implement policies in line with guidance from the CDC.

b. For each employee, the provider must pay at least the same amount in weekly wages and maintain the same benefits for the duration of the stabilization funding.

c. The provider will provide relief from copayments and tuition payments for the families enrolled in the provider's program to the extent possible, and prioritize such relief for families struggling to make either type of payment.

Audit Objectives Determine whether Lead Agencies ensure that child care providers receiving ARP Act stabilization funds meet eligibility criteria, including providing required certifications.

Suggested Audit Procedures

a. Review a sample of Lead Agency documentation for child care providers receiving ARP Act stabilization funds to verify that child care providers met eligibility criteria and that the providers gave the required certifications as part of their applications for funding.

5. Written Agreements as part of Program Integrity and Accountability

Compliance Requirements Lead Agencies have broad authority to administer CCDF through governmental or nongovernmental agencies and may use other public or private local agencies to implement the program, however, Lead Agencies must have written agreements with other agencies regarding administrative and implementation responsibilities undertaken by agencies other than the Lead Agency that specify the mutual roles and responsibilities of the Lead Agency and the other agencies in meeting the requirements as per 45 CFR 98.11.

Additionally, Lead Agencies must serve as the single point of contact and must retain overall responsibility for the program as defined in 45 CFR section 98.11(a)(1) and (2).

The Lead Agency must fulfill eight identified requirements including ensuring that the program complies with the approved Plan and all Federal requirements, monitoring programs and services, and ensuring that all State and local or non-governmental agencies through which the State administers the program, including agencies and contractors that determine individual eligibility, operate according to the rules established for the program.

Audit Objectives Determine whether Lead Agencies that administer and implement CCDF through other governmental or nongovernmental agencies, govern and ensure compliance using written agreements and retain overall responsibility as per requirements of 45 CFR section 98.11.

Suggested Audit Procedures

a. Review the Lead Agency's CCDF Plan for State/Territory FFY 2025-2027 (Plan) at 1.2.2 and 1.2.3 to determine whether the Lead Agency administers and implements CCDF through other governmental or nongovernmental agencies. If applicable, review a sample of the Lead Agency's written agreements. The contents of the written agreements may vary based on the role the agency is asked to assume or the type of project undertaken, but must include, at a minimum, tasks to be performed, a schedule for completing tasks, a budget which itemizes categorical expenditures consistent with CCDF requirements at § 98.65(h), and indicators or measures to assess performance.

b. Request that the Lead Agency identify its procedures and requirements for overseeing compliance with the Lead Agency's written agreements with other

governmental and non-governmental agencies that administer some portion of CCDF. Review the Lead Agency's procedures and requirements.

c. Review a sample of Lead Agency files for governmental and non-governmental agencies that administer some portion of CCDF to verify that the Lead Agency followed its procedures for ensuring compliance with written agreements.

IV. OTHER INFORMATION

Funding Sources Within the CCDF Cluster

In the federal fiscal year 2019, Congress appropriated additional CCDF funds under the Supplemental Appropriations for Disaster Relief Act of 2019 (Pub. L. No. 116-20). In the federal fiscal year 2020, Congress appropriated additional CCDF funds under the CARES Act (Pub. L. No. 116-136). In fiscal year 2021, Congress appropriated additional CCDF funds under the CRRSA Act (Pub. L. No. 116-260) and the ARP Act (Pub. L. No. 117-2). The ARP funds included both supplemental CCDF funds and child care stabilization funds. In fiscal year 2023, Congress appropriated additional CCDF funds under the Consolidated Appropriations Act (Pub. L. 117-328) for necessary child care expenses directly related to the consequences of Hurricanes Fiona and Ian. Although there are some differences in the rules governing each funding source, expenditures of funds from all of these sources should be included in the audit universe for CCDF Lead Agencies and the total expenditures of the CCDF Cluster for purposes of (1) determining Type A programs and (2) completing the Schedule of Expenditures of Federal Awards (SEFA). However, CCDF Lead Agencies are required to account for these expenditures separately in their accounting records. Furthermore, a footnote on the SEFA showing amounts by funding source (CCDBG, CCDF Mandatory and Matching, CCDF Disaster Relief, CCDF CARES, CCDF CRRSA, CCDF ARP supplemental, and CCDF ARP child care stabilization funds) in the CCDF Cluster is encouraged.

Transfer of Funds to CCDF

Under the TANF program (Assistance Listing 93.558), a state may transfer TANF funds to CCDF, and the funds transferred are treated as Discretionary Funds under CCDF. The amounts transferred into CCDF should be included in the audit universe and total expenditures of CCDF when determining Type A programs. On the Schedule of Expenditures of Federal Awards (SEFA), the amount transferred in should be shown as CCDF expenditures when expended.

Tribal CCDF Recipients under a Pub. L. No. 102-477 Plan

Audits of Indian tribal governments with tribal CCDF in their approved 477 Plan with reporting under Version 2 forms (75 FR 57970 (September 26, 2014)) must follow the guidance in the 477 Cluster found in the Department of the Interior's section of Part 4 of this Supplement.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.498 PROVIDER RELIEF FUND (PRF) AND AMERICAN RESCUE PLAN (ARP) RURAL DISTRIBUTION

I. PROGRAM OBJECTIVES

The PRF and ARP Rural Distribution are administered by the Health Resources and Services Administration (HRSA) and provides relief funds to eligible healthcare providers for healthcare-related expenses or lost revenues attributable to coronavirus. PRF and ARP Rural Distribution recipients must only use payments for eligible expenses, including services rendered during the period of availability as outlined in the table below. Providers must use a consistent basis of accounting to determine expenses. PRF and ARP Rural Distribution recipients may use payments for eligible expenses incurred prior to receipt of those payments (i.e., pre-award costs) dating back to January 1, 2020, so long as they are to prevent, prepare for, and respond to coronavirus. Additionally, the use of PRF and ARP Rural Distribution, if applicable, for lost revenues will be available only from the beginning of the period of availability (e.g., January 1, 2020, for all periods) up to June 30, 2023, the end of the quarter in which the Public Health Emergency (PHE) ends.

	Payment Received Period (Payments Exceeding $10,000 in Aggregate Received)	Period of Availability for Eligible Expenses	Period of Availability for Lost Revenues	PRF and ARP Rural Portal Reporting Time Period
Period 1	April 10, 2020 to June 30, 2020	January 1, 2020 to June 30, 2021	January 1, 2020 to June 30, 2021	July 1, 2021 to September 30, 2021
Period 2	July 1, 2020 to December 31, 2020	January 1, 2020 to December 31, 2021	January 1, 2020 to December 31, 2021	January 1, 2022 to March 31, 2022
Period 3	January 1, 2021 to June 30, 2021	January 1, 2020 to June 30, 2022	January 1, 2020 to June 30, 2022	July 1, 2022 to September 30, 2022
Period 4	July 1, 2021 to December 31, 2021	January 1, 2020 to December 31, 2022	January 1, 2020 to December 31, 2022	January 1, 2023 to March 31, 2023
Period 5	January 1, 2022 to June 30, 2022	January 1, 2020 to June 30, 2023	January 1, 2020 to June 30, 2023	July 1, 2023 to September 30, 2023
Period 6	July 1, 2022 to December 31, 2022	January 1, 2020 to December 31, 2023	January 1, 2020 to June 30, 2023	January 1, 2024 to March 31, 2024
Period 7	January 1, 2023 to June 30, 2023	January 1, 2020 to June 30, 2024	January 1, 2020 to June 30, 2023	July 1, 2024 to September 30, 2024

Note: To the extent that any payments fall outside the aforementioned periods, providers should abide by the periods of availability for eligible expenses and lost revenues and the reporting timeframe as agreed to with the agency.

II. PROGRAM PROCEDURES

The PRF and ARP Rural Distribution include the following components:

For the first phase of the PRF General Distributions, money was distributed proportionate to providers' share of Medicare fee-for-service reimbursements in 2019. A portion of providers were automatically sent an advance payment based off the revenue data they submit in CMS cost reports. Providers without adequate cost report data on file needed to submit their revenue information to the General Distribution Portal for additional funds.

For the second and third phases of the PRF General Distribution, Medicaid, Children's Health Insurance Program (CHIP), dental, assisted living, and behavioral health providers were eligible to apply for funds, along with Medicare providers paid under Phase 1 who qualified to receive additional funds.

For the fourth phase of the PRF General Distribution, consistent with the requirements included in the Consolidated Appropriations Act, 2021 (CAA) (Division M of Pub. L. No. 116-260), PRF Phase 4 payments were based on providers' changes in operating revenues and expenses from July 1, 2020, to March 31, 2021. Phase 4 also included new elements specifically focused on equity, including reimbursing smaller providers for their changes in operating revenues and expenses at a higher rate compared to larger providers, and bonus payments based on the amount of services providers furnish to Medicaid/CHIP and Medicare beneficiaries. In addition, eligible applicants applied for the ARP Rural funds through the same Application and Attestation Portal that was available to apply for the Phase 4 General Distribution.

Funding for high-impact areas was distributed to hospitals in areas that were particularly impacted by the COVID-19 outbreak based on submission of the hospital's: Tax Identification Number, National Provider Identifier, total number of Intensive Care Unit beds as of April 10, 2020, and June 10, 2020 and total number of admissions with a positive diagnosis for COVID-19 from January 1, 2020 to April 10, 2020 and January 1, 2020 to June 10, 2020.

Funding for Indian Health Service/Tribal facilities was distributed on the basis of operating expenses.

Prior to the availability of ARP Rural funding, funding for rural providers was distributed on the basis of operating expenses.

Funding for safety net hospitals was based on Centers for Medicare & Medicaid Services (CMS) cost report data.

Funding for children's hospitals was based on patient service revenue.

Funding for skilled nursing facilities and nursing homes was primarily based on the number of certified beds in the facility, and for the Nursing Home Infection Control Quality Incentive Program payments, data submission to the Centers for Disease Control and Prevention's (CDC) National Healthcare Safety Network (NHSN) Long-term Care Facility Component COVID-19 Module.

Most payments were sent out to providers without application, with requirement for recipients to accept the terms and conditions through an online portal or return funds. The Assistance Listing numbers were not provided at time of payments or included in initial terms and conditions.

Source of Governing Requirements

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (Pub. L. No. 116-136, 134 Stat. 563)

Paycheck Protection Program and Health Care Enhancement Act (PPPHCEA) (Pub. L. No. 116-139, 134 Stat. 622)

CAA (Division M of Pub. L. No. 116-260)

The ARP Act (ARPA) (Pub. L. No. 117-2)

Under the definition of federal financial assistance, PRF and ARP Rural Distributions are considered other financial assistance. Per the applicability table in 45 CFR section 75.101(b)(1), other financial assistance is not subject to the post federal award or cost principles requirements in 45 CFR Part 75, subparts C, D, and E, respectively, with the exception that 45 CFR section 75.303 (Internal Controls) and sections 75.351 through 75.353 (Subrecipient Monitoring and Management) are applicable.

Under the terms and conditions of the award, PRF and ARP Rural Distributions are subject to 45 CFR section 75.302 (Financial management and standards for financial management systems) and 45 CFR sections 75.361 through 75.365 (Record Retention and Access).

Additionally, under the terms and conditions of the award, PRF (Phase 4) and ARP Rural Distributions are subject to 45 CFR section 75.371 (Remedies for non-compliance) and 45 CFR sections 75.305(b)(8).

Availability of Other Program Information

PRF Reporting Portal
https://prfreporting.hrsa.gov/s/

Assistance Listing for PRF and ARP Rural Distribution
https://sam.gov/fal/7886e62bcc404c008669faf8227ffb6a/view

Frequently Asked Questions
https://www.hrsa.gov/provider-relief/faq

The following webpages provide additional information about the PRF:

PRF Information
https://www.hrsa.gov/provider-relief/

PRF Reporting & Auditing
https://www.hrsa.gov/provider-relief/reporting-auditing

Terms and Conditions
https://www.hrsa.gov/provider-relief/compliance/terms-conditions

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	N	N	N	N	Y	N	N

A. Activities Allowed or Unallowed

1. *Activities Allowed (All distributions except Skilled Nursing Facility Infection Control Distribution)*

   Law (Pub. L. No. 116-136, 134 Stat. 563 and Pub. L. No. 116-139, 134 Stat. 622 and 623, Pub. L. No. 117-2)

   To prevent, prepare for, and respond to coronavirus and COVID-19, domestically or internationally, for necessary expenses to reimburse, through grants or other mechanisms, eligible health care providers for health care related expenses or lost revenues that are attributable to coronavirus. (Note: Auditors are not expected to

test the funding reported as lost revenues to determine if it was expended only for federally defined allowable activities.)

That funds appropriated under this paragraph in this Act shall be available for building or construction of temporary structures, leasing of properties, medical supplies and equipment, including personal protective equipment and testing supplies, increased workforce and trainings, emergency operation centers, retrofitting facilities, and surge capacity.

Payment means a pre-payment, prospective payment, or retrospective payment.

Terms and Conditions

a. The recipient certifies that the payment will only be used to prevent, prepare for, and respond to coronavirus and COVID-19, and that the payment shall reimburse the recipient only for health care related expenses or lost revenues that are attributable to coronavirus and COVID-19.

b. The recipient certifies that retaining the payment for at least 90 days without contacting HHS regarding remittance of those funds, is deemed to have accepted the Terms and Conditions.

c. The recipient must provide or have provided after January 31, 2020, diagnoses, testing, or care for individuals with possible or actual cases of COVID-19. The Department of Health and Human Services (HHS) broadly views every patient as a possible case of COVID-19.

2. *Activities Allowed (Skilled Nursing Facility Infection Control Distribution)*

Terms and Conditions

Funds may only be used to reimburse the recipient for costs associated with the following items and services ("Infection Control Expenses"):

a. Costs associated with administering COVID-19 testing, which means an in vitro diagnostic test defined in section 809.3 of title 21, *Code of Federal Regulations* (or successor regulations) for the detection of SARS-CoV-2 or the diagnosis of the virus that causes COVID-19, and the administration of such a test, that:

- Is approved, cleared, or authorized under section 510(k), 513, 515, or 564 of the Federal Food, Drug, and Cosmetic Act (21 USC 360(k), 360c, 360e, 360bbb-3);

- The developer has requested, or intends to request, emergency use authorization under section 564 of the Federal Food, Drug, and Cosmetic Act (21 USC 360bbb-3), unless and until the emergency use authorization request under such section 564 has been denied

or the developer of such test does not submit a request under such section within a reasonable timeframe;

- Is developed in and authorized by a state that has notified the secretary of HHS of its intention to review tests intended to diagnose COVID-19; or
- Other tests that the Secretary determines are appropriate in guidance.

b. Reporting COVID-19 test results to local, state, or federal governments.

c. Hiring staff, whether employees or independent contractors, to provide patient care or administrative support.

d. Expenses incurred to improve infection control, including activities such as implementing infection control "mentorship" programs with subject matter experts or changes made to physical facilities.

e. Providing additional services to residents, such as technology that permits residents to connect with their families if the families are not able to visit in person.

f. The recipient must provide or have provided after January 31, 2020, diagnoses, testing, or care for individuals with possible or actual cases of COVID-19.

3. *Activities Allowed (ARP Rural distribution)*

Terms and Conditions

Funds may only be used to reimburse the provider(s) associated with the applicable subsidiary or billing Tax Identification Number (TIN) and cannot be transferred or allocated to another entity not associated with the subsidiary or billing TIN. Control and use of the Payment must be delegated to the Recipient that was eligible for and received the Payment.

4. *Activities Unallowed (All distributions)*

Law (Pub. L. No. 116-136, 134 Stat. 563 and Pub. L. No. 116-139, 134 Stat. 622, Pub. L. No. 117-2)

That these funds may not be used to reimburse expenses or losses that have been reimbursed from other sources or that other sources are obligated to reimburse.

Terms and Conditions

Payments may not be used to reimburse expenses or losses that have been reimbursed from other sources or that other sources are obligated to reimburse.

B. Allowable Costs/Cost Principles

While 45 CFR 75 Subpart E – Cost Principles do not apply to the PRF and the ARP Rural Distribution, charges to the PRF and the ARP Rural Distribution must be necessary, reasonable, accorded consistent treatment, and conform to the limitations and exclusions of the terms and conditions of the award. The PRF and ARP Rural Distribution Frequently Asked Questions referenced under Availability of Other Information above provides additional guidance and examples.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Report Title: PRF Report

OMB PRA Number: 0906-0068.The PRF reporting portal was launched on July 1, 2021 (https://prfreporting.hrsa.gov/s/); refer to the table in the Program Objective section for reporting time period(s). Auditors are expected to test this special reporting for fiscal years ending on or after June 30, 2021. Since the PRF and ARP Rural Distribution amounts to be reported on a recipient's Schedule of Expenditures of Federal Awards (SEFA) are based on the PRF report (see the Other Information section below), and since the PRF report is to be tested as part of the Reporting type of compliance requirement, auditors should consider delaying the commencement of the compliance audit of the PRF program until recipients have completed the PRF report.

Key Line Items – The following line items contain critical information (items are not numbered in report):

1. Total Reportable Nursing Home Infection Control Expenses Used in the Reporting Period

    a. Total Nursing Home Infection Control Expenses – Cell that contains the aggregated total sum

2. Total Reportable Other PRF Expenses for Payments Received During Payment Period

    a. Total Other PRF Expenses – Cell that contains the aggregated total sum

3. Calculation of Lost Revenues Attributable to Coronavirus

    a. 2019 Actuals

        (1) Total Column for Total Revenue/Net Charges from Patient Care (2019 Actuals) – Each cell at the bottom of each quarter (Total revenue/Net Charges from Patient Care) and for each year, 2019, 2020, 2021, 2022 and 2023, up to June 30, 2023.

    b. 2020 Budgeted

        (1) Total Column for Total Revenue/Net Charges from Patient Care (Budgeted) – Each cell at the bottom of each quarter (Total revenue/Net Charges from Patient Care) and for each year, 2020, 2021, 2022 and 2023, up to June 30, 2023.

        (2) Total Column for Total Revenue/Net Charges from Patient Care (Actuals) – Each cell at the bottom of each quarter (Total revenue/Net Charges from Patient Care) and for each year, 2020, 2021, 2022 and 2023, up to June 30, 2023.

    c. Alternate Method of Calculating Lost Revenues Attributable to Coronavirus

        (1) Each individual cell in the alternative method – audit back to the narrative and underlying supporting documentation. (**Note:** The auditor is not responsible for determining the reasonableness of the alternative method described in the narrative.)

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

IV. OTHER INFORMATION

Note: Since the PRF and ARP Rural Distribution amounts to be reported on a recipient's SEFA are based on the recipient's PRF report submittal), the PRF report is to be tested as part of the Reporting compliance requirement, auditors should consider delaying the commencement of the compliance audit of the PRF and ARP Rural Distribution program until recipients have completed the PRF report.

1. *Webpage Guidance*

Guidance documents accessed by links on the HRSA.gov website such as those listed under "Availability of Other Program Information" are provided only to clarify the applicable laws, regulations, and terms and conditions of the award and do not create new compliance requirements. However, nonfederal entities in substantial compliance with the guidance applicable in these guidance documents are considered in compliance with the underlying compliance requirements.

2. *SEFA Reporting*

SEFA reporting amounts for this program (including both expenditures and lost revenues) are based upon the PRF report that is required to be submitted to the HRSA reporting portal (described in "L.3 Special Reporting;" https://prfreporting.hrsa.gov/s/). Therefore, it is first important to understand the HRSA PRF and ARP Rural Distribution reporting requirements, which are summarized in the following table.

For the PRF and ARP Rural Distribution, it is the last day a provider can use the funds (end of the period of availability), which drives the inclusion of the PRF amount on the SEFA in a Single Audit report.

	Payment Received Period (Payments Exceeding $10,000 in Aggregate Received)	Period of Availability for Eligible Expenses	Period of Availability for Lost Revenues	PRF Portal Reporting Time Period	Fiscal Year Ends (FYEs) to include each PRF Period on the SEFA Reporting
Period 1	April 10, 2020 to June 30, 2020	January 1, 2020 to June 30, 2021	January 1, 2020 to June 30, 2021	July 1, 2021 to September 30, 2021	FYEs of June 30, 2021 through June 29, 2022
Period 2	July 1, 2020 to December 31, 2020	January 1, 2020 to December 31, 2021	January 1, 2020 to December 31, 2021	January 1, 2022 to March 31, 2022	FYEs of December 31, 2021 through FYEs December 30, 2022
Period 3	January 1, 2021 to June 30, 2021	January 1, 2020 to June 30, 2022	January 1, 2020 to June 30, 2022	July 1, 2022 to September 30, 2022	FYEs of June 30, 2022 through June 29, 2023
Period 4	July 1, 2021 to December 31, 2021	January 1, 2020 to December 31, 2022	January 1, 2020 to December 31, 2022	January 1, 2023 to March 31, 2023	FYEs of December 31, 2022 through

	Payment Received Period (Payments Exceeding $10,000 in Aggregate Received)	Period of Availability for Eligible Expenses	Period of Availability for Lost Revenues	PRF Portal Reporting Time Period	Fiscal Year Ends (FYEs) to include each PRF Period on the SEFA Reporting
					FYEs December 30, 2023
Period 5	January 1, 2022 to June 30, 2022	January 1, 2020 to June 30, 2023	January 1, 2020 to June 30, 2023	July 1, 2023 to September 30, 2023	FYEs of June 30, 2023 through June 29, 2024
Period 6	July 1, 2022 to December 31, 2022	January 1, 2020 to December 31, 2023	January 1, 2020 to June 30, 2023	January 1, 2024 to March 31, 2024	FYEs of December 31, 2023 through FYEs December 30, 2024
Period 7	January 1, 2023 to June 30, 2023	January 1, 2020 to June 30, 2024	January 1, 2020 to June 30, 2023	July 1, 2024 to September 30, 2024	FYEs of June 30, 2024 through June 29, 2025

Summary of SEFA Reporting of PRF for FYEs Covered by the 2024 Compliance Supplement

For FYEs of June 30, 2024 through FYEs of December 30, 2024, recipients should report in the SEFA the expenditures and lost revenues from both the **Period 6 and Period 7** PRF reports.

For FYEs of December 31, 2024 through FYEs of June 29, 2025, recipients should report in the SEFA the expenditures and lost revenues from **Period 7** PRF report.

Note: To the extent that any payments fall outside the aforementioned periods, providers should abide by the periods of availability for eligible expenses and lost revenues and the reporting timeframe as agreed to with the agency

3. *Defining the Entity to be Audited*

The reporting entity required for PRF, and ARP Rural Distribution reporting purposes may not align to the reporting entity as defined for financial reporting purposes. It is important to note that the required PRF level of reporting has no bearing on the application of the requirements in 2 CFR 200.514 for defining the entity to be audited for single audit purposes. Thus, for single audits that include PRF and ARP Rural Distribution, the Single Audit must cover the entire operations of the auditee, or, at the option of the auditee, such audit must include a series of audits that cover departments, agencies, and other organizational units that expended or otherwise administered federal awards during such audit period, provided that each such audit must encompass the financial statements and schedule of expenditures of federal awards for each such department, agency, and other organizational unit, which must be considered to be a nonfederal entity.

As a best practice, the recipients may wish to include a footnote disclosure on the SEFA to identify which providers by TIN are included in the audit.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.556 MARYLEE ALLEN PROMOTING SAFE AND STABLE FAMILIES

I. PROGRAM OBJECTIVES

The MaryLee Allen Promoting Safe and Stable Families (PSSF) program provides funds to states and federally recognized Indian tribes, tribal organizations, and tribal consortia (hereafter "tribe") to prevent the unnecessary separation of children from their families, improve the quality of care and services to children and their families, and ensure permanency for children by reuniting them with their parents, by adoption or by another permanent living arrangement. The program includes family support, family preservation, family reunification, and adoption promotion and support services.

II. PROGRAM PROCEDURES

The Children's Bureau, Administration on Children, Youth, and Families, Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS), administers the PSSF. To be eligible for funds, each state and tribe must submit a five-year comprehensive plan, the Child and Family Services Plan (CFSP). This plan encompasses planning and service delivery for the full child welfare services spectrum. This includes (1) child welfare services under Title IV-B, subparts 1 and 2; (2) a child welfare staff development and training plan; (3) a diligent recruitment of foster and adoptive families plan that reflects the ethnic and racial diversity of children in the state for whom foster and adoptive homes are needed; and (4) child abuse and neglect prevention, foster care, adoption, and foster care independence services, including an education and training voucher program for foster care youth. An Annual Progress and Services Report (APSR) is required that identifies the specific accomplishments and progress made in the past fiscal year toward meeting each goal and objective in the five-year comprehensive plan and any revisions in the statement of goals and objectives or to the training plan, if necessary, to reflect changed circumstances.

The Associate Commissioner of the ACF Children's Bureau has approval authority for the Title IV-B plans. Following ACF approval, allotments to states are based on the number of children in the states who received supplemental nutrition assistance program benefits in the previous three years. Awards may also be made to tribes that qualify from reserved funds under the allotment formula; no tribe may be funded if its allotment is less than $10,000. PSSF services are based on several key principles. The welfare and safety of children and of all family members should be maintained while strengthening and preserving the family. It is advantageous for the family as a whole to receive services, which identify and enhance its strengths while meeting individual and family needs. Services should be easily accessible, often delivered in the home or in community-based settings, and respect cultural and community differences. In addition, they should be flexible, responsive to real family needs, and linked to other supports and services outside the child welfare system. Services should involve community organizations and residents, including parents, in their design and delivery. They

should be intensive enough to keep children safe and meet family needs, varying between preventive and crisis services.

Source of Governing Requirements

PSSF is authorized under Title IV-B, subpart 2 of the Social Security Act, as amended, and is codified at 42 USC 629 through 629f. Implementing program regulations are published at 45 CFR parts 1355 and 1357.

Availability of Other Program Information

The Children's Bureau manages a policy issuance system that provides further clarification of the law and guides states and tribes in implementing the PSSF program. This information may be accessed at https://www.acf.hhs.gov/cb/resource/pi1009

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/ Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	Y	Y	N	N	Y	N	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

a. Programs delivered in accessible settings in the community and responsive to the needs of the community and the individuals and families residing therein. These services may be provided under public or private non-profit auspices (45 CFR section 1357.10(c)).

b. Services for children and families designed to protect children from harm and help families (including foster, adoptive, and extended families) at risk or in crisis, including (42 USC 629a(a)(1) and 45 CFR section 1357.10(c)):

(1) Pre-placement preventive services programs, such as intensive family preservation programs, designed to help children at risk of foster care placement remain with their families, where possible;

(2) Service programs designed to help children, where appropriate, return to families from which they have been removed; or be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement;

(3) Service programs designed to provide follow-up care to families to whom a child has been returned after a foster care placement;

(4) Respite care of children to provide temporary relief for parents and other caregivers (including foster parents);

(5) Services designed to improve parenting skills (by reinforcing parents' confidence in their strengths, and helping them to identify where improvement is needed and to obtain assistance in improving those skills) with respect to matters such as child development, family budgeting, coping with stress, health, and nutrition;

(6) Infant safe haven programs to provide a way for a parent to safely relinquish a newborn infant at a safe haven designated pursuant to a state law; and

(7) Case management services designed to stabilize families in crisis such as transportation, assistance with housing and utility payments, and access to adequate health care.

c. Community-based services to promote the well-being of children and families designed to increase the strength and stability of families (including adoptive, foster, and extended families); increase parents'

confidence and competence in their parenting abilities; afford children a stable and supportive family environment; strengthen parental relationships and promote healthy marriages and otherwise enhance child development, including through mentoring. Beginning on February 9, 2018, and thereafter, services may also be provided to support and retain foster families so they can provide quality family-based settings for children in foster care. Family support services may include (42 USC 629a(a)(2); 45 CFR section 1357.10(c)):

(1) Services, including in-home visits, parent support groups, and other programs designed to improve parenting skills (by reinforcing parents' confidence in their strengths, and helping them to identify where improvement is needed and to obtain assistance in improving those skills) with respect to matters such as child development, family budgeting, coping with stress, health, and nutrition;

(2) Respite care of children to provide temporary relief for parents and other caregivers;

(3) Structured activities involving parents and children to strengthen the parent-child relationship;

(4) Drop-in centers to afford families opportunities for informal interaction with other families and with program staff;

(5) Transportation, information, and referral services to afford families access to other community services, including child care, health care, nutrition programs, adult education literacy programs, legal services, and counseling and mentoring services; and

(6) Early developmental screening of children to assess the needs of such children, and assistance to families in securing specific services to meet these needs.

d. Services and activities that are provided to a child who is removed from his/her home and placed in a foster family home or a child care institution and to the parents or primary caregiver of such a child, in order to facilitate the reunification of the child safely and appropriately within a timely fashion and to ensure the strength and stability of the reunification. These family reunification services may be provided on behalf of a child in foster care without a time limit. Additionally, in the case of a child who has been returned home, these services and activities may also be provided, but shall only be provided during the 15-month period that begins on the date that the child returns home.

The services and activities for family reunification services are the following (42 USC 629a(a)(7)):

(1) Individual, group, and family counseling;

(2) Inpatient, residential, or outpatient substance abuse treatment services;

(3) Mental health services;

(4) Assistance to address domestic violence;

(5) Services designed to provide temporary child care and therapeutic services for families, including crisis nurseries;

(6) Peer-to-peer mentoring and support groups for parents and primary caregivers;

(7) Services and activities designed to facilitate access to and visitation of children by parents and siblings; and

(8) Transportation to or from any of the services and activities described above.

e. Services and activities designed to encourage more adoptions out of the foster care system, when adoption promotes the best interest of the child, including such activities as pre- and post-adoptive services and activities designed to expedite the adoption process and support adoptive families (42 USC 629a(a)(8)).

f. Administrative costs (defined as costs of auxiliary functions as identified through an agency's accounting system that are allocable, in accordance with the agency's approved cost allocation plan, to the Title IV-B, subpart 2 program cost centers; necessary to sustain the direct effort involved in administering the state plan or an activity providing service to the programs, and centralized in the recipient's department or in some other agency) are allowable. Administrative costs include, but are not limited to, the following: procurement; payroll; personnel functions; management; maintenance and operation of space and property; data processing and computer services; accounting; budgeting; and auditing (45 CFR sections 1357.32(h)(1) and (2)). See III.G.3, "Matching, Level of Effort, Earmarking – Earmarking," for a limitation on the amount of administrative costs.

g. Program costs, which are costs other than administrative costs, incurred in connection with developing and implementing the CFSP (e.g., delivery of services, planning, consultation, coordination, training, quality assurance measures, data collection, evaluations, and supervision) (45 CFR section 1357.32(h)(3)).

2. *Activities Unallowed*

Funds awarded under Title IV-B, subpart 2, may not be used for the purchase or construction of facilities (45 CFR section 1357.32(e)).

G. Matching, Level of Effort, Earmarking

1. Matching

Funds are federally reimbursed at 75 percent of allowable expenditures. The Title IV-B agency's contribution may be in cash, donated funds, and non-public third party in-kind contributions (45 CFR section 1357.32(d)).

2. Level of Effort

2.1 Level of Effort – *Maintenance of Effort*

Not Applicable

2.2 Level of Effort – *Supplement Not Supplant*

a. States and tribes (42 USC 629c) may not use federal funds under Title IV-B, subpart 2 to supplant federal or non-federal funds for existing services.

(1) "Non-Federal" funds are defined at 42 USC 629a(a)(9) as "State funds, or at the option of a State, State and local funds." Although state matching may be in the form of cash, donated funds, or non-public third party in-kind contributions, the "supplement not supplant" requirement is limited to non-federal funds as defined in 42 USC 629a(a)(9).

(2) The base year for determining compliance with this requirement is the amount of funds that the state expended for services in the state's fiscal year 1992 (42 USC 629b(a)(7); 45 CFR section 1357.32(f)). The regulations have not been updated to reflect the amendments to the Social Security Act made by the Adoption and Safe Families Act (ASFA) that added two new service categories (i.e., time-limited family and reunification services and adoption promotion and support services) to those specified in 45 CFR section 1357.32(f); however, the base year (1992) remains the same for all four service areas under Title IV-B, subpart 2 (42 USC 629b(a) and (b)(1); ACYF-CB-PI-99-07).

b. The state may not use the amount specified in III.G.3.c, "Matching, Level of Effort, Earmarking – Earmarking," to supplant any federal funds paid to the state under part E that could be used for monthly caseworker visitation with children who are in foster care and activities designed to improve caseworker retention, recruitment, training, and ability to access the benefits of technology (42 USC 629f(4)(B)(ii)).

3. Earmarking

a. States must generally expend a significant portion of their award defined as an amount approximating 20 percent, on each of the following: (1) programs of family preservation services, (2) community-based family support services, (3) time-limited family reunification services, and (4) adoption promotion and support services. ACF may approve a state to spend less than 20 percent on a services category if the state provides a strong justification in its CFSP or APSR. (42 USC 629b(a)(4); 45 CFR section 1357.15(s); ACYF-CB-PI-20-13 (found at https://www.acf.hhs.gov/cb/policy-guidance/pi-20-13. This provision is not applicable to tribes per exemption authority (42 USC 629b(b)(2)(A)); 45 CFR section 1357.50(f)(1)(iii)).

b. States may not expend more than 10 percent of the total program expenditures (Federal and State share) during the fiscal year under the State plan for administrative costs (42 USC 629d(d)). This provision is not applicable to tribes per exemption authority (42 USC 629b(b)(2)(A)); 45 CFR section 1357.50(f)(1)(i)).

c. A state shall use the special allocation provided pursuant to Pub. L. No. 112-34 to support monthly caseworker visits with children who are in foster care with a primary emphasis on activities designed to improving caseworker decision making on the safety, permanency, and well-being of foster children and on activities designed to increase retention, recruitment and training of caseworkers (42 USC 629f(b)(4)(B)(i)). The limitation on the use of federal funds for administrative costs described in paragraph G.3.b also applies to this special allocation.

H. Period of Performance

Funds under Title IV-B, subpart 2, must be obligated by September 30 of the fiscal year following the fiscal year in which the funds were awarded (45 CFR section 1357.32(g) and Supplemental Terms and Conditions available through a link as follows: https://www.acf.hhs.gov/sites/default/files/documents//acyf.cb_.93.556.promoting-safe-and-stable-families-program-supplemental-terms-and-conditions-fy22.pdf).

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable.

c. *SF-425, Federal Financial Report* – Applicable (expenditure reporting only)

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

Not Applicable

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.558 TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

I. PROGRAM OBJECTIVES

The objectives of the state and tribal Temporary Assistance for Needy Families (TANF) programs are to provide time-limited assistance to needy families with children so that the children can be cared for in their own homes or in the homes of relatives; to end dependence of needy parents on government benefits by promoting job preparation, work, and marriage; to prevent and reduce out-of-wedlock pregnancies, including establishing prevention and reduction goals; and to encourage the formation and maintenance of two-parent families.

II. PROGRAM PROCEDURES

A. Overview

The Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS), administers the TANF program on behalf of the federal government. To be eligible for the TANF block grant, a state (including the District of Columbia, the Commonwealth of Puerto Rico, the US Virgin Islands, Guam, and American Samoa) must periodically submit a state plan containing specified information and assurances.

1. *States*

Following ACF review of the state plan and determination that it is complete, ACF awards the basic "State Family Assistance Grant" (SFAG) to the state using a formula allocation derived from funding levels under TANF's predecessor programs. The SFAG is a fixed amount to the state subject to reductions based on any penalties assessed. In addition, SFAG amounts will be adjusted for any federally recognized Indian tribes within the state that operate separate tribal TANF programs. States have significant flexibility in designing programs and determining eligibility requirements within broad federal parameters. While states have flexibility and discretion, there are provisions to ensure accountability for results, including requirements for reporting data on expenditures and individuals receiving benefits under the program, and monetary penalties for failure to meet programmatic requirements such as work participation requirements.

The federal TANF block grant program also has an annual cost-sharing requirement, known as maintenance-of-effort (MOE). A state must spend each fiscal year at least 80 percent of its historic state expenditures to provide benefits and services to eligible clientele. If the state meets both its required minimum overall ("all-family") and two-parent work participation rates for a federal fiscal year (FFY), then the required MOE spending level decreases to 75 percent of its

FFY 1994 historic state expenditures. "Historic state expenditures" means the state's FFY 1994 share of expenditures in the former Aid to Families with Dependent Children (AFDC), Emergency Assistance, AFDC-Related Child Care, Transitional Child Care, At-Risk Child Care, and JOBS programs. States may not use more than 15 percent of the total amount of countable expenditures for the fiscal year for administrative activities.

2. *Tribes*

Tribal Family Assistance Plans (TFAP) are developed for a three-year period and submitted to ACF for review and approval. The Tribal Family Assistance Grant (TFAG) is derived from an amount equal to the federal share of expenditures, other than child care costs, by the state or states under the former AFDC, EA, and JOBS programs for FFY 1994 for all American Indian families residing in the service area identified in the TFAP. The TFAG is a fixed amount, subject to reductions based on any penalties assessed. As long as the minimum requirements are met, Indian tribes (tribes) have significant flexibility in designing programs and determining eligibility requirements and may use the award to provide cash or non-cash assistance, including direct services, and for administrative activities.

As also stated in IV, "Other Information - Tribal TANF recipients under a Pub. L. No. 102-477 Demonstration Project (477)," audits of Indian tribal governments with Tribal TANF in their approved 477 plan must follow the guidance in the 477 Cluster found in the Department of the Interior's section of Part 4 for this Supplement.

B. Funding

1. *States*

States have options for how to expend federal funds and state MOE funds. Certain statutory and regulatory requirements apply depending on whether the source of the funding for a service or benefit is federal funds alone, state MOE funds, or a combination of the two. For this reason, this supplement explains requirements based on how the state reports expenditures for a given service or benefit.

a. *Federal Only* – A state should report an expenditure as "federal only" when it uses only federal funds, without including any MOE funds.

b. *Commingled Federal/State* – A state should report an expenditure as "commingled" when it uses both federal award and MOE funds for the benefit or service. Commingled funding of a service or benefit means that the expenditure is subject to all federal funding restrictions, TANF requirements, and MOE limitations, or the most restrictive of these if they conflict.

c. *Segregated State* – A state should report an expenditure as "segregated state" if it uses MOE funds in the TANF program operated by the state and uses no federal funds for the benefit or service.

d. *Separate State Program* – A state should report an expenditure as funded by a "separate state program" if it reports state expenditures as MOE as part of a program, operated outside of the TANF program operated by the state.

Federal funds and MOE funds must both be used for "expenditures." A definition of the term "expenditure" is found in 45 CFR section 260.30. In addition, 45 CFR section 260.33 explains the circumstances under which certain state tax relief provisions would count as expenditures.

2. *Tribes*

Similar to states, tribes have options for how to expend federal funds and, where applicable, state MOE funds. Certain statutory and regulatory requirements apply depending on whether the source of the funding for a service, or benefit, is federal funds alone, state MOE funds, or a combination of the two. For this reason, throughout this supplement, we explain requirements based on how the tribe reports expenditures for a given service or benefit.

a. *Federal Only* – A tribe should report an expenditure as "federal only" when it uses only federal funds, without including any state-donated MOE funds or tribal funds that are expended in the TANF program operated by the tribe.

b. *Commingled Federal/State-donated MOE* – A tribe should report an expenditure as "commingled" when it uses both federal and state-donated MOE funds for the benefit or service. Commingled funding of a benefit or service means that the expenditure is subject to all federal funding restrictions and state MOE limitations, or the most restrictive of these if they conflict.

c. *Segregated Tribal* – A tribe should report an expenditure as "segregated tribal" if it uses state MOE funds expended separately in the TANF program operated by the tribe and uses no federal funds for the benefit or service. See IV., "Other Information," for guidance on state MOE expended by tribes.

American Rescue Plan Act of 2021

On March 11, 2021, the president signed the American Rescue Plan Act of 2021 into law (Pub. L. No. 117-2). It establishes the Pandemic Emergency Assistance Fund (PEAF) in section 403(c) of the Social Security Act (the Act). The PEAF provides funding to states (which includes the District of Columbia), tribes administering a TANF program, and five US territories (Puerto

Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands) to assist needy families impacted by the Coronavirus Disease 2019 (COVID-19) pandemic.

Source of Governing Requirements

These programs are authorized under Title IV-A of the Act, as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. No. 104-193) and subsequent amendments thereto and are codified at 42 USC 601-619.

The governing regulations for states are those in 45 CFR parts 260–265. Regulations for tribal TANF are in 45 CFR Part 286.

All state and all tribal TANF programs are subject to the provisions in the HHS implementation of 2 CFR Part 200 at 45 CFR Part 75.

Availability of Other Program Information

TANF-ACF-PI-2007-08, dated November 28, 2007, on *Using Federal TANF and State Maintenance-of-Effort (MOE) Funds for Families in Areas Covered by a Federal or State Disaster Declaration* presents items to consider with respect to the current TANF program when addressing the needs of families affected by a federally or state-declared disaster. TANF-ACF-PI-2007-08 is available at https://www.acf.hhs.gov/ofa/resource/policy/pi-ofa/2007/200708/pi200708.

Other general program information regarding the state and tribal TANF programs is available from the Office of Family Assistance (OFA) website at https://www.acf.hhs.gov/ofa/programs.

TANF-ACF-PI-2021-02, dated April 9, 2021, *The Pandemic Emergency Assistance Fund* provides initial guidance to state, tribal, and territorial agencies administering the TANF program, and other eligible territories, regarding the newly established PEAF.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	Y	N	N	N	Y	Y	Y

A. Activities Allowed or Unallowed

This program refers to states; however, in some cases, subrecipients of states (e.g., local governments) may be responsible for compliance requirements that are referred to in this Supplement as "state." The auditor should adjust accordingly for the entity being audited (typical for all requirements).

1. *States*

   a. Federal Only

      (1) Funds may be used for expenditures for activities that are not permissible under 42 USC 601, but for which the state was authorized to use Title IV-A or IV-F funds under prior law. The previously authorized activities must have been included in a state's approved state AFDC plan, JOBS plan, or Supportive Services plan, as in effect on September 30, 1995, or at the state's option, on August 21, 1996. Examples of such activities are authorized juvenile justice and foster care activities (42 USC 604(a)(2); 45 CFR section 263.11(a)(2)).

      (2) A state may transfer up to 30 percent of its total of current fiscal year funds (not prior fiscal year funds carried into the current fiscal year) received under the SFAG to carry out programs under the Social Services Block Grant (Title XX) (Assistance Listing 93.667) and/or the Child Care and Development Block Grant (Assistance Listing 93.575). However, no more than 10 percent may be transferred to Title XX, and such amounts may be used only for programs or services to children or their families whose income is less than 200 percent of the poverty level. Neither TANF contingency funds under 42 USC 603(b) nor pandemic emergency assistance funds under 42 USC 603(c) (Pub. L. No. 117-2) may be transferred under this authority (42 USC 604(d)). The poverty guidelines are issued each year in the *Federal Register* and HHS

maintains a website that provides the poverty guidelines (https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines). When transferred, the funds are subject to the rules of the program to which they are transferred (within statutory restrictions) and should be audited under that program. Please refer to Part IV Item 1, "Transfers out of TANF."

b. Federal Only and Commingled Federal/State

Funds may not be used to provide medical services other than pre-pregnancy family planning services (42 USC 608(a)(6)).

c. Federal Only, Commingled Federal/State, Segregated State, Separate State Program

(1) A state may use funds in any manner reasonably calculated to accomplish the purposes of the program, including providing low-income households with assistance in meeting home heating and cooling costs (42 USC 604(a)(1) and 45 CFR section 263.11(a)(1)). As specified in 42 USC 601 and 45 CFR section 260.20, the TANF program has the following purposes (Note: In the following sections of this program supplement, these are referenced as TANF purposes 1, 2, 3, and 4, respectively):

(a) Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

(b) End dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

(c) Prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and

(d) Encourage the formation and maintenance of two-parent families.

(2) A state may use funds for programs to prevent and reduce the number of out-of-wedlock pregnancies, including programs targeted to law enforcement officials, the educational system, and counseling services that provide education and training of women and men on the problem of statutory rape (42 USC 602(a)(1)(A)(v) and (vi)).

(3) A state may use funds to make payments or provide job placement vouchers to state-approved public and private job placement agencies providing employment placement services to individuals receiving assistance under TANF (42 USC 604(f)).

(4) A state may use funds to implement electronic benefits transfer system (42 USC 604(g)).

(5) A state may use funds to carry out a program to fund individual development accounts (42 USC 604(h)(2); 45 CFR sections 263.20 through 263.23) established by individuals eligible to receive assistance under TANF (42 USC 604(h); 45 CFR Part 263, Subpart C).

(6) A state may contract with charitable, religious, and private organizations to provide administrative and programmatic services and may provide beneficiaries of assistance with certificates, vouchers, or other forms of disbursement that are redeemable with such organization (42 USC 604a(b), 42 USC 604a(k), and 45 CFR section 260.34). However, funds provided directly to participating organizations may not be used for inherently religious activities, such as worship, religious instruction, or proselytization (42 USC 604a(j); 45 CFR section 260.34(c)).

d. Prohibition on Use of Federal TANF and State MOE funds for Juvenile Justice Services

See IV, “Other Information,” for area of risk of non-compliance for juvenile justice services.

2. *Tribes*

a. Federal Only

(1) A tribe may use funds for expenditures for activities that are not permissible under 42 USC 601, but for which the state or tribe was authorized to use Title IV-A or IV-F funds under prior law. The previously authorized activities must have been included in a state’s approved state AFDC plan, JOBS plan, or Supportive Services plan, as in effect on September 30, 1995, or at the state’s option, on August 21, 1996. Examples of such activities are authorized juvenile justice and foster care activities (42 USC 604(a)(2); 45 CFR section 263.11(a)(2)). Use of such funds in the tribal TANF program is allowed if the geographic area of the tribal TANF program is within the state(s) having had an approved AFDC state plan(s) under Title IV-A that included these activities. If the tribe plans to exercise this option, these activities must be included in the approved tribal TFAP.

(2) Tribes may not transfer any federal TANF funds to the Social Services Block Grant (Title XX) (Assistance Listing 93.667) or the Child Care and Development Block Grant (Assistance Listing 93.575). Funds may not be used to contribute to or subsidize non-TANF programs (42 USC 604(d); 45 CFR section 286.45 (b)).

b. Federal Only, Commingled Federal/State-donated MOE, Segregated Tribal

(1) A tribe may use funds in any manner reasonably calculated to achieve the purposes of the tribal TANF program, including providing low-income households with assistance in meeting home heating and cooling costs (42 USC 604(a)(1) and 45 CFR section 286.35(a)(1)). As specified in 42 USC 601 and 45 CFR section 286.35, the tribal TANF program has the following purposes (Note: In the following sections of this program supplement, these are referenced as TANF purposes 1, 2, 3, and 4, respectively):

(a) Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

(b) End dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

(c) Prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and

(d) Encourage the formation and maintenance of two-parent families.

(2) A tribe may use funds for programs to prevent and reduce the number of out-of-wedlock pregnancies, including programs targeted to law enforcement officials, the educational system, and counseling services that provide education and training of women and men on the problem of statutory rape (42 USC 602(a)(1)(A)(v) and (vi)).

(3) A tribe may use funds to make payments or provide job placement vouchers to tribe-approved public and private job placement agencies providing employment placement services to individuals receiving assistance under TANF (42 USC 604(f)).

(4) A tribe may use funds to implement electronic benefits transfer system (42 USC 604(g)).

(5) A tribe may use funds to carry out a program to fund individual development accounts (42 USC 604(h)(2)) established by individuals eligible to receive assistance under Tribal TANF (42 USC 604(h); 45 CFR section 286.40).

(6) A tribe may contract with charitable, religious, and private organizations to provide administrative and programmatic services and may provide beneficiaries of assistance with certificates, vouchers, or other forms of disbursement which are redeemable with such organization (42 USC 604a(b) and 42 USC 604a(k)). However, tribes that operate their own TANF program under section 412 of the Act are not required to follow the Charitable Choice rules because the statutory provisions on Charitable Choice apply only to state and local governments (42 USC 604a(j); September 30, 2003, *Federal Register*, (68 FR 56450 and 56463)).

(7) Tribal TANF recipients that expend federal funds on economic development activities must adhere to the instructions contained in the TANF Program Instruction, TANF-ACF-PI-2005-02, dated April 19, 2005, pertaining to economic development expenditures. This program instruction is available at https://www.acf.hhs.gov/ofa/resource/policy/pi-ofa/2005/pi2005-2htm (45 CFR section 286.35(a)(1)).

(8) Unlike states, tribes are not prohibited from expending funds for medical expenses, if the expenditure is in the context of removing barriers to employment, training, or job-related education. However, funds cannot be used for general medical expenses for families. The expenditure of TANF funds is not intended to subsidize, contribute to, or supplant other available medical services or funding (i.e., Indian Health Service, Public Health Service, tribal health services, state, county, and local health services, or other services covered by Medicaid, Medicare, or private health insurance (42 USC 608(a)(6), 45 CFR section 286.45(b))).

3. *Pandemic Emergency Assistance Fund (PEAF)*

a. All recipients

(1) States, tribes, and territories (recipients) may use funds to provide certain non-recurrent, short-term (NRST) benefits (described below). Additionally, they may use funds for administrative costs (up to a 15 percent cap for states and territories and up to the negotiated cap for tribes).

(2) For the purposes of PEAF, NRST benefits mean cash payments or other benefits that meet the regulatory definition (45 CFR section 260.31(b)(1)), but are limited to those that fall into the specific expenditure reporting category mentioned in the legislation (line 15 of the ACF-196R , the state financial reporting form for the TANF program). In other words, for this fund, NRST benefits, like all NRSTs under TANF, must: be designed to deal with a specific crisis situation or episode of need; not be intended to meet on-going needs; and not extend beyond four months; **and** (as explained in the instructions for reporting on line 15 of the ACF-196R) NRSTs paid for with PEAF funds: must only include expenditures such as emergency assistance and diversion payments, emergency housing and short-term homelessness assistance, emergency food aid, short-term utilities payments, burial assistance, clothing allowances, and back-to-school payments; and may **not** include tax credits, child care, transportation, or short-term education and training.

E. Eligibility

1. Eligibility for Individuals

The state or tribal plan provides the specifics on the state or tribal area's definition of financially needy which the state or tribal area uses in determining eligibility. Whenever used in this section, "assistance," has the meaning in 45 CFR section 260.31(a) of the TANF regulations for states and 45 CFR section 286.10 of the tribal TANF regulations for federally recognized tribes operating an approved tribal TANF program. Plan and eligibility requirements must comply with the following federal requirements:

a. *States*

(1) Federal Only, Commingled Federal/State, Segregated State, and Separate State Program

(a) Only a financially needy family that consists of, at a minimum, a minor child living with a parent or other caretaker relative, or a pregnant woman may receive TANF "assistance" or most MOE-funded benefits, services, or "assistance" regardless of the TANF purpose that the expenditure is reasonably calculated to accomplish (see III.A.1.c, "Activities Allowed or Unallowed – *Federal Only, Commingled Federal/State, Segregated State, Separate State Program*"). The child must be less than 18 years old, or, if a full-time student in a secondary school (or the equivalent level of vocational or technical training), less than 19 years old. (With respect to segregated or separate

state MOE funds, the state could use the definition for minor child given in section 419(2) of the Act or some other definition applicable in state law provided the state can articulate a rational basis for the age it chooses.) Financially "needy" means financially eligible according to the state's quantified income and resource (if applicable) criteria to receive the benefit (42 USC 602 and 602(a)(1)(B)(iii), 42 USC 609(a)(7)(B)(IV), and 42 USC 608(a)(1), 619(2); 45 CFR section 263.2(b)(2)). See III.G.2.1, "Matching, Level of Effort, Earmarking – Level of Effort – *Maintenance of Effort*," for the limited MOE pro-family exception to this requirement.

Note: A state may continue to provide federally funded (*Federal Only*) TANF "assistance" pursuant to 42 USC 604(a)(2) using the financial eligibility criteria contained in the state's approved AFDC, EA, JOBS, or Supportive Services plan as of September 30, 1995 (or at state option, as of August 21, 1996). A state may also continue this assistance notwithstanding the family composition requirement described above. (See III.A.1.a(1), "Activities Allowed or Unallowed.")

Only the financially "needy" are eligible for services, benefits, or "assistance" pursuant to TANF purpose 1 or 2 (see III.A.1.c., "Activities Allowed or Unallowed – *Federal Only, Commingled Federal/State, Segregated State, Separate State Program*") (42 USC 601(a)(1) and (2); 45 CFR sections 260.20(a) and (b)). Financially "needy" for TANF and MOE purposes means financial deprivation (i.e., lacking adequate income and resources). For example, a needy family or a needy parent is one who is financially eligible according to the state's quantified financial eligibility criteria (income and resource (if applicable) standards, April 12, 1999, *Federal Register* (64 FR 17825), 45 CFR section 263.2(b)(3)).

States may choose to use federal only TANF funds to provide benefits that do not constitute "assistance" to the non-needy pursuant to TANF purpose 3 or 4 only (see III.A.1.c, "Activities Allowed or Unallowed – *Federal Only, Commingled Federal/State, Segregated State, Separate State Program*") (42 USC 601(a)(3) and (4); 45 CFR sections 260.20(c) and (d)). States may also choose to use MOE funds to provide certain pro-family non-assistance benefits to the non-needy under TANF purpose 3 or 4 (see III.G.2.1, "Matching, Level of Effort, Earmarking

– Level of Effort – *Maintenance of Effort*," for the limited MOE pro-family exception to this requirement).

(b) Qualified aliens, as defined in 8 USC 1641(b), are the only non-citizens who may receive a TANF public benefit, as defined in 8 USC 1611(c)), using federal TANF or commingled funds. Qualified aliens are lawful permanent residents, asylees, refugees, aliens paroled into the United States for at least one year, aliens whose deportations are being withheld, aliens granted conditional entry, Cuban/Haitian entrants, and certain battered aliens. Victims of severe forms of trafficking and certain family members are also eligible for federally funded or administered public benefits and services to the same extent as refugees.

Qualified aliens, nonimmigrants under the Immigration and Nationality Act, and individuals paroled into the United States for less than a year are the only noncitizen groups that are eligible for a non-commingled state or local MOE-funded public benefit, as defined in 8 USC 1621(c). Aliens that are not lawfully present in the United States may also be eligible for a state or local MOE-funded public benefit if the state has enacted a law after August 22, 1996, affirmatively providing for such eligibility (8 USC 1621(d)). All expenditures must meet all MOE requirements at 45 CFR Part 263, Subpart A. See III.G.2.1, "Matching, Level of Effort, Earmarking – Level of Effort – Maintenance of Effort."

States have the authority to decide whether or not to provide a federal TANF-funded public benefit or an MOE-funded public benefit to otherwise qualified aliens (including nonimmigrants and individuals paroled in the US for less than a year in the case of a non-commingled state or local MOE-funded public benefit) (8 USC 1612(b)(1) and 8 USC 1622(a)). If a state has decided not to help eligible aliens, then the state may not deny eligibility to refugees, asylees, aliens whose deportation has been withheld, Amerasians, and Cuban/Haitian entrants for a period of five years after the date of entry into the United States or the date asylum or withholding of deportation was granted. Also, such states may never deny eligibility to legal permanent residents who have worked 40 qualifying quarters after December 31, 1996, and have not received any federal means-tested public benefit during such period (once the five-year bar has expired for a qualified alien entering the United States on or after August 22, 1996, as

described in the next paragraph), or to aliens who are veterans, members of the military on active duty, and their spouses and unmarried dependents (8 USC 1612(b)(2)(A)(ii), 8 USC 1621(2)(B) and (C), 8 USC 1622(b)(1)-(3)). In other words, Congress did not give states the authority to deny eligibility to all eligible aliens. If the state elects to help all otherwise eligible aliens (as described in the preceding two paragraphs), then this paragraph does not apply.

Unless exempt under 8 USC 1613(b), qualified aliens, as defined in 8 USC 1641(b), entering the United States on or after August 22, 1996, are not eligible for a federal means-test public benefit (e.g., federally funded TANF assistance), as defined in 8 USC 1611(c), for a period of five years (8 USC 1613(a)). The five-year bar begins either on the date of the alien's entry into the United States as a qualified alien or on the date the alien residing in the United States becomes a qualified alien, whichever is later. If the alien entered the United States on or after August 22, 1996 but does not have an immigration status that qualifies (as defined in 8 USC 1641(b)), the individual is not eligible for a federal public benefit (as defined in 8 USC 1611(c)). The following qualified aliens are exempt from the five-year bar: refugees, asylees, aliens whose deportation is being withheld, Amerasians, Cuban/Haitian entrants, as well as veterans, members of the military on active duty, and their spouses and unmarried dependent children (8 USC 1613(b)).

If a noncash federal or state and local public benefit meets the specifications in the Attorney General's Final Order (Order No. 2353-2001 published January 16, 2001, at 66 FR 3613), then the state may provide the benefit regardless of immigration status (8 USC 1611 (b)(1)(D) and 8 USC 1621(b)(4)).

(2) Federal Only and Commingled Federal/State

(a) Any family that includes an adult or minor child head of household or a spouse of the head of household who has received assistance under any state program funded by federal TANF funds for 60 months (whether or not consecutive) is ineligible for additional federally funded TANF assistance. However, the state may extend assistance to a family on the basis of hardship, as defined by the state, or if a family member has been battered or subjected to

extreme cruelty. In determining the number of months for which the head of household or the spouse of the head of household has received assistance, the state must not count any month during which the adult received the assistance while living in Indian country or in an Alaskan Native Village and the most reliable data available with respect to that month (or a period including that month) indicate at least 50 percent of the adults living in Indian country or in the village were not employed (42 USC 608(a)(7); 45 CFR sections 264.1(a), (b), and (c)).

(See III.G.3, "Matching, Level of Effort, Earmarking – Earmarking," for testing the limits related to the number of exemptions.)

(b) A state may not provide assistance to an individual who is under age 18, is unmarried, has a minor child at least twelve weeks old, and has not successfully completed high school or its equivalent unless the individual either participates in education activities directed toward attainment of a high school diploma or its equivalent, or participates in an alternative education or training program approved by the state (42 USC 608(a)(4); 45 CFR section 263.11(b)).

(c) A state may not provide assistance to an unmarried individual under 18 caring for a child, if the minor parent and child are not residing with a parent, legal guardian, or other adult relative, unless one of the statutory exceptions applies (42 USC 608(a)(5)).

(d) A state may not provide assistance for a minor child who has been or is expected to be absent from the home for a period of 45 consecutive days or, at the option of the state, such period of not less than 30 and not more than 180 consecutive days unless the state grants a good cause exception, as provided in its state plan (42 USC 608(a)(10)).

(e) A state may not provide assistance for an individual who is a parent (or other caretaker relative) of a minor child who fails to notify the state agency of the absence of the minor child from the home within five days of the date that it becomes clear to that individual that the child will be absent for the specified period of time (42 USC 608(a)(10)(C)).

(f) A state may not use funds to provide cash assistance to an individual during the ten-year period that begins on the date the individual is convicted in federal or state court of having made a fraudulent statement or representation with respect to place of residence in order to simultaneously receive assistance from two or more states under TANF, Title XIX, or the Food Stamp Act of 1977, or benefits in two or more states under the Supplemental Security Income program under Title XVI of the Act. If the President of the United States grants a pardon with respect to the conduct that was the subject of the conviction, this prohibition will not apply for any month beginning after the date of the pardon (42 USC 608(a)(8)).

(g) A state may not provide assistance to any individual who is fleeing to avoid prosecution, or custody or confinement after conviction, for a felony or attempt to commit a felony (or in the state of New Jersey, a high misdemeanor), or who is violating a condition of probation or parole imposed under federal or state law (42 USC 608(a)(9)(A)).

(3) Federal Only, Commingled Federal/State, Segregated State

(a) A state shall require that, as a condition of providing assistance, a member of the family assign to the state the rights the family member may have for support from any other person. This assignment may not exceed the amount of assistance provided (42 USC 608(a)(3)).

(b) An individual convicted under federal or state law of any offense which is classified as a felony and which involves the possession, use, or distribution of a controlled substance (as defined in the Controlled Substances Act (21 USC 802(6)) is ineligible for assistance if the conviction was based on conduct occurring after August 22, 1996. A state shall require each individual applying for TANF assistance to state in writing whether the individual or any member of their household has been convicted of such a felony involving a controlled substance. However, a state may by law enacted after August 22, 1996, exempt any or all individuals from this prohibition or limit the time period that this prohibition applies to any or all individuals (21 USC 862a).

(c) If an individual in a family receiving assistance refuses to engage in required work, a state must reduce assistance to the family, at least pro rata, with respect to any period

during the month in which the individual so refuses or may terminate assistance. Any reduction or termination is subject to good cause or other exceptions as the state may establish (42 USC 607(e)(1); 45 CFR sections 261.13 and 261.14(a) and (b)). However, a state may not reduce or terminate assistance based on a refusal to work if the individual is a single custodial parent caring for a child who is less than 6 years of age if the individual can demonstrate the inability (as determined by the state) to obtain child care for one or more of the following reasons: (a) the unavailability of appropriate care within a reasonable distance of the individual's work or home;
(b) unavailability or unsuitability of informal child care; or
(c) unavailability of appropriate and affordable formal child care (42 USC 607(e)(2); 45 CFR sections 261.15(a), 261.56, and 261.57).

b. Tribes: Federal Only, Commingled Federal/State-Donated MOE

Eligibility for tribal TANF is defined in the approved TFAP. See IV, "Other Information," for guidance on state MOE expended by tribes.

The approved TFAP includes the tribe's proposal for time limits for the receipt of TANF assistance, as well as the percentage of the caseload to be exempted from the time limit. These proposed time limits must be approved by ACF (45 CFR section 286.115).

2. Eligibility for the Pandemic Emergency Assistance Fund

a. The recipients of PEAF-funded NRSTs must be financially needy families with children but they do not necessarily have to be eligible for TANF cash assistance. A recipient has the flexibility to determine what needy means for each NRST and may wish to set a higher standard than it does for TANF cash assistance, such as aligning with SNAP or Medicaid income eligibility criteria.

b. The Income Eligibility Verification System (IEVS) does apply to the PEAF, as it is funded under Title IV-A; however, tribes are not subject to the IEVS requirements.

3. Eligibility for Group of Individuals or Area of Service Delivery

Not Applicable

4. Eligibility for Subrecipients

Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort

2.1 Level of Effort – Maintenance of Effort

See IV, "Other Information," for guidance on state MOE expended by tribes.

The following MOE provisions apply to any state funds that are counted towards the MOE for TANF, whether such state funds are expended as commingled federal/state, segregated state, or separate state program funds. Note that MOE requirements do not apply to subrecipients.

a. *State MOE* – Every fiscal year, a state must maintain an amount of "qualified state expenditures" (as defined in 42 USC 609(a)(7)(B) and 45 CFR section 263.2) for eligible families (as defined in 42 USC 609(a)(7)(B)(i)(IV) and 45 CFR section 263.2(b)) at least at the applicable percentage of the state's historic state expenditures. Therefore, all amounts claimed for or on behalf of eligible families, including amounts that result from state tax provisions, must be the result of expenditure (42 USC 609(a)(7)(A) and (B)(i)(I); 45 CFR sections 260.30 ("expenditure") and 260.33, 45 CFR section 75.2, and 45 CFR section 75.306). States may claim qualified expenditures for eligible family members who are citizens or aliens. However, the particular aliens for whom a state may claim qualified expenditures will depend on the state funds used to provide the benefit or service (see III.E.1.a.(2), "Eligibility – Eligibility for Individuals, *Federal Only, Commingled Federal/State, Segregated State, or Separate State Program*") and whether the benefit or service is a federal, state, or local public benefit (8 USC 1611, 1612(b), 1613, 1621-1622, and 1641(b)).

The applicable percentage for each fiscal year is 80 percent of the amount of non-federal funds the state spent in FY 1994 on AFDC or 75 percent if the state meets the TANF work participation rate requirements (42 USC 607(a)) for the fiscal year. This is termed "basic MOE" and the requirement is based on the FFY. Any MOE expenditures above this required amount are referred to as "excess MOE."

Except as provided in paragraph b, immediately below, qualified expenditures with respect to eligible families may come from all programs (i.e., the state's TANF program as well as programs separate from the state's TANF program). This requirement may be met through allowable state or local cash expenditures for goods and services, cash donations by non-governmental third parties (e.g., a non-profit organization, corporation, or other private party), or the value of third-party in-kind contributions. A state's records must show that all the costs are verifiable and meet all applicable requirements in 45 CFR sections 263.2 through 263.6. Third parties must be aware of and agree with the state's intentions and, accordingly, the state's records must include an agreement between the state and the third party permitting the state to count the expenditure toward its MOE requirement (42 USC 609(a)(7)(A) and 609(a)(7)(B)(i)(I); 45 CFR sections 263.1 and 263.2(e)).

Effective October 1, 2008 (i.e., FY 2009 awards), states may claim only *certain* pro-family non-assistance expenditures that are reasonably calculated to accomplish TANF purpose 3 or TANF purpose 4. These pro-family expenditures consist of the allowable healthy marriage promotion and responsible fatherhood non-assistance activities enumerated in Title IV-A of the Act, sections 403(a)(2)(A)(iii) and 403(a)(2)(C)(ii), unless a limitation, restriction, or prohibition under 45 CFR Part 263, Subpart A applies (45 CFR section 263.2(a)(4)(ii); TANF-ACF-PI-2008-10, dated October 23, 2008, available at https://www.acf.hhs.gov/ofa/programs/tanf/policy.

States may claim for MOE purposes the qualified pro-family healthy marriage and responsible fatherhood expenditures for *non-assistance* benefits and services provided to or on behalf of an individual or family, regardless of financial need or family composition. States must limit the provision of all other qualified MOE-funded assistance and non-assistance benefits to eligible families as defined at 45 CFR section 263.2(b), regardless of the TANF purpose that the expenditure is reasonably calculated to accomplish.

Section 409(a)(7)(B)(iv)(IV) of the Act prohibits states from counting toward their MOE requirement expenditures made as a condition of receiving federal funds, unless allowed under Title IV, part A of the Act.

If a state does not meet the basic MOE requirement, a penalty results. The penalty consists of a reduction of the state's federal

TANF award for the following fiscal year in the amount of the difference between the state's qualified expenditures and the state's basic MOE (42 USC 609(a)(7)(A) and 45 CFR section 263.8). If application of a penalty results in a reduction of federal TANF funding, the state is required in the immediately succeeding fiscal year to spend from state funds an amount equal to the total amount of the reduction, in addition to the otherwise required basic MOE. The additional funds must be spent in the TANF program, not under "separate state programs." Such expenditures may not be claimed toward MOE (42 USC 609(a)(12); 45 CFR sections 263.6(f) and 264.50).

b. *Limitations on "Qualified State Expenditures"* – Expenditures under pre-existing programs, other than those that would have been previously authorized and allowable under the former AFDC, JOBS, Emergency Assistance, Child Care for AFDC recipients, At-Risk Child Care, or Transitional Child Programs may not count toward the state's MOE requirement for the current year except to the extent that the current year's expenditures with respect to eligible families exceed the expenditures made under the state or local program in FY 1995.

Exception: If the expenditures are for non-assistance pro-family activities as addressed in paragraph a., then current year expenditures are not limited to those made with respect to eligible families. If total current fiscal year expenditures for allowable pro-family activities within TANF purpose three or TANF purpose 4 exceed total state expenditures in the program during FY 1995, then the state may claim the excess toward the state's MOE requirement. Thus, to be considered as "exceeding" the FY 1995 level, the expenditures must be new or additional expenditures. (42 USC 609(a)(7)(B)(i)(II)(aa) and 45 CFR section 263.5). Additional information on application of the "new spending test" for new or additional expenditures may be found in TANF-ACF-PI-2016-04 (https://www.acf.hhs.gov/ofa/resource/tanf-acf-pi-2016-04).

In addition, expenditures by the state from amounts that originated from federal funds may not count toward meeting a MOE requirement even if the expenditures "qualify" (42 USC 609(a)(7)(B)(iv)(I)).

Except for child care expenditures, double-counting of expenditures to meet the basic MOE requirement is prohibited (42 USC 609(a)(7)(B)(iv)(II-IV); 45 CFR section 263.6). States may count state funds expended to meet the requirements of the Child Care Development Fund Matching Fund (Assistance Listing 93.596) as basic MOE expenditures, as long as such expenditures

meet the requirements of 42 USC 609(a)(7). The maximum amount of child care expenditures that a state may double-count under this provision is the state's Matching Fund MOE amount under Assistance Listing 93.596 (42 USC 609(a)(7)(B)(iv); 45 CFR sections 263.3 and 263.6).

Expenditures for educational services/activities for eligible families to increase self-sufficiency, job training, and work count if the activities or services are not generally available to other state residents without cost and without regard to their income (42 USC 609(a)(7)(B)(i)(I)(cc); 45 CFR section 263.4, TANF-ACF-PI-2005-01, dated April 14, 2005, at https://www.acf.hhs.gov/ofa/programs/tanf/policy).

Administrative costs in connection with the activities that correspond to the qualified expenditures may not exceed 15 percent of the total amount of countable expenditures for the fiscal year (42 USC 609(a)(7)(B)(i)(I)(dd); 45 CFR section 263.2(a)(5)).

The basic MOE requirement expressly does not count expenditures for services or activities that only fall under 42 USC 604 (a)(2) (see III.A.1.a(1), "Activities Allowed or Unallowed"). Such expenditures are not considered "qualified expenditures" (42 USC 609(a)(7)(B)(i)(I); 45 CFR section 263.2(a)(4)).

c. *Contingency Fund MOE* – A state must spend more than 100 percent of its historic state expenditures for FY 1994 to keep any of the federal contingency funds it received (42 USC 603(b), and 45 CFR sections 264.72(a)(2) and 264.70 through 77). This is termed "Contingency Fund MOE." The Contingency Fund MOE requirement may be met only through qualified expenditures under the state's TANF program. Qualified expenditures consist of those defined and provided under 42 USC 609(a)(7)(B)(i) and 45 CFR sections 263.2 (a)(1),(a)(3) through (a)(5), and 263.2(b), but excludes those expenditures described in 42 USC 609(a)(7)(B)(i)(I)(bb) and 45 CFR section 263.2(a)(2); (42 USC 603(b)(6)(B)(ii)(I) and 609(a)(10)).

d. *1108(b) Territorial Matching Fund MOE Requirement* – See IV, "Other Information," for guidance on the spending requirements applicable to the receipt of Matching Grant funds under section 1108(b) of the Act (section 1108(b)); (42 USC 1308(b)).

e. *Prohibition on Use of Federal TANF and State MOE funds for Juvenile Justice Services* – See IV, "Other Information" for area of risk of non-compliance for juvenile justice services.

2.2 Level of Effort – Supplement Not Supplant

1. *Pandemic Emergency Assistance Fund*

States, tribes and territories (recipients) may use funds to provide certain non-recurrent, short term (NRST) benefits (described in section A. 3. a. 2.). Additionally, they may use funds for administrative costs (up to a 15-percent cap for states and territories and up to the negotiated cap for tribes). All recipients must use funds to supplement, and not supplant, other federal, state, tribal, territorial, or local funds. Note that the Supplement Not Supplant requirements do not apply to subrecipients.

3. Earmarking

a. *Federal Only and Commingled Federal/State*

A state may not spend more than 15 percent for administrative purposes, excluding expenditures for information technology and computerization needed for required tracking and monitoring, of the total combined amounts available under the SFAG, supplemental award for population increases, and contingency funds (42 USC 604(b)(1) and (2); 45 CFR sections 263.0 and 263.13).

b. *Federal Only and Commingled Federal/State*

The average monthly number of families that include an adult or minor child head of household, or the spouse of the head of household, who has received assistance under any state program funded by federal TANF funds for more than 60 countable months (whether or not consecutive) may not exceed 20 percent of the average monthly number of all families to which the state provided assistance during the fiscal year or the immediately preceding fiscal year (but not both), as the state may elect. To make this determination for a fiscal year, the average monthly number of families with a head of household or spouse of a head of household who received assistance for more than 60 months would be divided by the average monthly number of families that received assistance in that fiscal year, or, if the state chooses, in the previous fiscal year (42 USC 608(a)(7)(C)(ii); 45 CFR sections 264.1(c) and (e)).

(See III.E.1, "Eligibility – Eligibility for Individuals," for related eligibility testing.)

c. *Tribes: Federal Only and Commingled Federal/State-donated MOE*

The approved TFAP includes a negotiated administrative cost rate for that tribe for that particular year. As approved in the TFAP, no tribal TANF

recipient may expend more than 35 percent of the total combined federal TANF funds for administrative costs during the first year, 30 percent during the second year, and 25 percent for the third and all subsequent grant periods. The approved tribal administrative cost rate may be found in a letter of approval issued by the ACF/Division of Tribal Services and/or in the approved TFAP. The tribal administrative cost cap is determined by multiplying the TFAG by the negotiated administrative rate for the fiscal year being tested (45 CFR section 286.50).

d. *Pandemic Emergency Assistance Fund*

Recipients may use funds for administrative costs, within limitations. For states (including the District of Columbia) and territories, the law provides a 15 percent cap on administrative expenditures. For tribes, the same cap will apply to administrative costs in the PEAF that a tribe negotiated for administrative costs in its approved tribal TANF plan.

Note that the Earmarking requirements do not apply to subrecipients.

Indirect costs may be applied to the federal TANF funds based on the indirect cost rate negotiated by the Bureau of Indian Affairs, the Department of Health and Human Services' Division of Cost Allocation, or another federal agency. However, indirect costs applied to TANF funding are subject to and included within the administrative cap limits (45 CFR section 286.55(d)).

L. Reporting

States/Tribes:

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* –Not Applicable.

d. ACF-196T, *Tribal TANF Financial Report Form (OMB No. 0970-0345)* – Applicable to tribes; Not Applicable to states. This form is not applicable to tribes administering TANF programs under a Pub. L. No. 102-477 demonstration project. Beginning with the FY 2009 award, tribes must use this form to report TANF expenditures quarterly.

e. ACF-196R, *TANF Financial Report (OMB No. 0970-0446)* – States are required to submit this report quarterly, beginning in FY 2015, in lieu of the SF-425, *Federal Financial Report* (financial status). Each state files quarterly expenditure data on the state's use of federal TANF funds, state

TANF MOE expenditures, and state expenditures of MOE funds in separate state programs. If a state is expending federal TANF funds received in prior fiscal years, it must file a separate quarterly TANF Financial Report for each fiscal year that provides information on the expenditures of that year's TANF funds. This form must be used for reporting regular TANF funds and Contingency Fund expenditures. See TANF-ACF-PI-2014-02, available at https://acf.gov/ofa/policy-guidance/tanf-acf-pi-2014-02-omb-approved-form-acf-196r-state-tanf-financial-report-form, for more information.

f. ACF-196-TR, *Territorial Financial Report* – Territories report their expenditures and other fiscal data in this report (45 CFR section 265.3(c)). The territories must report quarterly on their use of federal TANF funds, Territorial TANF MOE expenditures, expenditures of MOE funds in separate "state" programs, expenditures made as a result of receiving matching grant funds under 42 USC 1308(b), and expenditures made under the federal Adult Assistance programs (titles I, X, XIV, and XVI of the Act) (42 USC subchapters I, X, XIV, and XVI and 42 USC 1308(a)).

See IV, "Other Information," for additional guidance on territories' spending levels.

2. Performance Reporting

a. ACF-199, TANF Data Report (OMB No. 0970-0338) and ACF-343, Tribal TANF Data Report (OMB No. 0970-0215) (65 FR 8545, Appendix A, February 18, 2000)

One of the critical areas of this reporting is the work participation data, which serve as the basis for ACF to determine whether states and tribes have met the required work participation rates. A penalty may apply for failure to meet the required rates.

State Work Participation Rates

State agencies must meet or exceed their minimum annual work participation rates. The minimum work participation rates are 50 percent for the overall rate and 90 percent for the two-parent rate. A state's minimum work participation rate may be reduced by its caseload reduction credit. HHS may penalize the state by an amount of up to 21 percent of the SFAG for violation of this provision (42 USC 609(a)(4); 45 CFR section 262.1(a)(4)).

Key Line Items – The following ACF-199 (TANF Data Report) line items contain critical information for making the preceding determinations and for other program purposes. Compare the data entered on the file for the key line items below to the documentation in the case file for completeness, accuracy, and consistency:

1. Section One – Family-Level Data
   - Item 12 *Type of Family for Work Participation*
   - Item 17 *Receives Subsidized Child Care*
   - Item 28 *Is the TANF family exempt from the federal time limit provisions*

2. Section One – Person-Level Data
   - Item 30 *Family Affiliation Code*
   - Item 32 *Date of Birth*
   - Item 38 *Relationship to Head-of-Household*
   - Item 39 *Parents with a Minor Child*
   - Item 44 *Number of months countable toward the federal time limit*
   - Item 48 *Work-Eligible Individual Indicator*
   - Item 49 *Work Participation Status*

3. Section One – Adult Work Participation Activities
   - Items 50 – 62 *Work Participation Activities*
   - Item 63 *Number of Deemed Core Hours for Overall Rate*
   - Item 64 *Number of Deemed Core Hours for the Two-Parent Rate*

4. Section Three – Active Cases
   - Item 8 *Total Number of Families*

Tribal Work Participation Rates

Tribal TANF agencies must meet or exceed their minimum annual work participation rates. The minimum work participation rates are contained in the respective tribal TANF plans. Tribal TANF agencies have the option to negotiate and choose from among a number of work participation rates (e.g., separate rates for one- and two-parent families or an "all-families with parents" rate when one- and two-parent families are combined). HHS may penalize the tribe by a maximum of 5 percent of the TFAG for the first violation of this provision. The penalty increases by an additional 2 percent for each subsequent violation up to a maximum of 21 percent (42 USC 612(c) and 612(g)(2); 45 CFR sections 286.195(a)(3) and 286.205).

Key Line Items – The following ACF-343 (Tribal TANF Data Report) line items contain critical information used in making a determination of a tribe's Work Participation Rates.

1. Review the tribe's TANF plan for a fiscal year to identify the type of family required to participate in work activities and the minimum number of hours per week that the adults and minor heads of household in the family must participate in work activities (45 CFR section 286.80). Compare the data entered on the file for

the key line items below to the documentation in the case file for completeness, accuracy, and consistency:

Item 30 *Family Affiliation*
Item 48 *Work Participation Status*
Items 49–62 *Adult Work Participation Activities*

b. ACF 209, SSP-MOE Data Report *(OMB No. 0970-0338)* – This report is submitted quarterly beginning with the first quarter of FFY 2000.

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

1. Section One – Family-Level Data
   Item 9 *Type of Family for Work Participation*
   Item 15 *Receives Subsidized Child Care*

2. Section One – Person-Level Data
   Item 28 *Date of Birth*
   Item 34 *Relationship to Head-of-Household*
   Item 41 *Work-Eligible Individual Indicator*
   Item 42 *Work Participation Status*

3. Section One – Adult Work Participation Activities
   Items 43 – 55 *Work Participation Activities*
   Item 56 *Number of Deemed Core Hours for Overall Rate*
   Item 57 *Number of Deemed Core Hours for the Two-Parent Rate*

4. Section Three – Active Cases
   Item 3 *Total Number of SSP-MOE Families*

3. Special Reporting

a. ACF-204, Annual Report including the Annual Report on State Maintenance-of-Effort Programs *(OMB No. 0970-0248)* – Each state must file an annual report containing information on the TANF program and the state's MOE program(s) for that year, including strategies to implement the Family Violence Option, state diversion programs, and other program characteristics. Each state must complete the ACF-204 for each program for which the state has claimed basic MOE expenditures for the fiscal year. States may submit this electronically through the On-Line Data Collection System.

Key Line Items – The following line items contain critical information.:

1. *Program Name*

2. *Description of Major Program Activities*

3. *Program Purpose(s)*

4. *Program Type*

5. *Total State MOE Expenditures*

6. *Number of Families Served with MOE Funds*

7. *Eligibility Criteria*

8. *Prior Program Authorization*

9. *Total Program Expenditures in FY 1995*

The total MOE expenditures reported in item 5 of the ACF-204 should equal the total MOE expenditures reported in line 24, columns (B) plus (C) of the 4th quarter ACF-196R *TANF Financial Report*; or line 17, column (B) of the ACF-196-TR, *Territorial Financial Report.*

b. Each recipient must submit form ACF-196P (OMB No. 0970-0510) to report expenditures for PEAF within 90 days of the end of each FFY.

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

1. *Administrative Costs (listed as "Administration" on the form)*

2. *Non-Recurrent, Short-Term Benefits*

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

Special Tests and Provisions one through five apply to a state's TANF program, not to a Tribal TANF program.

1. Child Support Non-Cooperation

Compliance Requirements If the state agency responsible for administering the state plan approved under Title IV-D of the Act determines that an individual is not cooperating with the state in establishing paternity, or in establishing, modifying or enforcing a support order with respect to a child of the individual, and reports that information to the state agency responsible for TANF, the state TANF agency must (1) deduct an amount equal to not less than 25 percent from the TANF assistance that would otherwise be provided to the family of the individual, and (2) may deny the family any TANF assistance. HHS may penalize a state for up to 5 percent of the SFAG for

failure to substantially comply with this required state child support program (42 USC 608(a)(2) and 609(a)(8); 45 CFR sections 264.30 and 264.31).

Audit Objectives Determine whether, after notification by the state Title IV-D agency, the TANF agency has taken necessary action to reduce or deny TANF assistance.

Suggested Audit Procedures

a. Review the state's TANF policies and operating procedures concerning this requirement.

b. Test a sample of cases referred by the Title IV-D agency to the TANF agency to ascertain if benefits were reduced or denied as required.

2. Income Eligibility and Verification System

Compliance Requirements Each state shall participate in the Income Eligibility and Verification System (IEVS) required by Section 1137 of the Act as amended. Under the state plan the state is required to coordinate data exchanges with other federally assisted benefit programs, request and use income and benefit information when making eligibility determinations and adhere to standardized formats and procedures in exchanging information with other programs and agencies. Specifically, the state is required to request and obtain information as follows (42 USC 1320b-7; 45 CFR section 205.55):

a. Wage information from the state Wage Information Collection Agency should be obtained for all applicants at the first opportunity following receipt of the application, and for all recipients on a quarterly basis.

b. Unemployment Compensation (UC) information should be obtained for all applicants at the first opportunity, and in each of the first three months in which the individual is receiving aid. This information should also be obtained in each of the first three months following any recipient-reported loss of employment. If an individual is found to be receiving UC, the information should be requested until benefits are exhausted.

c. All available information from the Social Security Administration (SSA) for all applicants at the first opportunity (see *Federal Tax Return Information* below).

d. Information from the US Citizenship and Immigration Services and any other information from other agencies in the state or in other states that might provide income or other useful information.

e. Unearned income from the Internal Revenue Service (IRS) (see *Federal Tax Return Information* below).

Federal Tax Return Information – Information from the IRS and some information from SSA is federal tax return information and subject to use and disclosure restrictions by 26

USC 6103. Individual data received from the SSA's Beneficiary Earnings Exchange Record, consisting of wage, self-employment, and certain other income information is considered federal tax return information. However, benefits payments such as Supplemental Security Income are SSA data and not federal tax return information. Under 26 USC 6103, disclosure of federal tax return information from IEVS is restricted to officers and employees of the receiving agency. Outside (non-agency) personnel (including auditors) are not authorized to access this information either directly or by disclosure from receiving agency personnel.

The state is required to review and compare the information obtained from each data exchange against information contained in the case record to determine whether it affects the individual's eligibility or level of assistance, benefits or services under the TANF program, with the following exceptions:

a. The state is permitted to exclude categories of information items from follow-up if it has received approval from ACF after having demonstrated that follow-up is not cost effective.

b. The state is permitted, with ACF approval, to exclude information items from certain data sources without written justification if it followed up previously through another source of information. However, information from these data sources that is not duplicative and provides new leads may not be excluded without written justification.

The state shall verify that the information is accurate and applicable to the case circumstances either through the applicant or recipient, or through a third party, if such determination is appropriate based on agency experience or is required before taking adverse action based on information from a federal computer matching program subject to the Computer Matching and Privacy Protection Act (45 CFR section 205.56).

For applicants, if the information is received during the application process, the state must use the information, to the extent possible, to determine eligibility. For recipients or individuals for whom a decision could not be made prior to authorization of benefits, the state must initiate a notice of case action or an entry in the case record that no case action is necessary within 45 days of its receipt of the information. Under certain circumstances, action may be delayed beyond 45 days for no more than 20 percent of the information items targeted for follow-up (45 CFR section 205.56).

HHS may penalize a state for up to 2 percent of the SFAG for failure to participate in IEVS (42 USC 609(a)(4) and 1320b-7; 45 CFR sections 264.10 and 264.11).

Audit Objectives Determine whether the state has established and implemented the required IEVS system for data matching, and verification and use of such data. (This audit objective does not include federal tax return information, as discussed in the compliance requirements.)

Suggested Audit Procedures

a. Review state operating manuals and other instructions to gain an understanding of the state's implementation of the IEVS system.

b. Test a sample of TANF cases subject to IEVS to ascertain if the state:

(1) Used the IEVS to determine eligibility in accordance with the state plan.

(2) Requested and obtained the data from the state wage information collection agency, the state unemployment agency, SSA (excluding federal tax return information, as discussed in the compliance requirements), the US Citizenship and Immigration Services, and other agencies, as appropriate, and performed the required data matching.

(3) Properly considered the information obtained from the data matching in determining eligibility and the amount of TANF benefits.

3. Penalty for Refusal to Work

Compliance Requirements State agency must reduce or terminate the assistance payable to the family if an individual in a family receiving assistance refuses to work, subject to any good cause or other exemptions established by the state. HHS may penalize the state by an amount not less than 1 percent and not more than 5 percent of the SFAG for violation of this provision (42 USC 609(a)(14); 45 CFR sections 261.14, 261.16, and 261.54).

Audit Objectives Determine whether the state agency is reducing or terminating the assistance grant of those individuals who refuse to engage in work and are not subject to good cause or other exceptions established by the state.

Suggested Audit Procedures

a. Review the state's TANF policies and operating procedures concerning this requirement.

b. Test a sample of TANF cases where the individual is not working and ascertain if benefits were reduced or denied to individuals who are not exempt under state rules or do not meet state good cause criteria.

4. Lack of Child Care for Single Custodial Parent of Child under Age Six

Compliance Requirements If an individual is a single custodial parent caring for a child under the age of 6, the state may not reduce or terminate assistance for the individual's refusal to engage in required work if the individual demonstrates to the state an inability to obtain needed child care for one or more of the following reasons: (a) unavailability of appropriate child care within a reasonable distance from the individual's home or work site; (b) unavailability or unsuitability of informal child care by a relative or under other

arrangements; or (c) unavailability of appropriate and affordable formal child care arrangements. The determination of inability to find child care is made by the state. HHS may penalize a state for up to 5 percent of the SFAG for violation of this provision (42 USC 607(e)(2) and 609(a)(11); 45 CFR sections 261.15, 261.56, and 261.57).

Audit Objectives Determine whether the state has improperly reduced or terminated assistance to single custodial parents who refused to work because of inability to obtain child care for a child under the age of 6.

Suggested Audit Procedures

a. Gain an understanding of the criteria established by the state to determine benefits for a single custodial parent who refused to work because of inability to obtain child care for a child who is under the age of 6.

b. Select a sample of single custodial parents caring for a child who is under 6 years of age whose benefits have been reduced or terminated.

c. Ascertain if the benefits were improperly reduced or terminated because of inability to obtain child care.

5. Penalty for Failure to Comply with Work Verification Plan

Compliance Requirements The state agency must maintain adequate documentation, verification, and internal control procedures to ensure the accuracy of the data used in calculating work participation rates. In so doing, it must have in place procedures to (a) determine whether its work activities may count for participation rate purposes; (b) determine how to count and verify reported hours of work; (c) identify who is a work-eligible individual; and (d) control internal data transmission and accuracy. Each state agency must comply with its HHS-approved Work Verification Plan in effect for the period that is audited. HHS may penalize the state by an amount not less than 1 percent and not more than 5 percent of the SFAG for violation of this provision (42 USC 601, 602, 607, and 609); 45 CFR sections 261.60, 261.61, 261.62, 261.63, 261.64, and 261.65).

Audit Objectives Determine whether the state agency is complying with its Work Verification Plan, including adequate documentation, verification, and internal control procedures.

Suggested Audit Procedures

a. Review the state's Work Verification Plan and operating procedures concerning this requirement.

b. Test a sample of TANF cases that have been reported to HHS under 45 CFR sections 265.3(b)(1) and 265.3(d)(1) and ascertain if the work participation rate data have been documented, verified, and reported in accordance with the state's Work Verification Plan.

IV. OTHER INFORMATION

1. *Transfers out of TANF*

As described in III.A.1.a (2), "Activities Allowed or Unallowed," states (not tribes) may transfer a limited amount of federal TANF funds into the Social Services Block Grant Title XX (Assistance Listing 93.667) and the Child Care and Development Block Grant (Assistance Listing 93.575). These transfers are reflected in lines 2 and 3 of both the quarterly *TANF Financial Report* ACF-196R, and the quarterly *Territorial Financial Report* ACF-196-TR. The amounts transferred out of TANF are subject to the requirements of the program into which they are transferred and should not be included in the audit universe and total expenditures of TANF when determining Type A programs. The amount transferred out should not be shown as TANF expenditures on the Schedule of Expenditures of Federal Awards but should be shown as expenditures for the program into which they are transferred.

2. *State MOE Expended by Tribes*

A state may provide a tribe state-donated MOE funds that are expended by the tribe. For the tribe, state-donated MOE funds are not federal awards expended, shall not be considered in determining Type A programs, and shall not be shown as expenditures on the Schedule of Expenditures of Federal Awards. However, state-donated MOE funds expended by a tribe shall be included by the auditor of the state when testing III.G.2.1, "Matching, Level of Effort, Earmarking – Level of Effort – *Maintenance of Effort*."

Tribes may choose to commingle their state-donated MOE funds with federal funds. Because of the commingling, the audit of the tribe will include testing of the state-donated MOE and the auditor of the state should consider relying on this testing in accordance with auditing standards and 2 CFR Part 200, Subpart F. However, the state-donated MOE is not considered federal awards expended by the tribe.

3. *Tribal TANF Recipients under a Pub. L. No. 102-477 Demonstration Project (477)*

Audits of Indian tribal governments with tribal TANF in their approved 477 plan must follow the guidance in the 477 Cluster found in the Department of the Interior's section of Part IV of this Supplement.

4. *Spending Levels of the Territories*

A funding ceiling applies to Guam, the Virgin Islands, American Samoa and Puerto Rico. The programs subject to the funding ceiling are the Adult Assistance programs under Titles I, X, XIV, and XVI of the Act; TANF; Foster Care (Assistance Listing 93.658); Adoption Assistance (Assistance Listing 93.659) and Independent Living (Assistance Listing 93.674) programs under Title IV-E of the Act; and the matching grant under section 1108(b). Total payments to each Territory may not exceed the following: Guam – $4,686,000; Virgin Islands – $3,554,000; Puerto Rico – $107,255,000; and American Samoa – $1,000,000. However, the TANF Family Assistance Grant cannot exceed the Territory's fixed annual amount (42 USC 1308(a) and (c)).

5. *Prohibition on Use of Federal TANF and State MOE funds for Juvenile Justice Services*

ACF has identified juvenile justice services expenditures as an area of risk for non-compliance and issued a Program Instruction (TANF-ACF-PI-2015-02) (http://www.acf.hhs.gov/ofa/resource/tanf-acf-pi-2015-02) to remind TANF jurisdictions that federal TANF and state MOE funds must not be used to provide juvenile justice services, except where authorized under prior law, as explained in the program instruction.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.563 CHILD SUPPORT SERVICES

I. PROGRAM OBJECTIVES

The objectives of the Child Support Services programs are to (1) locate absent parents, (2) establish paternity, (3) obtain child and spousal support, and (4) enforce support obligations owed by noncustodial parents.

II. PROGRAM PROCEDURES

The Child Support Services programs are administered at the federal level by the Office of Child Support Services (OCSS), Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS). Under the State Child Support Services program (state program), funding is provided to the 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam, based on a state plan and amendments, as required by changes in statutes, rules, regulations, interpretations, and court decisions, submitted to and approved by OCSS. Under the Tribal Child Support Services program (tribal program), funding is provided to federally recognized tribes and tribal organizations based on applications, plans, and amendments, as required by changes in statutes, rules, regulations, and interpretations, submitted to and approved by OCSS.

The state program is an open-ended entitlement program that allows the state to be funded at the federal financial participation (FFP) rate of 66 percent for eligible program costs. Under the tribal program, a tribe or tribal organization will receive federal award funds equal to 100 percent of the total amount of approved and allowable expenditures made during that period.

State child support agencies are required to conduct self-reviews of their programs (42 USC 654(15) and 45 CFR Part 308).

Source of Governing Requirements

The Child Support Services programs are authorized under Title IV-D of the Social Security Act, as amended. This includes amendments as the result of the Deficit Reduction Act of 2005 (DRA) (Pub. L. No. 109-171). The state program is codified at 42 USC 651 through 669. Implementing program regulations for the state program are published at 45 CFR Parts 301 through 308. In addition, regarding eligibility and other provisions, these programs are closely related to programs authorized under other titles of the Social Security Act, including the Temporary Assistance for Needy Families (TANF) Program (Assistance Listing 93.558), the Medical Assistance Program (Assistance Listing 93.778), and the Foster Care (Title IV-E) program (Assistance Listing 93.658).

The tribal program is authorized under Title IV-D of the Social Security Act, as amended, at 42 USC 655. Implementing program regulations are published in 45 CFR Parts 309 and 310. Both the state and tribal programs are subject to the administrative requirements of 45 CFR Part 92 and 2 CFR Part 200, as implemented by HHS at 45 CFR Part 75, depending on when the award was made. Both state and tribal programs are also subject to the OMB cost principles under 2 CFR Part 225 – Cost Principles for state, local, and Indian Tribal governments (2 CFR Part 200) or 45 CFR Part 75, Subpart E, depending on when the award was made. However, except for 45 CFR section 75.202, the guidance in subpart C of 45 CFR Part 75 does not apply to federal awards to carry out Title IV-D of the Social Security Act (45 CFR section 75.101(e)). The state and tribal programs are also subject to 45 CFR Part 95.

States and tribes are required to adopt and adhere to their statutes and regulations for program implementation, consistent with the requirements of Title IV-D and the approved state plan/tribal plan and application.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/ Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	Y	Y	N	N	N	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

Consistent with the approved Title IV-D plan, allowable activities include the following. A more complete listing of allowable types of activities with examples, as appropriate, is included in 45 CFR sections 304.20 through 304.22 for the state program and 45 CFR sections 309.145(a) through (o) for the tribal program.

a. State and tribal programs

(1) Parent locator services for eligible individuals (45 CFR sections 304.20(a)(2), 304.20(b), and 302.35(c); 45 CFR section 309.145).

(2) Paternity and support services for eligible individuals (45 CFR section 304.20(a)(3); 45 CFR sections 309.145(b) and (c)).

(3) Program administration, including establishment and administration of the state plan/tribal plan, purchase of equipment, and development of a cost allocation system and other systems necessary for fiscal and program accountability (45 CFR sections 304.20(b)(1) and 304.24; 45 CFR sections 309.145(a)(1) and (a)(2), 309.145(h), 309.145(i), and 309.145(o)).

(4) Establishment of agreements with other state, tribal, and local agencies and private providers, including the costs of agreements with appropriate courts and law enforcement officials in accordance with the requirements of 45 CFR section 302.34, and associated administration and short-term training of staff (see paragraph A.2.b, below, for costs of agreements that are unallowable under state programs) (45 CFR section 304.21(a)(state programs); 45 CFR sections 309.145(a)(3)(iii)) and 309.145(m) (tribal programs)).

b. State programs

(1) Necessary expenditures for support services and activities provided to individuals from whom an assignment of support rights (as defined in 45 CFR section 301.1) is obtained (45 CFR sections 304.20, 304.21, and 304.22).

(2) Federal financial participation (FFP) is available for services and activities that are necessary and reasonable to carry out the Title IV-D state plan. This change reflects 45 CFR Part 75, Subpart E Cost Principles which all state child support agencies must use in

determining allowable costs for work performed under federal awards (45 CFR section 304.20(a)(1)).

(3) FFP is available for bus fare and other minor transportation expenses to allow the participation of parents in child support proceedings and related activities such as genetic testing appointments (45 CFR section 304.20(b)(3)(v)).

(4) FFP is available to increase pro se access to adjudicative and alternative dispute resolution processes in IV-D cases related to the provision of child support services (45 CFR section 304.20(b)(3)(vi)).

(5) FFP for educational and outreach activities intended to inform the public, parents, family members, and young people who are not yet parents about the Child Support Services program, responsible parenting and co-parenting, family budgeting, and other financial consequences of raising children when the parents are not married to each other (45 CFR section 304.20(b)(12)).

c. Tribal programs

(1) The portion of salaries and expenses of a tribe's chief executive and staff that is directly attributable to managing and operating a Tribal Title IV-D program (45 CFR section 309.145(j)).

(2) The portion of salaries and expenses of tribunals and staff that is directly related to required tribal Title IV-D program activities (45 CFR section 309.145(k)).

(3) Service of process (45 CFR section 309.145(l)).

(4) Costs associated with obtaining technical assistance from non-federal third-party sources, including other tribes, tribal organizations, state agencies, and private organizations, that are directly related to operating a Title IV-D program, and costs associated with providing such technical assistance to public entities (45 CFR section 309.145(n)).

(5) FFP for educational and outreach activities intended to inform the public, parents, family members, and young people who are not yet parents about the Child Support Services program, responsible parenting and co-parenting, family budgeting, and other financial consequences of raising children when the parents are not married to each other (PIQT-19-01, question 2).

(6) FFP is available for bus fare and other minor transportation expenses to allow parents to participate in child support

proceedings and related activities such as genetic testing appointments (PIQT 19-01, question 3).

2. *Activities Unallowed*

a. State and tribal programs

The following costs and activities are unallowable under 45 CFR sections 304.23 and 309.155:

(1) Activities related to administering other titles of the Social Security Act.

(2) Construction and major renovations.

(3) Any expenditures that have been reimbursed by fees or costs collected.

(4) Any expenditures for the jailing of parents in child support services cases.

(5) Costs of counsel for indigent defendants in Title IV-D actions.

(6) Costs of guardians *ad litem* in Title IV-D actions.

b. State programs

The following costs and activities are unallowable under 45 CFR section 304.23:

(1) Education and training programs other than those for Title IV-D agency staff or as described in 45 CFR section 304.20(b)(2)(viii).

(2) Any expenditures related to carrying out an agreement under 45 CFR section 303.15.

(3) Any costs of caseworkers (45 CFR section 303.20(e)).

(4) Medical support enforcement activities performed under cooperative arrangements in accordance with Section 1912(a)(2) of the Act (42 USC 1396k).

(5) The following costs associated with agreements with courts and law enforcement officials are unallowable: service of process and court filing fees unless the court or law enforcement agency would normally be required to pay the costs of such fees; costs of compensation (salary and fringe benefits) of judges; costs of training and travel related to the judicial determination process incurred by judges; office-related costs, such as space, equipment,

furnishings and supplies incurred by judges; compensation (salary and fringe benefits), travel and training, and office-related costs incurred by administrative and support staffs of judges; and costs of agreements that do not meet the requirements of 45 CFR section 303.107 (45 CFR section 304.21(b)).

(6) FFP is not available for purchase of support enforcement services which are not secured in accordance with 304.22 (45 CFR section 304.23(b)).

G. Matching, Level of Effort, Earmarking

1. Matching

State programs

The federal share of program costs related to determining paternity, including those related to the planning, design, development, installation, and enhancement of the statewide computerized support services system is 66 percent per 42 USC 655(a)(2)(C); 45 CFR 301.1.

Tribal programs

The federal share of program costs is 100 percent of approved and allowable expenditures made during that period per 45 CFR 309.130(c). Federal start-up funds are limited to a total of $500,000, and 100 percent thereafter.

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

H. Period of Performance

1. *State programs* – This program operates on a cash accounting basis, and each year's funding and accounting is discrete; i.e., there is no carry-forward of unobligated funds. To be eligible for federal funding, claims must be submitted to ACF within two years after the calendar quarter in which the state made the expenditure. This limitation does not apply to any claim for an adjustment to prior year costs or resulting from a court-ordered retroactive adjustment (45 CFR sections 95.7, 95.13, and 95.19).

2. *Tribal programs* – A tribe or tribal organization must obligate its federal Title IV-D award funds no later than the last day of the funding period (equivalent to the federal fiscal year) for which they were awarded ("obligation period") or the funds must be returned to ACF. Unless an extension is awarded by ACF, valid obligations must be liquidated no later than the last day of the 12 months immediately following the obligation period or the funds must be returned to ACF (45 CFR sections 309.135(b), (c), and (e)).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.566 REFUGEE AND ENTRANT ASSISTANCE—STATE/REPLACEMENT DESIGNEE-ADMINISTERED PROGRAMS

I. PROGRAM OBJECTIVES

The objective of the Refugee and Entrant Assistance program is to provide states and replacement designees (referred to as states throughout the remainder of this document, unless specifically discussed as replacement designees) with awards to assist refugees in attaining economic self-sufficiency as soon as possible after their initial placement in United States communities. (The term "refugee" is used to mean an individual who meets the immigration status or category requirements under 45 CFR section 400.43 or the additional authorities listed in section II. A., items 3-6, of this document.)

II. PROGRAM PROCEDURES

The Department of Health and Human Services (HHS), Administration for Children and Families (ACF), Office of Refugee Resettlement (ORR), administers the Refugee and Entrant Assistance program on behalf of the federal government. ORR provides awards to states through two grant programs: (1) Cash and Medical Assistance (CMA) and (2) Refugee Support Services (RSS).

Source of Governing Requirements

The Refugee and Entrant Assistance program is governed under the following authorities:

1. The Refugee Act of 1980 (Pub. L. No. 96-212) (8 USC 1522), as amended by the Refugee Education Assistance Act of 1980 (Pub. L. No. 96-422), Refugee Assistance Amendments of 1982 (Pub. L. No. 97-363), and Refugee Assistance Extension Act of 1986 (Pub. L. No. 99-605).

2. Section 584(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act (as included in the fiscal year (FY) 1988 Continuing Resolution (Pub. L. No. 100-202)), insofar as it incorporates by reference with respect to certain Amerasians from Vietnam the authorities pertaining to assistance for refugees established by Section 412(c)(2) of the Immigration and Nationality Act, as amended, including certain Amerasians from Vietnam who are United States citizens; and, as provided under Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. No. 100-461), 1990 (Pub. L. No. 101-167), and 1991 (Pub. L. No. 101-513).

3. Section 107(b)(1)(A) of the Trafficking Victims Protection Act of 2000 (Pub. L. No. 106-386) (22 USC 7101), as amended by the Trafficking Victims Protection Reauthorization Act of 2003 (Pub. L. No. 108-193) and 2005 (Pub. L. No. 109-164), and Section 107(b)(1)(F) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (Pub. L. No. 110-457), insofar as they

state that a victim of a severe form of trafficking in persons, potential child victims, and certain other specified family members shall be eligible for federally funded or administered benefits and services to the same extent as a refugee.

4. Section 525, Title V, Division G, Pub. L. No. 110-161 in relation to Iraqi and Afghan aliens granted special immigrant status under Section 101(a)(27) of the Immigration and Nationality Act and their eligibility for resettlement assistance and other benefits available to refugees admitted under Section 207 of the Immigration and Nationality Act; and Sections 1244, Pub. L. No. 110-181 Section 602(b), Title VI, Division F, Pub. L. No. 111-8, regarding the special immigrant status of certain Iraqis and certain Afghans, respectively, as amended by Section 8120, Title VIII, Pub. L. No. 111-118.

5. Division C, Title III, Pub. L. No. 117-43, and Division B, Title III, Pub. L. No. 117-70 in relation to Afghan SQ/SI parolees, Afghan Special Immigrant Conditional Permanent Residents, and Afghan Humanitarian Parolees.

6. Title IV, Pub. L. 117-128, and Section 147, Division A, Pub. L. 117-180 in relation to Ukrainian Humanitarian Parolees. Title IV, Pub. L. 117-128, and Section 147, Division A, Pub. L. 117-180 in relation to Ukrainian Humanitarian Parolees.

Program regulations are at 45 CFR Parts 400 and Part 401.

In addition to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards at 45 CFR Part 75, this program also is subject to 45 CFR Part 95, subparts E (Cost Allocation Plans) and F (Automatic Data Processing Equipment and Services Conditions for Federal Financial Participation (FFP)).

Availability of Other Program Information

Additional information is available on the ORR website at https://www.acf.hhs.gov/orr.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information**.**

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	N	Y	N	N	Y	Y	N

A. Activities Allowed or Unallowed

CMA program funds are to be used to pay for:

1. *Refugee Cash Assistance (RCA)* – monthly cash benefits for refugees who do not meet the eligibility requirements of the TANF (Assistance Listing 93.558) or Supplemental Security Income (SSI) (Assistance Listing 96.006) programs (45 CFR section 400.53) but meet the eligibility requirements within III.E.1, "Eligibility – Eligibility for Individuals."

2. *Refugee Medical Assistance (RMA)* – medical assistance to refugees who do not meet all eligibility requirements for Medicaid (Assistance Listing 93.778) and CHIP (Assistance Listing 93.767) and medical screening to RMA-eligible refugees (45 CFR section 400.100) but meet the eligibility requirements within III.E.1, "Eligibility – Eligibility for Individuals."

3. *Medical Screening* – A state may charge refugee medical screening costs to RMA if those costs are part of the state plan approved by the ORR director (45 CFR section 400.107). If such screening is done during the first 90 days after a refugee's initial date of ORR eligibility, it may be provided without prior determination of the refugee's eligibility under 45 CFR section 400.94 or section 400.100 and may be charged to RMA. States may charge to RMA the cost of medical screenings done later than 90 days after the refugees' eligibility date only if the refugees had been determined ineligible for Medicaid or CHIP under 45 CFR sections 400.94 and 400.100 (45 CFR section 400.107).

4. *Unaccompanied Refugee Minor (URM) Assistance* – child welfare services and foster care to unaccompanied refugee minors (until age 18 or higher age as the state's Title IV-B plan prescribes) (45 CFR section 400.113) who meet the requirements in III.E.1, "Eligibility – Eligibility for Individuals."

5. *Program Administration* – A state may claim against its CMA grant the reasonable, necessary, and allocable administrative costs:

    a. Associated with providing RCA, RMA, including medical screening, and assistance and services to unaccompanied refugee minors (45 CFR section 400.207).

b. Incurred by the local resettlement agencies for providing cash assistance under the public/private RCA program (45 CFR section 400.13(e)).

c. Incurred for the overall management of the state's refugee program. Such costs may include development of the state plan, overall program coordination, and salary and the travel costs of the state Refugee Coordinator (45 CFR section 400.13(c)).

RSS program funds are to be used to pay for:

- Employability Services
- Other Services
- Refugee School Impact (RSI) Set-aside Services
- Services to Older Refugees (SOR) Set-aside Services
- Youth Mentoring (YM) Set-aside Services
- Refugee Health Promotion (RHP) Set-aside Services

1. *Employability Services* – A state may provide the following employability services through the RSS grant:

   a. Employment services, including development of a family self-sufficiency plan and individual employment plan, job development, job search, and job placement (45 CFR section 400.154(a));

   b. Aptitude and skills testing, employability assessment (45 CFR section 400.154(b));

   c. On-the-job training at the employment site (45 CFR section 400.154(c));

   d. English language training with emphasis on job-related language skills (45 CFR section 400.154(d));

   e. Vocational training when part of an employability plan (45 CFR section 400.154(e));

   f. Skills recertification (45 CFR section 400.154(f));

   g. Child care when necessary for job retention/acceptance or participation in an employability service (45 CFR section 400.154(g));

   h. Transportation when necessary for job retention/acceptance or participation in an employability service (45 CFR section 400.154(h));

   i. Translation and interpreter services when necessary for job retention/acceptance or participation in an employability service (45 CFR section 400.154(i));

j. Case management services directed toward a refugee's attainment of employment as soon as possible after arrival in the United States (45 CFR section 400.154(j)), and

k. Assistance in obtaining employment authorization documents (45 CFR section 400.154(k)).

2. *Other Services* – A state may provide other support services, which may include:

a. Information and referral services (45 CFR section 400.155(a));

b. Outreach services designed to familiarize refugees with available services and facilitate access to them (45 CFR section 400.155(b));

c. Social adjustment services including emergency services, health-related services, and home management services (45 CFR section 400.155(c));

d. Child care, transportation, translation and interpreter services, and case management services which are not directly related to employment or an employability service, when necessary for purposes other than employment or participation in employability services (45 CFR sections 400.155(d) through 155(g));

e. Any other service approved by the ORR director that is aimed at helping the refugee attain economic self-sufficiency, family stability, or community integration (45 CFR section 400.155(h)); and

f. Citizenship and naturalization preparation services (45 CFR section 400.155(i)).

3. *RSI Services* – Per 8 USC 1522(c)(1)(A)(iii), the ORR Director is authorized to make grants to, and enter into contracts with, public or private nonprofit agencies for projects specifically designed to provide services where specific needs have been shown and recognized by the Director. Under the RSI program, described within ORR Policy Letter 22-07, a state may provide services, which may include, but are not limited to the following:

a. Specialized services and support for eligible youth, which may include English as a Second Language classes, tutoring, newcomer, or transitional programs, after school and summer programs, mentoring, behavioral health supports, programming that supports integration, and services that support the cognitive, social, and emotional growth of preschool-aged children.

b. Support for families learning to navigate the US education system, which may include school-specific orientation for both families and students, navigators or cultural brokers, and language access.

c. Capacity development for school systems, including education and training for staff around the unique and varied needs of refugees and access to necessary resources. Examples of this allowance may include specialized trainings for school staff, ensuring language access by offering translated documentation, interpretation, and specialized staff dedicated to working with the population.

d. Capacity development to remove barriers to culturally responsive child care access.

e. Holistic sessions with parents and children to support English language literacy, school preparedness, and community orientation through the promotion of parent-child interactions.

4. *Services to Older Refugees (SOR)* – Per 8 USC 1522(c)(1)(A)(iii), the ORR Director is authorized to make grants to, and enter into contracts with, public or private nonprofit agencies for projects specifically designed to provide services where specific needs have been shown and recognized by the Director. Under the SOR program, described within ORR Policy Letter 22-08, a state may provide SOR programming, which may include, but is not limited to:

a. Helping older ORR-eligible populations access mainstream aging services in the community such as information about supportive services, nutrition services, meal delivery, elder abuse, senior community centers, and intergenerational activities.

b. Providing older ORR-eligible populations with appropriate services that are not available in the communities, such as interpretation and translation services.

c. Creating opportunities for older ORR-eligible populations to live independently as long as possible, including transportation, home care, adult day care, and respite care.

d. Developing opportunities for older ORR-eligible populations to connect with their communities to avoid isolation, such as mental health support, community navigators, and opportunities for engagement in social and cultural activities.

e. Assisting older ORR-eligible populations on the path to citizenship, especially those at risk of losing Supplemental Security Income or other federal benefits, to naturalize. Services may include civics instruction, counseling, and application assistance.

5. *Youth Mentoring (YM)* – Per 8 USC 1522(c)(1)(A)(iii), the ORR Director is authorized to make grants to, and enter into contracts with, public or private nonprofit agencies for projects specifically designed to provide services where specific needs have been shown and recognized by the Director. Under the YM program, described within ORR Policy Letter 22-09, a state may provide YM activities, which may include:

   a. Development of social and life skills.

   b. Helping youth to learn American culture while maintaining and celebrating the youth's cultural heritage.

   c. Providing opportunities for social engagement with peers.

   d. Providing information about opportunities to participate in civic and community services activities.

   e. Supporting youth in learning English, math, and other skills.

   f. Providing academic support, such as helping with homework, and assisting with transitions in school such as the transition between middle school and high school or high school to post-secondary education.

   g. Helping youth with career development including skill building, resume drafting, worker's rights, and training opportunities.

   h. Supporting youth in developing health and financial literacy.

6. *Refugee Health Promotion (RHP)* – Per 8 USC 1522(c)(1)(A)(iii), the ORR Director is authorized to make grants to, and enter into contracts with, public or private nonprofit agencies for projects specifically designed to provide services where specific needs have been shown and recognized by the Director. Under the RHP program, described within ORR Policy Letters 20-05 and 22-06, a state may provide RHP activities, which may include:

   a. Health education classes and targeted health outreach to individuals.

   b. Medical and mental health navigation and support.

   c. Adjustment groups, skill-building networks, or peer support meetings.

   d. Outreach to mainstream mental health providers versed in trauma-informed services, development of a training curriculum for mainstream providers on refugee mental health, and implementation of strategies to mitigate language barriers in mental health services.

B. Allowable Costs/Cost Principles

The following costs may be charged to the state's CMA grant:

1. Certain administrative costs incurred for the overall management of the state's refugee program (see III.A.5, "Activities Allowed or Unallowed") (45 CFR sections 400.13 and 400.207), and

2. Costs incurred by local resettlement agencies to provide cash assistance under public/private RCA programs (45 CFR sections 400.13 and 400.207). All other costs must be allocated among the state's CMA grant, its RSS grant, and any other Refugee Resettlement program grants it may have received (45 CFR sections 400.13 and 400.206(a).

However, no portion of the cost of case management services (as defined at 45 CFR section 400.2) may be allocated to the state's CMA grant; and administrative costs of managing the services component of the program must be charged to the RSS grant (45 CFR section 400.13).

Per ORR policy delineated in ORR Policy Letters 22-07, 22-08, 22-09, 20-05, and 22-06, states must track activities, services, and costs for set-aside programs (RSI, SOR, YM, and RHP) separately from other RSS activities, services, and costs.

E. Eligibility

1. CMA and RSS General Eligibility requirements for individuals

a. Clients must have either refugee, asylee, Cuban/Haitian entrant, or Amerasian documented status (45 CFR section 400.43), be Iraqis or Afghans with Special Immigrant Visas, be Afghan SQ/SI Parolees, Afghan Special Immigrant Conditional Permanent Residents, Ukrainian Humanitarian Parolees, Non-Ukrainians who last habitually resided in Ukraine, or, if trafficking victims, must have received a certification or eligibility letter from ACF's Office on Trafficking in Persons (OTIP). Those meeting this status will be collectively referred to as "refugees."

b. A client's eligibility period generally begins on the date he/she arrived in the United States (45 CFR sections 400.203(a) and 400.204(a)). The eligibility period for asylees begins from the date the person receives a final grant of asylum. The eligibility for a Cuban or Haitian entrant begins from the date the individual was paroled as an entrant or the first time they entered the community, whichever is later. The eligibility period for victims of trafficking begins from the date the person received a certification or eligibility letter from ACF/OTIP. The eligibility date for Afghan humanitarian parolees is October 1, 2021 or the date they entered the community, whichever is later. The eligibility date for humanitarian parolees from Ukraine is May 21, 2022 or the date they received humanitarian parole, whichever is later.

Subprograms/Program Elements

1. *Cash and Medical Assistance (CMA) Awards*

CMA awards are made to states following submission of annual program estimates. CMA awards have four major cost components:

- Refugee Cash Assistance (RCA)
- Refugee Medical Assistance (RMA), including Medical Screening
- Unaccompanied Refugee Minor (URM) programming
- Program Administration (overall state Planning and Coordination)

A state may administer the RCA program as a publicly administered program or may form a public/private partnership (PPP) by engaging nonprofit organizations to deliver assistance. A publicly administered RCA program must follow the TANF rules on financial eligibility and payment levels unless the state receives an approved waiver under 45 CFR section 400.300 to continue administering RCA according to the rules of the former Aid to Families with Dependent Children (AFDC) program. A PPP may operate according to the content of an ORR-approved PPP plan in alignment with regulation and ORR policy. A replacement designee may base its RCA administration on a state's TANF program or administer a PPP plan, subject to ORR's approval.

a. *Refugee Cash Assistance (RCA) Eligibility*

(1) *Eligibility Criteria*

Eligibility for RCA is limited to refugees who meet all of the following criteria: (45 CFR section 400.53)

(a) They have resided in the United States less than the RCA

(b) eligibility period (currently twelve months) determined by the ORR director in accordance with 45 CFR section 400.211.

(c) They have been determined ineligible for other federally funded cash assistance programs, such as the following programs authorized by the Social Security Act: TANF, SSI, Old Age Assistance (OAA), Aid to the Blind (AB), Aid to the Permanently and Totally Disabled (APTD), and Aid to the Aged, Blind, and Disabled (AABD) (45 CFR section 400.53).

(d) They meet the financial eligibility requirements of the applicable type of RCA program: AFDC-type (45 CFR section 400.45), public/private (45 CFR section 400.59), or publicly administered (45 CFR section 400.66). In all three types, the administering agency may not treat the following as

income or resources available to the applicant: resources remaining in the applicant's country of origin, income earned by the applicant's sponsor, or cash assistance the applicant may have received under reception and placement programs administered by the departments of State or Justice (45 CFR sections 400.45(f)(2), 400.59(b) through (d), and 400.66(b) through (d)).

(e) They are not full-time students in institutions of higher education, as defined by the director (45 CFR section 400.53).

(f) If they are mandatory work registrants, they have not, without good cause, failed or refused to meet the work requirements of 45 CFR section 400.75(a), or voluntarily quit a job or refused an offer of appropriate employment within 30 consecutive calendar days immediately prior to the application for assistance. The payment of RCA assistance to an otherwise eligible client must be terminated if the client fails to meet this requirement (45 CFR sections 400.77 and 400.82(a)).

(2) Benefit payments in a state-administered AFDC-type RCA program must be based on the AFDC rate (45 CFR section 400.45(f)(2)). Benefit payments in a state-administered TANF-type *RCA* program must be based on the TANF rate (45 CFR section 400.66(a)). Benefit payments in a public/private RCA program may neither exceed the rate described in ORR PL 22-01 (increased from the rate specified in 45 CFR section 400.60(a) as authorized by 45 CFR section 400.60(d)), nor be less than the

(3) state's TANF *payment* rate (45 CFR section 400.60(b)).

b. *Refugee Medical Assistance (RMA) Eligibility*

(1) *Eligibility Criteria*

Eligibility for RMA is limited to refugees who meet one of the following sets of conditions:

(a) They are not eligible for Medicaid or Children's Health Insurance Program (CHIP) but currently receive RCA (45 CFR section 400.100(d)); or

(b) They meet all of the following criteria:

(i) They meet the same time eligibility requirement as for RCA (see paragraph E.1.b.(1)(a), above).

(ii) They are determined ineligible for Medicaid or CHIP (45 CFR section 400.100(a)(1)).

(iii) They meet one of the following financial eligibility requirements:

(A) In a state with a Medicaid medically needy program, they meet the state's Medicaid medically needy financial eligibility standards or a financial eligibility standard established at 200 percent of the national poverty level (45 CFR section 400.101(a)).

(B) In a state without a Medicaid medically needy program, they meet the state's AFDC payment standards and methodologies in effect as of July 16, 1996, or a financial eligibility standard established at 200 percent of the national poverty level (45 CFR section 400.101(b)).

(C) They do not meet either of these standards but spent their resources down to the applicable standard using an appropriate method for deducting incurred medical expenses. States must allow applicants for RMA to do this (45 CFR section 400.103).

(iv) They are not full-time students in institutions of higher education unless:

(A) the state has approved their enrollment as part of the refugee's employability plan under 45 CFR section 400.79 or a plan for an unaccompanied minor in accordance with 45 CFR section 400.112 or

(B) the state has requested and received permission from ORR to waive 45 CFR section 400.100(a)(5) as per ORR Policy Letter 23-07, Waiver to Allow Refugee Medical Assistance Coverage for Full-Time Students.

(2) Earnings from employment do not affect refugees' eligibility for RMA. They remain eligible for RMA through the remainder of the time eligibility period whether or not they receive earnings from employment. Refugees who become ineligible for Medicaid due to employment earnings and have resided in the United States less than the time eligibility period will become eligible for RMA for the remainder of the time eligibility period (45 CFR section 400.104) without an additional eligibility determination.

States may not require that a refugee actually receive or apply for RCA as a condition of eligibility for RMA (45 CFR section 400.100(c)).

(3) In providing medical assistance services to eligible refugees, a state must provide at least the same services in the same manner and to the same extent as under the state's Medicaid program (45 CFR section 400.105). A state may provide additional services beyond the scope of the state's Medicaid program to eligible refugees if the state provides these services through public facilities to its indigent residents (45 CFR section 400.106). A state may provide medical screening to a refugee provided the screening is in accordance with requirements prescribed by ORR and with written approval from ORR (45 CFR section 400.107).

c. *Unaccompanied Refugee Minor (URM) Assistance Eligibility*

(1) A person must meet the definition of an unaccompanied minor (45 CFR section 400.111).

(2) A URM remains eligible for assistance until he/she (a) is reunited with a parent; (b) is united with a nonparental adult to whom legal custody or guardianship has been granted; or (c) has reached the age of 18, or older if the state's Title IV-B plan so prescribes (45 CFR section 400.113).

2. *Refugee Support Services (RSS) Grants*

Beginning in FY 2018, Refugee Social Services funding was renamed to Refugee Support Services (RSS). RSS grants are made to states following submission of an Annual Service Plan. RSS grants are allocated to states by formula using each state's percentage of the national refugee and entrant population for up to the most recent three years. States are required to use these funds to help refugees become economically self-sufficient as quickly as possible, primarily through the provision of employment services. Under RSS, four set-aside grants are issued, Refugee School Impact (RSI), Services to Older Refugees (SOR), Youth Mentoring (YM), and Refugee Health Promotion (RHP), to provide services to specific refugee populations. The RSI targeted population is refugee children from birth until 18 years of age. The SOR targeted population is 60 and older. The YM targeted population is individuals aged 15–24. The RHP targeted population is refugees in need of health and well-being support.

a. *RSS Eligibility*

(1) In providing support services, the state must serve refugees in the following order of priority listed under 45 CFR section 400.147:

(a) All refugees who have resided in the United States less than a year and who apply for services;

(b) Refugees receiving cash assistance;

(c) Unemployed refugees who are not receiving cash assistance; and

(d) Employed refugees in need of services to retain employment.

(2) A state may limit eligibility for services to refugees who are 16 or older who are not full-time students in secondary school, except that such a student may be provided services in order to obtain part-time or temporary (summer) employment while a student or permanent, full-time employment upon completion of schooling (45 CFR section 400.152 (a)).

(3) Except for citizenship and naturalization services and referral and interpreter services, a state may not provide refugee social services to refugees who have been in the United States for more than 60 months (45 CFR section 400.152(b)).

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

H. Period of Performance

1. *CMA*

Per ORR regulations at 45 CFR section 400.210(a), a state must obligate its CMA funds awarded for costs attributable to RCA, RMA, and administration during the federal fiscal year (FFY) in which the grant was awarded. Funds awarded for URM assistance remain available for obligation in the FFY following the FFY in which the grant was awarded. All CMA funds, including funds awarded for URM services, must be expended by the end of the FFY following the FFY in which the grant was awarded. However, ORR may determine pursuant to 45 CFR section 400.300 that, to ensure the efficient and effective use of federal funds, it is in the best interest of the program to waive the requirements of 45 CFR section 400.210(a) and extend state obligation and liquidation deadlines.

2. *RSS*

Per ORR regulations at 45 CFR section 400.210(b), a state must obligate its RSS funds within one year after the end of the FFY in which the grant was awarded and must expend these funds within two years after the end of the FFY in which the grant was awarded. However, ORR may determine pursuant to 45 CFR section 400.300 that, to ensure the efficient and effective use of federal funds, it is in the best

interest of the program to waive the requirements of 45 CFR section 400.210(b) and extend state obligation and liquidation deadlines.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271 – Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable (RSS)

d. *ORR-1, CMA Program Estimates (OMB # 0970-0030, Approval Expires 06-30-2025)* – Applicable

e. *ORR-2, CMA Quarterly Report on Expenditures and Obligations (OMB # 0970-0407, Approval Expires 02-28-2026)* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

IV. OTHER INFORMATION

Note: In instances where a state has elected to withdraw from the program, ORR has the authority to select a nonprofit agency to administer the program as a replacement designee (45 CFR section 400.301(c)). The term “state” is used throughout this document to refer to both state governments and replacement designees.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.568 LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM

I. PROGRAM OBJECTIVES

The Low-Income Home Energy Assistance Program (LIHEAP) is a block grant program in which states (including Territories and Native American tribes) design their programs, within very broad federal guidelines. There are four components of LIHEAP: (1) block grants, (2) energy emergency contingency funds, (3) leveraging incentive awards, and (4) the Residential Energy Assistance Challenge Program (REACH). The latter three components are only administered when funding for those programs is available and allocated to them.

The objectives of LIHEAP are to help low-income households meet the costs of home energy (defined as heating and cooling of residences), increase their energy self-sufficiency, and reduce their vulnerability resulting from energy needs. A primary purpose is meeting immediate home energy needs. The target population is low-income households, especially those with the lowest incomes and the highest home energy costs. Additional targets are low-income households with especially vulnerable members, including older individuals, persons with disabilities, and young children.

II. PROGRAM PROCEDURES

A. LIHEAP Block Grants

The U.S. Department of Health and Human Services (HHS), Administration for Children and Families (ACF), Office of Community Services, administers LIHEAP at the federal level. LIHEAP block grant funds are distributed by formula to the states, the District of Columbia, and the territories. In addition, federally or state-recognized Native American tribes (including tribal consortia) have the option of requesting direct funding from HHS, rather than being served by the state in which they are located. Tribes that are directly funded by HHS statutorily receive a share of the funds that would otherwise be allotted to the states in which they are located, based on the number of income-eligible households in the tribal service area as a percentage of the income-eligible households in the state, or a larger amount agreed upon in a state/tribe agreement. Over half the states agree to give the tribes located within their state a larger amount than required by the statute.
Under the block grant principle, each recipient is responsible for LIHEAP design and implementation of its own program, within very broad federal guidelines. Recipients must administer their programs according to their HHS-accepted LIHEAP Model Plan and any amendments and in conformance with their own implementing rules and policies.

To receive funding, each recipient is required to submit annually a LIHEAP Model Plan which is an application that describes how the recipient’s LIHEAP will be administered.

The LIHEAP Model Pan includes a set of program integrity questions in which the recipient must describe the systems in place among others to detect and deter fraud, waste, and abuse in its program.

State recipients are required to hold a public hearing (or other public outreach for tribal recipients) each year on the proposed LIHEAP Model Plan for the upcoming federal fiscal year. All recipients must allow for public participation in the development of these LIHEAP Model Plans. If HHS issues a Notice of Funding Opportunity, a separate application is required for those LIHEAP recipients that wish to apply for a leveraging incentive award or a REACH award.

B. Energy Emergency Contingency Funds

In addition to appropriations for the LIHEAP block grant program, Congress may appropriate contingency funds that may be awarded to meet the additional home energy assistance needs of LIHEAP recipients for a natural disaster or other emergency. Contingency funds that are awarded generally must be used under the normal statutory and regulatory requirements that apply to the LIHEAP block grants, unless special conditions are placed upon their use at the time of the award.

C. Leveraging Incentive Awards

Of the funds appropriated for LIHEAP each year, HHS is allowed to earmark a portion to reward those LIHEAP recipients that have acquired non-federal resources to help low-income persons meet their home heating and cooling needs, as an incentive to augment the federal dollars. This could involve the recipient or private organizations allocating some of their funds into LIHEAP or similar state or private programs, buying fuel at reduced or discount prices through bulk purchases or negotiated agreements, obtaining donations of weatherization materials or fuels, waiving utility fees, or any number of other activities with nonfederal resources. Awards in the current federal fiscal year are based on leveraging activities carried out during the previous federal fiscal year. Leveraging awards are subject to special terms and conditions, which are specified in the Notice of Awards (NoA). To receive the leveraging award, current LIHEAP recipients must submit a Leveraging Report detailing leveraged resources, when HHS solicits such Leveraging Report. Recipients must keep sufficient documentation, or have access to it, to support the calculations in the report.

D. Residential Energy Assistance Challenge Program

Of the funds appropriated for leveraging incentive awards, HHS may set aside a portion for the REACH program. The REACH program makes competitive awards to LIHEAP recipients to help LIHEAP eligible households reduce their energy vulnerability. The purposes of REACH are to (1) minimize health and safety risks that result from high energy burdens on low-income households, (2) prevent homelessness as a result of inability to pay energy bills, (3) increase efficiency of energy usage by low income families, and (4) target energy assistance to individuals who are most in need. REACH awards are optional to current LIHEAP recipients that submit a separate REACH Plan

(when solicited by HHS). State and territory recipients that are issued REACH awards must administer their REACH awards through community-based organizations. REACH awards are subject to special terms and conditions, which are specified in the NoA (42 USC section 8626 b).

Source of Governing Requirements

LIHEAP is authorized under Title XXVI of the Omnibus Budget Reconciliation Act of 1981, as amended (Pub. L. No. 97-35, as amended, also known as OBRA 1981), which is codified at 42 USC 8621-8629. Implementing regulations for this and other HHS block grant programs authorized by OBRA 1981 are published in 45 CFR Part 96. Those regulations include general administrative requirements for the covered block grant programs. Requirements specific to LIHEAP are in 45 CFR sections 96.80 through 96.89. LIHEAP is also subject to 45 CFR Part 75, which is the HHS implementation of 2 CFR Part 200, commonly known as the Office of Management and Budget's Uniform Administrative Guidance. According to 45 CFR section 75.101(d), the requirements in Subpart C, Subpart D, and Subpart E do not apply to LIHEAP except for section 75.202 of Subpart C and sections 75.351 through 75.353 of Subpart D. In addition, recipients are to administer their LIHEAP according to the statutorily required LIHEAP Model Plans that they submitted to HHS. Recipients are permitted to submit revised LIHEAP Model Plans within a reasonable amount of time after making substantive changes to their policies and/or procedures referenced in their LIHEAP Model Plans.

As discussed in Appendix I to the Supplement, "Federal Programs Excluded from the A-102 Common Rule and Portions of 2 CFR Part 200," recipients are to use the fiscal policies (including obligation and expenditure of funds) that apply to their funds in administering LIHEAP. Procedures must be adequate to ensure the proper disbursal of and accounting for federal funds paid to the recipient, including procedures for monitoring the assistance provided (42 USC 8624(b)(10); 45 CFR section 96.30).

Availability of Other Program Information

The ACF LIHEAP web page (https://www.acf.hhs.gov/ocs/low-income-home-energy-assistance-program-liheap) provides general information about this program.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"). Next, the auditor will determine which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below). Finally, the auditor will determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not

expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
N	N	Y	Y	N	Y	Y	N	N	Y	Y	N

C. Cash Management

Recipients are limited to drawing down only a reasonable amount of federal LIHEAP funding on an incremental basis throughout the year to meet immediate needs. The proportion of funds that are drawn should be directly related to the expenditure of program funds incurred. An excess draw of funds should not occur where the interest can be accrued if the funds drawn remain in an interest-bearing bank account for an extended period without being issued out (2 CFR 200.305; 31 CFR part 205).

E. Eligibility

1. Eligibility for Individuals

Recipients may assist (a) households in which one or more individuals are receiving Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), Supplemental Nutrition Assistance Program (SNAP) benefits, or certain needs-tested veterans' benefits; or (b) households with incomes which do not exceed the greater of 150 percent of the state's established poverty level, or 60 percent of the state median income. Recipients may establish lower income eligibility criteria, but no household may be excluded solely based on income if the household income is less than 110 percent of the state's poverty level (42 USC 8624(b)(2)). Recipients must give priority to those households with the highest home energy costs or needs in relation to income and household size (42 USC 8624(b)(5)).

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

Not Applicable

3. Eligibility for Subrecipients

To the extent it is necessary to designate local administrative agencies, the recipient is to give special consideration to local public or private nonprofit agencies (or their successor agencies) which were receiving energy assistance or weatherization funds under the Economic Opportunity Act of 1964 or other laws, provided that the recipient finds that they meet program and fiscal requirements set by the recipient (42 USC 8624(b)(6)).

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort

Not Applicable

3. Earmarking

The following limitations apply to LIHEAP block grants and leveraging incentive award funds, as noted. Energy emergency contingency funds generally are subject to the requirements applicable to LIHEAP block grant funds, but the contingency award letter should be reviewed to see if different requirements were applied. REACH awards are subject to special terms and conditions described in the award.

a. *Planning and Administrative Costs*

(1) No more than 10 percent of a state's LIHEAP funds for a federal fiscal year may be used for planning and administrative costs, including both direct and indirect costs. This limitation applies, in the aggregate, to planning and administrative costs at both the state and subrecipient levels. This cap may not be exceeded by supplementing with other federal funds (42 USC 8624(b)(9)(A); 45 CFR section 96.88(a)).

(2) A tribal or territorial recipient may spend up to 20 percent of the first $20,000 and 10 percent of the amount above $20,000 for administration and planning (45 CFR section 96.88(b)).

(3) Although as indicated in III.A.5, leveraging incentive award funds may not be used for planning and administrative costs, they may be added to the base on which the maximum amount allowed for planning and administration is calculated according to the federal fiscal year in which the leveraging funds are obligated (45 CFR section 96.87(j)).

b. *Weatherization*

(1) No more than 15 percent of the greater of the funds allotted or the funds available to the recipient for a federal fiscal year may be used for low-cost residential weatherization or other energy-related home repairs. The secretary may grant a waiver beginning April 1st, and the recipient may then obligate and spend up to 25 percent for residential weatherization or energy-related home repairs (42 USC 8624(k)).

(2) Leveraging incentive award funds may be used for weatherization without regard to the weatherization maximum in the statute. However, they cannot be added to the base on which the weatherization maximum is calculated (45 CFR section 96.87(j)).

c. *Energy Need Reduction Services* – No more than five percent of the LIHEAP funds may be used to provide services that encourage and enable households to reduce their home energy needs and, thereby, the need for energy assistance. Such services may include needs assessments, counseling, and assistance with energy vendors (42 USC 8624(b)(16)).

d. *Identifying and Developing Leveraging Programs*

(1) The greater of 0.08 percent of a state's LIHEAP funds (other than leveraging incentive award funds) or $35,000 may be spent to identify, develop, and demonstrate leveraging programs, without regard to the limit on planning and administering LIHEAP (42 USC 8626a(c)(2); 45 CFR section 96.87(c)(2)).

(2) Native American tribes/tribal organizations and territories may spend up to the greater of 2 percent or $100 on such activities (45 CFR section 96.87(c)(1)).

H. Period of Performance

(45 CFR 96.81)

1. At least 90 percent of the LIHEAP block grant funds payable to the recipient must be obligated in the first federal fiscal year in which they are awarded. Up to 10 percent of the funds payable may be held available (or "carried over") for obligation no later than the end of the following federal fiscal year. Funds not obligated by the end of the second fiscal year of the award must be returned to ACF. There are limits on the period for the expenditure of funds (42 USC 8626) which are communicated to all recipients of the award. Recipients must expend funds according to rules that govern their public assistance funds.

2. Leveraging incentive award funds and REACH funds must be obligated in the federal fiscal year in which they are awarded or the following federal fiscal year,

without regard to the carryover limit. However, they may not be added to the base on which the carryover limit is calculated (45 CFR sections 96.87(j)(1) and (k)). Funds not obligated within these periods must be returned to ACF (45 CFR section 96.87(k)).

3. LIHEAP emergency contingency funds are generally subject to the same obligation and expenditure requirements applicable to the LIHEAP block grant funds, but the contingency award letter should be reviewed to see if different requirements were imposed.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

LIHEAP Performance Data Form (OMB No 0970-0449) – State recipients must submit this report by January 31st regarding the prior federal fiscal year. The first section of the report is the Grant Recipient Survey which collects and reports data on sources and uses of LIHEAP funds. The Grant Recipient Survey includes Section III: Estimated Sources of Funds and Section IV: Estimated Use of LIHEAP Funds. Note: these are referencing obligated not expended funding. The rest of the report is regarding performance metrics, mostly related to home energy burden targeting and reduction, as well as the continuity of home energy service. The survey obligation amounts should be compared with the Carryover and Reallotment and FFR-425 reports. This reconciliation is needed to make sure the obligated balances for the program year being tested are accurate. See LPDF Instructions for more background.

Key Line Items (page 4-5):

1. *"Uses of Funds" represent a state's obligation of federal LIHEAP funds, not expenditure of federal LIHEAP funds. In some cases, obligated funds are not expended until after the end of the federal fiscal year.*

2. *The total "Uses of Funds" (shown in Item 45 of Section IV) should equal the total "Sources of Funds" (shown in Item 16 of Section III).*

3. *"Other LIHEAP assistance." This would include federal LIHEAP funds used to provide "other crisis assistance," such as a furnace or air conditioner repairs or replacements.*

3. Special Reporting

a. *LIHEAP Carryover and Reallotment Report (OMB No. 0970-0106)* – https://omb.report/icr/202204-0970-018/doc/120709300. Recipients must submit an initial report no later than August 1 and a final report by December 31 indicating the amount expected to be carried forward for obligation in the following fiscal year and the planned use of those funds. Funds more than the maximum carryover limit are subject to reallotment to other LIHEAP recipients in the following federal fiscal year and must also be reported (42 USC 8626).

Key Line Items:

1. *"Carryover amount"*

2. *"Reallotment amount"*

b. *Annual Report on Households Assisted by LIHEAP (OMB No. 0970-0060)* https://omb.report/icr/202211-0970-005 – As part of the application for block grant funds each year, a report is required for the preceding fiscal year of (1) the number and income levels of the households assisted for each component and any type of LHEAP assistance (heating, cooling, crisis, and weatherization); and (2) the number of households served that contained young children, elderly, or persons with disabilities, or any vulnerable household for each component. Demographic information including race, ethnicity and gender are also included. Territories with annual allotments of less than $200,000 and all Native American tribes are required to report only on the number of households served for each program component (42 USC 8629; 45 CFR section 96.82).

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

1. *Section 1* – LIHEAP Assisted Households

c. *Quarterly Performance and Management Report (OMB No. 0970-0589)* https://omb.report/icr/202205-0970-017/doc/121847100 –Recipients must submit data and information about LIHEAP during the current FY, including success, challenges, needs, and innovations. The quarterly reports focus on assisted households, performance management, the obligation of funding, changes made due to anticipated increases in energy bills, collaboration with other utility programs, and training and technical assistance needs.

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

1. *Section 1* – Total Households Assisted
2. *Section 2* – Performance Management
3. *Section 3* – Estimated Use of Funds
4. *Section 4* – LIHEAP Program Implementation and Support

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3. L for audit guidance.

M. Subrecipient Monitoring

Recipients must ensure that subrecipients are using LIHEAP funding from the recipient for their intended purposes. A recipient's monitoring activity should ensure that subrecipient LIHEAP expenditures are energy-related transactions, which are allowable, reasonable, and allocable. This will ensure that the proper financial and management of controls are in place for LIHEAP administration.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.569 COMMUNITY SERVICES BLOCK GRANT

I. PROGRAM OBJECTIVES

The objectives of the Community Services Block Grant (CSBG) are to provide assistance to states and local communities, working through a network of community action agencies and other neighborhood-based organizations, for the reduction of poverty, the revitalization of low-income communities, and the empowerment of low-income families and individuals in rural and urban areas to become fully self-sufficient (particularly families who are attempting to transition off a State program carried out under part A of title IV of the Social Security Act) and (1) to provide services and activities having a measurable and potential major impact on causes of poverty in the community or those areas of the community where poverty is a particularly acute problem; (2) to provide activities designed to assist low-income participants, including the elderly poor, to: (a) secure and retain meaningful employment; (b) attain an adequate education; (c) make better use of available income; (d) obtain and maintain adequate housing and a suitable living environment; (e) obtain emergency assistance through loans or awards to meet immediate and urgent individual and family needs, including health services, nutritious food, housing, and employment-related assistance; (f) remove obstacles and solve problems which block the achievement of self-sufficiency; (g) achieve greater participation in the affairs of the community; and (h) make more effective use of other related programs; (3) to provide on an emergency basis for the provision of such supplies and services, nutritious food, and related services, as may be necessary to counteract conditions of starvation and malnutrition among the poor; and (4) to coordinate and establish linkages between governmental and other social services programs to assure the effective delivery of such services to low-income individuals. In addition to the CSBG funding to states, the Office of Community Services (OCS) funds additional discretionary projects for training and technical (T/TA) assistance.

II. PROGRAM PROCEDURES

CSBG is administered at the federal level by OCS, Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS). CSBG funds are awarded to states, territories, and federally and state-recognized Indian tribes and tribal organizations. Funds are distributed in accordance with a pre-established formula after submission of an application to OCS and acceptance of that application as complete in accordance with statutory requirements. In turn, states subaward the CSBG funds according to statewide formulae to designated community-based nonprofit organizations (and, in special circumstances, public organizations) that plan, develop, implement, and evaluate local programs. These instructions are provided for audits of states as defined by the CSBG Act at 42 USC 9902(5), for audits of eligible entities as defined by the CSBG Act at 42 USC 9902(1) and audits of other subrecipients expending CSBG funds. Eligible entities are those entities that were in place the day before October 27, 1998, or as designated by the process codified at 42 USC 9909. For all practical purposes, eligible entities are those entities identified in the state CSBG plan that are designated to receive a portion of at least 90 percent of the CSBG funds provided to a state.

Auditors may obtain the state plan from the state or review the contract/award provided by the state to the entity to determine if they are an eligible entity or other subrecipient. For tribes and tribal organizations that receive CSBG as part of the Pub. L. No. 102-477 demonstration projects, refer to the 477 cluster at 4-15.025 for testing guidance. For tribes and tribal organizations that receive CSBG funding directly from the federal government, the auditor should use the testing guidance for the states.

Source of Governing Requirements

CSBG was reauthorized under the Community Opportunities, Accountability, and Training and Education Act of 1998 (Pub. L. No. 105-285) and is codified at 42 USC 9901 et seq. The implementing regulations for this and other block grant programs are published at 45 CFR Part 96. Those regulations include both specific requirements and general administrative requirements for the covered block grant programs. Requirements specific to CSBG are in 45 CFR sections 96.90 through 96.92. Separate regulations governing religious organizations as nongovernmental providers of service (Charitable Choice) are codified at 45 CFR Part 1050. CSBG is governed by specific provisions of 45 CFR Part 75, the HHS implementation of 2 CFR Part 200 (OMB's Uniform Administrative Guidance). Per 45 CFR § 75.101, Subparts A and B, addressing acronyms, definitions, and general provisions, are applicable. Subpart C, covering pre-award requirements, is generally not applicable except for § 75.202, which pertains to Federal awarding agencies. Subpart D, related to post-award requirements, is not applicable except for §§ 75.351 through 75.353, which apply to CSBG funding. Subpart E, concerning cost principles, applies to subrecipients in accordance with 42 USC § 9916(a)(1)(B). Subpart F, addressing audit requirements, is also applicable. For discretionary T/TA awards, all subparts of 45 CFR Part 75 apply. These provisions remain in effect during the transition to a two-stage adoption of 2 CFR Part 200. The first stage, effective October 1, 2024, introduces increased thresholds and flexibilities under 45 CFR Part 75. The second stage, effective October 1, 2025, replaces 45 CFR Part 75 with 2 CFR Parts 200 and 300, as outlined in the Federal Register (89 FR 80055).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	N	Y	N	N	N	Y	Y

A. Activities Allowed or Unallowed

1. *Activities Allowed*

a. *States*: States are required to distribute at least 90 percent of CSBG funds to eligible entities, see Special Tests and Provisions for testing of the amounts distributed to these entities. States may use retained funds to achieve CSBG goals through activities, including, but not limited to:

(1) Training and technical assistance;

(2) Statewide coordination and communication among eligible entities;

(3) Analysis to better target the distribution of funds to the areas of greatest need;

(4) Individual development accounts and other asset-building programs for low-income individuals;

(5) Coordinating state-operated programs and services targeted to low-income children and families;

(6) State charity tax credits;

(7) Supporting innovative programs and activities conducted by community-based organizations to address the goals of the program; and

(8) Administrative functions (42 USC 9901 and 9907(b)).

b. *Eligible Entities and Other Subrecipients*: Eligible entities and other subrecipients may use CSBG funds for any programs, services, or other activities related to achieving the broad goals of CSBG, such as reducing

poverty, revitalizing low-income communities, and assisting low-income individuals and families. Funds may be used to:

(1) Promote economic self-sufficiency, employment, education and literacy, housing, and civic participation;

(2) Support community youth development programs;

(3) Fill gaps in services through information dissemination, referrals, and case management;

(4) Provide emergency assistance through awards and loans, and provision of supplies, services, and food stuffs;

(5) Secure more active involvement of the private sector, faith-based institutions, neighborhood-based organizations, and charitable groups; and

(6) Plan, coordinate, and develop linkages among public (federal, state, and local), private, and nonprofit resources, including religious organizations, to improve their combined effectiveness in ameliorating poverty (42 USC 9901, 42 USC 9907(1)).

2. *Activities Unallowed: Applicable to States and Eligible Entities/Other Subrecipients*

a. Funds may not be used to purchase or improve land or to purchase, construct, or permanently improve buildings or facilities, other than low-cost residential weatherization or other energy-related home repairs (this limitation may be waived by ACF) (42 USC 9918(a)).

b. Funds may not be used to support any partisan or non-partisan political activity or to provide voters or prospective voters with transportation to the polls or provide similar assistance in connection with an election or any voter registration (42 USC 9918(b)).

c. No CSBG funding provided directly to a religious organization may be used for inherently religious activities, such as worship, religious instruction, or proselytization (42 USC 9920(c); 45 CFR section 1050.3(b)).

B. Allowable Costs/Cost Principles

1. *States*: CSBG is exempt from the provisions of OMB cost principles at the state level. As a block grant, state cost principles requirements apply to CSBG at the state level. However, states must apply OMB administrative cost principles (45 CFR Part 75, Subpart E) to subrecipients receiving CSBG funds (42 USC 9916(a)(1)(B)), 45 CFR section 75.101(d)(1)).

2. *Eligible Entities and Other Subrecipients*: Eligible entities and other subrecipients of CSBG funds are subject to the cost principles in the Uniform Administrative Requirements in 45 CFR Part 75, Subpart E.

C. Cash Management

Recipients of CSBG funds may use the reimbursement method, the advance payment method, or a combination of both, as determined by the state. Under the reimbursement method, funds may only be requested after eligible expenses are incurred and must align with actual program costs. Under the advance payment method, funds must be drawn to meet immediate cash needs and disbursed promptly in line with incurred expenses. Regardless of the method used, drawdowns must correspond directly to actual expenditures for program activities. States are subject to 31 CFR **section** 205, which requires minimizing the time between drawing funds and disbursing them to subrecipients to meet program needs. Subrecipients, in turn, must comply with **2 CFR section 200.305** and **45 CFR section 75.305**, ensuring that funds align with immediate needs and program expenses. Excessive balances should not be retained, particularly in interest-bearing accounts, to prevent accruing unnecessary interest. States must establish monitoring procedures to ensure subrecipients manage funds effectively, align with program purposes, and comply with applicable regulations.

E. Eligibility

1. Eligibility for Individuals or Households

a. *States*: The official poverty guideline as revised annually by HHS shall be used to determine eligibility. The poverty guidelines are issued each year in the *Federal Register* and on the HHS website (http://aspe.hhs.gov/poverty/). A state may adopt a revised poverty guideline but it may not exceed 125 percent of the HHS-determined poverty guidelines (42 USC 9902(2)).

b. *Eligible Entities/Other Subrecipients*: The official poverty guidelines as revised annually by HHS shall be used to determine eligibility. The poverty guidelines are issued each year in the *Federal Register* and on the HHS website (http://aspe.hhs.gov/poverty/). The CSBG Act, at 42 USC 9902(2), grants the state the authority to adopt a revised poverty threshold but it may not exceed 125 percent of the HHS-determined poverty guidelines. Audit procedures should be designed to test whether recipients of CSBG services meet the federal poverty guidelines, or a more restrictive poverty threshold established by a state.

Update: Under Public Law 118-47, CSBG recipients and CSBG eligible entities can continue to apply the higher eligibility rate of up to 200% of the federal poverty level for services provided through September 30, 2024.

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

Not Applicable

3. Eligibility for Subrecipients

Not applicable to eligible entities and other subrecipients.

H. Period of Performance

1. *States*: Amounts unobligated by the state at the end of the fiscal year in which they were first allotted shall remain available for obligation during the succeeding fiscal year (45 CFR section 96.14(a)).

2. *Eligible Entities*: CSBG funds issued by the state to subrecipients are available to the subrecipients for obligation during the federal fiscal year that the award was made and in the following federal fiscal year (42 USC 9 section 9907(a)(2)).

   a. Note: The CSBG Act, at 42 USC 9907(a)(3), requires states to recapture and redistribute unused CSBG funds. However, this provision has been overridden by annual appropriations law by requiring states to carryforward unused funds to be used by the specific entity. Auditors should determine the legal requirements for the period under review.

M. Subrecipient Monitoring

1. *States*

   States must conduct full on-site reviews of each eligible entity once every three years to check conformity with performance goals, administrative standards, financial management rules, and other requirements. States must conduct an onsite review of each newly designated entity immediately after the completion of the first year in which such entity receives CSBG funding. Follow-up reviews, including prompt return visits to eligible entities and their programs, are required for entities that fail to meet the goals, standards, and requirements established by the state (42 USC 9914(a)). Audit tests should be designed to determine whether the state:

   (1) Has performed a full onsite monitoring of each eligible entity within the past three years;

   (2) Has completed a full onsite monitoring of a newly designated entity immediately after the completion of the first year in which the entity received CSBG funds;

   (3) Has conducted appropriate follow up reviews if necessary; and

(4) Has conducted other reviews as appropriate, including reviews of entities with programs that have had other federal, state, or local awards terminated for cause.

(5) If a state finds a need for corrective action, the state must (1) inform the subrecipient of the deficiency and require correction; (2) offer training and technical assistance and report to OCS on that assistance or explain why providing such assistance was not appropriate; (3) receive an improvement plan from the subrecipient within 60 days; and (4) not later than 30 days after receiving the improvement plan either approve it or specify the reasons why it cannot be approved (42 USC 9915). If the subrecipient fails to remedy the deficiency, the state may initiate proceedings to terminate the subrecipient's eligibility or reduce its funding (42 USC 9908(b)(8) and 42 USC 9915(a)(5)).

2. *Eligible Entities/Other Subrecipients*

If eligible entities or other subrecipients of CSBG use a subaward to achieve the objectives of CSBG, the eligible entities and other subrecipients are required to comply with the provisions of 45 CFR sections 75.351 through 75.353 (45 CFR section 75.101(d)).

N. Special Tests and Provisions

1. States: Subaward and Administration

Compliance Requirements States must (1) use at least 90 percent of their allotted funds under this program for subawards to eligible entities, (2) subaward funds in a timely manner to allow subrecipients a sufficient opportunity to obligate the funds to accomplish program purposes, and (3) adhere to expense limits for administrative activities performed (42 USC 9907(a)(1), (a)(2), (a)(3), and (b)(2)). There is a concern that some states are (1) not allotting the funds to subrecipients early enough to allow a full period of performance by subrecipients without the possibility of recapture, resulting in unobligated balances of funds; and (2) inappropriately claiming administrative expenses for subaward and monitoring.

Audit Objectives To determine if the state (1) complied with the requirement to subaward 90 percent of its allotted funds in a timely manner, and (2) claimed appropriate administrative expenses.

Suggested Audit Procedures

a. Determine the state's procedures for issuance of subawards or contracts, including any standards for administrative lead time.

b. Determine if the subawards were made in a timely manner, consistent with CSBG requirements and the state's own procedures.

c. Determine if the state tracks, by each individual subaward, the issuance date, expenditure by the subrecipient, and the associated administrative costs.

d. Determine if the state is appropriately claiming administrative costs in relation to its award and administration of subawards.

2. **Tri-Partite Board Compliance – Only Applicable to Eligible Entities**

The CSBG Act at 42 USC 9910(a), requires nonprofit organizations administer CSBG through a board comprising:

- One-third (1/3) of the members be elected representatives in the community or their designee (the elected official must be holding office on the date of selection). There is a provision that allows for appointed government officials, or their designee, to be counted in meeting this requirement.

- Not fewer than one-third (1/3) of the board members are chosen in a democratic selection process adequate to assure that these members of the board are representative of the low-income individuals and families served. Additionally, each low-income representative must reside in the neighborhood served.

- The remaining board members are officials and members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served.

The CSBG Act at 42 USC 9910(b), requires that public organizations administer CSBG through a Tri-Partite board. This board shall have members selected by the organization and shall be composed so as to assure that no less than one-third (1/3) of the members are chosen in accordance with democratic selection procedures adequate to assure that these members:

- Are representative of low-income individuals and families served in the neighborhood served;

- Reside in the neighborhood served; and

- Are able to actively participate in the development, planning, implementation, and evaluation of the programs funded by CSBG; or

- The statute allows states to specify, in the alternative, another mechanism for public organizations to assure decision making and participation by low-income individuals in the development, planning, implementation, and evaluation of programs funded by CSBG.

The CSBG Act does not provide for a grace period for eligible entities to get into compliance, though it is not prohibited by the Act. There are provisions within the Act that prevent the state from delaying or stopping funding or de-designating an eligible

entity without providing technical assistance and the opportunity to correct deficiencies. For this reason, the states are encouraged to develop a policy or procedure that allows a grace period to fill Tri-Partite board vacancies.

Compliance Requirements Eligible entities must comply with the Tri-Partite board requirement. If an eligible entity has vacancies during the audit period that reduce the representation of low-income communities or public elected/appointed officials, that exceed the length of time permitted by the state, the auditor should report a finding. If the state has not elected to create a policy or procedure to permit a reasonable amount of time to fill a vacancy, the auditor should report a finding for any vacancy during the period that reduced the required representation below the required threshold.

Audit Objectives To determine if the eligible entity maintained a Tri-Partite board during the audit period.

Suggested Audit Procedures

a. Obtain the board rosters, including the areas of representation at the beginning and end of the audit period.

b. For any changes in the board roster, inquire of organization management the dates of the changes.

c. Obtain the policy or procedure communicated by the state to the eligible entity for adherence to the Tri-Partite board requirement.

d. Determine if the low-income or public representation vacancies exceeded the length of time permitted by the state.

IV. OTHER INFORMATION

Transfers

As described in Part 4, Social Services Block Grant (SSBG) program (Assistance Listing 93.667), III.A. “Activities Allowed or Unallowed,” a state may transfer up to 10 percent of its annual allotment under SSBG to CSBG and other specified block grant programs for support of health services, health promotion and disease prevention activities, low-income home energy assistance, or any combination of these activities. Amounts transferred into the CSBG are subject to the requirements of the CSBG when expended and should be included in the audit universe and total expenditures of this program when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred in should be shown as expenditures of this program when such amounts are expended.

McKinney-Vento Homeless Assistance Programs and Corporation for National and Community Service AmeriCorps Programs

Since FY 2009, the appropriations acts providing funds for the McKinney-Vento Homeless Assistance programs has included language authorizing recipients under those programs to use other federal funds as match unless prohibited by the statute of the other program. OCS has determined that the CSBG Act does not prohibit the use of CSBG funds as match for the McKinney-Vento Homeless Assistance programs and the Corporation for National and Community Service' AmeriCorps programs. Any CSBG funds claimed as match for these Homeless Assistance programs must be used for CSBG purposes and in accordance with the CSBG requirements.

Tribal CSBG Recipients under a Pub. L. No. 102-477 Demonstration Project (477)

Audits of Indian tribal governments with the CSBG program in their approved 477 Plan will follow Version 2 reporting and, therefore, must follow the guidance in the 477 Cluster found in the Department of the Interior's section of Part 4 of this Supplement. See the "Note" at the beginning of the 477 Cluster for additional information.

2023 CSBG Disaster Supplemental

In federal fiscal year 2023, Congress appropriated additional CSBG funds under the Consolidated Appropriations Act, 2023 (Pub. L. No. 117-328). These funds are to address the consequences of Hurricanes Fiona and Ian and are to be used for necessary expenses directly related to these disasters. The funds must be reported separately from regular CSBG funds and are subject to the same requirements, with the additional stipulation that they must address needs directly resulting from the disasters. Funds are allocated based on assessed need rather than the regular statutory formula, allowing recipients to establish income eligibility limits up to 200% of the Federal Poverty Line. Additionally, the funds may be used for construction and property improvements as necessary to meet disaster-related needs but cannot be used for costs reimbursed by FEMA or private insurance. These funds should be reported on the Schedule of Expenditures of Federal Awards as CSBG Disaster Supplemental funds and included in the audit universe and total expenditures of this program when determining Type A programs. See *CSBG-DCL-2023-06 Disaster Supplemental for Hurricanes Fiona and Ian FY 2023*

2020 CARES Act Supplemental

In federal fiscal year 2020, Congress appropriated additional CSBG funds under the CARES Act (Pub. L. No. 116-136). These funds are to be issued to states, tribes, and territories to prevent, prepare for, and respond to coronavirus. These funds are to be reported on the Schedule of Expenditures of Federal Awards as CSBG funds, though the states and entities are required to account for these expenditures separately in their own accounting records. CSBG CARES Supplemental funds are subject to the requirements of the CSBG and the additional requirement that these funds must be used to prevent and prepare for the coronavirus and to respond to the impact of the coronavirus. CSBG CARES Supplemental funds, when expended, should be included in the audit universe and total expenditures of this program when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts of CSBG CARES Supplemental funds should be shown as expenditures of this program when such amounts are expended.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.356 HEAD START DISASTER RECOVERY

ASSISTANCE LISTING 93.600 HEAD START

I. PROGRAM OBJECTIVES

The objective of the Assistance Listing 93.600 Head Start program (including Early Head Start and Early Head Start-Child Care Partnerships) is to promote the school readiness of low-income children (including American Indians, Alaska Natives, and migrant and seasonal farm workers) by enhancing children's cognitive, social, and emotional development.

The objective of Coronavirus Aid, Relief, and Economic Security Act (CARES Act) funding in the amount of $750,000,000 appropriated for the Office of Head Start (OHS) is to pay the costs associated with Head Start program actions and activities undertaken to prevent, prepare for, and respond to the impacts of the coronavirus.

The objective of Coronavirus Response and Relief Supplementary Appropriation Act (CRRSA) funding in the amount of $250,000,000 appropriated for OHS is to pay the costs associated with Head Start program actions and activities undertaken to prevent, prepare for, and respond to the impacts of the coronavirus.

The objective of American Rescue Plan (ARP) funding in the amount of $1,000,000,000 appropriated for OHS is not limited to actions and activities undertaken to prevent, prepare for, and respond to the coronavirus and may also be used for the same objective as Assistance Listing 93.600: to promote school readiness of low-income children (including American Indians, Alaska Natives, and migrant and seasonal farm workers) by enhancing children's cognitive, social, and emotional development.

CARES Act, CRRSA, and ARP funding were awarded in an amount that bears the same ratio to the portion available for allocation as the number of enrolled children served by the Head Start agency bears to the number of enrolled children served by all Head Start agencies. The objective of the Consolidated Appropriations Act (CCA) funding of $11,036,820,000, an increase of $289 million over fiscal year (FY) 2021, is to carry out the purposes of the Head Start Act. The CCA specifies that any amount of the funds provided for Quality Improvement may be used on any of the activities specified in the Head Start Act. Programs are not bound by the requirements that at least 50% of the funds be used for staff compensation or that no more than 10% of funds be used on transportation. The CCA also provides a Cost-of-Living Adjustment which must be used to permanently increase the Head Start pay scale by no less than 2.28% and be applied from the start of a recipient's FY 2022 budget period, which may need to be retroactively applied.

Comprehensive services are provided to enrolled children, pregnant women, and their families, which include health, nutrition, social, and other services determined to be necessary by family needs assessments, in addition to education and cognitive development services.

Assistance Listing 93.356

The objective of the Assistance Listing 93.356 disaster recovery is to provide for Head Start expenses directly related to disaster relief. In FY 2023, supplemental funding was appropriated for necessary expenses directly related to the consequences of Hurricanes Fiona and Ian. Previous funding provided under this listing included the FY 2018 supplemental appropriation for necessary expenses directly related to the consequences of Hurricanes Harvey, Irma, and Maria; and FY 2019 supplemental funding for necessary expenses directly related to the consequences of Hurricanes Florence and Michael, Typhoon Mangkhut, Super Typhoon Yutu, wildfires and earthquakes occurring in calendar year 2018, and tornadoes and floods occurring in calendar year 2019.

II. PROGRAM PROCEDURES

The OHS, Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS), administers the Head Start program, COVID-19 response funds, and disaster recovery funds.

Services for children ages 3–5 are funded by a Head Start award and services for pregnant women and children ages 0–3 are funded by an Early Head Start award. Early Head Start services may include those delivered through a partnership with existing child care centers or family child care homes under funding specially designated as an Early Head Start – Child Care Partnership award. Grant recipients may receive one-time awards, primarily for health and safety-related facility improvement activities.

Comprehensive center-based or home-based services are provided to enrolled children, pregnant women, and their families. These include health, nutrition, social, and other services determined to be necessary by a family needs assessment, in addition to education and cognitive development services. Services are designed to be responsive to each child’s and family’s ethnic, cultural, and linguistic heritage.

OHS makes Head Start awards to local public, Indian Tribes, nonprofit agencies, and for-profit entities known as Head Start Agencies (HSA). The awards are made for a period not-to-exceed five years. A HSA may enter into an agreement with a delegate agency (subrecipient) for the delivery of Head Start services; however, the HSA (pass-through entity) retains legal and fiscal responsibility for the grant. Delegate agencies may be public, nonprofit, or for-profit organizations. HSAs must establish and implement procedures for the ongoing monitoring of each delegate agency (42 USC 9836a(d) and 45 CFR sections 1303.30 and 32).

Assistance Listing 93.356 funds may be used for allowable Head Start expenditures as specified in the terms and conditions of the grant award.

CARES Act, CRRSA and ARP funds may be used to pay the costs associated with Head Start program actions and activities undertaken to prevent, prepare for, and respond to the impacts of the coronavirus.

Source of Governing Requirements

The Head Start program is authorized under the Improving Head Start for School Readiness Act of 2007 (Pub. L. No. 110-134 (42 USC 9831-9852)).

On September 7, 2016, OHS promulgated new regulations governing program operations, referred to as the Head Start Program Performance Standards (HSPPS) (45 CFR parts 1301 through 1305). HSPPS became effective beginning November 7, 2016, although some provisions are deferred as noted in the regulations, The full implementing program regulations are 45 CFR parts 1301 through 1305.

Assistance Listing 93.356 was established based on appropriations in the Bipartisan Budget Act of 2018 (Pub. L. No. 115-123, 132 Stat. 93) and supplemental appropriations for the fiscal year ending September 30, 2018 (Pub. L. No. 116-20).

Requirements for the use of CARES Act funds to prevent, prepare for, and respond to the coronavirus were established by The Coronavirus Aid, Relief, and Economic Security (CARES) Act, 2020 (Pub. L. No. 116-136).

Requirements for the use of CRRSA funds to prevent, prepare for, and respond to the coronavirus were established by the Consolidated Appropriations Act, 2021 (Pub. L. No. 116-260).

Requirements for the use of ARP funds were established by the American Rescue Plan Act of 2021 (Pub. L. No. 117-2).

Requirements for the use of the FY 2022 Head Start appropriation were established by the Consolidated Appropriations Act, 2022 (Public Law No: 117-103).

Availability of Other Program Information

The Early Childhood Learning and Knowledge Center (ECKLC) https://eclkc.ohs.acf.hhs.gov/policy/im is the OHS website that provides information about the Head Start program. ECLKC also provides information specific to Assistance Listing 93.356 in ACF-IM-HS-17-02, dated September 20, 2017, *Disaster Recovery from 2017 Hurricanes* and ACF-PI-HS-18-02, dated April 9, 2018, *Hurricanes Harvey, Irma, and Maria Disaster Assistance Funds.* Information about funds available for expenses directly related to the consequences of natural disasters that occurred in 2018 and 2019 can be found in ACF-PI-HS-19-01, dated September 17, 2019, *Disaster Recovery Funding for 2018 and 2019 Disasters*. Information about available COVID-19 supplemental funds for Head Start programs can be found in ACF-PI-HS-20-04, dated May 21, 2020, *Update to Funding for FY 2020 Supplemental Funds in Response to the Coronavirus Disease 2019 (COVID-19)*; ACF-PI-HS-21-01**,** dated February 19, 2021**,** *FY 2021 Head Start Funding Increase*; and ACF-PI-HS-21-03, dated May 4, 2021, *FY 2021 American Rescue Plan Funding Increase for Head Start Programs*. Information about the use of the FY 2022 Head Start appropriation is further outlined in ACF-PI-HS-22-02, dated April 14, 2022, *FY 2022 Head Start Funding Increase* and ACF-PI-HS-23-03, dated March 15, 2023, Hurricanes Fiona and Ian; Natural Disaster; Disaster Relief; Response and

Recovery Efforts; Disaster Assistance information about funds available for expenses directly related to the consequences of Hurricane Fiona and Ian.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property	Matching, Level of Effort,	Period Of Performance	Procurement and Suspension	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	N	N	N	N	Y	Y	Y

A. Activities Allowed or Unallowed

1. Funds may be used for the following program services consistent with HSPPS:

   a. Providing for the direct participation of parents of children in the development, conduct, and program direction at the local community level (42 USC 9833 and 42 USC 9837(b)(1));

   b. Training and technical assistance activities which may include the establishment of local or regional agreements with community experts, institutions of higher education, or private consultants, to make program improvements (42 USC 9835(a)(2)(C));

c. Improving the compensation (including benefits) of educational personnel, family service workers, and child counselors to—

(1) ensure that compensation is adequate to attract and retain qualified staff;

(2) improve staff qualifications and assist with the implementation of career development programs for staff that support ongoing improvement of their skills and expertise; and

(3) provide educational and professional development to enable teachers to meet professional standards, including assisting to complete post-secondary course work, improve the qualifications and skills of educational personnel to become certified and licensed as bilingual education teachers, or as teachers of English as a second language, and improve the qualifications and skills of educational personnel to teach and provide services to children with disabilities
(42 USC 9835(a)(5)(A) and 42 USC 9835(j));

d. Supporting staff training, child counseling, and other services necessary to address the challenges of children from immigrant, refugee, and asylee families, homeless children, children in foster care, limited English proficient children, children of migrant or seasonal farmworker families, children from families in crisis, children referred to Head Start programs by child welfare agencies, and children who are exposed to chronic violence or substance abuse (42 USC 9835(a)(5)(B)(i));

e. Ensuring the physical environment is conducive to providing effective program services to children and families and are accessible to children and others with disabilities (42 USC 9835(a)(5)(B)(ii));

f. Employing additional qualified classroom staff to reduce the child-to-teacher ratio in the classroom and additional qualified family service workers to reduce the family-to-staff ratio for those workers
(42 USC 9835(a)(5)(B)(iii));

g. Ensuring that programs have qualified staff that promote the language skills and literacy growth of children and that provide children with a variety of skills that have been identified, through scientifically based reading research, as predictive of later reading achievement (42 USC 9835(a)(5)(B)(iv);

h. Increasing the duration of hours of program operation, including the conversion of part-day programs to full-working day programs and increasing the number of weeks of operation in a calendar year (42 USC 9835(a)(5)(B)(v));

i. Improving community-wide strategic planning and needs assessments and collaboration efforts, including outreach (42 USC 9835(a)(5)(B)(vi));

j. Transporting children safely except that not more than 10 percent of designated quality improvement funds may be used for transportation costs (42 USC 9835(a)(5)(B)(vii) and 45 CFR Part 1310);

k. Establishing and implementing procedures to evaluate the performance of delegate agencies and ensure corrective action for deficiencies identified through such evaluations (42 USC 9836a(d));

l. Correcting areas of noncompliance or deficiencies and developing quality improvement plans (42 USC 9836a(e));

m. Carrying out activities related to the operation of the governing body. This includes activities related to administering and overseeing the Head Start grant; developing or implementing practices that ensure active, independent, and informed governance of the HSA; and ensuring the necessary membership on the governing body (42 USC 9837(c)(1));

n. With the consultation and participation of policy councils, and as appropriate, policy committees and community members, the conduct of an annual self-assessment of the HSA's effectiveness and progress in meeting program goals and objectives as well as in implementing and complying with HSPPS (42 USC 9836a(g));

o. Offering directly, or through referral to local entities, family literacy services, parenting skills training, and substance abuse counseling, including information on the effect of drug exposure on infants and fetal alcohol syndrome (42 USC 9837(b)(4) and 42 USC 9837(b)(5));

p. Provision of family needs assessments that include consultation with parents (including foster parents, grandparents, and kinship caregivers) (42 USC 9837(b)(7));

q. Outreach and information to parents of limited English proficient children in an understandable and uniform format (42 USC 9837(b)(11));

r. Collaboration and coordination with public and private entities to improve the availability and quality of services to Head Start children and families, including outreach to the schools in which children participating in Head Start programs, will enroll (42 USC 9837(e) and 42 USC 9837A(a));

s. Implementation of a research-based early childhood curriculum (42 USC 9837(f)(3)); and

t. In the case of an Early Head Start program or program component, provision, either directly or through referral, of early continuous,

intensive, and comprehensive child development and family support services that enhance the physical, social, emotional, and intellectual development of children under the age of 3 (42 USC 9840A(b)).

2. Funds may be used for development and administrative costs, subject to the limitation that no financial assistance shall be extended in any case in which the costs of developing and administering a program exceed 15 percent of the total costs, including the required nonfederal contributions to such costs. The term "development and administrative costs" means costs incurred in accordance with an approved Head Start budget that do not directly relate to the provision of program component services, as described in paragraph 1, above (42 USC 9839(b) and 45 CFR section 1301.32 (a)).

3. With ACF prior written approval, HSAs may use funds for capital expenditures (including paying the cost of amortizing the principal and paying interest on, loans), such as the construction of new facilities, purchase of new or existing facilities, major renovations of existing facilities, and purchase of vehicles used for programs conducted at the Head Start facilities (42 USC 9839(f) and (g)). *Major renovation* means any individual or collection renovation that has a cost equal to or exceeding $250,000. It excludes minor renovations and repairs except when they are included in a purchase application (45 CFR section 1305.2).

4. Funds may not be used by HSAs to engage in any partisan or nonpartisan political activity associated with a candidate, or contending faction or group, in an election for public or party office or any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election (42 USC 9851(b)(1)). These prohibitions do not apply to the use of Head Start facilities during hours of operation for any nonpartisan organization to increase the number of eligible citizens who register to vote in elections for federal office (42 USC 9851(b)(2)).

5. HSAs and delegate agencies must use funds from USDA's Child and Adult Care Food Program (Assistance Listing 10.558) as the primary source of payment for children's nutritional services (meals and snacks). Head Start funds may be used only to cover those allowable costs not covered by USDA (45 CFR section 1302.44(b)).

6. Funds may be used for professional medical and oral health services when no other funding source is available. When funds are used for such services, HSAs and delegate agencies must have written documentation of their efforts to access other available sources of funding (45 CFR section 1302.42(e)(2)).

7. Additional requirements for awards made under Assistance Listing 93.356:

   a. The terms and conditions of the award specify the allowable Head Start expenditures for which the funds must be used. ACF-PI-HS-18-02 and ACF-PI-HS-23-03 list the following types of allowable expenses.

(1) Facilities

(2) Materials, Supplies, and Equipment

(3) Program Operations

(4) Additional Health, Mental Health, Dental, and Nutrition Services

(5) Training and Technical Assistance (T/TA)

(6) Disaster Recovery Expenses Incurred Before Availability of Funds

b. HSAs are eligible to submit more than one application for disaster recovery funds and may receive multiple awards depending on the type of funds requested and the complexity (e.g., facilities) of funded projects.

c. Funds may not be used to pay for costs that are reimbursed by the Federal Emergency Management Agency (FEMA), under a contract for insurance, or by self-insurance. HSAs must advise ACF in writing of the receipt of such funds and reimburse ACF for any costs incurred under the award that are subsequently reimbursed by FEMA, under a contract for insurance or self-insurance. HSAs may submit Head Start disaster recovery applications during the pendency of FEMA requests and insurance claims (Pub. L. No. 115-123, 132 Stat. 93).

8. Additional requirements for awards made from CARES Act,CRRSA and ARP funds:

a. ACF-PI-HS-20-04 describes the funding process and allowable use of CARES Act and CRRSA funds. Grant recipients are afforded broad discretion to utilize CARES Act and CRRSA funds to respond to COVID-19 in consideration of community circumstances and programmatic needs.

b. ACF-PI-HS-21-03 and ACF-IM-HS-22-05 describe the funding process and allowable use of the ARP funds. Grant recipients are provided examples of allowable activities as they continued to support children and families and investing in safe and high-quality early childhood learning opportunities for children.

c. Extensive guidance to grant recipients to support their response to the coronavirus has been provided by OHS through its official website, the Early Childhood Learning and Knowledge Center (ECLKC), at the following link https://eclkc.ohs.acf.hhs.gov/policy/im.

B. Allowable Costs/Cost Principles

1. Costs meet general criteria for allowability, including being necessary and reasonable for the performance of the federal award, allocable thereto, and adequately documented (45 CFR sections 75.403, 75.404, and 75.405).

2. Shared and indirect costs attributable to common or joint use of personnel, facilities, or services by Head Start programs and other programs must be fairly allocated among the various programs that utilize such services (42 USC 9839(c)).

3. Federal funds (including charges to indirect cost pools) may not be used to pay any part of the compensation of an individual employed by a HSA, if such compensation, including nonfederal funds, exceeds an amount equal to the rate payable for level II of the Executive Schedule under section 5313 of title 5, United States Code (42 USC 9848(b)).

F. Equipment and Real Property Management

1. Real property, equipment, and intangible property, that are acquired or improved with a federal award must be held in trust by the nonfederal entity as trustee for the beneficiaries of the project or program under which the property was acquired or improved. The HHS awarding agency may require the nonfederal entity to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a federal award and that use and disposition conditions apply to the property (45 CFR section 75.323 and 45 CFR section 1303 – Subpart E).

2. Real property acquired or improved under a federal award must be used for the authorized purpose so long as it is needed for that purpose, during which time the HSA may not dispose of, replace, or encumber the property without prior ACF approval (45 CFR section 75.318; 45 CFR section 75.308(c)(1)(xi)).

3. Equipment acquired under a federal award must be used for the authorized purposes of the project during the period of performance, or until the property is no longer needed for the project. A HSA may not dispose of, replace, or encumber title to equipment without prior ACF approval (45 CFR section 75.319; 45 CFR section 75.308(c)(1)(xi)).

4. Property records must be maintained for equipment acquired under a federal award that includes a description of the property, a serial number or another identification number, the source of funding for the property (including the FAIN), who holds the title, the acquisition date, and cost of the property, percentage of federal participation in the project costs for the federal award under which the property was acquired the location, use, and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3. L for audit guidance.

M. Subrecipient Monitoring

HSAs must establish and implement procedures for the ongoing monitoring of their own Head Start and Early Head Start operations, as well as those of their delegate agencies, to ensure that these operations effectively implement federal regulations, including procedures for evaluating delegate agencies and procedures for defunding them. Grant recipients must inform delegate agency governing bodies of any identified deficiencies in delegate agency operations identified in the monitoring review and assist them in developing plans, including timetables, for addressing identified problems (42 USC 9836a(d) and 45 CFR sections 1304.51(i)(2) and (3)).

N. Special Tests and Provisions

1. Protection of Federal Interest in Real Property and Facilities

Compliance Requirements Head Start uses specific terms related to real property and facilities, which are defined at 45 CFR section 1305.2, including construction, facility, federal interest, major renovation, and modular units.

Facilities activities (purchase, construction, major renovation, subordination of a federal interest, refinancing, and disposition) are initiated through the submission of Form SF-429 (cover sheet) and applicable attachments B (*Request to Acquire, Improve or Furnish)* or C (*Disposition or Encumbrance Request*).

With written prior approval from ACF, a HSA may use Head Start funds to purchase, construct, or renovate (major) a facility, including using Head Start funds to pay ongoing

purchase costs which include principal and interest on approved loans (45 CFR sections 1303.40 through 1303.44).

An HSA that uses Head Start funds to purchase real property or purchase, construct, or renovate (major) a facility appurtenant to real property (either owned or leased) must record a Notice of Federal Interest (also referred to as "reversionary interest") (45 CFR sections 1303.46). The Notice of Federal Interest must include the required language content from 45 CFR section 1303.47(a) and be properly recorded in the official real property records for the jurisdiction where the facility is or will be located. A similar Notice of Federal Interest is required for leased facilities on land the HSA does not own (45 CFR section 1303.47(b)).

An HSA that uses Head Start funds to purchase or renovate (major) a modular unit must post a Notice of Federal Interest which includes the required language content in clearly visible locations on the exterior and the interior of the modular unit (45 CFR sections 1303.46(b)(4) and 47(c)).

An HSA cannot mortgage, use as collateral for a credit line or other loan obligations, or sell or transfer to another party, a facility, real property, or a modular unit it has purchased, constructed, or renovated (major) with Head Start funds, without the prior written approval of ACF (45 CFR sections 1303.48 and 1303.51). A HSA must include specific language in any mortgage agreement or other security instrument that encumbers real property or a modular unit constructed or purchased with the Head Start fund to ensure the protection of ACF interests (45 CFR section 1303.49).

An HSA must have written approval from ACF before it can use real property, a facility, or a modular unit subject to federal interest for a purpose other than that for which the HSA's application was approved (45 CFR section 1303.48(b)).

Audit Objectives Determine whether the federal interest in real property and facilities is protected by the required Notice of Federal Interest and language content and the required prior written approvals obtained from ACF.

Suggested Audit Procedures

a. Review the HSA's general ledger accounts and the meeting minutes of its governing body and inquire of HSA management to identify if any of the following transactions, which are subject to the requirements for protecting the Federal interest, occurred during the audit period and, if so, that the required prior written approvals were obtained from ACF:

   (1) Purchase of real property or purchase, construction, or major renovation of a facility, including a modular unit.

   (2) Sale, lease, or encumbrance, such as a mortgage of real property or a facility (including modular units).

   (3) Changes in approved use of facilities.

b. For purchase, construction, or major renovation during the audit period, ascertain if the required Notice of Federal Interest was properly recorded in the locality's official real property records and, for a modular unit, if this notice was properly posted on the exterior and interior of the modular unit.

c. Review the notices of federal interest and mortgage agreements and other security instruments executed during the audit period to ascertain if the documents include the required language content.

d. For sales, leases, encumbrances, and property used for a different purpose during the audit period, review the use change to ascertain if the HSA obtained and complied with the requirement for ACF prior written approval.

2. Program Governance

Compliance Requirements OHS has found a high correlation between HSAs that fail to comply with the program governance requirements and HSAs that have serious fiscal problems, which puts both the HSA and the Head Start programs they administer at risk.

The governing body has legal and fiscal responsibility for the HSA. For all grant recipients, including Tribal grant recipients, subject to program governance requirements as stated in Section 642 of the Head Start Act, the HSA governing body must include not less than one member with a background and expertise in fiscal management or accounting and not less than one licensed attorney familiar with issues that come before the governing body. If the types of persons described above are not available to serve as members of the governing body, the governing body must use a consultant, or other individual(s) with relevant expertise who must work directly with the governing body (42 USC 9837(c)(1)(B)).

A HSA must share accurate and regular financial information with the governing body and the policy council, including monthly financial statements, credit card expenditures, and the financial audit (42 USC 9837(d)(2)(A) and (E)).

The governing body's responsibilities include approving financial management, accounting, and reporting policies, and compliance with laws and regulations related to financial statements, including the

a. approval of all major financial expenditures of the agency;

b. annual approval of the operating budget of the agency;

c. selection (except when a financial auditor is assigned by the state under state law or is assigned under local law) of independent financial auditors; and

d. monitoring of the agency's actions to correct any audit findings and of other actions necessary to comply with applicable laws (including

regulations) governing financial statements and accounting practices (42 USC 9837(c)(1)(E)(iv)(VII)(aa) through (dd)).

The auditee has provided training and technical assistance to the governing body and policy council to support understanding of financial information provided to them and support effective oversight of the Head Start award (42 USC 9837(d)(3)) and 1301.5. Further, 45 CFR 1302.12 requires auditees to train all governing body, policy council, management, and staff who determine eligibility on applicable federal regulations and program policies and procedures. The training must at, a minimum, include the topics in 45 CFR 1302.12(m).

Audit Objectives Determine whether the entity complied with the program governance requirements for (a) composition and qualifications of board members, (b) providing financial information to the governing body and policy council, and (c) providing training to the governing body and policy council.

Suggested Audit Procedures

1. Identify the HSA's governing body member who is an attorney and ascertain if that individual is licensed and has the required familiarity with issues that come before the governing body, or that the governing body used a consultant, or another individual with relevant expertise with the required qualifications who worked directly with the governing body.

2. Identify the HSA's governing body member with fiscal management or accounting expertise and ascertain if that individual has the required background and expertise or that the governing body used a consultant, or another individual with the required qualifications who worked directly with the governing body.

3. Ascertain if the HSA shared the required monthly financial information with the governing body and the policy council.

4. Determine whether the HSA has established written policies and procedures that identify major financial expenditures approvable by the governing body. If the HSA does not have written policies and procedures that identify or define major financial expenditures determine whether the HSA has an identifiable practice for identifying major financial expenditures submitted for approval to the governing body. Ascertain if written policies and procedures or an identifiable procedure exists and whether the HSA followed the policy, procedure, or practice. If no such policy, procedure, or practice exists and no governing body minutes reflect approval of expenditures identified as major financial expenditures, the auditor should determine that major financial expenditures are not submitted to the governing body for approval.

5. Governing body minutes or similar records should also reflect approval of all funding applications (Head Start and disaster recovery), selection of the

independent auditor, attention to corrective action on audit findings, and the annual report to the public.

Ascertain if governing body, advisory committees and policy council members have received training and technical assistance or orientation on program performance standards and at minimum training described in in 45 CFR 1302.12(m) on applicable federal regulations and program policies and procedures.

IV. OTHER INFORMATION

Monitoring of HSAs and delegate agencies by OHS has identified the following areas of risk for deficiencies in internal controls and noncompliance.

B. Allowable Costs/Cost Principles

1. Many Head Start grant recipients, such as community action agencies, have multiple funding streams and few revenue sources other than federal awards. Federal programs only cover costs that are reasonable, allowable, and allocable for the accomplishment of the program objectives leaving the entity with limited options to cover unallowable costs.

2. The Head Start program often provides the largest proportion of the overall funding of HSAs and funds are immediately available to be drawn down in the Payment Management System. These factors create a risk that shared costs are over-allocated or billed entirely to Head Start. In some cases, costs of shared central services, such as equipment, information, and communications systems, and rent are charged entirely to Head Start when the costs should be allocated to all programs that benefit.

3. A large portion of Head Start costs are payroll and grant recipients may fail to maintain adequate documentation of shared staff time or charge those costs based on the application budget rather than reconciling to actual hours worked. For example:

    a. A teacher working for both Head Start and Child Care or a director for multiple programs erroneously charged entirely to Head Start.

    b. Double-charging the same costs by including them in the indirect cost rate and direct charging them through allocation (e.g., administrative staff).

    c. Journal entries to move costs between programs or between program years requiring prior approval, without adequate supporting documentation

4. Transactions with related parties resulting in excessive charges. For example, paying rental rates over fair market value.

5. Applicable only to expenditures charged to Assistance Listing 93.356:

a. Failure to notify ACF of FEMA or insurance proceeds or reimbursements for expenses already funded with Head Start disaster recovery funds.

b. Failure to obtain required prior written approval from ACF for purchase, construction, or major renovation of facilities. Major renovation means any individual or collection renovation that has a cost equal to or exceeding $250,000. It excludes minor renovations and repairs except when they are included in a purchase application (45 CFR section 1305.2).

c. Failure to document costs and their relationship to the consequences of hurricanes Harvey, Irma, Maria, Fiona, and Ian, and allowability based on the specific terms and conditions of the award.

6. Applicable only to CARES Act and CRRSA funds:

a. Failure to maintain documentation to demonstrate that the use of CARES Act and CRRSA funds was related to the coronavirus.

b. Expenses charged to CARES Act and CRRSA funds awarded by OHS also charged to another federally financed program.

c. CARES Act and CRRSA funds are subject to certain fiscal flexibilities established by OHS and continuing through May 11, 2023, described in ACF-IM-HS-20-03. See, in particular, paragraphs 5 and 6 regarding allowable costs.

d. CARES Act and CRRSA funds must be spent in accordance with cost principles described in 45 CFR Part 75, Subpart E considering the unique circumstances affecting spending decisions during COVID-19. Per 45 CFR Part 75, Subpart E CARES Act and CAA funds may not be included as a cost or used to meet cost-sharing or matching requirements of any other federally financed program in either the current or a prior period.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.645 STEPHANIE TUBBS JONES CHILD WELFARE SERVICES PROGRAM

I. PROGRAM OBJECTIVES

The purpose of the Stephanie Tubbs Jones Child Welfare Services (CWS) program is to promote state and tribal flexibility in the development and expansion of a coordinated child and family services program that utilizes community-based agencies and ensures all children are raised in safe, loving families.

II. PROGRAM PROCEDURES

The Department of Health and Human Services (HHS), Administration for Children and Families (ACF), Administration on Children, Youth and Families, Children's Bureau, administers the CWS program on the federal level. Funds are awarded directly to states and tribes. State agencies can have agreements and contracts with other public agencies and with private agencies for the provision of appropriate services. Each state receives a base amount of $70,000. Additional funds are distributed in proportion to the state's population of children under age 21 multiplied by the complement of the state's average per capita income. The funds must go to, and be administered only by, the state child welfare agency, federally recognized tribes, tribal organizations, or tribal consortia (hereafter "tribe").

To be eligible for funds, each state and tribe must submit a five-year comprehensive plan, the Child and Family Services Plan (CFSP). This plan encompasses planning and service delivery for the full child welfare services spectrum. This includes (1) Child Welfare Services, services promoting safe and stable families under Title IV-B, subpart 2; (2) a child welfare staff development and training plan; (3) a diligent recruitment of foster and adoptive families plan that reflects the ethnic and racial diversity of children in the state for whom foster and adoptive homes are needed; (4) and child abuse and neglect prevention, foster care, adoption, and foster care independence services. The plan must include how the state or tribe intends to meet specific goals, provide services, and coordinate services. The Children's Bureau has approval authority for the CFSP. An Annual Progress and Services Report (APSR) is required that identifies the specific accomplishments and progress made in the past FY toward meeting each goal and objective in the five-year comprehensive plan and any revisions in the statement of goals and objectives or to the training plan, if necessary, to reflect changed circumstances. The Associate Commissioner of the ACF Children's Bureau has approval authority for the Title IV-B plans.

Source of Governing Requirements

The CWS program is authorized under Title IV-B, subpart 1 (sections 421–428) of the Social Security Act as amended, and is codified at 42 USC 620-628a. Implementing program regulations are published at 45 CFR parts 1355 and 1357.

Availability of Other Program Information

The Children's Bureau manages a policy issuance system that provides further clarification of the law and guides states and tribes in implementing the CWS program. This information may be accessed at https://www.acf.hhs.gov/cb/laws-policies.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit**.** When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/ Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	Y	Y	N	N	Y	N	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. Funds may be used for the following purposes (42 USC 621):

      (1) Protecting and promoting the welfare of all children;

      (2) Preventing the abuse, neglect, or exploitation of children;

(3) Supporting at-risk families through services that allow children to remain with their families or return to their families in a timely manner;

(4) Promoting the safety, permanence, and well-being of children in foster care and adoptive families; and

(5) Providing training, professional development, and support to ensure a well-qualified workforce.

b. Funds may be used for administrative costs, subject to the limitation in III.G.3.b, "Matching, Level of Effort, Earmarking – Earmarking," below. The term "administrative costs" means costs for the following but only to the extent incurred in administering the state plan for this program: procurement; payroll management; personnel functions (other than the portion of the salaries of supervisors attributable to time spent directly supervising the provision of services by caseworkers); management; maintenance and operation of space and property; data processing and computer services; accounting; budgeting; auditing; and travel expenses (except those related to the provision of services by caseworkers or oversight of the program) ((42 USC 622(b)(14) and (c) and 624(e)).

2. *Activities Unallowed*

Funds may not be used for the purchase or construction of facilities (45 CFR section 1357.30(f)).

G. Matching, Level of Effort, Earmarking

1. Matching

Funds are federally reimbursed at 75 percent of allowable expenditures. The Title IV- B agency's contribution may be in cash, donated funds, and non-public third-party in-kind contributions (42 USC 623 and 45 CFR section 1357.30(e)(1)). The Federal Financial Participation (FFP) rate may be reduced (and the state matching rate increased by a corresponding amount) based on a determination that the state failed to meet performance standards for caseworker visits with children in foster care in the preceding federal fiscal year (FFY) (see II, L.2 "Performance Reporting" below). The Children's Bureau notifies states of any adjustment to the matching requirements through correspondence to the state agency. (Tribes are not subject to the caseworker visit data requirements.)

2. Level of Effort

Not Applicable

3. Earmarking

a. No more than 10 percent of the federal share of expenditures of the state or tribe with respect to activities funded from amounts provided under Title IV-B, subpart 1 may be used for administrative costs (42 USC 622(b)(14) and (c) and 624(e)).

b. A state may not use federal funds under Title IV-B, subpart 1 for child care, foster care maintenance or adoption assistance payments in excess of the amount of Title IV-B, subpart 1 funds it spent on these activities from such payments for FY 2005 (42 USC 624(c)). This limitation is not applicable to tribes.

c. A state cannot use more than the amount it spent in FY 2005 using non-federal funds on foster care maintenance payments as match for the Title IV-B, subpart 1, program (42 USC 624(d)). This limitation is not applicable to tribes.

H. Period of Performance

Funds under Title IV-B, subpart 1, must be obligated by September 30 of the fiscal year following the fiscal year in which the funds were awarded (45 CFR section 1357.30(i) and Supplemental Terms and Conditions available through a link as follows: https://www.acf.hhs.gov/sites/default/files/documents//FY%2022%20ACYF.CB_.93.645.Stephanie%20Tubbs%20Jones%20Child%20Welfare%20Services%20Program%20Supp%20TCs%20-%20rev%20011022.pdf).

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

Not Applicable

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.658 FOSTER CARE–TITLE IV-E

I. PROGRAM OBJECTIVES

The objective of the Foster Care program is to help agencies authorized to administer Title IV-E programs to provide safe, appropriate, 24-hour, substitute care for children who are under the jurisdiction of the administering Title IV-E agency and need temporary placement and care outside their homes.

II. PROGRAM PROCEDURES

Overview

The Foster Care program is administered at the federal level by the Children's Bureau, Administration on Children, Youth and Families, Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS). Funding is provided to the 50 states, the District of Columbia, Puerto Rico, the US Virgin Islands, and federally recognized Indian tribes, Indian tribal organizations, and tribal consortia with approved Title IV-E plans, based on a Title IV-E plan and amendments, as required by changes in statutes, rules, and regulations submitted to and approved by the ACF Children's Bureau Associate Commissioner. This program is considered an open-ended entitlement program and allows the state or tribe to be funded at a specified percentage (federal financial participation) for program costs for eligible children.

The Foster Care program provides federal matching funds to Title IV-E agencies with approved Title IV-E plans for maintenance assistance payments to provide safe and stable out-of-home care to eligible children placed in qualifying foster care settings. The program also provides matching funds for child placement and other administrative or training costs associated with serving these children and others determined to be candidates for the Title IV-E Foster Care program or those either found to be at risk of becoming or identified as sex trafficking victims.

The designated state or tribal agency for this program, which is authorized under Title IV-E of the Social Security Act, as amended, also administers ACF funding provided for other Title IV-E programs (e.g., Adoption Assistance (Assistance Listing 93.659); Guardianship Assistance (Assistance Listing 93.090) at agency option; Kinship Navigator (Assistance Listing 93.471) at agency option; Prevention (Assistance Listing 93.472) at agency option; and John H. Chafee Foster Care Program for Successful Transition to Adulthood (Assistance Listing 93.674), as well as Child Welfare Services (Assistance Listing 93.645) and Promoting Safe and Stable Families (Assistance Listing 93.556) programs (Title IV-B of the Social Security Act, as amended) (Assistance Listing 93.556) funds available to states and those tribes qualifying for at least a minimum award of $10,000); and the Social Services Block Grant program (Assistance Listing 93.667) (Title XX of the Social Security Act, as amended) (states only)). The Title IV-E agency may either directly administer the Foster Care program or supervise its administration by local-level agencies. When the program is administered by a state, in accordance with the approved

Title IV-E plan, it must be in effect in all political subdivisions of the state, and, if administered by them, program requirements must be mandatory upon them. When the program is administered by a tribe, it must be in effect in all political subdivisions within the tribal service area(s) and for all populations to be served under the plan. If the program is administered by a political subdivision of a tribe, program requirements must be mandatory upon them (42 USC 671(a)(1-4) and 42 USC 679B(c)(1)(B)).

Source of Governing Requirements

The Foster Care program is authorized by Title IV-E of the Social Security Act, as amended (42 USC 670 et seq.). This includes those amendments made by the Preventing Sex Trafficking and Strengthening Families Act (Pub. L. No. 113-183 and the Family First Prevention Services Act (Pub. L. No. 115-123)). Implementing regulations are at 45 CFR Parts 1355, 1356, and 1357.

States and tribes are required to adopt and adhere to their statutes and regulations for program implementation, consistent with the requirements of Title IV-E and the approved Title IV-E plan.

The regulations at 45 CFR Part 75 specifying uniform administrative requirements, cost principles, and audit requirements for HHS awards apply to the Foster Care program. However, in accordance with 45 CFR sections 75.101(e)(1)(iii) and 75.101(e)(2), except for 45 CFR section 75.202, the guidance in Subpart C of 45 CFR Part 75 does not apply.

Availability of Other Program Information

The Children's Bureau manages a policy issuance system that provides further clarification of the law and guides states and tribes in implementing the Foster Care program. This information may be accessed at https://www.acf.hhs.gov/cb/laws-policies.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	N	N	N	N	Y	Y	Y

A. Activities Allowed or Unallowed

1. *Activities Allowed*

a. Funds may be expended for foster care maintenance payments on behalf of eligible children, in accordance with the Title IV-E agency's foster care maintenance payment rate schedule and in accordance with 45 CFR section 1356.21, to individuals serving as foster family homes, to child-care institutions, directly to a youth aged 18 or older who is in a supervised independent living setting if no actual provider or other child placing intermediary is involved, or public or private child-placement or child-care agencies. Such payments may include the cost of (and the cost of providing, including certain associated administrative and operating costs of a child care institution) food, clothing, shelter, daily supervision, school supplies, personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation, as well as reasonable travel for the child to remain in the same school he or she was attending before placement in foster care (42 USC 672(b)(1) and (2), (c)(2), and 675(4) and the Child Welfare Policy Manual section 8.3B Q/A#9) and Program Instruction ACYF-CB-PI-10-11: https://acf.gov/cb/policy-guidance/pi-10-11.

b. Title IV-E agencies may claim Title IV-E foster care maintenance payments and administrative costs consistent with 45 CFR section 1356.60(c) for a child placed with a parent in a licensed residential family-based treatment facility for substance abuse for up to 12 months (42 USC 672(j) and 672(a)(2)(C)).

c. Funds may be expended for training (including both short- and long-term training at educational institutions through awards to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the agency administering the plan (42 USC 674(a)(3)(A)). All training activities and

costs funded under Title IV-E shall be included in the Title IV-E agency's training plan for Title IV-B (45 CFR section 1356.60(b)(2)).

d. Funds may be expended for short-term training of (1) relative guardians; (2) state/tribe-licensed or state/tribe-approved child welfare agencies providing services to children receiving Title IV-E assistance; (3) child abuse and neglect court personnel; (4) agency, child or parent attorneys; (5) guardians ad litem; and (6) court-appointed special advocates (42 USC 674(a)(3)(B B)).

e. Funds may be expended for short-term training, including associated travel and per diem, of current or prospective foster parents and staff of licensed or approved child-care institutions at the initiation of or during their period of care (45 CFR section 1356.60(b)(1)(ii)).

f. Funds may be expended for costs directly related to the administration of the program that are necessary for the proper and efficient administration of the Title IV-E plan. The approved public assistance cost allocation plan (states) or approved cost allocation methodology (tribes) shall identify which costs are allocated and claimed under this program. Examples of allowable costs for the administration of the Foster Care program include those associated with eligibility determination and redetermination; independent legal representation in foster care and other civil legal proceedings (as necessary to carry out the requirements in an approved Title IV-E Foster Care plan) by an attorney for a title IV-E eligible child in foster care, a child who has been determined as a candidate for placement in title IV-E Foster Care or for the parents, relative caregiver(s), and the Indian custodian(s), of such a child; legal representation by an attorney or non-attorney representing an Indian child's tribe in any state court proceeding for the foster care placement or termination of parental rights of an Indian child who is in title IV-E Foster Care or an Indian child who is a candidate for title IV-E Foster Care; referral to services; preparation for and participation in judicial determinations; hearings and appeals; rate setting; placement of the child; development of the case plan; case reviews; case management and supervision; recruitment and licensing of foster homes and institutions; costs related to data collection and reporting; and a proportionate share of related agency overhead (45 CFR section 1356.60(c) and Child Welfare Policy Manual section 8.1B Q/A's #30-32).

g. Funds may be expended for activities defined as sex trafficking administrative activities (see list of examples below). These activities are meant to combat sex trafficking on behalf of any child or youth in the placement, care, or supervision of the Title IV-E agency who is at risk of becoming a sex trafficking victim or who is identified as a sex trafficking victim. Such children do not need to be Title IV-E eligible and include those who are not removed from home; those who have run away from

foster care and are under age 18 or such higher age elected under Section 475(8) of the Social Security Act; and youth who are not in foster care who are receiving services under the John H. Chafee Foster Care Program for Successful Transition to Adulthood (Assistance Listing 93.674) and at the option of the agency, youth under age 26 who were or were never in foster care (42 USC 671(a)(9), USC 671(a)(34), and 671(a)(35)).

Examples of activities allowable as sex trafficking administration include:

- developing and implementing policies and procedures to identify, document in agency records, and determine appropriate services for victims of sex trafficking
- conducting sex trafficking screenings and documenting victims of sex trafficking in agency files
- determining appropriate services for individuals identified as such victims, including referrals to services
- completing reports required for law enforcement and ACF of children or youth whom the agency identifies as being a sex trafficking victim
- developing and implementing protocols to locate and assess children missing from foster care, including screening the child to identify if the child is a possible sex trafficking victim

Since the Title IV-E agency is not limited to performing the activities described above on behalf of individuals meeting Title IV-E eligibility requirements, application of a Title IV-E foster care participation rate is not needed in allocating these allowable administrative costs to the Title IV-E Foster Care program (42 USC 671(a)(9) and (a)(34), as amended by Pub. L. No. 113-183, and the Child Welfare Policy Manual section 8.1 Q/A#7).

h. To the extent that allowable activities constituting training and administrative costs are allocated to the program through the application of a Title IV-E participation rate (sometimes called the eligibility, penetration, or discount rate), this rate must be calculated by dividing the number of Title IV-E foster care eligible children by the total number of children in foster care pursuant to the definition of foster care in 45 CFR section 1355.20. The numerator is comprised of the total number of children in foster care determined to meet all Title IV-E eligibility requirements. A Title IV-E agency may also include in the numerator otherwise eligible children placed with relatives pending foster family home approval or licensure (for the lesser of the average time it takes to license a foster home or 12 months) and children moving from a facility

that is not licensed to one that is for up to one month pursuant to Section 472(i)(1) of the Social Security Act. The denominator comprises the total number of children who are in foster care, including those that are Title IV-E eligible and those that are not or have not yet been determined Title IV-E eligible. Any methodology for claiming administrative costs, including the calculation of the participation rate described above, must be a part of the state's approved cost allocation plan or a tribe's approved cost allocation methodology (42 USC 672(i) and 674(a)(3), 2 CFR Part 225 or 45 CFR Part 75, as applicable, in accordance with 45 CFR section 75.110, 45 CFR section 95.507(b)(4), 45 CFR section 1355.20, and Child Welfare Policy Manual section 8.1C Q/A#8).

i. With any required ACF approval, funds may be expended for costs related to the design, implementation, and operation of a statewide or tribal service area-wide data collection system (45 CFR sections 1356.60(d) and 95.611).

j. Funds may be expended for costs related to the design, implementation, and operation of a comprehensive child welfare information system (CCWIS), which receives any required ACF approval on or after August 1, 2016. CCWIS expenditures must be separately reported from other automated systems costs and are limited to automated systems that have been classified as such by ACF and that comport with all applicable project and design requirements as well as approved funding levels. CCWIS developmental and operational costs for specific automated functions may or may not qualify for CCWIS cost allocation. This determination is based on whether the involved functionality meets applicable project and non-duplication requirements. These amounts must thus be further separately reported based on the cost allocation classification. (45 CFR sections 1355.52, 1355.53, 1355.54, 1355.56, 1355.57, 1356.60(e) and 95.611).

k. Under Section 1130 of the Social Security Act, Title IV-E agencies may be granted authority to operate a demonstration project as outlined in ACF-approved terms and conditions. Any such terms and conditions applicable to the program identify the specific provisions of the Social Security Act that are waived, the additional activities deemed allowable, and the scope and duration (which may not exceed a maximum of five total years unless specifically approved for further continuation) of the demonstration project. All demonstration project operational activities, excluding project evaluation, must have ended no later than September 30, 2019. Conduct of demonstration project evaluation activities were, with ACF approval, extended for up to an additional year through September 30, 2020. The demonstration project must remain cost neutral to the federal government, as provided for in a methodology contained in the approved project terms and conditions involving either a matched

comparison group or a capped allocation (42 USC 1320a–9 and Section 201 of Pub. L. No. 112-34).

2. *Activities Unallowed*

a. Costs of social services provided to a child, the child's family, or the child's foster family which provide counseling or treatment to ameliorate or remedy personal problems, behaviors, or home conditions are unallowable (45 CFR section 1356.60(c)(3)).

b. Costs claimed as foster care maintenance payments that include medical, educational (except for school supplies and the cost of reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement in foster care) or other expenses not outlined in 42 USC 675(4)(A).

c. Costs of conducting investigations of allegations of sex trafficking or other forms of child abuse or neglect or for providing social services, such as counseling or treatment, to victims of sex trafficking or other children or youth (Child Welfare Policy Manual section 8.1 Q/A#7 available at https://acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=34).

d. Costs for expenditures made after the termination date of a title IV-E demonstration project using funding authorized for that project. All demonstration project operational activities were terminated no later than September 30, 2019. Some demonstration project evaluation activities were, with ACF approval, authorized to continue for up to one additional year, through September 30, 2020. (42 USC 1320a–9 and Section 201 of Pub. L. No. 112-34).

B. Allowable Costs/Cost Principles

Both states and tribes are subject to the requirements of 2 CFR Part 200, Subpart E, as implemented by HHS at 45 CFR Part 75. States also are subject to the cost allocation provisions and rules governing allowable costs of equipment of 45 CFR Part 95 (45 CFR sections 1355.57, 95.503, and 95.705).

E. Eligibility

1. Eligibility for Individuals

Foster care benefits may be paid on behalf of a child only if all of the following requirements are met:

a. Foster care maintenance payments are allowable only if the foster child was removed from the home of a relative specified in Section 406(a) of the Social Security Act, as in effect on July 16, 1996, and placed in foster

care by means of a judicial determination, as defined in 42 USC 672(a)(2), or pursuant to a voluntary placement agreement, as defined in 42 USC 672(f), (42 USC 672(a)(1) and (2) and 45 CFR section 1356.21).

(1) Judicial Determination

(a) *Contrary to the welfare determination* – A child's removal from the home (unless removal is pursuant to a voluntary placement agreement) must be in accordance with a judicial determination to the effect that continuation in the home would be contrary to the child's welfare, or that placement in foster care would be in the best interest of the child. The judicial determination must be explicitly stated in the court order and made on a case-by-case basis. The precise language "contrary to the welfare" does not have to be included in the removal court order, but the order must include language to the effect that remaining in the home will be contrary to the child's welfare, safety, or best interest (45 CFR section 1356.21(c)).

The judicial determination of contrary to the welfare must be in the first court ruling that sanctions the child's removal from home (45 CFR section 1356.21(c)). Acceptable documentation is a court order containing a judicial determination contrary to the welfare or a transcript of the court proceedings reflecting this determination (45 CFR section 1356.21(d)). For the first 12 months that a tribe's Title IV-E plan is in effect, the tribe may use *nunc pro tunc* orders and affidavits to verify reasonable efforts and contrary to the welfare judicial determinations for Title IV-E foster care eligibility (42 USC 679c(c)(1)(C)(ii)(I), as added by Section 301, Pub. L. No. 110-351).

(b) *Reasonable efforts to prevent removal determination* – Within 60 days from the date of the removal from home pursuant to 45 CFR section 1356.21(k)(ii), there must be a judicial determination as to whether reasonable efforts were made or were not required to prevent the removal (e.g., child subjected to aggravated circumstances such as abandonment, torture, chronic abuse, sexual abuse, parent convicted of murder or voluntary manslaughter or aiding or abetting in such activities) (45 CFR sections 1356.21(b)(1) and (k)). The judicial determination must be explicitly documented (i.e., so stated in the court order and made on a case-by-case basis).

The judicial determination that reasonable efforts were made to prevent removal or were not required must be made no later than 60 days from the date of the child's removal from the home (45 CFR section 1356.21(b)(1)). Acceptable documentation is a court order containing a judicial determination regarding reasonable efforts to prevent removal or a transcript of the court proceedings reflecting this determination (45 CFR section 1356.21(d)). For the first 12 months that a tribe's Title IV-E plan is in effect, the tribe may use *nunc pro tunc* orders and affidavits to verify reasonable efforts and contrary to the welfare judicial determinations for Title IV-E foster care eligibility (42 USC 679c(c)(1)(C)(ii)(I)), as added by Section 301, Pub. L. No. 110-351).

(c) *Reasonable efforts to finalize a permanency plan* – A judicial determination regarding reasonable efforts to finalize the permanency plan must be made within 12 months of the date on which the child is considered to have entered foster care and at least once every 12 months thereafter while the child is in foster care. The judicial determination must be explicitly documented and made on a case-by-case basis. If a judicial determination regarding reasonable efforts to finalize a permanency plan is not made within this timeframe, the child is ineligible at the end of the twelfth month from the date the child was considered to have entered foster care or at the end of the month in which the subsequent judicial determination of reasonable efforts was due, and the child remains ineligible until such a judicial determination is made (45 CFR section 1356.21(b)(2)).

The judicial determination of reasonable efforts to finalize the permanency plan must be made no later than 12 months from the date the child is considered to have entered foster care (45 CFR section 1356.21(b)(2). Acceptable documentation is a court order containing a judicial determination regarding reasonable efforts to finalize a permanency plan or a transcript of the court proceedings reflecting this determination (45 CFR section 1356.21(d)). For the first 12 months that a tribe's Title IV-E plan is in effect, the tribe may use *nunc pro tunc* orders and affidavits to verify reasonable efforts and contrary to the welfare judicial determinations for Title IV-E foster care eligibility (42 USC 679c(c)(1)(C)(ii)(I), as added by Section 301 Pub. L. No. 110-351).

(2) Voluntary Placement

(a) *Agreement* – A voluntary placement agreement must be entered into by a parent or legal guardian of the child who is a relative specified in Section 406(a) (as in effect on July 16, 1996) and from whose home the child was removed (42 USC 672(a)(2)(A)(i); 45 CFR section 1356.22(a)). A voluntary placement agreement entered into between a youth aged 18 or older and the Title IV-E agency can meet the removal criteria in Section 472(a)(2)(A)(i) of the Social Security Act. In this situation, the youth aged 18 or older can sign the agreement as his/her guardian (Program Instruction ACYF-CB-PI-10-11 dated July 9, 2010, section B available as follows: PI-10-11).

(b) *Best interests of the child determination* – If the removal was by a voluntary placement agreement, it must be followed within 180 days by a judicial determination to the effect that such placement is in the best interests of the child (42 USC 672(e); 45 CFR section 1356.22(b)).

b. The child's placement and care are the responsibility of either the Title IV-E agency administering the approved Title IV-E plan or any other public agency under a valid agreement with the cognizant Title IV-E agency (42 USC 672(a)(2)).

c. A child (except if in placement (new or an existing placement) on or after October 1, 2018, with a parent residing in a licensed residential family-based treatment facility for substance abuse) must meet the eligibility requirements of the former Aid to Families with Dependent Children (AFDC) program (i.e., meet the state-established standard of need as of July 16, 1996, before enactment of the Personal Responsibility and Work Opportunity Reconciliation Act) (42 USC 672(a)). Tribes must use the Title IV-A state plan (as in effect as of July 16, 1996) of the state in which the child resided at the time of removal (42 USC 679c(c)(1)(C)(ii)(II)). Program eligibility is limited to an individual defined as a "child." This classification ordinarily ceases at the child's 18th birthday (42 USC 672(a)(3), and 42 USC 675(8)(A)). If, however, the state in which the child was living at removal had as a Title IV-A state plan option (as in effect as of July 16, 1996), a Title IV-E agency may provide foster care maintenance payments on behalf of youth who have attained age 18, but are under the age of 19, and who are full-time students expected to complete their secondary schooling or equivalent vocational or technical training before reaching age 19 (45 CFR section 233.90(b)(3)).

A Title IV-E agency may also amend its Title IV-E plan to provide that an individual in foster care who is over age 18 (where an existing eligibility

age extension provision for a full-time student expected to complete secondary schooling before attaining age 19 is not applicable) and has not attained 19, 20, or 21 years of age (as the Title IV-E agency may elect) remains eligible as a child when the youth meets prescribed conditions for continued maintenance payments. For a youth aged 18 or older, who is entering or re-entering foster care after attaining age 18 consistent with the criteria above, AFDC eligibility is based on the youth without regard to the parents/legal guardians or others in the assistance unit in the home from which the youth was removed as a younger child (e.g., a child-only case). A youth over age 18 must also (as elected by the Title IV-E agency) be (1) completing secondary school (or equivalent), (2) enrolled in post-secondary or vocational school, (3) participating in a program or activity that promotes or removes barriers to employment, (4) employed 80 hours a month, or (5) incapable of any of these due to a documented medical condition (42 USC 675(8)(B) and Program Instruction ACYF-CB-PI-10-11 dated July 9, 2010, section B).

Title IV-E agencies may also request ACF approval of flexibility as per the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Specifically, a request may be made to allow claiming of title IV-E reimbursement on behalf of an otherwise eligible youth up to age 19, 20 or 21 who is unable to fulfill the education or employment conditions outlined in §475(8)(B)(iv) of the Act as a direct result of the pandemic. The title IV-E agency must provide notice of the option to re-enter foster care to each youth who aged out during the COVID-19 flexibility period. Although the closing date of the COVID-19 public health emergency period was May 11, 2023 any flexibilities awarded for this period on the basis of the Stafford Act remained available through June 30, 2023 as per ACF's determination (Division X, Sections 4(a), 4(b) and 4(d)(2)(D) of Pub. Law No. 116-260, 42 U.S.C. §5121 et seq. and Program Instruction ACYF-CB-PI-20-10 dated May 8, 2020 and Information Memorandum ACYF-CB-IM-23-05 dated April 17, 2023 available as follows: PI-20-10 and https://www.acf.hhs.gov/cb/policy-guidance/im-23-05).

The requirement to conduct annual AFDC redeterminations for purposes of determining continuing Title IV-E eligibility has been eliminated to ease an administrative burden. The Title IV-E agency must (for periods beginning on or after April 8, 2010) establish AFDC eligibility only at the time the child is removed from home or a voluntary placement agreement is entered (42 USC 672(a)(3)(A) and section 8.4A, Question and Answer No. 24 of the Child Welfare Policy Manual available at https://acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=8).

d. A child placed with a parent residing in a licensed residential family-based treatment facility for substance abuse who meets all the Title IV-E foster care eligibility requirements except the AFDC eligibility requirements in

sections 472(a)(1)(B) and (3) of the Social Security Act, shall be eligible for Title IV-E foster care maintenance payments for a period of not more than 12 months. The recommendation for such placement must be specified in the child's case plan before the placement. The treatment facility must provide, as part of the treatment for substance abuse, parenting skills training, parent education, and individual and family counseling and these services must be provided under an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma and in accordance with recognized principles of a trauma-informed approach and trauma-specific interventions to address the consequences of trauma and facilitate healing. Although the treatment facility must be licensed, there is no requirement that it meet the Title IV-E licensing and background check requirements for a childcare institution. Eligibility is limited for a period of not more than 12 months to foster care maintenance payments which includes such things as the cost of providing food, clothing, shelter, and daily supervision. Since a licensed residential family-based treatment facility for substance abuse is not a childcare institution, the Title IV-E foster care maintenance payments may not include the costs of administration and operation of the facility. Title IV-E agencies may claim administrative costs during the 12-month period consistent with 45 CFR section 1356.60(c) for the administration of the Title IV-E program, which includes such things as case management (42 USC 672(a)(2)(C) and 672(j)).

e. The provider, whether a foster family home or a child-care institution, must be fully licensed by the proper state or tribal foster care licensing authority responsible for licensing such homes or childcare institutions. During the COVID-19 public health emergency period as declared by the Secretary of HHS, title IV-E agencies may request ACF approval of flexibility as per the Robert T. Stafford Disaster Relief and Emergency Assistance Act (hereinafter, Stafford Act). Specifically, a request may be made to allow claiming of title IV-E reimbursement on behalf of an otherwise eligible child who is placed in a foster family home that is provisionally or conditionally approved or licensed, if the declared major disaster precludes full completion of the licensing process. The title IV-E agency must complete as many of the requirements for licensure as practicable, considering local requirements related to physical/social distancing guidelines and shelter in place orders. The title IV-E agency must complete any remaining licensing requirements as soon as it is safe to do so in accordance with local and state health authorities. The title IV-E agency also must ensure that the foster family home is safe for children. Although the closing date of the COVID-19 public health emergency period was May 11, 2023 any flexibilities granted for this period on the basis of the Stafford Act remained available through June 30, 2023 as per ACF's determination (42 U.S.C. §5121 et seq. and Program Instruction ACYF-CB-PI-20-10 dated May 8, 2020 and Information Memorandum

ACYF-CB-IM-23-05 dated April 17, 2023 available as follows: https://www.acf.hhs.gov/cb/policy-guidance/im-23-05).

The term "child care institution" as defined in 45 CFR section 1355.20 includes a private child care institution, or a public child care institution that accommodates no more than 25 children, which is licensed by the state in which it is situated or has been approved by the agency of such state responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing, but does not include detention facilities, forestry camps, training schools, or facilities operated primarily for the purpose of detention of children who are determined to be delinquent (42 USC 671(a)(10) and 672(c)). The definition of a childcare institution includes a supervised setting in which an individual who has attained 18 years of age is living independently, consistent with conditions the secretary establishes in regulations (42 USC 672(c)(2)).

f. Beginning October 1, 2019 (or the elected delayed effective date of up to two years), limitations on Title IV-E foster care maintenance payments are applicable for new placements made in a childcare institution if that facility does not meet specified setting requirements. A "specified setting", as per Section 472(k) of the Social Security Act (Act) (42 USC 672) includes only those childcare institutions as follows:

(1) A qualified residential treatment program (QRTP) as defined in Section 472(k)(4) of the Act. (42 USC 672). During the COVID-19 public health emergency period as declared by the Secretary of HHS, title IV-E agencies may request ACF approval of flexibility as per the Stafford Act. Specifically, if conditions related to the COVID-19 pandemic prevent a facility from completing its accreditation or reaccreditation as a QRTP, the title IV-E agency may request flexibility to allow claiming reimbursement of title IV-E expenses on behalf of an otherwise eligible child who is placed in the QRTP only during the time the requirement is unable to be met as a result of the major disaster. The facility must meet all other statutory requirements, including that the QRTP is licensed or approved. Although the closing date of the COVID-19 public health emergency period was May 11, 2023 any flexibilities granted for that period on the basis of the Stafford Act remained available through June 30, 2023 as per ACF's determination (42 U.S.C. §5121 et seq. and Program Instruction ACYF-CB-PI-20-10 dated May 8, 2020 and Information Memorandum ACYF-CB-IM-23-05 dated April 17, 2023 available as follows: https://www.acf.hhs.gov/cb/policy-guidance/im-23-05).

(2) A setting specializing in providing prenatal, post-partum, or parenting supports for youth.

(3) In the case of a child who has attained 18 years of age, a supervised setting in which the child is living independently.

(4) A setting providing high-quality residential care and supportive services to children and youth who have been found to be, or are at risk of becoming, sex trafficking victims, in accordance with section 471(a)(9)(C) of the Act.

A QRTP placement must also meet additional requirements to avoid Title IV-E funding limitations as follows:

(5) An assessment to determine the appropriateness of such placement must be completed by a "qualified individual" within 30 days after the placement as per Section 475A(c)(1) of the Act. If this deadline is not met, no foster care maintenance payments may be claimed for the duration of the placement (including those for the first two weeks of care) on behalf of the child.

(6) A court determination on the appropriateness of this placement must be made within 60 days of the start of each such placement. If this deadline is not met, foster care maintenance payments on behalf of the child may be Title IV-E claimed for only the first 60 days of the placement.

(7) If the required assessment determines that the placement of a child in a QRTP is not appropriate, a court disapproves such a placement under Section 475A(c)(2) of the Act, or other circumstances exist where the child is transitioning from a QRTP placement to another setting further Title IV-E foster care maintenance payments claiming is limited, as per Section 472(k)(3)(B) of the Act, to the period necessary to transition, up to 30 days after the cited action takes place.

If the placement in a childcare institution does not meet the requirements for a specified setting, Title IV-E foster care maintenance payments are limited to covering a two-week period for each placement. Payments for any continuous childcare institution placements with a start date prior to the effective date for Section 472(k)(2) of Act are not time limited.

Otherwise, allowable administrative costs for an eligible child placed in a childcare institution may be Title IV-E claimed for the period of such placement regardless of whether the facility meets the specified setting requirements (42 USC 672(k) and 42 USC 675A(c)).

g. Beginning October 1, 2019 (or the elected delayed effective date of up to two years for Section 472(k) of the Act), the definition of a foster family home is revised from the one in federal regulations at 45 CFR section

1355.20(a) to include only the home of an individual or family that meets requirements as follows:

(1) Is licensed or approved by the Title IV-E agency in the state in which it is situated as a foster family home.

(2) Is licensed or approved by a tribal authority with respect to a foster family home on or near an Indian Reservation, or a tribal authority of a tribal Title IV-E agency with respect to a foster family home in the tribal Title IV-E agency's service area

(3) Meets the standards established for the licensing or approval. Title IV-E agencies may, effective on or after November 27, 2023, establish one set of foster family home licensing or approval standards for all relative or kinship foster family homes that are different from the set of standards used to license or approve all non-relative foster family homes. The terms “relative” or “kinship” foster family home may be defined by each title IV-E agency for purposes of applying the relative licensing and approval standards (45 CFR section 1355.20(a) and the Child Welfare Policy Manual at section 8.1B Q/A#34 available at: https://acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=36.

(4) Provide care for not more than six children in foster care. This limitation may be exceeded, at the option of the Title IV-E agency as requested, for any of the reasons specified at Section 472(c)(1)(B)(i-iv) of the Act.

(5) The individual(s) in whose care a child has been placed in foster care reside in the home with the child and the Title IV-E agency has determined such individual(s) as being:

(a) Licensed or approved to be a foster parent; and

(b) Deemed capable of adhering to the reasonable and prudent parent standard; and

(c) Providing 24-hour substitute care for children placed away from their parents or other caretakers.

A foster family home may not then include group homes, agency-operated boarding homes or other facilities licensed or approved for the purpose of providing foster care if that facility is not the home of an individual or family where the foster parent resides (42 USC 672(c)(1)).

h. The foster family home provider must satisfactorily have met a criminal records check, including a fingerprint-based check, with respect to

prospective foster and adoptive parents (42 USC 671(a)(20)(A)). This involves a determination that such individual(s) have not committed any prohibited felonies in accordance with 42 USC 671(a)(20)(A)(i) and (ii). The requirement for a fingerprint-based check took effect on October 1, 2006, unless prior to September 30, 2005, the state had elected to opt out of the criminal records check requirement or state legislation was required to implement the fingerprint-based check, in which case a delayed implementation is permitted until the first quarter of the state's regular legislative session following the close of the first regular session beginning after October 1, 2006. Effective October 1, 2008, a state is no longer permitted to opt out of the fingerprint-based check requirement. The opt-out provision does not impact tribes since they only became eligible to administer a Title IV-E plan on October 1, 2009. These past dates are listed since the criminal records check requirements in effect at the time a prospective foster or adoptive parent is initially licensed or approved (assuming that parent continually remains in such licensed or approved status since that initial determination) is the only criminal record check that must be documented as successfully completed for title IV-E eligibility purposes.

The statutory provisions apply to all prospective foster parents who are newly licensed or approved after the Title IV-E agency's authorized date for implementation of the fingerprint-based background check provisions. Title IV-E foster care maintenance payments may be made on behalf of an otherwise eligible child during the child's placement in a foster family home for the days that the agency has received the results of the criminal record check indicating that the prospective foster parents have satisfactorily met the criminal records check requirements, Title IV-E agencies may also require that certain other adult individuals living in the home be subject to a criminal records check. The completion or lack of completion of criminal records checks for persons other than prospective foster parents does not, however, impact Title IV-E eligibility (42 USC 671(a)(20)(B); Pub. L. No. 109-248, Section 152(c)(2); 45 CFR sections 1356.30(b) and (c); and the Child Welfare Policy Manual section 8.4F Q/A#4 and Q/A#38 available at https://acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=62). During the COVID-19 public health emergency period as declared by the Secretary of HHS, title IV-E agencies may request ACF approval of flexibility as per Stafford Act. Specifically, in situations where only name-based criminal record checks were completed for prospective foster parents, the title IV-E agency may request flexibility to complete the fingerprint-based checks of national crime information databases (NCID) by as soon as it can safely do so. Although the closing date of the COVID-19 public health emergency period was May 11, 2023 any flexibilities granted for that period on the basis of the Stafford Act remained available through June 30, 2023 as per ACF's determination (42 U.S.C. §5121 et seq. and Dear Colleague Letter

dated April 15, 2020 and Information Memorandum ACYF-CB-IM-23-05 dated April 17, 2023). https://www.acf.hhs.gov/cb/policy-guidance/guidance-regarding-fingerprint-and-caseworker-visit-requirements-during-covid-19

i. A Title IV-E agency must check, or request a check of, a state-maintained child abuse and neglect registry in each state the prospective foster and adoptive parents and any other adult(s) living in the home have resided in the preceding five years before the state can license or approve a prospective foster or adoptive parent. This requirement became effective on October 1, 2006, unless the state requires legislation to implement the requirement, in which case a delayed implementation is permitted until the first quarter of the state's regular legislative session following the close of the first regular session beginning after October 1, 2006. The requirement applies to foster care maintenance payments for calendar quarters beginning on or after that date. Tribes first became eligible to administer a Title IV-E plan effective October 1, 2009, and must, therefore, comply with this requirement (42 USC 671(a)(20)(B); Pub. L. No. 109-248, Section 152(c)(2) and (3)).

j. The licensing file for the child-care institution must contain documentation that verifies that safety considerations with respect to staff of the institution have been addressed (45 CFR section 1356.30(f)). Effective October 1, 2018, unless a legislative delay is approved, the safety considerations in the child-care institution licensing file must consist of proof that criminal background checks, including fingerprint-based criminal records checks of national crime information databases (as defined in section 534(f)(3)(A) of Title 28, United States Code) and child abuse and neglect registry checks for all adults working at the child-care institution were conducted. Title IV-E agencies may use alternative procedures to conduct these criminal records and child abuse registry checks. However, if the agency elects to use an alternate procedure, such procedures must still provide for conducting both checks on every adult working in the institution and the agency must describe in its approved Title IV-E Plan why alternative procedures for conducting the checks are appropriate for the agency (42 USC 671(a)(20)(D)). Title IV-E foster care maintenance payments may be made on behalf of an otherwise eligible child placed in a child-care institution for the days that the agency has received criminal records checks for all adults working in the child-care institution (Child Welfare Policy Manual section 8.4F Q/A#38). During the COVID-19 public health emergency period as declared by the Secretary of HHS, title IV-E agencies may request ACF approval of flexibility as per the Stafford Act. Specifically, in situations where only name-based criminal record checks were completed, the title IV-E agency may request flexibility to complete the fingerprint-based checks of NCID for adults working in a childcare institution as soon as it can safely do so. Although the closing date of the COVID-19 public health emergency

period was May 11, 2023 any flexibilities granted for that period on the basis of the Stafford Act remained available through June 30, 2023 as per ACF's determination (42 U.S.C. §5121 et seq. and Dear Child Colleague Letter dated April 15, 2020 and Information Memorandum ACYF-CB-IM-23-05 dated April 17, 2023). https://www.acf.hhs.gov/cb/policy-guidance/guidance-regarding-fingerprint-and-caseworker-visit-requirements-during-covid-19

k. Foster care administrative costs for the provision of child-placement services generally are allowable only when performed on behalf of a foster child that is eligible to receive Title IV-E foster care maintenance payments (42 USC 674(a)(3)(E) and 45 CFR section 1356.60). The following exceptions apply:

(1) Activities specifically associated with the determination or redetermination of Title IV-E eligibility are allowable regardless of the outcome of the eligibility determination (DAB Decision No. 844).

(2) Otherwise, allowable activities performed on behalf of Title IV-E eligible foster children placed in unallowable facilities and unlicensed relative homes can be allowable under limited circumstances as follows:

(a) For the lesser of 12 months or the average length of time it takes the state or tribe to issue a license or approval of the home when the child, otherwise Title IV-E eligible, is placed in the home of a relative who has an application pending for a foster family home license or approval. The term "relative" may, for this purpose, be as defined by each title IV-E agency (42 USC 672(i)(1)(A) and the Child Welfare Policy Manual at section 8.1B Q/A#34) available at: https://acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=36.

(b) For not more than one calendar month for an otherwise Title IV-E eligible child transitioning from an unlicensed or unapproved facility to a licensed or approved foster family home or childcare institution (42 USC 672(i)(1)(B)).

(3) In the case of any other child not in foster care who is potentially eligible for benefits under a Title IV-E plan approved under this part and at imminent risk of removal from the home, only if—

(a) Reasonable efforts are being made in accordance with 42 USC 671(a)(15) to prevent the need for, or if, necessary to pursue, removal of the child from the home.

(b) The Title IV-E agency has made, not less often than every six months, a determination (or redetermination) as to whether the child remains at imminent risk of removal from the home (42 USC 672(i)(2)).

(c) Pre-placement administrative costs may be paid on behalf of a child determined to be a candidate for foster care only if all of the following requirements are met:

(i) A child who is a potentially Title IV-E eligible child is at imminent risk of removal from the home and the Title IV-E agency is either pursuing the removal of the child from the home or providing reasonable efforts to prevent the removal in accordance with Section 471(a)(15) of the Social Security Act (42 USC 672(i)(2)(A)).

(ii) No earlier than the month in which the Title IV-E agency has made and documented a determination that the child is a candidate for foster care as evidenced by at least one of the following (section 8.1D, Question and Answer No. 2 of the Child Welfare Policy Manual):

(A) A defined case plan, which clearly indicates that absent effective preventive services, foster care is the planned arrangement for the child.

(B) An eligibility determination form which has been completed to establish the child's eligibility under Title IV-E. Eligibility forms used to document a child's candidacy for foster care should include evidence that the child is at serious risk of removal from home.

(C) Evidence of court proceedings in relation to the removal of the child from the home, in the form of a petition to the court, a court order, or a transcript of the court's proceedings. These proceedings include those where the Title IV-E agency is

required to obtain a judicial determination sanctioning or approving such an attempt to prevent removal with respect to reasonable efforts or initiates efforts to obtain the judicial determinations related to the removal of a child from home.

(iii) The Title IV-E agency determines that the planned out-of-home placement for the child will be a foster care setting (section 8.1D, Question and Answer No. 11 of the Child Welfare Policy Manual).

(iv) In order to claim child specific candidate administrative costs, the Title IV-E agency may either (section 8.1C, Question and Answer No. 3 of the Child Welfare Policy Manual):

(A) individually determine those children who are Title IV-E foster care candidates and claim 100 percent of the child specific allowable administrative costs incurred on behalf of these children, or

(B) allocate costs to benefiting programs considering a determination both of candidacy for foster care and of potential Title IV-E eligibility; using a Title IV-E foster care participation rate is one acceptable means of allocation.

(v) The Title IV-E agency re-determines at least every six months that the child remains at imminent risk of removal from the home. If the Title IV-E agency does not make this determination at the six-month point, it must cease claiming administrative costs on behalf of the child (42 USC 672(i)(2)(B) and section 8.1D, Question and Answer No. 5 of the Child Welfare Policy Manual).

(vi) Candidate administration on behalf of eligible children is limited to any allowable Title IV-E administrative cost that comports with or is closely related to one of the listed activities at 45 CFR section 1356.60(c)(2). The costs of investigations, physical or mental examinations or evaluations and services related to the prevention of placement are not foster care administrative costs and are therefore

not reimbursable (section 8.1B, Question and Answer No. 1 of the Child Welfare Policy Manual).

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

Not Applicable

3. **Eligibility for Subrecipients**

Not Applicable

L. Reporting

1. **Financial Reporting**

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

d. *CB-496, Title IV-E Programs Quarterly Financial Report (OMB No. 0970-0510)* – Title IV-E agencies report current expenditures and information on children assisted for the quarter that has just ended and estimates of expenditures and children to be assisted for the next quarter. Prior quarter adjustment (increasing and decreasing) expenditures applicable to earlier quarters must also be separately reported on this form.

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

1. *Part 1, Expenditures, Estimates and Caseload Data*, section A, columns (A) through (D) and section E Actual Count Current Quarter (Foster Care Program)

2. *Part 2, Prior Quarter Expenditure Adjustments – Foster Care*, columns (A) through (E)

2. **Performance Reporting**

Not Applicable

3. **Special Reporting**

Not Applicable

4. **Special Reporting for Federal Funding Accountability and Transparency Act**

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Payment Rate Setting and Application

Compliance Requirements Title IV-E agencies establish payment rates for maintenance payments (e.g., payments to foster parents, childcare institutions or directly to youth). Payment rates may also be established for Title IV-E administrative expenditures (e.g., payments to child placement agencies or other contractors, which may be either subrecipients or vendors) and for other services. Payment rates must provide for proper allocation of costs between foster care maintenance payments, administrative expenditures, and other services in conformance with the cost principles. The Title IV-E agency's plan approved by ACF must provide for periodic review of payment rates for foster care maintenance payments at reasonable, specific, time-limited periods established by the Title IV-E agency to ensure the rate's continuing appropriateness for the administration of the Title IV-E program. Effective on or after November 27, 2023, the title IV-E agency periodic review must also include a review of the amount paid to a licensed or approved relative or kinship foster family home to ensure it is the same amount that would have been paid if the child was placed in a licensed or approved non-relative foster family home. (42 USC 671(a)(11); 45 CFR section 1356.21(m)(1); 45 CFR section 1356.60(a)(1) and (c)).

Audit Objectives Determine whether (1) the Title IV-E agency reviewed foster care maintenance payment rates for continued appropriateness and consistency between relative and non-relative foster family homes in accordance with its established periodicity schedule; (2) the Title IV-E agency established foster care maintenance and administrative expenditure payment rates which provide only for costs which are necessary for the proper and efficient administration of the program and which are for allowable costs (i.e., reasonable, allowable, and properly allocated in compliance with the applicable cost principles and program requirements); and (3) charges to the program were based upon the established payment rates properly applied and the charges to the program were properly classified as foster care maintenance payments or administrative expenditures.

Suggested Audit Procedures

a. Identify the Title IV-E agency's schedule for the required periodic review to determine the continued appropriateness and consistency of amounts paid as foster care maintenance payments and ascertain if the current foster care maintenance payment rates were last reviewed and adjusted in accordance with the Title IV-E agency established schedule.

b. Review the Title IV-E agency's policies and procedures for establishing foster care maintenance and administrative expenditure payment rates to ascertain if these policies and procedures will properly determine that the costs charged to the program based upon these payment rates will be allowable.

c. Test a sample of Title IV-E foster care maintenance and administrative expenditure payment rates to ascertain if the rates have been properly calculated in accordance with the Title IV-E agency's policies and procedures to ensure only allowable costs are charged to the program.

d. Test a sample of Title IV-E foster care rate-based maintenance payments to ascertain if they were based upon the established payment rates per the Title IV-E agency's rate schedule and that these rates were properly applied to ensure that only costs allowable as maintenance payments were charged to the program. If the latest periodic review of payment rates was due on or after November 27, 2023, those sampled foster care maintenance payments made to a licensed or approved relative or kinship foster family home are to be reviewed to assure that they are in the same amount as would have been paid if the child was placed in a licensed or approved non-relative foster family home.

e. Test a sample of Title IV-E foster care rate based administrative expenditures to ascertain if they were based upon the established payment rates per the Title IV-E agency's rate schedule and that these rates were properly applied to ensure that only costs allowable as administrative expenditures were charged to the program.

2. Post-Demonstration Costs (Applicable Only for Title IV-E Agencies with ACF Approval to Operate a Foster Care Demonstration Project Which Was Operational Through September 30, 2019)

Compliance Requirements Those Title IV-E agencies that were formerly approved to operate a foster care waiver demonstration project under section 1130 of the Social Security Act (Act) (42 USC 1320a-9) and operated such a project through September 30, 2019 may elect to separately report specified costs for applicable periods in FFYs 2020 and 2021 to be considered for a Funding Certainty Grant for each of these FFYs as per section 602(c)(2)(A) of Public Law (P.L.) No. 116-94 (the Family First Transition Act) (42 USC 1320a-9 (g)). If so, the former waiver demonstration project agency must separately report all title IV-E foster care quarterly expenditures and/or estimates for applicable periods in FFYs 2020 and 2021 (i.e. the two FFYs after the demonstration project operational period ended) that are classifiable as post-demonstration costs in Part 3, section E of Form CB-496 in accordance with specified reporting form instructions. A Funding Certainty Grant is payable only if, and to the extent, that the reported total federal share post-demonstration cost claims for all applicable periods in each of the two FFYs (assessed separately for each FFY) is lower than the established Annual Funding Certainty Level for the involved Title IV-E agency.

The costs to be reported as "post demonstration costs" are for performance of activities that would have been classified as within project operations chargeable or allocable to a former title IV-E foster care demonstration project which was operational on September 30, 2019 in accordance with Section 1130 of the Act (42 USC 1320a-9) and with the approved terms and conditions for that project. All post-demonstration costs must be title IV-E allowable without consideration of any waivers that were formerly in effect as per the terms and conditions (in effect on August 30, 2019) of a demonstration project.

If post-demonstration cost reporting is elected, such costs must be fully reported in applicable funding categories for all applicable periods in FFYs 2020 and 2021. This includes current quarter claims and any prior quarter adjustment claims made within two years of the last day of the fiscal quarter in which the expenditure was made. Therefore, the last available reporting period for post-demonstration costs for the fourth quarter of FFY 2021 applicable period will be on the CB-496 report for the quarter ending June 30, 2023. Although that report was due on July 30, 2023, a revision may have been submitted as late as September 30, 2023 (two years after the end of the last quarter considered for Funding Certainty Grant purposes).

Audit Objectives Determine for those Title IV-E agencies that qualify for and elect to report post-demonstration costs whether (1)) the Title IV-E agency properly tracked and classified those costs in all applicable funding categories consisting of post-demonstration costs; (2) the Title IV-E agency did not report the same program costs as both regular program and post-demonstration costs; (3) all reported post-demonstration costs consist of Title IV-E allowable costs (without a waiver); (3) the Title IV-E agency properly reported post-demonstration costs based on the FFY of the applicable period when the expenditure was made (either FFY 2020 or FFY 2021); and (4) the Title IV-E agency properly tracked and classified those FFY 2020 and FFY 2021 Title IV-E foster care program expenditures not reportable as post-demonstration costs.

Suggested Audit Procedures

a. Determine whether a Title IV-E agency that formerly operated a foster care demonstration project as of September 30, 2019 is, or is not, reporting title IV-E foster care claims post-demonstration cost for FFYs 2020 and 2021 applicable periods. If not, determine if this is based on its election not to seek a Funding Certainty Grant for or one or both of these FFYs. If post-demonstration cost claims are being reported, review the applicable terms and conditions of the title IV-E agency's demonstration project that were in effect on August 30, 2019 as approved by ACF.

b. Review the Title IV- E agency's cost tracking procedures for identifying those funding categories and segregating costs properly classified as post-demonstration costs.

c. Compare total quarterly Title IV-E claims (current quarter and any prior quarter adjustments for that applicable period) reported on Form CB-496 Part 3, Section E as foster care post-demonstration costs for FFY 2020 and FFY 2021 in each of the funding categories to determine whether there is any indication that a significant portion of such claims were not reported for one or more quarters. If so, identify whether underreporting has occurred and, that the title IV-E agency has controls in place to report any such omitted claims within the permitted two-year period for that quarter.

d. Test a sample of Title IV-E claims (current quarter and any prior quarter adjustments) reported on Form CB-496 Part 3, Section E designated as foster care

post-demonstration costs in each of the funding categories reported to determine that the claims are properly classified as post-demonstration costs for either FFY 2020 or FFY 2021 based on (1) the funding category is within the scope of the former project's title IV-E allowable operational costs, (2) the type of cost, (3) the population served, and (4) the applicable period.

e. Test a sample of Title IV-E claims for applicable periods in FFY 2020 and FFY 2021 (current quarter and any prior quarter adjustments) reported on Form CB-496 Part 1 as foster care (non-demonstration related) costs in each of the funding categories identified in the former demonstration project's approved terms and conditions (as of August 31, 2019) as included within project operational costs to determine that the claims are properly classified as outside of the scope of post-demonstration costs based on (1) specific exclusions contained in the former project's approved terms and conditions, (2) the type of cost, (3) the population served, and (4) the applicable period. A further assessment should be made to assure that the claim was not duplicative of an amount reported on Form CB-496 Part 3 in section E as post-demonstration costs.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.659 ADOPTION ASSISTANCE—TITLE IV-E

I. PROGRAM OBJECTIVES

The objective of the Adoption Assistance program is to facilitate the placement of children with special needs in permanent adoptive homes and thus prevent long, inappropriate stays in foster care.

II. PROGRAM PROCEDURES

A. Overview

The Adoption Assistance program is administered at the federal level by the Children's Bureau, Administration on Children, Youth and Families, Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS). The Adoption Assistance program provides federal matching funds to Title IV-E agencies with approved Title IV-E plans that provide ongoing subsidy and/or non-recurring payments to parents who adopt eligible children with special needs and enter into an adoption assistance agreement.

Funding is provided to the 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. Federally recognized Indian tribes, Indian tribal organizations and tribal consortia may also apply for Title IV-E funding via the submission of a Title IV-E plan. Funding is based on an approved Title IV-E plan and amendments, as required by changes in statutes, rules, and regulations, submitted to and approved by the ACF Children's Bureau Associate Commissioner. The Adoption Assistance program is an open-ended entitlement program. Federal financial participation in state or tribal expenditures for adoption assistance agreements is provided at the Medicaid match rate for medical assistance payments, which varies among states and tribes. Monthly payments to families made on behalf of eligible adopted children also vary from Title IV-E agency to Title IV-E agency. Federal financial participation (FFP) is made at an open-ended 50 percent match rate for administrative expenditures and at an open-ended 75 percent for most categories of state/tribal Title IV-E training expenditures. In addition, the program authorizes federal matching funds for Title IV-E agencies that reimburse the non-recurring adoption expenses of adoptive parents of special needs children (regardless of AFDC or SSI eligibility) as administrative expenditures at an open-ended 50 percent FFP rate.

The designated Title IV-E agency for this program also administers ACF funding provided for other Social Security Act programs (e.g., Foster Care (Assistance Listing 93.658), Guardianship Assistance (Assistance Listing 93.090) at agency option and John H. Chafee Foster Care Program for Successful Transition to Adulthood (Assistance Listing 93.674) programs (Title IV-E of the Social Security Act); Child Welfare Services

(Assistance Listing 93.645) and Promoting Safe and Stable Families (Assistance Listing 93.556) programs (Title IV-B of the Social Security Act, as amended) (Assistance Listing 93.556 funds available to states and those tribes qualifying for at least a minimum grant of $10,000); and the Social Services Block Grant program (Assistance Listing 93.667) (Title XX of the Social Security Act, as amended) (states only). The Title IV-E agency may either directly administer the Adoption Assistance program or supervise its administration by local level agencies. Where the program is administered by a state, in accordance with the approved Title IV-E plan, it must be in effect in all political subdivisions of the state, and, if administered by them, program requirements must be mandatory upon them. Where the program is administered by a tribe, it must be in effect in all political subdivisions within the tribal service area(s) and for all populations to be served under the plan. If the program is administered by a political subdivision of a tribe, program requirements must be mandatory upon them.

Depending on the circumstances, the child may also need to meet the eligibility requirements of the Aid to Families with Dependent Children (AFDC) program (i.e., meet the state-established standard of need as of July 16, 1996, prior to enactment of the Personal Responsibility and Work Opportunity Reconciliation Act [PRWORA]) or the Supplemental Security Income (SSI) program. In cases where program eligibility requires an assessment of SSI program eligibility, the child will need to meet either all criteria or for an applicable child [defined in III.E.1.a.(1)(a), Eligibility for Individuals, of this program supplement] only the medical and disability criteria. Tribes must use the Title IV-A state plan (as in effect as of July 16, 1996) of the state in which the child resided at the time of removal in determining the child's AFDC eligibility.
An adoption assistance agreement is a written agreement between the prospective adoptive parents, the Title IV-E agency, and other relevant agencies (such as a private adoption agency) specifying the nature and amount of assistance to be given on a monthly basis to parents who adopt eligible special needs children. A child with special needs is defined as a child who the Title IV-E agency has determined cannot or should not be returned home; has a specific factor or condition, as defined by the state or tribe, because of which it is reasonable to conclude that the child cannot be adopted without financial or medical assistance; and for whom a reasonable effort has been made to place the child without providing financial or medical assistance.

B. Other

Adoption Savings

Title IV-E agencies are required to enter into an adoption assistance agreement with the prospective adoptive parents of any child who meets specified criteria by applying differing, and less restrictive, program eligibility criteria (specified in III.E.1.a.(1)(a) and (c), "Eligibility - Eligibility for Individuals," of this program supplement). This results in some number of children who, under previously applied program eligibility criteria, would not have been determined as Title IV-E eligible, but who will now be determined as Title IV-E eligible for adoption assistance. Each Title IV-E agency is required to calculate and spend an amount equal to any savings in Title IV-E agency expenditures as

a result of applying the differing program eligibility criteria for a FFY for services permitted under Title IV-B or IV-E. These non-federal funds are a component of this program and are hereafter referred to as "adoption savings."
Beginning in FFY 2015, each Title IV-E agency is required to annually calculate and report on adoption savings. The calculation must be in accordance with procedures established by the Children's Bureau. The report must identify the methodology used to calculate the savings, how savings are spent, and on what services.

Source of Governing Requirements

The Adoption Assistance program is authorized by Title IV-E of the Social Security Act, as amended (42 USC 670 *et seq*.). This includes those amendments made by the Preventing Sex Trafficking and Strengthening Families Act (Pub. L. No. 113-183) and the Family First Prevention Services Act (Pub. L. No. 115-123). Implementing regulations are published at 45 CFR parts 1355 and 1356.

States and tribes are required to adopt and adhere to their own statutes and regulations for program implementation, consistent with the requirements of Title IV-E and the approved Title IV-E Plan.

The regulations at 45 CFR part 75 specifying uniform administrative requirements, cost principles, and audit requirements for HHS awards are applicable to the Adoption Assistance program. However, in accordance with 45 CFR sections 75.101(e)(1)(iii) and 75.101(e)(2), except for 45 CFR section 75.202, the guidance in subpart C of 45 CFR part 75 does not apply.

Availability of Other Program Information
The Children's Bureau manages a policy issuance system that provides further clarification of the law and guides states and tribes in implementing the Adoption Assistance program. This information may be accessed at https://www.acf.hhs.gov/cb/laws-policies.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/ Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	Y	N	N	N	Y	N	N

A. Activities Allowed or Unallowed

1. *Adoption Assistance Subsidies*

Funds may be expended for adoption assistance subsidy payments made on behalf of eligible children (see III.E.1, "Eligibility – Eligibility for Individuals"), in accordance with a written and binding adoption assistance agreement. Subsidy payments are made to adoptive parents based on the need(s) of the child (i.e., developmental, cognitive, emotional behavioral) and the circumstances of the adopting parents (42 USC 673(a)(2)). Subsidy payment amounts cannot be based on any income eligibility requirements of the prospective adoptive parents (45 CFR section 1356.41(c)). Adoption assistance subsidy payments cannot exceed the foster care maintenance payment (in accordance with the Title IV- E agency's rate schedule) the child would have received in a foster family home; however, the amount of the subsidy payments may be up to 100 percent of that foster care maintenance payment rate (42 USC 673(a)(3)).

2. *Administrative Costs*

a. Program Administration – Funds may be expended for costs directly related to the administration of the program. Approved public assistance cost allocation plans (states) or approved cost allocation methodologies (tribes) will identify which costs are allocated and claimed under this program (45 CFR section 1356.60(c)).

b. Nonrecurring Costs – Funds may be expended by a Title IV-E agency under an adoption assistance agreement for nonrecurring expenses up to $2,000 (gross amount), for any adoptive placement (45 CFR section 1356.41(f)(1)). Nonrecurring adoption expenses are defined as reasonable and necessary adoption fees, court costs, attorney fees and other expenses that are directly related to the legal adoption of a child with special needs. Other expenses may include those costs of adoption incurred by or on behalf of the adoptive parents, such as, the adoptive home study, health and psychological examination, supervision of the placement prior to

adoption, transportation and the reasonable costs of lodging and food for the child and/or the adoptive parents when necessary to complete the placement or adoptions process (45 CFR section 1356.41(i)).

c. Adoption Placement Costs – Funds expended by the Title IV-E agency for adoption placements (including nonrecurring costs) are considered an administrative expenditure and are subject to the matching requirements in III.G.1.e, "Matching, Level of Effort, Earmarking – Matching" (45 CFR section 1356.41(f)(1)).

3. *Training*

a. Funds may be expended for short-term training of current or prospective adoptive parents and members of the staff of state/tribe-licensed or state/tribe-approved child care institutions (including travel and per diem) at the initiation of or during their period of care (42 USC 674(a)(3)(B) and 45 CFR section 1356.60(b)(1)(ii)).

b. Funds may be expended for short-term training of (1) relative guardians; (2) state/tribe-licensed or state/tribe-approved child welfare agencies providing services to children receiving Title IV-E assistance; (3) child abuse and neglect court personnel; (4) agency, child or parent attorneys; (5) guardians ad litem; and (6) court appointed special advocates (42 USC 674(a)(3)(B)).

c. Funds may be expended for training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the agency administering the plan (42 USC 674(a)(3)(A)).

4. *Demonstration Projects*

Under Section 1130 of the Social Security Act, Title IV-E agencies may be granted authority to operate a demonstration project as set forth in ACF-approved terms and conditions. Any such terms and conditions applicable to the program identify the specific provisions of the Social Security Act that are waived, the additional activities that are deemed as allowable, and the scope and duration (which may not exceed a maximum of 5 total years unless specifically approved for further continuation) of the demonstration project. The demonstration project must remain cost neutral to the federal government, as provided for in a methodology contained in the approved project terms and conditions involving either a matched comparison group or a capped allocation All approved demonstration projects were required to end no later than September 30, 2019 (42 USC 1320a–9 and Section 201 of Pub. L. No. 112-34).

B. Allowable Costs/Cost Principles

Both states and tribes are subject to the requirements of OMB cost principles in 2 CFR part 200, subpart E, as implemented by HHS at 45 CFR part 75. States also are subject to the cost allocation provisions and rules governing allowable costs of equipment of 45 CFR part 95 (45 CFR sections 1355.57, 95.503, and 95.705).

E. Eligibility

1. Eligibility for Individuals

a. Adoption assistance subsidy payments may be paid on behalf of a child only if all the following requirements are met:

(1) Categorical Eligibility

(a) Applicable and Non-Applicable Children – An applicable child is a child for whom an adoption assistance agreement was entered into in fiscal year (FY) 2010 or later and who meets the applicable age requirement (differs over a multi-fiscal year phase-in period beginning in FY 2010), or a child who has been in foster care under the responsibility of the Title IV-E agency for at least 60 consecutive months, or a sibling to either such child if both are to have the same adoption placement (42 USC 673(e)(2) and (e)(3)). The applicable age requirement is met only if the child has attained that age any time before the end of the federal fiscal year during which the adoption assistance agreement is entered into. The applicable age for FY 2010 agreements includes children who will turn age 16 or older in that FY. In subsequent FYs through FY 2017, the age to apply the revised "applicable child" program rules decreases by two years. The applicable age for agreements entered into in FY 2018 through FY 2024 is dependent on the date of the agreement. For agreements entered into in FY 2018 between October 1 and December 31, 2017, children of any age may be eligible according to the revised criteria in FY 2018. However, for agreements entered into between January 1, 2018 and June 30, 2024, only those children who turn 2 or older in the FY the agreement is entered into may be eligible according to the revised criteria. As of July 1, 2024, a child of any age covered by a newly entered into agreement will meet the applicable child definition (see applicable age table below) (42 USC 673(e)(1)(B)).

Applicable Age Table – Based on Date Adoption Assistance Agreement is Entered Into

In the case of fiscal year:	The applicable age is:
2010	16
2011	14
2012	12
2013	10
2014	8
2015	6
2016	4
2017	2
2018 (through December 31, 2017)	Any age
2019 to 2023	2
2024 (through June 30, 2024)	2
2024 (July 1, 2024 or later)	Any age
2025 (or fiscal years thereafter)	Any age

A child who is referred to as "not an applicable child" is one for whom an adoption assistance agreement was entered into in FY 2009 or earlier or in a later FY if the applicable child requirements pertinent to the FY in which the adoption assistance agreement was entered into are not satisfied. In this instance, the revised "applicable child" eligibility criteria do not apply and the eligibility requirements in place prior to October 1, 2009, apply (42 USC 673(a)(2)(A)(i)).

(b) Adoption agreements entered into prior to the beginning of FY 2010, or agreements entered into during FY 2010 or *thereafter for a "non-applicable child"* – The child is categorically eligible if:

(i) the child was eligible, or would have been eligible, for the former AFDC program (i.e., met the state-established standard of need as of July 16, 1996, prior to enactment of the PRWORA (tribes must use the Title IV-A state plan in effect as of July 16, 1996 of the state in which the child resided at the time of removal in determining the child's AFDC eligibility (42 USC 679c(c)(1)(C)(ii)(II))) except for his/her removal from the home of a relative pursuant to either a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home of removal would have been contrary to the welfare of the child; or

(ii) the child is eligible for SSI; or

(iii) the child is a child whose costs in a foster family home or childcare institution are covered by the foster care maintenance payments being made with respect to his/her minor parent (42 USC 673(a)(2)(A)(i)(I)).

(c) Adoption agreements entered into during FY 2010 or *thereafter for an "applicable child"* – The child is categorically eligible if the child:

(i) at the time of the initiation of adoption proceedings, was in the care of a public or private child placement agency by way of a voluntary placement, voluntary relinquishment or a court-ordered removal with a judicial determination that remaining at home would be contrary to the child's welfare; or

(ii) meets the disability or medical requirements of the SSI program; or

(iii) was residing with a minor parent in foster care (who was placed in foster care by way of a voluntary placement, voluntary relinquishment, or court-ordered removal); or

(iv) was eligible for adoption assistance in a previous adoption in which the adoptive parents have died or had their parental rights terminated (42 USC 673(a)(2)(A)(ii)(I) and 673(a)(2)(C)(ii)); and

(v) does not fit within the following prohibited class for the payment of an adoption assistance payment (including payments of non-recurring expenses under 42 USC 673(a)(1)(B)(i)), i.e., an "applicable child" who is not a citizen or resident of the U.S. and was either adopted outside the U.S. or brought to the U.S. for the purpose of being adopted (42 USC 673(a)(7) as added by Pub. L. No. 110-351).

(2) The following additional eligibility provisions must be met in addition to the establishment of categorical eligibility:

(a) The child was determined by the Title IV-E agency as someone who cannot or should not be returned to the home of his or her parents (42 USC 673(c)(1));

(b) The child was determined by the Title IV-E agency to be a child with special needs. Special needs means that there is a specific factor or condition (such as ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that the child cannot be placed with adoptive parents without providing adoption assistance under Title IV-E and medical assistance under Title XIX. In the case of an applicable child, the child is also considered to have special needs if that applicable child meets all of the medical or disability requirements for SSI and the Title IV-E agency determines that it is reasonable to conclude that the child cannot be placed with adoptive parents without providing adoption assistance under Title IV-E and medical assistance under Title XIX. The criteria for the factor or condition element of the special needs determination will be met if an applicable child meets all the medical or disability requirements for SSI (42 USC 673(c)(1)(B) and 673(c)(2)(B), as amended/added by Pub. L. No. 110-351).

(c) The Title IV-E agency has made reasonable efforts to place the child for adoption without a subsidy. The only exception to this requirement is where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of the parents as a foster child (42 USC 673(c)(1)(B) and 673(c)(2) as amended/added by Pub. L. No. 110-351).

(d) The agreement for the subsidy was signed and was in effect before the final decree of adoption and contains information concerning the nature of services; the amount and duration of the subsidy; the child's eligibility for Title XX services and Title XIX Medicaid; and covers the child should he/she move out of state with the adoptive family (42 USC 675(3)).

(e) The prospective adoptive parent(s) must satisfactorily have met a criminal records check, including a fingerprint-based check (42 USC 671(a)(20)(A)). This involves a determination that such individual(s) have not committed any prohibited felonies in accordance with 42 USC 671(a)(20)(A)(i) and (ii). The requirement for a fingerprint-based check took effect on October 1, 2006, unless prior to September 30, 2005, the state has elected to

opt out of the criminal records check requirement or state legislation was required to implement the fingerprint-based check, in which case a delayed implementation is permitted until the first quarter of the state's regular legislative session following the close of the first regular session beginning after October 1, 2006. The requirement applies to adoption assistance payments for calendar quarters beginning on or after the state's effective date for implementation (Pub. L. No. 109-248, Section 152(c)(1) and (3)). States that opted out of the criminal records check requirement at Section 471(a)(20) of the Social Security Act prior to September 30, 2005 had until October 1, 2008 to implement the fingerprint-based check requirement. Effective October 1, 2008, a state is no longer permitted to opt out of the fingerprint-based check requirement. The opt-out provision does not impact tribes since they only became eligible to administer a Title IV-E plan on October 1, 2009.

The statutory provisions apply to all prospective adoptive parents who are newly approved after the Title IV-E agency's authorized date for implementation of the fingerprint-based background check provisions. Title IV-E agencies may also require that certain other adult individuals living in the adoptive home be subject to a criminal records check. The completion or lack of completion of criminal records checks for persons other than prospective adoptive parents does not, however, impact Title IV-E eligibility (42 USC 671(a)(20)(B); Pub. L. No. 109-248, Section 152(c)(2); 45 CFR sections 1356.30(b) and (c); and the Child Welfare Policy Manual section 8.4F Q/A#4).

(f) The prospective adoptive parent(s) and any other adult living in the home who has resided in the provider home in the preceding five years must satisfactorily have met a child abuse and neglect registry check. This requirement became effective on October 1, 2006, unless the state requires legislation to implement the requirement, in which case a delayed implementation is permitted until the first quarter of the state's regular legislative session following the close of the first regular session beginning after October 1, 2006. The requirement applies to foster care maintenance payments for calendar quarters beginning on or after that date. Tribes first became eligible to administer a Title IV-E plan effective on October 1, 2009, and must, therefore, comply with this requirement (42 USC

671(a)(20)(B); Pub. L. No. 109-248, Sections 152(c)(2) and (3)).

(g) Once a child is determined eligible to receive Title IV-E adoption assistance, he or she remains eligible and the subsidy continues until (i) the age of 18 (or 21 if the Title IV-E agency determines that the child has a mental or physical disability which warrants the continuation of assistance); (ii) the Title IV-E agency determines that the parent is no longer legally responsible for the support of the child; or (iii) the Title IV-E agency determines the child is no longer receiving any support from the parents (42 USC 673(a)(4)(A) and (B)).

Beginning on October 1, 2010, a Title IV-E agency may amend its Title IV-E plan to provide for a definition of a "child" as an individual who has not attained 19, 20, or 21 years of age (as the Title IV-E agency may elect) (42 USC 675(8)(B)(iii)). This definition of a child will then permit payment of adoption assistance for a child who is over age 18 (where the Title IV-E agency does not determine that the child has a mental or physical disability which warrants the continuation of assistance up to age 21) if such a youth is part of an adoption assistance agreement that is in effect under Section 473 of the Social Security Act and the youth had attained 16 years of age before the agreement became effective. As an additional requirement, a youth over age 18 must also (as elected by the Title IV-E agency) be (i) completing secondary school (or equivalent), (ii) enrolled in post-secondary or vocational school, (iii) participating in a program or activity that promotes or removes barriers to employment, (iv) employed 80 hours a month, or (v) incapable of any of these due to a documented medical condition (42 USC 675(8)(B)).

b. Nonrecurring expenses of adoption may be paid on behalf of a child only if all of the following requirements are met:

(1) The agreement may be a separate document or part of an agreement for state/tribe or federal adoption assistance payment or services (45 CFR section 1356.41(b)).

(2) The agreement indicates the nature and amount of the nonrecurring expenses to be paid (45 CFR section 1356.41(a)).

(3) The agreement was signed at the time of, or prior to, the final decree of adoption and claims must be filed with the Title IV–E

agency within two years of the date of the final decree of adoption (45 CFR section 1356.41(e)(2)).

(4) The state or tribe has determined that the child is a child with special needs (45 CFR section 1356.41(d)).

(5) The child has been placed for adoption in accordance with applicable state or tribal laws (45 CFR section 1356.41(d)).

(6) The child need not meet the categorical eligibility requirements at Section 473(a)(2) (45 CFR section 1356.41(d)).

(7) The costs incurred by or on behalf of adoptive parents are not otherwise reimbursed from other sources (45 CFR section 1356.41(g)).

c. There may be no income-eligibility requirement (means test) for the prospective adoptive parent(s) in determining eligibility for adoption assistance subsidy payments or nonrecurring expenses of adoption (45 CFR sections 1356.40(c) and 1356.41(c)).

d. In the case of a child adopted after the dissolution of a guardianship where the child was receiving Title IV-E guardianship assistance payments, the child's eligibility for adoption assistance is to be determined without consideration of the placement of the child with the relative guardian and any kinship guardianship assistance payments made on behalf of the child. Thus, if such a child is adopted, the Title IV-E agency would apply the adoption assistance criteria for the child as if the guardianship had never occurred (42 USC 673(a)(1)(D) as added by Section 101(c) of Pub. L. No. 110-351).

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

The percentage of required state/tribal funding and associated federal funding ("federal financial participation" (FFP)) varies by type of expenditure as follows:

a. Third party in-kind contributions cannot be used to meet the state's cost sharing requirements (Child Welfare Policy Manual Section 8.1F Q/A#2

8/16/02). The matching and cost sharing provisions of 45 CFR section 75.306 do not apply to this program (45 CFR sections 1355.30(i) and 1355.30(n)(1); 45 CFR section 201.5(e)). However, for program expenditures made in FY 2012 and thereafter, tribes receiving Title IV-E are permitted to use in-kind funds from any allowable third-party sources to provide up to the full required non-federal share of administrative or training costs (42 USC 679c(c)(1)(D), 45 CFR section 1356.68(c)).

b. Adoption Assistance Subsidy Payments – The percentage of Title IV-E funding in Adoption Assistance subsidy payments will be the federal Medical Assistance Program (FMAP) percentage. This percentage varies by state and is available at HHS Office of Population Affairs website https://aspe.hhs.gov/federal-medical-assistance-percentages-or-federal-financial-participation-state-assistance?utm_source (42 USC 674(a)(1); 45 CFR section 1356.60(a)).

Separate tribal FMAP rates, which are based upon the tribe's service area and population, apply to Foster Care program maintenance payments incurred by tribes that are participating in Title IV-E programs through either direct operation of an approved Title IV-E plan or through operation of a Title IV-E agreement or contract with a state Title IV-E agency. The methodology for calculating tribal FMAP rates was provided through a final notice in the *Federal Register* that is available at http://www.gpo.gov/fdsys/pkg/FR-2011-08-01/pdf/2011-19358.pdf. Information on specific tribal FMAP rates for many tribes applicable for each FY and a table where such rates can be calculated for unlisted tribes is posted on the Children's Bureau's website and is available at https://acf.gov/cb/focus-areas/tribes. The calculated FMAP rate for each tribe applies unless it is exceeded by the FMAP rate for any state in which the tribe is located (42 USC 679B(d) and 42 USC 679B(e)).

c. Staff and Adoptive Parent Training – The percentage of federal funding in expenditures for short- and long-term training at educational institutions of employees or prospective employees, and short-term training of current or prospective foster or adoptive parents and members of staff of state/ tribe-licensed or state/tribe-approved child care institutions (including travel and per diem) is 75 percent (42 USC 674(a)(3)(A) and (B); 45 CFR section 1356.60(b)).

d. Professional Partner Training – The percentage of federal funding in expenditures for short-term training of (1) relative guardians; (2) state/tribe-licensed or state/tribe-approved child welfare agencies providing services to children receiving Title IV-E assistance; (3) child abuse and neglect court personnel; (4) agency, child or parent attorneys; (5) guardians ad litem; and (6) court appointed special advocates is 75 percent in FY 2013 and thereafter (42 USC 674(a)(3)(B)).

e. Administrative Costs

(1) The percentage of federal funding for expenditures for planning, design, development, and installation and operation of a statewide or tribal service area-wide automated child welfare information system meeting specified requirements (and expenditures for hardware components for such systems) is 50 percent (42 USC 674(a)(3)(C) and (D); 45 CFR sections 1355.52 and 1356.60(d)).

(2) The percentage of federal funding for adoption placement non-recurring cost expenditures is 50 percent for Title IV-E agency expenditures up to $2000 for each adoptive placement (45 CFR section 1356.41(f)(1)).

(3) The percentage of federal funding of all other allowable administrative expenditures, is 50 percent (42 USC 674(a)(3)(E); 45 CFR sections 1356.41(f) and 1356.60(c)).

2. Level of Effort

2.1 Level of Effort – *Maintenance of Effort*

A Title IV-E agency is required to spend an amount equal to any savings (hereafter referred to as "adoption savings") in state or tribal expenditures under Title IV-E as a result of applying the differing program eligibility rules to applicable children for a fiscal year for any services that may be provided under Title IV-B or IV-E (42 USC 673(a)(8)) as follows:

a. For periods prior to FFY 2015, Title IV-E agencies had the flexibility to determine the methodology for calculating adoption savings and were not required to provide a specific accounting of adoption savings funds to ACF.

b. Effective October 1, 2014, all Title IV-E agencies must:

(1) Calculate the adoption savings (if any) resulting from the application of differing program eligibility rules (42 USC 673(a)(2)(A)(ii)) to all applicable children for a fiscal year, using a methodology specified by ACF or an alternate methodology proposed by the Title IV-E agency and approved by ACF (42 USC 673(a)(8)(A) as amended by Pub. L. No. 113-183 and Program Instruction ACYF-CB-PI-15-06, dated May 22, 2015).

(2) Report (see III.L.1.d, "Reporting – Financial Reporting," of this program supplement) annually to ACF (i) the methodology used to make the calculation of adoption savings, without regard to whether any savings are found;

(ii) the amount of any annual adoption savings; and (iii) how such adoption savings are spent, accounting for and reporting the spending separately from any other spending reported to ACF under Title IV-B or IV-E ((42 USC 673(a)(8)(B) as amended by Pub. L. No. 113-183 and Program Instruction ACYF-CB-PI-15-09, dated December 2, 2015).

(3) Adoption savings must be expended for services that may be provided under the Title IV-B or IV-E programs; at least 30 percent of which must be spent on post-adoption services, post-guardianship services and services to support positive permanent outcomes for children at risk of entering foster care. At least two-thirds (2/3) of the 30 percent must be spent on post-adoption and post-guardianship services ((42 USC 673(a)(8)(D)(i) as amended by Pub. L. No. 113-183).

(4) There is no requirement that adoption savings be expended in the same FFY for which they are calculated. Title IV-E agencies must, however, use adoption savings to supplement and not supplant any federal or non-federal funds used to provide any service under Title IV-B or IV-E ((42 USC 673(a)(8)(D)(ii), as amended by Pub. L. No. 113-183). (**Note:** The auditor would be required to test compliance with the earmarking requirements of paragraph (b)(3) only during the audit period in which the Title IV-E agency reports (or expects to report) in its annual report (see paragraph (b)(2)) that the earmarking percentages have been met for one or more FFYs for which they are applicable).

2.2 Level of Effort – *Supplement Not Supplant*

Not Applicable

3. Earmarking

Not Applicable

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

d. *CB-496, Title IV-E Programs Quarterly Financial Report (OMB No. 0970-0510)* – Title IV-E agencies report current expenditures and information on children assisted for the quarter that has just ended and estimates of expenditures and children to be assisted for the next quarter. Prior quarter adjustment (increasing and decreasing) expenditures applicable to earlier quarters must also be separately reported on this form.

Beginning with the FFY 2015 reporting period, the Annual Adoption Savings Calculation and Accounting Report, CB-496 Part 4, must be submitted to provide information on the calculation and expenditure of adoption savings. The CB-496 Part 4 is due once a year with the CB-496 quarterly submission for the fourth quarter of the FFY. This report captures adoption savings calculations based on utilization of the Children's Bureau methodology, or an approved alternate methodology, and relevant CB-496 Part 1 reported expenditures submitted on quarterly reports for the current FFY.

A separate calculation of adoption savings is required for the current FFY (Column A) and for prior reported FFYs (Column B). The current FFY calculation considers title IV-E Adoption Assistance claims reported on Form CB-496 Part 1 quarterly submissions for the current FFY as current quarter amounts and any prior-quarter adjustment of expenditures (increasing or decreasing) identified (Part 2, Column D) as for applicable periods within the current FFY. The prior reported FFYs calculation considers any relevant reported prior-quarter adjustment of expenditures (increasing or decreasing) submitted on a Form CB-496 Part 1 report for quarterly periods within the current FFY but identified (Part 2, Column D) as applicable to periods in prior FFYs subject to adoption savings reporting.

The CB-496 Part 4 also contains a report of the expenditure of adoption savings for the current reporting FFY. The report separately identifies amounts expended during the current reporting FFY (Column A) and amounts spent in an earlier FFY subject to adoption savings reporting (Column B), but either not previously reported or adjusted from a previously reported amount.

The CB-496 Part 4 report further contains information on cumulative (beginning with FFY 2015) calculated and expended adoption savings amounts.

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

1. *Part 1, Expenditures, Estimates and Caseload Data,* columns (A) through (D) (Sections B and E (Adoption Assistance Program))

2. *Part 2, Prior Quarter Expenditure Adjustments – Adoption Assistance*, columns (A) through (E)

3. *Part 3, Foster Care, Adoption Assistance and Guardianship Assistance Demonstration Projects*, columns (A) through (F)

4. *Part 4, Annual Adoption Savings Calculation and Accounting Report*, columns (A) through (C)

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

Not Applicable

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.667 SOCIAL SERVICES BLOCK GRANT

I. PROGRAM OBJECTIVES

The purpose of the Social Services Block Grant (SSBG) program is to provide funds to states including the District of Columbia and five territories to provide services for individuals, families, and entire population groups in one or more of the following areas: (1) achieving or maintaining economic self-support and self-sufficiency to prevent, reduce, or eliminate dependency; (2) preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests; (3) preserving, rehabilitating, or reuniting families; (4) preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of intensive care; and (5) securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions The funds transferred by the US insular areas or territories for administration under the authority of SSBG and known as the Consolidated Block Grant or CBG subscribe to the objectives and principles of SSBG.

II. PROGRAM PROCEDURES

The SSBG program is administered by the Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS). Funds are awarded based on the recipient population following receipt and review of the state's and territory's report on the proposed use of funds for the coming year, which serves as the state's and territory's plan. States and territories have the flexibility to determine what services will be provided, consistent with the statutory goals and objectives, who is eligible, and how funds will be distributed among services and entities within the state, including whether to provide services directly or obtain them from other public or private agencies and individuals. The state and territory must also conduct a public hearing on the proposed use and distribution of funds, as included in the report, as a prerequisite to the receipt of SSBG funds.

Under the block grant statutory and regulatory framework, each state and territory is responsible for designing and implementing its own SSBG program, within very broad federal guidelines. States and territories must administer their SSBG program according to their approved plan and any amendments and in conformance with their own implementing rules and policies.

Source of Governing Requirements

The SSBG program is authorized under Title XX of the Social Security Act, as amended, and is codified at 42 USC 1397 through 1397e. Governing requirements pertaining to the consolidated grants to the territories, also known as the Consolidated Block Grant (CBG), may be found at Title V of the Omnibus Territories Act (Pub. L. 95-134), as amended. The implementing regulations for SSBG and other block grant programs authorized by Omnibus Budget Reconciliation Act of 1981 are published at 45 CFR Part 96. Those regulations include both

specific requirements and general administrative requirements for the covered block grant programs. Requirements specific to SSBG are in 45 CFR sections 96.70 through 96.74. While limited, SSBG is also subject to portions of 45 CFR Part 75, which is the HHS implementation of 2 CFR Part 200, commonly known as the Office of Management and Budget's Uniform Administrative Guidance. According to 45 CFR section 75.101(d), the requirements in Subpart C, Subpart D, and Subpart E do not apply to SSBG except for section 75.202 of Subpart C and sections 75.351 through 75.353 of Subpart D.

As discussed in Appendix I to this Supplement, "Federal Programs Excluded from the A-102 Common Rule and Portions of 2 CFR Part 200," states and territories are to use the fiscal policies that apply to their own funds in administering SSBG. Procedures must be adequate to ensure the proper disbursal of and accounting for federal funds paid to the recipients, including procedures for monitoring the assistance provided (45 CFR section 96.30).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	N	Y	N	N	Y	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

a. Services provided with SSBG funds may include, but are not limited to, child care services, protective services for children and adults, services for children and adults in foster care, services related to the management and maintenance of the home, day care services for adults, transportation services, family planning services, training and related services, employment services, information, referral, counseling services, the preparation and delivery of meals, health support services, and appropriate combinations of services designed to meet the special needs of children, seniors, individuals with developmental or physical disabilities, and individuals facing substance use disorders (42 USC 1397a(a)). Uniform definitions for these services are included in Appendix A to 45 CFR Part 96 – Uniform Definitions of Services.

   Expenditures for these services may include expenditures for administration, including planning and evaluation, personnel training and retraining directly related to the provision of those services (including both short- and long-term training at educational institutions), and conferences and workshops, and assistance to individuals participating in such activities (42 USC 1397a(a)).

b. A state and territory may purchase technical assistance from public or private entities if the state determines that such assistance is required in developing, implementing, or administering the SSBG program (42 USC 1397a(e)).

c. A state and territory may transfer up to 10 percent of its annual allotment to the following block grants for support of health services, health promotion and disease prevention activities, low-income home energy assistance, or any combination of these activities: Preventive Health and Health Services Block Grant (Assistance Listing 93.991); Block Grants for Prevention and Treatment of Substance Abuse (Assistance Listing 93.959); Maternal and Child Health Services Block Grant to the states (Assistance Listing 93.994); Low-Income Home Energy Assistance (Assistance Listing 93.568); and Community Services Block Grant (93.569) (42 USC 1397a(d); 45 CFR section 96.72).

2. *Activities Unallowed*

Funds may not be used for:

a. Purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any facility (unless the restriction is waived by ACF) (42 USC 1397(d)(a)(1)).

b. Cash payments for costs of subsistence or for the provision of room and board (other than costs of subsistence during rehabilitation, room and board provided for a short term as an integral but subordinate part of a

social service, or temporary shelter provided as a protective service) (42 USC 1397(d)(a)(2)).

c. Wages of any individual as a social service (other than payment of wages of Temporary Assistance for Needy Families (TANF) (Assistance Listing 93.558) recipients employed in the provision of child day care services) (42 USC 1397(d)(a)(3)).

d. Medical care (other than family planning services, rehabilitation services, or initial detoxification of an alcoholic or drug-dependent individual) unless it is an integral but subordinate part of an allowable social service under SSBG (unless the restriction is waived by ACF) (42 USC 1397(d)(a)(4)).

e. Social services (except services to substance use disorder or rehabilitation services) provided in and by employees of any hospital, skilled nursing facility, intermediate care facility, or prison, to any individual living in such institution (42 USC 1397(d)(a)(5)).

f. The provision of any educational service that the state makes generally available to its residents without cost and without regard to their income (42 USC 1397(d)(a)(6)).

g. Any child day care services unless such services meet applicable standards of state and local law (42 USC 1397(d)(a)(7)).

h. The provision of cash payments as a service (this limitation does not apply to payments to individuals with respect to training or attendance at conferences or workshops) (42 USC 1397(d)(a)(8)).

i. Any item or service (other than an emergency item of service) furnished by an entity, physician, or other individual during the period of exclusion from reimbursement by various provisions of federal regulations (42 USC 1397(d)(a)(9)).

j. The state may not use the amount transferred in from TANF (Assistance Listing 93.558) for programs, services or activities for individuals, children, or their families whose incomes exceed the 200 percent of the federal poverty guidelines. The official poverty guideline is revised annually by HHS (42 USC 604(d)(3)(A) and 9902(2)). The poverty guidelines are issued each year in the *Federal Register* and HHS maintains a web page that provides the poverty guidelines (http://aspe.hhs.gov/poverty/). Additional information on this transfer in is provided in IV, “Other Information.”

B. Allowable Costs/Cost Principles

The Omnibus Budget Reconciliation Act of 1981 authorized the SSBG. In 45 CFR 75.101(d)(1), this award has been exempted from most of 45 CFR Part 75 Uniform Administrative Requirements. This applies to states, territories, and subrecipients.

The HHS block grant rules allow recipients to obligate and expend SSBG funds in accordance with the laws and procedures applicable to the obligation and expenditure of their own funds at 45 CFR 96.30(a). States and territories may apply their own accounting standards on subrecipients, apply the Uniform Administrative Requirements, or allow subrecipients to use their own policies and procedures.

H. Period of Performance

SSBG funds must be expended by the state in the fiscal year allotted or in the succeeding fiscal year (42 USC1397a(c)).

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

a. Post-Expenditure Report (OMB #0970-0234): https://omb.report/icr/202402-0970-004/doc/139621001

The 42 USC 1397e requires states and territories to submit to the federal administering agency, the Office of Community Services, an annual Post Expenditure Report no later than six months following the close of the fiscal year.

Key Line Item

(1) The number of eligible individuals who received services paid for in part or in whole with federal funds under the SSBG.
(2) The amount of Social Services Block Grant funds spent in providing each service;
(3) The method(s) by which each service is provided, showing separately services provided by public agencies, private agencies, or both;

(4) The criteria applied in determining eligibility for each service such as income eligibility guidelines, sliding fee scales, the effect of public assistance benefits, and any requirements for enrollment in school or training programs; and

(5) Each state or territory's definition of "child," "adult," and "family."

(6) TANF Funds Transferred into SSBG –Amount reported on this line item should be consistent with the TANF federal financial report (ACF-196R).

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

IV. OTHER INFORMATION

Transfers out of SSBG

As discussed in III.A, "Activities Allowed or Unallowed," funds may be transferred out of SSBG to other federal programs. The amounts transferred out of SSBG are subject to the requirements of the program into which they are transferred and should not be included in the audit universe and total expenditures of SSBG when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amount transferred out should not be shown as SSBG expenditures but should be shown as expenditures for the program into which they are transferred.

Transfers into SSBG

A state and territory may transfer up to 10 percent of the combined total of the state family assistance grant, supplemental award for population increases, and bonus funds for high performance and illegitimacy reduction, if any, (all part of TANF) for a given fiscal year to carry out programs under the SSBG. Such amounts may be used only for programs or services to children or their families whose income is less than 200 percent of the poverty level. The amount of the transfers is reflected on the quarterly ACF-196/ACF-196R, TANF Financial Report. The amounts transferred into this program are subject to the requirements of this program when expended and should be included in the audit universe and total expenditures of this program when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred in should be shown as expenditures of this program when such amounts are expended.

Consolidation of Grants to the Insular Islands

Insular areas, including the US Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, may apply for a consolidated grant under 45 CFR Part 97. A consolidated grant award administratively combines allocations from two or more programs into one award. An insular area may apply for a consolidated grant in lieu of filing an individual application for any eligible.

The application process requires recipients to specify the amount of funds proposed for consolidation and the titles of the programs that are the sources of funds that are to be consolidated in their SSBG Intended Use Plan and Pre-Expenditure Report. Requests are reviewed by the program office and approval is recommended to the Office of Grants Management for processing.

Funds awarded under a consolidated grant must adhere to the statute and regulations of the SSBG program. Programs eligible for consolidation are specified in 45 CFR Part 97.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.671 FAMILY VIOLENCE PREVENTION AND SERVICES/DOMESTIC VIOLENCE SHELTER AND SUPPORTIVE SERVICES

I. PROGRAM OBJECTIVES

The purpose of this program is to assist states and Native American tribes (including Alaska Native Villages), tribal organizations (tribes) and territories in efforts to increase public awareness about, and primary and secondary prevention of family violence, domestic violence, and dating violence; and assist states and tribes in efforts to provide immediate shelter and supportive services for victims of family violence, domestic violence, or dating violence, and their dependents.

II. PROGRAM PROCEDURES

The Family Violence Prevention and Services Act (FVPSA) is designed to assist states in their efforts to support the establishment, maintenance, and expansion of programs and projects to: (1) prevent incidents of family violence, domestic violence, and dating violence; (2) provide immediate shelter, supportive services, and access to community-based programs for victims of family violence, domestic violence, or dating violence, and their dependents; and (3) provide specialized services for children exposed to family violence, domestic violence, or dating violence, including victims who are members of underserved populations (45 CFR 1370.10(a)).

The FVPSA states and tribal formula grant funds shall be used to identify and provide subawards to eligible entities for programs and projects within the state that are designed to prevent incidents of family violence, domestic violence, and dating violence by providing immediate shelter and supportive services; grant use may include paying for the operating and administrative expenses of the facilities for a shelter for adult and youth victims of family violence, domestic violence, or dating violence, and their dependents; and may be used to provide prevention services to prevent future incidents of family violence, domestic violence, and dating violence (42 USC 10408(a) and 42 USC 10408(b)(1)(A)).

To be eligible for funds, each state and tribe must submit an annual application. States and tribes are required to develop and submit a plan detailing the establishment, maintenance, and expansion of programs and projects to prevent incidents of family violence, domestic violence, and dating violence; to provide immediate shelter, supportive services, and access to community- based programs for victims of family, domestic, and dating violence, and their dependents; and to provide specialized services for children exposed to family, domestic, or dating violence, including victims who are members of underserved populations. This plan should look at all the needs across the state to help it distribute funding, conduct outreach, and provide training and technical assistance as appropriate with all its available resources

State Formula Grants

The state is required to distribute no less that 95 percent of the funds awarded to it from FVPSA.

Each state's grant award shall be $600,000 with the remaining funds allotted to each state based on the ratio of the population of all states (42 USC 10405(a)(2).

Tribal Formula Grants

Ten percent of the amount appropriated to FVPSA is allocated to tribal programs according to 42 USC 10403(a)(1) of FVPSA that is not reserved under 42 USC 10403(a)(2)(A)(i).

Source of Governing Requirements

The FVPSA program is authorized under 42 USC 10408 for states and 42 USC 10401 for tribes and implementing regulations at 45 CFR 1370.

On March 11, 2021, the American Rescue Plan Act of 2021 was signed into law, which provided a total of $152 million to State and Tribal Domestic Violence and Shelter Programs. The funds were awarded in FFY 2021 and are available until September 30, 2025.

Availability of Other Program Information

Additional information can be found in the Notice of Funding Opportunities (NOFO) and Program Information (PI) Memorandums issued by the Family Violence Prevention and Services Program Office, specifically:

- Standing Announcement for Family Violence Prevention and Services/Domestic Violence Shelter and Supportive Services/Grants to Native American Tribes (including Alaska Native Villages) and Tribal Organizations – HHS-2021-ACF-ACYF-FVPS-1961
- Standing Announcement for Family Violence Prevention and Services/Domestic Violence Shelter and Supportive Services/Grants to States – HHS-2021-ACYF-FVPS-1962
- Program Instruction: 2021 American Rescue Plan – Supplemental COVID-19 Funds (ACF-PI-FVPSA-21-01, issued May 20, 2021)
- Program Instruction: 2021 American Rescue Plan – Supplemental COVID-19 Testing, Vaccine Access, Mobile Health Units Access Funds (ACF-PI-FVPSA-21-03, issued October 25, 2021)
- Program Instruction: 2021 American Rescue Plan – Supplemental COVID 19 Funds - Rape Crisis Centers and Sexual Assault Programs (ACF-PI-FVPSA-21-4, issued October 29, 2021)
- Program Instruction: 2021 American Rescue Plan – Supplemental COVID 19 Funds – Culturally Specific; Sexual Assault; Domestic Violence; Community-Based (ACF-PI-FVPSA-21-05, issued October 29, 2021)

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/ Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	Y	N	N	N	N	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. State and tribal funds may be used for the following activities – but not limited to these activities:

      (1) Provision of immediate shelter and related supportive services to adult and youth victims of family violence, domestic violence, or dating violence, and their dependents, on a regular basis, including paying for the operating and administrative expenses of the facilities for such shelter (42 USC 10408(b)(1)(A));

      (2) Assistance in developing safety plans and supporting efforts of victims of family violence, domestic violence, or dating violence to make decisions related to their ongoing safety and well-being (42 USC 10408(b)(1)(B)

(3) Provision of individual and group counseling, peer support groups, and referral to community-based services to assist family violence, domestic violence, and dating violence victims, and their dependents, in recovering from the effects of the violence (42 USC 10408(b)(1)(C));

(4) Provision of services, training, technical assistance, and outreach to increase awareness of family violence, domestic violence, and dating violence, and increase accessibility to services (42 USC 10408(b)(1)(D));

(5) Provision of culturally and linguistically appropriate services (42 USC 10408(b)(1)(E));

(6) Provision of services for children exposed to family violence, domestic violence, or dating violence, including age-appropriate counseling, supportive services, and services for the non-abusing parent that support that parent's role as a caregiver, which may, as appropriate, include services that work with the non-abusing parent and child together (42 USC 10408(b)(1)(F));

(7) Provision of advocacy, case management services, and information and referral services concerning issues related to family, domestic, or dating violence intervention and prevention, including the following: (1) assistance in accessing related federal and state financial assistance programs; (2) provision of legal advocacy to assist victims and their dependents; (3) provision of medical advocacy, including referrals for appropriate health care (including mental health, alcohol, and drug abuse treatment), but not to include reimbursement for any health care services; (4) assistance locating and securing safe and affordable permanent housing and homelessness prevention services; (5) provision of transportation, child care, respite care, job training and employment services, financial literacy services and education, financial planning, and related economic empowerment services; and (6) provision of parenting and other educational services for victims and their dependents (42 USC 10408(b)(1)(G)); and

(8) Provision of prevention services, including outreach to underserved populations (42 USC 10408(b)(1)(H)); Additional detail or "bullets."

As detailed in ACF-PI-FVPSA-21-01, 2021 American Rescue Plan Act Supplement grant funds may be used to:

(1) **Prevent**: Activities that assist domestic violence survivors by providing supportive services, shelter options, and supplies,

which will reduce the exposure and risk of COVID-19.

(2) **Prepare**: Activities that include assessing needs of survivors during the COVID-19 public health emergency. Activities that provide training, information, and assistance necessary to ensure the continuity of domestic violence services. Assessing the capacity of local domestic violence programs and tribes' emergency operation plans and plans to address the needs of survivors and reduce the exposure and risk of COVID-19. Please note that the provision of remote services continues to be an allowable activity.

(3) **Respond**: Activities and technical assistance for ensuring the continuity of domestic violence services during the COVID-19 public health crisis which includes responding to issues including adapting to fluctuating needs and circumstances. Please note that the provision of remote services continues to be an allowable activity.

As detailed in ACF-PI-FVPSA-21-4, 2021 American Rescue Plan Act Rape Crisis Centers and Sexual Assault Program Supplemental COVID-19 Funds may be used to:

(1) **Transition to Virtual Services:** Funding may be used to develop, implement, and assess innovative virtual services that increase access to rape crisis and sexual assault services for survivors in the service area, as well as for underserved communities; and can be adapted and scaled across the state, territory, tribe or local community. All costs associated with designing, implementing, and assessing ways to optimize the use of virtual services for survivors of sexual assault that have been impacted by the COVID-19 public health emergency.

(2) **Data Security:** Costs associated with protecting the confidentiality, integrity, and availability of survivor services information, including safeguarding data from accidental and intentional disclosure. Funds may be used to support the safety of survivor data, including servers, firewall protection software, and training for personnel and survivors on topics such as proper use of devices and service portals, security of passwords, and available data safety features.

(3) **Prevent:** Activities that assist sexual assault survivors by providing virtual services, supportive services, temporary housing assistance, mobile advocacy services, and supplies that will ensure survivors of sexual assault receive the care, support and services they need while reducing the exposure to and risk of contracting the COVID-19 virus.

(4) **Prepare:** Activities and technical assistance that include assessing needs of sexual assault survivors during the COVID-19 public health emergency. Activities that provide training, information, and assistance necessary to ensure the continuity of rape crisis centers and sexual assault services.

(5) **Respond:** Activities and technical assistance for ensuring the continuity of sexual assault programs and rape crisis center services, culturally specific programs, and tribal programs during the COVID-19 public health emergency, which includes responding to issues such as adapting to fluctuating needs and changing circumstances.

(6) **Workforce Expansion, Capacity Building and Supports:** Utilized for workforce-related expansions and supports, or to reimburse sub-recipients or contractors.

As detailed in ACF-PI-FVPSA-21-03, 2021 American Rescue Plan Act Supplemental COVID-19 Testing, Vaccine Access, Mobile Health Units Access Funds may be used for:

(1) **COVID-19 Testing:** Can be used for COVID-19 testing and mitigation-related expenses or to reimburse subrecipients for such expenses. Assist states, territories and tribes with expanding testing and mitigation-related activities to the best address the needs of the local communities in the service area(s).

(2) **COVID-19 Vaccine Access:** Provide resources for states, territories and tribes to provide access to COVID-19 vaccines for domestic violence survivors and their dependents including individuals from vulnerable and medically underserved communities. Funds may be used to address any barriers to vaccines that may be experienced by domestic violence survivors and their dependents.

(3) **Mobile Health Units:** Funding to assist states, territories, tribes, domestic violence shelters, domestic violence programs, culturally specific programs, and rural communities with establishing partnerships with health departments, hospitals, and Indian Health Services facilities to access mobile health unites to mitigate the spread of COVID-19. The funding can be used to establish and maintain contracts with mobile health units for regularly scheduled visits or on-call visits to domestic violence program, culturally specific organizations, tribes, or rural communities to mitigate the spread of COVID-19.

(4) **Workforce Expansion, Capacity Building, and Supports:** Funds can be used for COVID-19 workforce related expansion and supports, or to reimburse subrecipients for such costs. Expenses to secure and maintain adequate personnel to carry out COVID-19 testing, COVID-19 mitigation activities, or mobile health unit coordination activities.

b. Funds may be used for administrative costs, subject to the limitation in G.3.a, "Matching, Level of Effort, Earmarking – Earmarking."

2. *Activities Unallowed*

Funds may not be used for the purchase or construction of facilities.

E. Eligibility

1. Eligibility for Individuals

Not Applicable

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

Not Applicable

3. Eligibility for Subrecipients

Eligible entities for state subawards under 42 USC section 10408(c): To be eligible to receive a subaward from a state, an entity shall be—

(1) a local public agency, or a nonprofit private organization (including faith-based and charitable organizations, community-based organizations, tribal organizations, and voluntary associations) that assists victims of family violence, domestic violence, or dating violence, and their dependents, and has a documented history of effective work concerning family violence, domestic violence, or dating violence; or

(2) a partnership of two or more agencies or organizations that includes (i) an agency or organization described in paragraph (1), and (ii) an agency or organization that has a demonstrated history of serving populations in their communities, including providing culturally appropriate services.

G. Matching, Level of Effort, Earmarking

1. Matching

Grants funded by the states will meet the matching requirements in 42 USC section 10406(c)(4). No grant shall be made to any entity other than a state or tribe unless the entity agrees that, with respect to the cost to be incurred by the entity in

carrying out the program or project for which the grant is awarded, the entity will make available (directly or through donations from public or private entities) nonfederal contributions in an amount that is not less than $1 for every $5 of federal funds provided under the grant. The nonfederal contributions required may be in cash or in kind.

Tribal Grantees Only: A tribe, as defined as defined in 42 USC section 10402(5), is exempt from the match requirement under the FVPSA. Tribes are not required to provide match (see 42 USC 10406(c)(4).

The determination of whether the match is exempt or required for a tribal consortium depends on the entities that comprise or make up the consortium. Tribal consortium is "a partnership between one or more tribes (including qualifying Alaska Native villages and entities) that authorizes a single tribal organization or nonprofit organization to submit an application and administer the FVPSA grant funds on their behalf. A tribal consortium may also consist of a group of tribal organizations or nonprofit organizations." A tribal consortium comprised of a group of tribes is exempt from providing a match, and a tribal consortium comprised of a group of tribal organizations or nonprofit organizations is required to provide a match.

2021 American Rescue Plan Act Supplemental Funds (1) Rape Crisis Centers and Sexual Assault Program Supplemental COVID-19; (2) COVID-19 Testing, Vaccine Access, Mobile Health Units Access Funds; (3) Culturally Specific Special Issue Resource Centers: There is no matching requirement for state or tribal grantees for the ARP supplemental grant funds.

2. Level of Effort

Not Applicable

3. Earmarking

a. States may use no more than 5 percent for costs related to administration, monitoring, or oversight, including the cost to attend required FVPSA grantee meetings.

2021 American Rescue Plan Act Supplemental COVID-19 Funds: Not more than five (5) percent of the FVPSA grant funds may be used for state administrative costs.

2021 American Rescue Plan Act Rape Crisis Centers and Sexual Assault Program Supplemental COVID-19 Funds: Each state, territory, or tribe may not use more than five (5) percent of grant funds for administrative costs.

2021 American Rescue Plan Act Supplemental COVID-19 Testing, Vaccine

Access, Mobile Health Units Access Funds: Each state, territory, or tribe may not use more than five (5) percent of grant funds for administrative costs.

2021 American Rescue Plan Act Culturally Specific Special Issue Resource Centers Supplemental COVID 19 Funds: Each Culturally Specific Special Issue Resource Center, National Indian Resource Center, and Alaskan Native Tribal Resource Center on Domestic Violence are allowed to use five (5) percent of grant funds for administrative and evaluation costs to administer, monitor, evaluate, and report on subrecipient' implementation.

M. Subrecipient Monitoring

1. The Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards (45 CFR Part 75) require pass-through entities to evaluate each subrecipient's risk for noncompliance in order to determine the appropriate monitoring level, monitor the activities of the subrecipient organizations to ensure that the subaward is in compliance with applicable federal statutes and regulations and terms of the subaward, and verify that subrecipients are audited as required by Subpart F of the Uniform Guidance. (See 45 CFR 75.352 (a) through (h)).

    a. Recipients must ensure that all requirements imposed by the federal government are flowed down to subrecipients so that the federal award is used in accordance with federal statutes, regulations, and the terms and conditions of the federal award.

    b. Recipients are also responsible for monitoring any additional requirements that its subrecipient must meet for the state to meet its own responsibility to HHS, including identification of any required financial and performance reports.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.676 UNACCOMPANIED CHILDREN PROGRAM

I. PROGRAM OBJECTIVES

The objective of the Unaccompanied Alien Children (UAC) Program is to provide for the care and placement of unaccompanied children who are apprehended by the Department of Homeland Security, Immigration and Customs Enforcement agents, Border Patrol agents, or other federal agencies and transferred into the custody of the Office of Refugee Resettlement (ORR) pending resolution of their claims for relief under U.S. immigration law case or until their safe and timely release to parent, adult family members or another responsible adult sponsor.

II. PROGRAM PROCEDURES

The ORR, Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS), administers this program. ORR enters into cooperative agreements or contracts with recipients to provide temporary shelter and other child welfare-related services to unaccompanied children in ORR custody. Residential care services begin once an unaccompanied child arrives at an ORR facility and ends when the child is released from ORR custody to a sponsor, turns 18 years of age, or the child obtains lawful immigration status or is removed from the United States following the conclusion of their immigration proceedings. Residential care and other child welfare-related services are provided by state-licensed residential care programs in the least restrictive setting appropriate for the child's age and needs.

Source of Governing Requirements

This program is authorized under the Homeland Security Act of 2002 (Pub. L. No. 107-296) (6 USC 279); and the Trafficking Victims Protection Reauthorization Act of 2008, as amended (Pub. L. No. 110-457) (8 USC 1232). See also, Title 45 of the Code of Federal Regulations (CFR), Part 410, Care and Placement of Unaccompanied Children and 45 CFR Part 411, Standards to Detect, Protect and Respond to Sexual Abuse and Sexual Harassment Involving Unaccompanied Children.

Availability of Other Program Information

An ORR (UAC) Program Policy Guide is on the ORR website (https://www.acf.hhs.gov/orr) at https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied.

Requirements for the program including allowability of costs can also be found in 45 CFR Part 75; applicable requirements under 2 CFR Part 200-Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (Uniform Guidance); and policies and guidelines for the HHS awards in the HHS's Grants Policy Statement (GPS).

Although HHS's GPS is not law or a regulation it provides further information and clarification on the awarding process, allowable costs and limits, and the legal and regulatory award requirements. Effective October 1, 2024, HHS has revised its GPS. The new GPS applies to awards or supplemental awards made on or after October 1, 2024. Awards provided prior to this effective date are subject to the previous GPS issued in 2007. HHS updates the GPS when there are changes in the regulations and program requirements. In planning and conducting their audit, auditor should look for the latest version of the document from the HHS website.

Similarly, HHS has released an interim final rule (IFR) that implements the Uniform Guidance in two phases. For the first phase, HHS implemented the eight changes that the OMB issued to amend the Uniform Guidance requirements on April 22, 2024. The new changes are applicable for awards or supplemental awards made on or after October 1, 2024 and replace the corresponding regulations contained in 45 CFR Part 75. Accordingly, Part III and Part IV of this compliance supplement below cites 45 CFR Part 75 effective October 1, 2024. HHS expects to fully adopt the Uniform Guidance requirements on October 1, 2025 and will modify 12 HHS-specific provisions which will be incorporated in 2 CFR Part 200.

For more information on HHS's transition to the Uniform Guidance or adoption of the new GPS, please visit:

- https://www.hhs.gov/about/news/2024/09/27/hhs-adopts-new-rules-federal-financial-assistance-2-cfr-part-200-publishes-updated-grants-policy-statement-gps-make-grants-more-accessible-transparent.html
- https://www.federalregister.gov/documents/2024/04/22/2024-07496/guidance-for-federal-financial-assistance
- https://www.hhs.gov/sites/default/files/hhs-grants-policy-statement-october-2024.pdf

Other applicable policies and regulations are located at https://www.hhs.gov/grants-contracts/grants/grants-policies-regulations/index.html.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	N	Y	Y	N	Y	Y	N

A. Activities Allowed or Unallowed

Funds may only be used for activities and categories listed in the approved budget to provide temporary shelter and other child welfare-related services for the care of an unaccompanied child placed with the non-federal (recipient) entity by ORR.

B. Allowable Costs/Cost Principles

1. *Allowable and Unallowable Operating or Finance/Capital Lease Costs.*

   a. *Finance/Capital Lease Costs*: Pursuant to 45 CFR section 75.403(e), except for states and local governments, allowable lease costs must be determined in accordance with the U.S. Generally Accepted Accounting Principle (GAAP). Lease classification must be determined, in accordance with GAAP, at the inception of the lease (see FASB's ASC 842). Documentation of lease classification at the lease inception date must be retained by the recipient whenever rental costs are charged to the award (45 CFR section 75.403(g)).

   If a lease is classified as finance (formerly capital) lease based on present value (PV) criteria, documentation retained at the lease inception date should include calculation of the PV criteria and supporting records for allowable costs of ownership (e.g., third-party fair market value, property tax, property insurance, and repairs and maintenance invoices and receipts).

   Operating or capital lease classification was dictated by ASC 840/FAS 13. ASC 840 is superseded by the updated codification ACS 842 which dictates lease classification either as operating or finance leases. When determining allowable costs and applying the correct accounting standard, the lease inception date, the date of the award, and date of the rent expenses are among the relevant factors to consider.

Allowable costs for finance (formerly capital) leases are limited to costs of ownership pursuant to 45 CFR section 75.465(c), item (5) with reference back to paragraph (b) of section 75.465. Paragraph (b) describes sale and leaseback arrangements and what can be used to determine allowable costs for these leases. Paragraph (c) discusses related party leases (items 1-4) and capital/finance leases (item 5) with reference back to paragraph (b) for allowable costs. Basically, paragraph (b) is applicable because paragraph (c) is applicable, and it refers to paragraph (b). As costs of ownership may often be less than fair market value of the lease, there is a risk that recipients may classify their leases as operating leases without reasonable and documented consideration. Unallowable costs include amounts paid for profit, management fees, and taxes that would not have been incurred had the non-Federal entity purchased the property.

Further information is available at the ACF Property Guidance site: https://www.acf.hhs.gov/grants/manage-grant/property/guidance.

b. *Operating Lease Costs*: Pursuant to 45 CFR section 75.465(a), reimbursement of program funds for operating leases should be limited to the fair market value of rental costs. Rental charges under operating leases are reasonable when they are comparable to market rental rates for similar properties within the same geographic location (45 CFR section 75.404(c)). A lease can still be classified as an operating lease and be above the fair market rate and, thus, would include unallowable costs.

If properly classified as an operating lease, documentation retained at the inception of the lease to support this classification should also include a fair market value analysis of the rent for properties within similar geographic locations and not be limited to only Federally funded properties.

2. *Allowable and Unallowable Rental Costs Under Less-than-arm's-length Leasing Arrangements.*

Award recipients may lease facilities from parties with which they have a less-than-arm's-length relationship but are limited in what amount they may charge to the federal award based on 45 CFR section 75.465(c), and the limitations stated in paragraph 75.465(b). Under these limitations, only costs of ownership such as depreciation, maintenance costs, taxes, and insurance are allowable. Common arrangements that fall within these restrictions are leases with parent or affiliated organizations, leases with partially or wholly-owned subsidiaries, and leases where the lessor is an entity that is partially or wholly controlled by individuals who are executives, board members, or employees of the recipient organization. Recipients must identify and document related parties or less-than-arm's-length leases and provide proof that unallowable costs are excluded from program reimbursements (45 CFR section 75.403(g)). Further information is available at

the ACF Property Guidance site: https://www.acf.hhs.gov/grants/manage-grant/property/real-property and such leases as identified at: eCFR :: 45 CFR section 75.465 -- Rental costs of real property and equipment.

3. *Allowable and Unallowable Acquisition, Construction, or Major Capital Improvements of Real Property Costs.*

   a. *Allowable Improvement Costs*: The UAC program awards may pay for up to an aggregate of $250,000 in "minor" alterations and renovations (those that are not major), per parcel, per project period. Capital improvements require explicit written prior approval from the awarding agency (45 CFR section 75.407(a)(13), 45 CFR section 75.439). Further information is available at the ACF Property Guidance site, including the Glossary section: https://www.acf.hhs.gov/grants/manage-grant/glossary.

   b. *Unallowable Capital Improvement Costs*: Funding under this program cannot be directly used for any of these purposes as the program does not have statutory authority to do so. Expenses such as direct charges of acquisition costs, mortgage principal and interest payments, and direct charges for alterations to real property which are considered major capital improvements and required to be capitalized and depreciated under GAAP, are unallowable as direct charges to the UAC program awards. Major capital improvements are those alterations and renovations (A&R) which exceed $250,000 individually or in aggregate per parcel of land per project period. Only depreciation properly calculated (see 45 CFR section 75.436), recorded, and supported by the recipient organization in accordance with GAAP may be charged to UAC program awards.

4. *Improperly Categorized Related Party Transactions.*

   Procurements that are issued to parent/subsidiary/affiliated organizations where the relationship falls within the definition of less-than-arm's-length when there is a real or apparent conflict of interest cannot be considered competitively awarded as defined by 45 CFR section 75.327(c). Consequently, it is improper to categorize these transaction types under the contract budget line item and include additional revenue over actual expenditures incurred (i.e., profit). These transactions should be treated under the original nature of the work performed (e.g., salaries, supplies) and charged based on the actual expenditures incurred and evidenced by the recipient.

   Recipients should identify related party transactions in accordance with GAAP (45 CFR section 75.403(e)), maintain support documents (45 CFR section 75.302(b), item (3), and 45 CFR section 75.403(g)) and ensure that unallowable costs are excluded from program reimbursements (costs in excess of ownership for leases (45 CFR section 75.465) and profit (45 CFR section 75.216(b)).

5. *Allowable Direct and Indirect Costs*

Cost categories that are not always clearly direct or indirect by nature (administrative staff, depreciation) and therefore could easily be charged as either under this program are in some instances being charged as both. Costs may be charged as either direct or indirect, but not both, per 45 CFR section 75.412.

6. *Record Retention Non-compliance Regarding Facility Files/Depreciation Schedules.*

An organization's records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report per 45 CFR section 75.361. Therefore, records related to depreciation expense (purchase settlements, appraisals, construction invoices, useful life determinations) charged to a Federal award for such events as the acquisition (through any method, including donation) and major A&R of real property must be maintained for the life of the period that depreciation is being expensed.

8. *Prior Written Approval Requirements*

Award recipients must request prior approval in writing to ACF before obligating or incurring the expenditures outlined in 45 CFR section 75.407. Requests for prior approval must be explicit enough so that ACF can identify the purpose and cost of the expenditure. Approval of budgets that include general budgetary descriptions and budget line-item totals is not sufficient. Additionally, recipients must receive explicit written approval from an authorized member of ACF. A lack of response is not, in itself, approval.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

d. *SF-428 Tangible Personal Property Report* – Submission within 90 days of the project period end (close-out of the award) including all applicable attachments

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

IV OTHER INFORMATION

Monitoring of recipients and recipient audits by HHS has identified the following areas of risk that auditors should be aware of:

1. *Demand Driven Drawdowns*

   Budgeted costs are inappropriately being utilized as the basis for an estimated drawdown of funds and completing required reporting to ACF. Amounts approved under budget line items in awards are not automatically approved for drawdown. Recipients must minimize the time elapsed between actual disbursement of funds and drawdowns (45 CFR section 75.305), specifically time elapsed should be no more than 3 business days (Department of Treasury regulations and HHS 2024 GPS).

2. *Reconciliation of Financial Reports*

   Drawdowns and the related reporting of expenditures to ACF via the Standard Form (SF)-425, "Federal Financial Report," must be based on actual expenditures incurred and must be reconciled to the recipient's financial records, net of audit adjustments (45 CFR section 75.342). Additionally, SF-425 reporting must be based on the entity's basis for accounting (e.g., cash or accrual) as designated by the recipient in their financial records (45 CFR section 75.302). Also see Part 3.L for audit guidance.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.686 ENDING THE HIV EPIDEMIC: A PLAN FOR AMERICA-Ryan White HIV/AIDS Program Parts A and B

I. PROGRAM OBJECTIVES

The objective of this program is to reduce new Human Immunodeficiency Virus (HIV) infections in the United States to fewer than 3,000 per year by 2030. To achieve this objective, the program provides financial and technical resources to the 39 Ryan White HIV/AIDS Program (RWHAP) Part A funded Eligible Metropolitan Areas (EMAs) or Transitional Grant Areas (TGAs) whose service area includes one or more of the identified 48 HIV high burden counties and the EMAs of Washington, DC, and San Juan, PR; the RWHAP Part B funded states identified as having a rural HIV burden (Alabama, Arkansas, Kentucky, Mississippi, Missouri, Oklahoma, and South Carolina); and the RWHAP Part B Program of the state of Ohio on behalf of Hamilton County. These resources are awarded to the indicated RWHAP Part As and Bs to implement strategies, interventions, approaches, and core medical and support services to reduce new HIV infections in the United States.

II. PROGRAM PROCEDURES

The Department of Health and Human Services (HHS) leads the planning efforts for Ending the HIV Epidemic in the U.S. (EHE), which is implemented through the Health Resources and Services Administration (HRSA) and other HHS Agencies. While the EHE initiative is a multi-agency effort, the program procedures outlined in this Compliance Supplement are only applicable to assistance awards issued and managed by HRSA's HIV/AIDS Bureau.
Under this program, cooperative agreements are awarded annually to 39 RWHAP Part A funded Eligible Metropolitan Areas (EMAs) or Transitional Grant Areas (TGAs) whose service area includes one or more of the identified 48 HIV high-burden counties and the EMAs of Washington, DC, and San Juan, PR; seven RWHAP Part B funded states identified as having a rural HIV burden (Alabama, Arkansas, Kentucky, Mississippi, Missouri, Oklahoma, and South Carolina); and the RWHAP Part B Program of the state of Ohio on behalf of Hamilton County. (For a complete list of EHE initiative-eligible jurisdictions visit: https://www.hrsa.gov/grants/find-funding/HRSA-20-078 and download Notice of Funding Opportunity-HRSA 20-078.)

HRSA assesses the technical merit of each funding application through an objective review process. Application instructions and critical indicators for review criteria are provided to inform applicants and reviewers of proposal expectations and standards for evaluation. Competing applications are reviewed by nonfederal reviewers for technical merit recommendations. Applications are reviewed and evaluated against the following criteria: (1) Need; (2) Response; (3) Evaluative Measures; (4) Impact; (5) Resources and Capabilities; and (6) Support Requested. The highest-ranked applications receive consideration for awards within available funding ran Applicants must describe how proposed activities will expand access to HIV care and treatment in the targeted jurisdictions to treat people with HIV rapidly and to effectively reach sustained

viral suppression. Additionally, applicants must demonstrate how their proposed strategy will respond quickly to HIV cluster detection efforts for those people with HIV needing care and treatment.

Jurisdictions funded under the EHE initiative use assistance resources in conjunction with the RWHAP parts A and B systems of HIV care and treatment to develop, implement, and/or enhance innovative approaches to engage people with HIV who are newly diagnosed, not in care, and/or not virally suppressed, as well as to provide rapid access to a comprehensive continuum of high-quality HIV care and treatment services. This program is designed to provide additional funding to EHE initiative jurisdictions to deliver HIV care and treatment services and systems enhancements to meet the goals of the initiative. Technical assistance and systems coordination services are also provided to jurisdictions to assist the recipients in (1) implementing work plan activities, innovative approaches, and interventions, (2) coordinating and integrating their initiative plans, funding sources, and programs with the existing HIV care delivery systems, and (3) identifying existing and new stakeholders to build capacity and advance progress in achieving the goals of the initiative.

Funded jurisdictions use a variety of service delivery mechanisms. Jurisdictions may provide some or all services directly or through subaward agreements with other service providers/subrecipients. All requirements flow down through subawards, and recipients are expected to engage in active subrecipient monitoring.

Source of Governing Requirements

The EHE initiative is authorized under Section 311(c) (42 USC 243(c)) and title XXVI (42 USC 300ff-11 et seq.) of the Public Health Service Act.

The EHE initiative has no specific program regulations.

Availability of Other Program Information

Further information about the EHE initiative is available at https://ryanwhite.hrsa.gov/.

Information on allowable uses of funds under the RWHAP is contained in policy notices and standards found at https://ryanwhite.hrsa.gov/program-letters/policy-notices. However, due to the unique nature of this funding, EHE initiative recipients have the opportunity to implement a broader approach to addressing HIV in their communities than what exists in services authorized by the RWHAP legislation. Notice of Funding Opportunity HRSA-20-078 (https://www.hrsa.gov/grants/find-funding/HRSA-20-078) provides additional information regarding the use of these funds, including which of the RWHAP statutory requirements apply to this funding.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2,

"Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	Y	N	N	Y	Y	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. Funds may be used to support EHE initiative services and HIV service delivery activities associated with a broader approach to addressing HIV in the community than exists in services authorized by the RWHAP legislation. For example, the only requirement for determining eligibility is that the individual has an HIV diagnosis. There is no requirement that individuals served are low-income or that initial eligibility is documented before services are provided. Initiative services (e.g., linkage to care) are services and activities that do not fit neatly within the RWHAP service categories. These services may be innovative and creative with a focus on ending the HIV epidemic. HRSA's prior approval is required for the use of funds outside of existing allowable RWHAP costs and service categories. Activities are associated with the development and expansion of data systems. This may include technical assistance on the type, design, and building of new data systems, bridging existing systems to achieve data integration, improving data entry to decrease burden and increase accuracy, training of staff and providers on collecting and using data, and employing experts to provide accurate and in-depth data analysis.

b. Funds may be used to support core medical services for eligible clients. Core medical services encompass the following services: (1) outpatient and ambulatory health services; (2) AIDS Drug Assistance Program treatments defined under 42 USC 300ff-26; (3) AIDS pharmaceutical assistance; (4) oral healthcare; (5) early intervention services described in 42 USC 300ff-51(e); (6) health insurance premium and cost-sharing assistance for low-income individuals in accordance with 42 USC 300ff-15; (7) home healthcare; (8) medical nutrition therapy; (9) hospice services; (10) home and community-based health services as defined under 42 USC 300ff-14(c); (11) mental health services; (12) substance abuse outpatient care; and (13) medical case management, including treatment adherence services. Core medical and support services are important to assist in the diagnosis of HIV infection, linkage to care for people with HIV, retention in care, and the provision of HIV treatment. Services must relate to HIV diagnosis, care, and support, and must adhere to established clinical practice standards consistent with HHS HIV clinical treatment guidelines. However, to increase innovation and to ensure access to the hardest-to-reach populations, there is no requirement to expend 75 percent of the award on core medical services (PCN 16-02, https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/grants/service-category-pcn-16-02-final.pdf).

c. Funds may be used to pay the costs of providing support services that are needed for people with HIV to achieve their medical outcomes. These services include but are not limited to, outreach services, nonmedical case management, medical transportation, translation, and referrals for healthcare and support services. Support services are subject to the approval of the secretary of HHS or designee (PCN 16-02, https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/grants/service-category-pcn-16-02-final.pdf).

d. Funds may be used for administrative expenses. Administrative expenses at the **recipient level** are activities related to routine grant administration and monitoring activities, including the receipt and disbursal of program funds, the development and establishment of reimbursement and accounting systems, the preparation of routine programmatic and financial reports, compliance with grant conditions and audit requirements; and all activities associated with the recipient's contract award procedures; the development of requests for proposals, contract proposal review activities, negotiation and awarding of contracts, monitoring of contracts through telephone consultation, written documentation or onsite visits, reporting on contracts, and funding reallocation activities.

Administrative expenses at the **subrecipient level** include: (1) usual and recognized overhead activities, including established indirect rates for agencies; (2) management oversight of specific programs funded under the EHE initiative; and (3) other types of program support such as quality

assurance, quality control, and related activities (exclusive of clinical quality management (PCN 15-01, https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/grants/pcn-15-01.pdf).

e. Funds may be used for the establishment of a clinical quality management (CQM) program to assess the extent to which medical services that are provided to patients are consistent with the most recent HHS HIV clinical treatment guidelines and related opportunistic infections, and, as applicable, to develop strategies for ensuring that such services are consistent with the guidelines, and to ensure that improvements in the access to and quality of HIV health services are addressed. For further guidance on the criteria for CQM programs, refer to PCN 15-02, https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/grants/pcn-15-02-cqm.pdf.

f. Funds may be used for planning and evaluation activities. Planning and evaluation costs are associated with stakeholder engagement and process and outcome evaluation activities.

2. *Activities Unallowed*

a. Funds may not be used to make payments for any item or service to the extent that payment has been made or can reasonably be expected to be made for that item or service under any state compensation program, under an insurance policy (except for a program administered by or providing the services of the Indian Health Service), or under any federal or state health benefits program or by an entity that provides health services on a prepaid basis (42 USC 300ff-15(a)(6) and 300ff-27(b)(7)(f)).

b. Funds may not be used to purchase sterile needles or syringes for the hypodermic injection of any illegal drug (Consolidated Appropriations Act, 2016 (Pub. L. No. 114-113), Division H, Title V, Section 520, and subsequent appropriations, as applicable. Other elements of syringe services programs may be allowable if in compliance with applicable HHS and HRSA-specific guidance. For further guidance on the use of HRSA funds on syringe services programs, see https://www.hiv.gov/federal-response/policies-issues/syringe-services-programs.

c. Funds may not be used to purchase or improve land or to purchase, construct or make permanent improvements to any building (42 USC 300ff-14(i) and 300ff-22(f)). (Minor alterations and renovations to an existing facility to make it more suitable for the award program are allowable with prior HRSA approval.)

d. Funds may not be used to contract with or grant financial assistance to any providers of care that do not have a participation agreement under the state

plan approved under title XIX of the Social Security Act, or, if not qualified to receive payments under such state plan (42 USC 300ff-14(g)).

e. Funds may not be used to support clinical research.

f. Funds may not be used to purchase Pre-Exposure Prophylaxis (PrEP) medications and related medical services or Post-Exposure Prophylaxis (PEP), as the person using PrEP or PEP does not have HIV and is therefore not eligible for EHE initiative-funded or RWHAP-funded medication. For further guidance, see the HAB Program Letter on PrEP at https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/hiv-care/prep-dcl-november-2021-508.pdf.

g. Funds may not be used to support international travel.

h. Funds may not be used to make cash payments to intended recipients of services (42 USC 300ff-14(i) and 300ff-22(f)).

B. Allowable Costs/Cost Principles

Costs charged to federal funds under this program must comply with the cost principles at 45 CFR Part 75, Subpart E, and any other requirements or restrictions on the use of federal funding.

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort

Not Applicable

3. Earmarking

a. No more than 10 percent of the award can be used for administrative expenses.

b. No more than 5 percent of the award can be used for clinical quality management expenses

c. Planning and evaluation costs may not exceed 10 percent of the grant award. Collectively, recipient administration and planning and evaluation costs may not exceed 15 percent of the grant award (42 USC 300ff-28(b)(4)).

J. Program Income

The Notice of Award provides guidance on the use of program income. The addition method is used for EHE initiative award recipients. Program income must be used for activities described in III.A.1, "Activities Allowed."

L. Reporting

1. Financial Reporting

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

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3. L for audit guidance.

DEPARTMENT OF HEALTH AND HUMAN SERVICE

ASSISTANCE LISTING 93.767 CHILDREN'S HEALTH INSURANCE PROGRAM (CHIP)

I. PROGRAM OBJECTIVES

Title XXI of the Social Security Act (Act) authorizes the Children's Health Insurance Program (CHIP) to assist state efforts in initiating and expanding the provision of child health assistance to uninsured, low-income children. CHIP is a joint federal and state program that provides health coverage to uninsured children in families with incomes too high to qualify for Medicaid, but too low to afford private coverage. States may also choose to provide CHIP coverage, such as prenatal, delivery, and postpartum care to targeted low-income uninsured individuals. See Children's Health Insurance Program (CHIP) (https://www.medicaid.gov/chip/index.html) for published guidance and information. Under Title XXI, states may provide child health assistance primarily for obtaining health benefits coverage through (1) obtaining coverage under a separate child health program that meets specific requirements, (2) expanding benefits under the state's Medicaid plan under Title XIX of the Act, or (3) a combination of both.

II. PROGRAM PROCEDURES

A. Overview

The following paragraphs are intended to provide a high-level, overall description of how CHIP generally operates. It is not practical to provide a complete description of program procedures because CHIP operates under both federal and state laws and regulations and states are afforded flexibility in program administration. Accordingly, the following paragraphs are not intended to be used instead of or as a substitute for the federal and state laws and regulations applicable to this program.

Administration

Title XXI authorizes grants to states that initiate and expand health insurance programs for uninsured, low-income children. CHIP is administered by the states but is jointly funded by the federal government and states. Within broad federal guidelines, each state determines the design of its program, eligible groups, benefit packages, payment levels for coverage, and administrative and operating procedures. States can design their CHIP program in one of three ways:

1. Separate CHIP: a program under which a state receives federal funding to provide child health assistance to uninsured, low-income children that meets the requirements of section 2103 of the Act.

2. Medicaid expansion CHIP: a program under which a state receives federal funding to expand Medicaid eligibility to optional targeted low-income children that meet the requirements of section 2103 of the Act.

3. Combination CHIP: a program under which a state receives federal funding to implement both a Medicaid expansion and a separate CHIP.

Each state is provided an annual CHIP allotment. States must provide matching funds to get their federal funding allotment. Federal payments under Title XXI to states are based on state expenditures under approved plans that could be effective on or after October 1, 1997. CHIP expenditures are matched by the federal government according to the State's Enhanced Federal Medical Assistance Percentage (E-FMAP) and subject to their annual allotment.

To be eligible for funds under this program, states must submit a state child health plan (CHIP state plan). CHIP state plans and amendments to those plans are approved by CMS on behalf of the Secretary of the Department of Health and Human Services. The amendments are reviewed by an intra-departmental team, which must decide whether to approve or disapprove the amendment within 90 days. This "90-day clock" can be stopped by CMS sending the state a formal written request for additional information from the state and can be restarted at the same point when a response is formally received from the state. Copies of CHIP state plans are available on Medicaid.gov at https://www.medicaid.gov/chip/state-program-information/index.html.

According to section 2107(e)(1)(B) of the Act, cross referencing Title XIX requirements at 1902(a)(25) of the Act, states must take reasonable measures to determine the legal liability of third parties to pay for services furnished under the CHIP state plan. Such reasonable measures could include:

- Collect health insurance information during the initial eligibility application process and the redetermination process.

- Conduct diagnosis and trauma code edits to identify specific codes which could denote trauma-related injury.

- Conduct data exchanges with:

    - state wage information collection agencies,

    - SSA wage and earnings files,

    - state title IV-A agencies,

    - state motor vehicle accident report files, and

    - state workers' compensation or Industrial Accident Commission files.

Waivers

The state may apply for a waiver of CHIP federal requirements under section 1115 of the Act. Waivers are intended to provide the flexibility needed to enable states to try experimental, pilot, or demonstration projects that, in the judgment of the Secretary, are likely to assist in promoting the objectives of the CHIP program. Where approved by the Secretary, and subject to specific safeguards for the protection of beneficiaries and the program, waivers allow exceptions to CHIP state plan requirements and permit the state to implement innovative programs or activities on a time-limited basis, permit states to try new or different approaches to the efficient and cost-effective delivery of health care services to children or adapt their programs to the special needs of particular areas or groups of beneficiaries. The Secretary will approve only demonstration projects that are consistent with key principles of the CHIP statute. States' waiver authority is found in section 2107(e)(2)(A) of the Act (42 USC 1397gg(e)(2)(A)), which extends to CHIP the Medicaid waiver authority at section 1115 of the Act (42 USC 1315).

B. Background

The COVID-19 Public Health Emergency (PHE) interrupted many areas of regular state operations. CMS issued a series of State Health Official (SHO) letters providing guidance on returning to regular operations, including ending temporary authorities when the PHE concluded, making temporary changes permanent where legally permissible and otherwise appropriate, ending expiring requirements, and addressing pending eligibility and enrollment actions that developed as a result of the continuous enrollment condition. States should have documentation available to describe the temporary changes made to their programs in response to the PHE as well as their plans for returning to normal operations following the expiration of the PHE.

Some of the major areas to note include the following:

a. Telehealth

Federal telehealth requirements provide states with significant flexibility, and states have broad variability in their approaches to incorporating telehealth into their Medicaid and CHIP programs. CMS also recognizes that, in many circumstances, states have adopted Medicaid and CHIP telehealth policies that mirror Medicare telehealth policies, for which regulatory flexibilities were provided and could be extended. To assist states with understanding the flexibilities regarding Medicaid and CHIP telehealth policy a Telehealth Toolkit, which was updated on October 14, 2020, was created. It highlights policy and operational questions that a state may consider when designing their approach (State Medicaid & CHIP Telehealth Toolkit, *Policy Considerations for States Expanding Use of Telehealth - COVID-19 Version* https://www.medicaid.gov/medicaid/benefits/downloads/medicaid-chip-telehealth-toolkit.pdf) (State Medicaid & CHIP Telehealth Toolkit, *Policy Considerations for States Expanding Use of Telehealth - COVID-19 Version*: Supplement #1. https://www.medicaid.gov/medicaid/benefits/downloads/medicaid-chip-telehealth-toolkit-supplement1.pdf). To support healthcare delivery while minimizing face-to-face

encounters during the COVID-19 PHE, many states have significantly accelerated adoption of telehealth, including through telephonic modalities, across a wide variety of disciplines.

b. Beneficiary Eligibility and Enrollment

The COVID-19 PHE and associated changes interrupted regular, timely eligibility renewal processes and resulted in a large volume of overdue renewals for states to complete. In SHO Letter # 22-001, "Promoting Continuity of Coverage and Distributing Eligibility and Enrollment Workload in Medicaid, the Children's Health Insurance Program (CHIP), and Basic Health Program (BHP) Upon Conclusion of the COVID-19 Public Health Emergency," (sho22001.pdf), CMS provided guidance regarding eligibility renewals following the end of the Medicaid continuous enrollment condition. The guidance provided that states were to initiate all pending eligibility actions within a 12-month unwinding period and to complete all work initiated during their unwinding period by the end of the 14th month after the first month of the unwinding period.

As states progressed through their unwinding periods, it became clear that some of the challenges states faced (e.g., workforce shortages, renewal compliance issues, systems limitations, etc.) impacted their ability to complete unwinding-related renewals and restore routine operations within the original timelines. To ensure sufficient time for states to complete unwinding-related renewals, address renewal backlogs, and expedite a return to compliance with renewal timeliness requirements, CMS provided authority for states, subject to specific terms and conditions outlined in a CMCS Information Bulletin (CIB) issued on August 29, 2024, to continue to use the exception described at 42 CFR § 435.912(e), applicable to CHIP through a cross-reference at 42 CFR § 457.340(d)(1), that allows states to delay timely processing of renewals in "unusual circumstances" through December 31, 2025.

Many states adopted strategies to ensure renewals were distributed and processed in a manner that maintains continuity of coverage for eligible individuals and facilitates seamless coverage transitions for those who become eligible for other insurance programs. SHO letter #22-001 discusses the section 1902(e)(14)(A) of the Act authority under which states were permitted to implement time-limited strategies to protect beneficiaries in addressing the challenges states may face as they transition to routine operations during the unwinding period. This authority was extended through June 30, 2025 as discussed in the CIB issued May 9, 2024 on the extension of temporary unwinding related flexibilities (available at https://www.medicaid.gov/federal-policy-guidance/downloads/cib050924-e14.pdf). On November 14, 2024 issued a CIB describing state options for use of unwinding-related strategies to support long-term improvements in their eligibility and enrollment processes (available at https://www.medicaid.gov/federal-policy-guidance/downloads/cibe1411142024.pdf). Further information about these flexibilities and the specific strategies utilized by each state can be found at https://www.medicaid.gov/resources-for-states/coronavirus-disease-2019-covid-19/unwinding-and-returning-regular-operations-after-covid-19/covid-19-phe-unwinding-section-1902e14a-waiver-approvals/index.html.

c. Managed Care

As previously described in CMS guidance (https://www.medicaid.gov/sites/default/files/2021-01/covid-19-faqs.pdf),if a benefit or other identified flexibility is covered under a state plan, waiver, or demonstration, CMS encourages states to amend their managed care plan contracts, if not already included, to extend the same flexibilities the managed care plans may have adopted during the COVID-19 PHE. States may also amend their managed care contracts and assess if changes are needed to capitation rates to account for the COVID-19 PHE.

d. Other Benefits and Changes

In response to the COVID-19 PHE, many states have implemented emergency measures to ensure that Medicaid and CHIP beneficiaries continue to have access to essential health services. Specific to CHIP, states have submitted disaster relief state plan amendments (SPAs) to suspend, add, and revise policies that could prevent enrollees from accessing needed care during the PHE.

Payment Error Rate Measurement (PERM) Program

The PERM program is utilized by HHS to calculate national improper payment rates in Medicaid and CHIP. The regulations at 42 CFR Part 431, Subpart Q, specify requirements for estimating improper payments in Medicaid and CHIP. The PERM program annually measures the national Medicaid and CHIP improper payment rates and uses a 17-state, three-year rotation process. The national Medicaid and CHIP improper payment rates include findings from the most recent three-cycle measurements so that all states are captured in one rate. The national improper payment rates are comprised of three components: fee-for-service, managed care, and eligibility. States are expected to issue corrective action plans to address the root cause of errors and deficiencies.

Source of Governing Requirements

This program is authorized by Section 490l(a) of the Balanced Budget Act of 1997 (BBA), Pub. L. No. 105-33, as amended by Pub. L. No. 105-100, which added Title XXI to the Social Security Act and made subsequent amendments to Title XXI. Title XXI authorizes CHIP to assist state efforts to initiate and expand the provision of child health assistance to uninsured, low-income children. Title XXI is codified at 42 USC 1397aa-1397jj. The regulations for this program are found in 42 CFR Part 457.

The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) (Pub. L. No. 111-3) reauthorized CHIP through fiscal year (FY) 2013. The Patient Protection and Affordable Care Act (ACA) (Pub. L. No. 111-148) reauthorized CHIP through 2019 and extended CHIP funding through FY 2015. The Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) Pub. L. No. 114-10) extended CHIP funding through FY2017. Most recently, Congress extended federal funding for CHIP through September 30, 2027, through the Helping Ensure Access for Little Ones, Toddlers, and Hopeful Youth by Keeping Insurance Delivery

Stable Act (referred to as the HEALTHY KIDS Act and included in Pub. L. No. 115-120) and the Advancing Chronic Care, Extenders, and Social Services Act (referred to as the ACCESS Act and included in Pub. L. No. 115-123).

The Consolidated Appropriations Act, 2021 (Pub. L. No. 116-260) established a new requirement to extend full Medicaid eligibility to citizens of the Freely Associated States who are living in the United States under the Compacts of Free Association (COFA).

This program is subject to the requirements of 45 CFR Part 75 (the HHS implementation of 2 CFR Part 200) and 45 CFR Part 95.

Availability of Other Program Information

States and other interested parties can access information on the department's policies on this and other issues at http://www.medicaid.gov/.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	Y	Y	N	N	Y	N	Y

A. Activities Allowed or Unallowed

1. *Activities Allowed*

States have general flexibility in allocating their allotments toward activities needed to operate the CHIP (section 2105 of the Act (42 USC 1397ee(a)). In addition to expenditures for child health assistance under the plan for targeted low-income children, other allowable activities, to the extent permitted by 42 USC 1397ee(c), include payment of other child health assistance for targeted low-income children; expenditures for health services initiatives for improving the health of children (targeted and other low income) under the plan; expenditures for outreach activities; expenditures for translation or interpretation services in connection with the enrollment of, retention of, and use of services under Title XXI by individuals for whom English is not their primary language (as found necessary by the Secretary for the proper and efficient administration of the state plan); and other reasonable costs incurred by the state to administer the plan (42 USC 1397(ee)).

Managed Care

A state may use managed care for the delivery of some or all its CHIP benefits and services for either all or a subset of the CHIP populations served under the CHIP state plan. Under managed care, the delivery of benefits and services is through contracted arrangements between state CHIP agencies and managed care plans that accept a set per member per month (capitation) payment for the services.

States must comply with the managed care regulations at 42 CFR Part 457, Subpart L, to utilize a managed care delivery system. These regulations align CHIP rules with those of other health insurance coverage programs, such as Medicaid and the Marketplace, to reflect how states purchase managed care for beneficiaries and to strengthen the consumer experience and key consumer protections.

CHIP-managed care guidance can be found at https://www.medicaid.gov/chip/chip-managed-care .

Health Services Initiatives (HSI)

Under section 2105(a)(1)(D)(ii) of the Act (42 USC 1397ee(a)(1)(D)(ii)), states have the option to develop state-designed HSIs that improve the health of low-income and targeted low-income children. Under implementing regulations at 42 CFR § 457.10, HSIs are activities that protect the public health, protect the health of individuals, improve or promote a state's capacity to deliver public health services or strengthen the human and material resources necessary to accomplish public health goals related to improving the health of children. HSIs may also be directed at low-income pregnant women or parents; however, HSIs may only provide services for adults if the project directly improves children's health.

Federal funding for HSIs is expended from a state's available CHIP allotment for a fiscal year. Under section 2105(c)(2)(A) of the Act (42 USC 1397ee(c)(2)(A)), claims for HSIs and certain other expenditures such as administrative expenses cannot exceed 10 percent of the total amount of title XXI funds expended for a fiscal year, calculated as described at 42 CFR 457.618(c). States must fund all CHIP state plan benefits before using allotment for HSIs.

HSIs are implemented through an amendment to the CHIP state plan. States' approved HSI programs are described in section 2.2 of the CHIP state plan template. HSI budget information is provided in section 9.10 of the CHIP state plan.

CHIP HSI guidance can be found at https://www.medicaid.gov/federal-policy-guidance/downloads/cib090420.pdf.

Premium Assistance

A state may pay premiums for employer-sponsored insurance on behalf of a CHIP beneficiary if it is cost-effective to do so. When providing premium assistance, states must ensure that children have access to all mandatory benefits provided under the CHIP state plan and that they are not required to incur greater out-of-pocket costs for premiums, deductibles, co-payments, or similar cost-sharing charges than under the CHIP state plan. Individual state premium assistance programs are described in the CHIP state plan.

2. *Activities Unallowed*

Federal funds may not be expended under the CHIP state plan to pay for any abortion or to assist in the purchase, in whole or in part, of health benefits coverage that includes coverage of abortion, except, if necessary, to save the life of the mother or if the pregnancy is the result of incest or rape (Section 2105(e) of the Act (42 USC 1397ee(c)(7)).

B. Allowable Costs/Cost Principles

1. CHIP regulations under 42 CFR 457.628(a) make the Medicaid requirements at 42 CFR 433.50 through 433.74 regarding sources of nonfederal share and Health Care-Related Taxes and Provider Related Donations applicable to CHIP in the same manner as they apply to state Medicaid programs. Before calculating the amount of FFP, certain revenues received by a state will be deducted from the state's medical assistance expenditures. The revenues to be deducted are (1) donations made by health care providers or related entities (except for bona fide donations and, subject to a limitation, donations made by providers for the direct costs of out-stationed eligibility workers); and (2) impermissible health care-related taxes that exceed a specified limit (Section 1903(w) of the Act (42 USC 1396b(w)); 42 CFR 433.57).

(a) "Provider-related donations" are any donations or other voluntary payments (in-cash or in-kind) made directly or indirectly to a state or unit of local government by (1) a health care provider, (2) an entity related to a health care provider, or (3) an entity providing goods or services under the CHIP state plan and paid as administrative expenses. "Bona fide provider-related donations" are donations that have no direct or indirect relationship to payments made under Title XIX (42 USC 1396 et seq.) to (1) the donating provider, (2) providers furnishing the same class of items and services as the donating provider, or (3) any related entity (42 CFR 433.58(d) and 433.66(b)).

(b) Permissible healthcare-related taxes are those taxes that are broad-based; uniformly applied to a class of healthcare items, services, or providers; and do not hold a taxpayer harmless for the costs of the tax. A tax program for which CMS has granted a waiver may also be considered permissible healthcare-related taxes. Healthcare-related taxes that do not meet these requirements are impermissible healthcare-related taxes (42 CFR 433.68(b)).

These provisions apply to the 50 states and the District of Columbia, except those states whose entire Medicaid program is operated under a waiver granted under Section 1115 of the Act (42 CFR 433.50(c)).

2. The 42 CFR 457.628(b) makes 45 CFR Part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards (except as specifically excepted) applicable to the CHIP program.

3. The 42 CFR 457.1203 requires each CHIP managed care plan to calculate and report a medical loss ratio (MLR) for rating periods in CHIP managed care contracts as of the state fiscal year beginning on or after July 1, 2018. Under 42 CFR 457.1203(f), if a state elects to mandate a minimum MLR for a CHIP managed care program, that minimum MLR must be at least 85 percent.

Regarding capitation rate setting for CHIP managed care plans, under 42 CFR 457.1203(a), states must use payment rates based on public or private payment rates for comparable services for comparable populations, consistent with actuarially sound principles as defined in Section 457.10. In addition, for Medicaid and CHIP managed care plans, the rates must be developed so that the managed care plan is projected to meet an 85 percent MLR (42 CFR 457.1203(c)(1)).

E. Eligibility

Auditors may combine III.A, "Activities Allowed or Unallowed," III.B, "Allowable Costs/Cost Principles," and III.E, "Eligibility." Therefore, compliance requirements related to amounts provided to, or on behalf of, eligible individuals and presumptively eligible individuals may be combined with III.A, "Activities Allowed or Unallowed" and

III.B, “Allowable Costs/Cost Principles” such as, was the service incurred during the period the individual was eligible to receive benefits and was the provider paid the correct amount for the service billed.

The state verifies the financial and nonfinancial factors of eligibility, with two exceptions described below, by checking electronic data sources in accordance with federal requirements at 42 CFR 457.380 and state requirements (as documented in the CHIP state plan, verification plan, and eligibility manual). The state is required (as described at 42 CFR 457.965) to maintain facts in the case file to support the eligibility determination. When data sources used by the state are not available to the auditor, or information is not required to be available for the period under audit, auditors would not be expected to test verification other than the requirement to maintain information in the case file. For states that accept applicant self-attestation for household size or income, and do not require further verification or documentation, the auditors are not expected to test beyond the requirements of the state.

The exceptions to the verification process described above are eligibility determinations made by an Exchange, either the Federally-facilitated Exchange (FFE) or a State-based Exchange (SBE), elements of a determination made by an express lane agency, and presumptive eligibility determinations made by qualified entities. In states that have an agreement with the FFE or SBE, through which the Exchange determines CHIP eligibility, the state relies on the verifications conducted by the Exchange, and auditors are not expected to test verification. When express lane eligibility is used, the CHIP agency relies upon elements of a determination made by an express lane agency. For presumptive eligibility determinations, the qualified entity accepts attestation of all needed information and states may not require verification or documentation of any eligibility criteria. When testing a presumptive eligibility determination, auditors are not expected to test verification.

1. Eligibility for Individuals

a. Eligibility Determination

(1) Eligibility for CHIP is based on the application of modified adjusted gross income and household definition, in addition to other permissible eligibility standards, for example, standards relating to geographic area, age (up to, but not including age 19), and insurance status. In addition to meeting these standards, to be eligible for CHIP, a child must be uninsured (determined ineligible for Medicaid and not covered through a group health plan or creditable health insurance, a citizen or meet immigration requirements, a resident of the state, and eligible within the state’s CHIP income range, based on family income, and any other specified rules in the CHIP state plan) see https://www.medicaid.gov/chip/eligibility/index.html. States have flexibility in determining eligibility levels for individuals for whom the state will receive enhanced matching funds within the

guidelines established under the Act. Generally, a state may not cover children with a higher household income without covering children with a lower household income, nor deny eligibility based on a child having a preexisting medical condition. States are required to include in their CHIP state plans a description of the standards used to determine the eligibility of targeted low-income children. CHIP state plans should be consulted for specific information concerning individual eligibility requirements (42 CFR 457.315 and 457.320, 42 USC 1397bb(b)).

States have the option to extend eligibility to low-income targeted pregnant women. There is no income eligibility level for pregnant women in CHIP that is lower than the state's Medicaid level, and states must cover pregnant women up to 185 percent of the federal poverty level before they can elect the option to include pregnant women in its CHIP state plan (Section 2112(b) of the Act).

(2) CHIP beneficiaries must either be US citizens or qualified noncitizens (aliens). Qualified aliens, as defined at 8 USC 1641, who entered the United States on or after August 22, 1996, are not eligible for a separate child health program under Title XXI (CHIP) for a period of five years, beginning on the date the alien became a qualified alien, unless the alien is exempt from this five-year bar under the terms of 8 USC 1613, or unless the state has adopted the option to provide coverage to these lawfully residing children, as authorized under Section 214 of CHIPRA (42 USC 1396b(v)(4)(ii)). States must provide coverage under a separate child health program under Title XXI to all other otherwise eligible qualified aliens who are not barred from coverage under 8 USC 1613 (42 CFR 457.320(b)(6)).

States may elect to provide medical assistance, notwithstanding sections 401(a), 402(b), 403, and 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, to children and pregnant women who are lawfully residing in the United States, including lawfully residing COFA migrants, and who are otherwise eligible for such assistance. This optional coverage in CHIP is only applicable if the state has elected to apply for this allowance regarding such category of children or pregnant women under Title XIX (Pub. L. No. 111-3, Section 214 (codified at section 2107(e)(1)(N) of the Act, cross referencing section 1903(v)(4) of the Act (42 USC 1396b(v)(4)).

(3) States must accept applications submitted online, by telephone, via mail, or in person. This includes electronic, telephonically recorded, and handwritten signatures. The CHIP agency must have facts in the case record to support the agency's eligibility

determination, including a record of verification of income and citizenship or satisfactory immigration status for each individual. The state must provide notice of its decision concerning eligibility and provide timely and adequate notice of the basis for discontinuing assistance (42 CFR sections 457.330, 457.340).

(4) States are directed at 42 CFR 457.340(d), to determine eligibility promptly and without undue delay. The determination of eligibility may not exceed 45 days (42 CFR 435.912).

(5) Regulations 42 CFR 457.348 and 457.350 require coordination between the CHIP agency and other insurance affordability programs, including an Exchange. Typically, electronic accounts must be transferred from the CHIP agency to the Exchange and vice versa. States utilizing the FFE must enter into an agreement in which the FFE makes either a determination or an assessment of CHIP eligibility and sends the individual's electronic account to the agency for enrollment (FFE determination) or a final determination and enrollment (FFE assessment). Additional information may be found in the July 25, 2016, CMCS Informational Bulletin on Coordination of Eligibility and Enrollment between Medicaid, CHIP, and the Federally Facilitated Marketplace (FFM or "Marketplace") (https://www.medicaid.gov/sites/default/files/federal-policy-guidance/downloads/cib072516.pdf).

(6) When determining eligibility for a child, the CHIP agency may rely on elements of a determination made by an express lane agency (as defined in Section 4 of the CHIP state plan template) as to whether a child satisfies one or more requirements of CHIP eligibility. The CHIP agency may use an income determination from an express lane agency without regard to differences in the budget unit, income disregards, deeming, or other differences in methodology between the express lane agency and CHIP. Auditors are not expected to test verification of express lane determinations relied upon by the CHIP Agency. This policy is set out in sections 2107(e)(1)(H) and 1902(e)(13) of the Act (42 USC 1397gg(e)(1)(H) and 1396a(e)(13) respectively); more information is available in state Health Official Letter #10-003, issued on February 4, 2010 (https://downloads.cms.gov/cmsgov/archived-downloads/SMDL/downloads/SHO10003.pdf).

b. Eligibility Verification

(1) States must request information from reliable electronic data sources, including other agencies in the state and other state and federal programs to the extent that such information is determined

useful in verifying the financial eligibility of an individual. As described in the state's verification plan and state policies and procedures, this may include information from agencies such as the state Wage Information Collection Agency, the Social Security Administration, and the Internal Revenue Service. States may also use information related to eligibility or enrollment from other state programs such as the Supplemental Nutrition Assistance Program. If the information provided by or on behalf of an individual is reasonably compatible with information obtained from the electronic data sources, as described in the state's verification plan, then the agency must determine or renew eligibility based on such information and may not require the individual to provide any further documentation. If the information is not reasonably compatible, then the agency must provide the individual with a reasonable time to explain the discrepancy or furnish additional information (42 CFR 457.380; 42 CFR 435.952). See the November 20, 2024 CIB on Financial Eligibility Verification Requirements and Flexibilities for additional information (available at https://www.medicaid.gov/federal-policy-guidance/downloads/cib11202024.pdf).

(2) States may choose to accept self-attestation of information needed to determine or renew eligibility except regarding income and citizenship or immigration status. When self-attestation is accepted, further information, including documentation, cannot be required from the individual. In such cases, the auditor would not be expected to test documentation other than required by the state. States must follow the requirements described in 42 CFR 457.380 for verification and documentation of income and citizenship and immigration status.

c. Periodic Renewal

As required at 42 CFR 435.916 and 42 CFR 457.343, states must renew enrollees' CHIP eligibility once every 12 months and no more frequently than once every 12 months. When renewing eligibility, states must first attempt to renew based on reliable information available to the agency without requiring information from the individual. If sufficient information is not available to complete renewal, or if the state has information that suggests that the beneficiary is ineligible, the state must provide the beneficiary with a prepopulated renewal form and inform the individual of any additional information or documentation needed to determine eligibility. Additional information may be found in the CMCS Informational Bulletin on Medicaid and Children's Health Insurance Program (CHIP) Renewal Requirements issued on December 4, 2020 (Medicaid and Children's Health Insurance Program Renewal Requirements) and the

November 26, 2024 CIB on Basic Requirements for Conducting *Ex Parte* Renewals of Medicaid and CHIP Eligibility (available at https://www.medicaid.gov/federal-policy-guidance/downloads/cib11262024.pdf).

d. Continuous Eligibility for Children

All states are required to provide 12 months of continuous eligibility for targeted low-income children enrolled in CHIP. A long-standing state plan option, the Consolidated Appropriations Act, 2023 (CAA, 2023) (Pub. L. 117-328) made continuous eligibility mandatory, effective January 1, 2024. The CAA, 2023 amended section 1902(e)(12) and added a new paragraph (K) to section 2107(e)(1) of the Act (42 USC 1396a(e)(12) and 1397gg(e)(1)(K) respectively) to require one year of continuous eligibility under the state plan or a waiver of the state plan for all children under age 19 enrolled in Medicaid and CHIP. CHIP enrollees under age 19 remain eligible until the earlier of (a) the end of the 12-month period beginning on the date of the beneficiary's eligibility determination; (b) the time the individual attains the age of 19; or (c) the date the individual ceases to be a resident of the state. The regulatory requirements are described at 42 CFR 435.926 and 457.342; they were revised effective January 1, 2025 to reflect the mandatory continuous eligibility requirement. Additional information on continuous eligibility for children may be found in SHO # 25-001 sho25001_0.pdf.

e. Continuous Eligibility During Pregnancy & Postpartum Coverage

Pregnant adolescents eligible as "targeted low-income children" in CHIP can receive prenatal and postpartum care along with other child health assistance, and states may extend CHIP eligibility to "targeted low-income pregnant individuals" too, through the end of the 60-day postpartum period. Section 9812 of the American Rescue Plan Act (Pub. L. 117-2) established a new section 1902(e)(16) of the Act (42 USC 1396(e) (16), which was made permanent by the Consolidated Appropriations Act (CAA) of 2023. This provision gives states the option, beginning April 1, 2022, to provide 12 months of extended postpartum coverage to pregnant individuals enrolled in Medicaid and CHIP. If a state elects the option in Medicaid, pregnant "targeted low-income children," and individuals eligible as "targeted low-income pregnant individuals" who are enrolled in a separate CHIP must also receive the extended postpartum coverage. The 12-month postpartum period begins on the last day of a beneficiary's pregnancy and extends through the end of the month in which the 12-month period ends. Individuals eligible for extended postpartum coverage are also entitled to continuous eligibility, so they remain eligible during pregnancy and the postpartum period regardless of any changes in circumstances including income. States have the option to extend child health assistance to "unborn children" who meet other applicable

eligibility criteria for coverage under the CHIP state plan, thereby providing prenatal coverage to pregnant individuals who themselves are not eligible for CHIP. However, postpartum coverage for pregnant individuals who received services during pregnancy on behalf of their unborn child is limited and these individuals are not eligible for extended postpartum coverage. Additional information may be found in SHO# 21-007 (https://www.medicaid.gov/federal-policy-guidance/downloads/sho21007.pdf).

f. Presumptive Eligibility

Presumptive eligibility (PE) is a state option to facilitate enrollment and immediate access to services for children who are likely eligible for CHIP without having to wait for a full application to be processed. CHIP regulations at 42 CFR 457.355 outline the requirements for establishing a program of presumptive eligibility for children. The options elected by each state are described in the CHIP state plan.

When selecting the PE option, states designate qualified entities, such as healthcare providers, community-based organizations, and schools to make PE determinations. These qualified entities are trained on the state's PE screening process and state-specific requirements for PE. In many states, qualified entities also help individuals to complete the full application process. A qualified entity is responsible for collecting and recording all information necessary to make a PE determination.

To be determined presumptively eligible, an individual must meet the basic requirements of eligibility as a targeted low-income child, including household income at or below the standard established by the state. In addition to the basic requirements of the eligibility group, states may, but are not required to, consider state residency and US citizenship or eligible immigration status when making a PE determination. Other information that would be collected on a full application, cannot be required for a PE determination. In addition, individuals attest to all information needed for a PE determination. States may not require verification or documentation of any eligibility criteria as a condition of presumptive eligibility.

The PE period begins the day on which the qualified entity makes the PE determination. The end date varies depending on whether or not the individual submits a CHIP application. If the individual submits a CHIP application by the last day of the month following the month in which PE was determined, the PE period will continue until full CHIP eligibility is either approved or denied. If the individual does **not** submit a CHIP application, the PE period ends on the last day of the month following the month in which PE was determined. States must adopt reasonable standards regarding the number of PE periods that will be authorized for an individual.

g. Eligibility for Inmates of Public Institutions

Unlike in Medicaid, incarceration status is a factor of eligibility in CHIP. A child who is an inmate of a public institution is excluded from the definition of a targeted low-income child in section 2110(b) of the Act (42 USC 1397jj(b)) and, therefore, generally is ineligible for a separate CHIP. However, children determined eligible for CHIP at initial application or renewal who later become incarcerated remain eligible for CHIP for the duration of their continuous eligibility period.

Beginning January 1, 2025, the Consolidated Appropriations Act, 2023 (CAA, 2023) (P.L. 117328) modifies CHIP eligibility requirements for children who become incarcerated. Section 5121(c) of the CAA, 2023, prohibits states from terminating CHIP eligibility if a child becomes incarcerated but permits states to suspend CHIP coverage while a child is an inmate of a public institution. Since CHIP does not have an inmate payment exclusion like Medicaid, states that do not elect to suspend CHIP coverage may continue providing CHIP state plan services otherwise not covered by the carceral facility. In addition, section 5121(c) of the CAA, 2023 requires redeterminations of coverage prior to their release, if it has been 12 months or longer since the child's last determination. Further information on this change can be found in SHO #24-004 regarding provision of Medicaid and CHIP services to incarcerated youth (available at https://www.medicaid.gov/federal-policy-guidance/downloads/sho24004.pdf).

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

a. The state matching rate for its CHIP expenditures is determined by the federal matching rate for such expenditures, referred to as the enhanced federal medical assistance percentage (Enhanced FMAP) for a state. That is, the CHIP state matching rate is calculated by subtracting 1905(b) of the Act Medicaid FMAP rates from 100, taking 30 percent of the difference, and then adding it to the 1905(b) Medicaid FMAP rate. The Enhanced FMAP for CHIP is generally about 15 percentage points higher than the Medicaid rate. For example, if a state has a 50% match rate for Medicaid, it may have a 65% match rate for CHIP. The Enhanced FMAP is calculated in accordance with section 2105(b) of the Act, 42 USC

1397ee(b), which provides that the Enhanced FMAP for a state shall not exceed 85 percent except during the periods of October 1, 2015, through September 30, 2019, where the enhanced FMAP was increased by 23 percentage points (not to exceed 100 percent) and October 1, 2019 through September 30, 2020, where the enhanced FMAP is reduced to an increase of 11.5 percentage points (not to exceed 100 percent). The increase to the enhanced FMAP does not apply to certain categories of expenditures as described in the last sentence of 42 USC 1397ee(b). Calculated FMAPs and enhanced FMAPs may be found at Federal Register: Federal Financial Participation in State Assistance Expenditures; Federal Matching Shares for Medicaid, the Children's Health Insurance Program and Aid to Needy Aged, Blind or Disabled Persons for October 1, 2023, through September 30, 2024 Federal Register :: Federal Financial Participation in State Assistance Expenditures; Federal Matching Shares for Medicaid, the Children's Health Insurance Program, and Aid to Needy Aged, Blind, or Disabled Persons for October 1, 2023 Through September 30, 2024 . Because the EFMAP under section 2105(b) of the Act is calculated using the 1905(b) FMAP as a "base," in general, any fluctuations to the 1905(b) FMAP amount for a period will affect the EFMAP determination under 2105(b) of the Act for such period unless otherwise precluded in the statute.

b. A qualifying state as described under section 2105(g) of the Act, 42 USC 1397ee(g) may elect to be paid from the state's allotment for any of FYs 2009 through 2029, an amount equal to the additional amount that would have been paid to the state under Title XIX regarding expenditures if the enhanced FMAP had been substituted for the FMAP (section 2105(g)(4) of the Act (42 USC 1397ee(g)(4)). The qualifying states are Connecticut, Hawaii, Maryland, Minnesota, New Hampshire, New Mexico, Rhode Island, Tennessee, Vermont, Washington, and Wisconsin (as determined by CMS based on the criteria in Pub. L. No. 108-74, Section 1(g)(2) and Pub. L. No. 108-127, Section 1).

2. Level of Effort

2.1 Level of Effort – *Maintenance of Effort*

a. To receive federal matching funds for CHIP expenditures at the enhanced matching rate, each state must continue to maintain its Medicaid eligibility standards and the methodologies that were applied in its Medicaid state plans as of June 1, 1997 (42 USC 1397ee(d)(1) and 1397jj(b)).

b. The maintenance of effort (MOE) provisions at section 2105(d)(3) and sections 1902(a)(74) and 1902(gg)(2) of the Act (42 USC 1397ee(d)(3) and 1396a(a)(74) and (gg)(2)) specify that as a condition of receiving federal funding for CHIP or Medicaid (with

certain exceptions), states must maintain Medicaid and CHIP "eligibility standards, methodologies, and procedures" for children that are no more restrictive than those in effect on March 23, 2010. The MOE requirement was first implemented under the American Recovery and Reinvestment Act (ARRA) and extended by the Patient Protection and Affordable Care Act (ACA). Section 3002 of the Helping Ensure Access for Little Ones, Toddlers, and Hopeful Youth by Keeping Insurance Delivery Stable Act (referred to as the HEALTHY KIDS Act and included in Pub. L. No. 115-120) extends the MOE requirements for children in CHIP and Medicaid through FY 2023, and Section 50101 of the Advancing Chronic Care, Extenders and Social Services Act (referred to as the ACCESS Act and included in Pub. L. No. 115-123), extends the MOE requirements for children in CHIP and Medicaid through FY 2027. Section 3002 of the HEALTHY KIDS Act amends the MOE provisions such that starting in FY 2020 and through FY 2027, the MOE provision applies to children in families with incomes that do not exceed 300 percent of the FPL. States with eligibility levels above 300 percent of the Federal Poverty Level (FPL) will have the option of maintaining or reducing existing coverage levels to 300 percent FPL at that time.

2.2 Level of Effort – *Supplement Not Supplant*

Not Applicable

3. Earmarking

Expenditures not directly related to providing child health insurance assistance under the plan are limited to 10 percent of the state's total expenditures through CHIP. The following expenditures are subject to the 10 percent limit: (a) payment for other child health assistance for targeted low-income children; (b) expenditures for health services initiatives under the state child health assistance plan for improving the health of children; (c) expenditures for outreach activities; (d) expenditures for translation and interpretation services in connection with the enrollment, retention, and use of services under Title XXI by individuals for whom English is not their primary language (as found necessary by the Secretary for the proper and efficient administration of the CHIP state plan); and (e) other reasonable costs incurred by the state to administer the state child health assistance plan (42 USC 1397ee(c)). States may apply for a waiver or variance of this 10 percent cap under 42 USC 1397ee(c)(2). If applicable, information regarding such a waiver is in the CHIP state plan.

The 10 percent limit is applied on an annual fiscal-year basis and is calculated based on (a) the total amounts of expenditures, and (b) the quarter in which such expenditures are claimed by the state for the fiscal year (42 USC 1397(ee)).

H. Period of Performance

The availability of allotment amounts determined under section 2104(m) of the Act for FY 2009 and each fiscal year thereafter, shall remain available for expenditure by the state through the end of the succeeding fiscal year as provided under section 2104(e) of the Act. (i.e., the year of award and one subsequent fiscal year) (42 USC 1397dd(e)).

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable for cash or expenditure reporting

d. *CMS-21, Quarterly Children's Health Insurance Program Statement of Expenditures for Title XXI (OMB No. 0938-1265)*

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

1. *CMS-21 Base* – The CMS-21 consists of three parts: CMS-21 Base, CMS-21B, and CMS-21C. Only CMS-21 Base is expected to be tested for compliance.

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3. L for audit guidance.

N. Special Tests and Provisions

1. Provider Eligibility (Screening and Enrollment)

Compliance Requirements To receive CHIP payments, CHIP providers must: (1) be licensed in accordance with federal, state, and local laws and regulations to participate in the CHIP program (42 CFR 457.990); (2) screened and enrolled in accordance with 42

CFR Part 455, Subpart E (sections 455.400 through 455.470); and make certain disclosures to the state (42 CFR 457.990(a), cross-referencing 455.107). CHIP-managed care network providers are subject to the same disclosure, screening, enrollment, and termination requirements that apply to Medicaid fee-for-service providers in accordance with 42 CFR Part 438, Subpart H. Guidance was provided to states in the Medicaid Provider Enrollment Compendium (MPEC) at https://www.medicaid.gov/medicaid/program-integrity/downloads/mpec.pdf to enroll CHIP providers into their Medicaid programs to ensure that they meet federal requirements. Providers who have been barred from participation by the OIG exclusion list are not eligible to be enrolled in the CHIP program (42 CFR 457.990, 42 CFR 455 Subpart E). Lists may be found at https://oig.hhs.gov/exclusions/?utm_source=oigNewsletter&utm_medium=oig-nl-nav&utm_campaign=leie-nl.

Audit Objectives Determine whether CHIP providers of medical services have the required medical licenses and are eligible to participate in CHIP in accordance with federal, state, and local laws and regulations.

Suggested Audit Procedures

a. Obtain an understanding of the CHIP state plan's provisions for required licensure and entering into agreements with providers.

b. Select samples from both CHIP fee-for-service providers and managed care network providers to ascertain if :

   (1) The provider is screened, licensed, and enrolled in accordance with the CHIP state plan and the requirement of 42 CFR 455 Subpart E.

   (2) The provider complied with the requirements of the state plan, including the disclosure requirements of 42 CFR 455 Subpart B and Section 1.4 of the MPEC at https://www.medicaid.gov/medicaid/program-integrity/downloads/mpec.pdf.

   (3) The provider was not on the OIG's exclusion list at the time the services were provided.

2. Refunding of Federal Share of CHIP Overpayments to Providers

Compliance Requirements Federal regulations at 42 CFR 457.628 make the regulations at CFR 433.312 through 433.322 regarding overpayments applicable to CHIP. CMS rules at 42 CFR 433 Subpart F describe the requirements State Medicaid Agencies (SMAs) are to follow related to refunding the federal share of Medicaid overpayments made to providers. According to 1903(d)(2)(C) of the Act (42 USC 1396b), states have up to one (1) year from the date of discovery of the overpayment to recover or attempt to recover the overpayment before the federal share must be refunded to CMS via Form CMS-21 Summary, Line 9C1- Fraud, Waste & Abuse Amounts, regardless of whether recovery is made from the provider, for which the federal share must be refunded to CMS via Form

CMS-21 Summary, Line 4 - Adjustments Decreasing Claims - Collections. The state must credit the federal share to CMS as outlined under 42 CFR 433.320(a)(2) either in the quarter in which the recovery is made or in the quarter in which the one-year period following discovery ends, whichever is earlier, with limited exceptions. Under 42 CFR 433.316(d), for overpayments resulting from fraud, if not collected within one year of discovery, the SMA has until 30 days after the final judgment of a judicial or administrative appeals process to return the federal share.

Additionally, in accordance with 42 CFR 433.320(a)(4), the state will be charged interest for any non-recovered, non-refunded overpayment amounts. Any appeal rights extended to a provider do not extend the date of discovery (42 CFR 433.316(h)).

The repayment of the federal share is not required in cases where the state is unable to obtain recovery because the provider has filed for bankruptcy, or the provider is otherwise out of business as outlined in 42 CFR 433.318.

The 42 CFR 433.320(c)(1) allows for downward adjustment previously credited to CMS if it is properly based on the approved CHIP state plan, federal law and regulations governing Medicaid, and the appeals resolution process specified in state administrative policies and procedures. States are not able to enter into settlement agreements with providers that reduce the federal share of the overpayment to avoid the expense of litigation. The Departmental Appeals Board (DAB) decision No. 1391 from February 19, 1993 (https://www.hhs.gov/sites/default/files/static/dab/decisions/board-decisions/1993/dab1391.html), addressed overpayment settlements between the states and providers. This decision affirmed that states may not reduce the federal share by settling overpayment receivables for less than the actual amount of the overpayment based on anticipated success in litigation or made simply to avoid administrative costs or litigation expenses.

For managed care, SMAs are required per 42 CFR 438.608(d)(1) to specify in each managed care contract how recoveries of provider overpayments must be treated. The refunding of the federal share of any overpayment recovered by an MCP is dependent on the retention policy outlined in the contract between the state and the MCP as required under 42 CFR 438.608(d)(1). If the state requires the MCP to refund overpayments to the state, the state must refund the federal share of that overpayment to CMS in accordance with the regulations at 42 CFR 433.312. The state must apply the FMAP rate in effect at the time the overpayment was made to determine the amount to be refunded to CMS.

Audit Objectives Determine whether the SMA reported and returned CHIP provider overpayments in accordance with federal requirements.

Suggested Audit Procedures

a. Review applicable federal laws and regulations, including 1903(d)(2)(C) of the Act (42 USC 1396b), 42 CFR 433 Subpart F, and the Departmental Appeals Board Decision No. 1391.

b. Obtain an understanding of the process to identify overpayments.

c. Obtain managed care contract(s) to determine how recoveries made by managed care plans to providers are treated.

d. Perform tests to ascertain if the federal share has been returned accurately in accordance with federal laws and regulations, including ensuring the full amount was refunded and any downward adjustment was made.

3. Medical Loss Ratio (MLR)

Compliance Requirements For all contracts, the state must ensure that each managed care organization (MCO), prepaid inpatient health plan (PIHP), and prepaid ambulatory health plan (PAHP) submits a report described in 42 CFR 457.1203(e), which cross-references the data elements for Medicaid managed care plans in 42 CFR 438.8(k) and 438.8. The report should contain the required 13 data elements in the regulation, reflect the correct reporting years, and contain an attestation of accuracy regarding the calculation of the MLR. The state should have a method to indicate when the report(s) are due from plans and should not accept multiple submissions from plans unless the capitation rates are revised retroactively.

Audit Objectives Determine whether the state's oversight of the content and submission of MLR reports meets the federal requirements.

Suggested Audit Procedures

a. Perform procedures to ascertain if the state obtained the required MLR reports;

b. Verify the 13 required elements are included;

c. Verify the reporting period covered is 12 months;

d. Verify the report contains an attestation statement to address accuracy;

e. Ascertain if the state did not permit plans to submit multiple MLR reports for a specific reporting year except when a state had retroactive changes to capitation payments.

4. Managed Care Financial Audit

Compliance Requirements Two types of audits are required for managed care:

1. Audited Financial Reports – The contract with each MCO, PIHP, and PAHP must require them to submit to the state audited financial reports specific to the Medicaid contract on an annual basis. The audit must be conducted in accordance with generally accepted accounting principles and generally accepted auditing standards (42 CFR 438.3(m)). These audited statements are in addition to MLR reports required in 42 CFR 438.8. The managed care plan cannot submit financial statements that are not specific to the Medicaid line of business.

2. Periodic Audits – Effective no later than for rating periods for contracts starting on or after July 1, 2017, the state must periodically, but no less frequently than once every three years, conduct, or contract for an independent audit of the accuracy, truthfulness, and completeness of the encounter and financial data submitted by, or on behalf of each MCO, PIHP, and PAHP and post the results of these audits on its website (42 CFR Part 438, Subpart H (as adopted in CHIP at 42 CFR 457.1285); May 6, 2016, *Federal Register* (81 FR 27497); OMB No. 0938-0920)).

Audit Objectives Determine whether the required audits were conducted and whether the audit reports for the Periodic Audits were posted on the state's website.

Suggested Audit Procedures

a. Review the state's policies and operating procedures for obtaining audited financial reports, conducting these required audits, and posting the Periodic Audits on the state's website.

b. Perform tests to ascertain if: (1) the state obtained annually the required Audited Financial Reports from each MCO, PIHP, and PAHP; and (2) the independent auditor's reports on the financial report stated the audit was conducted in accordance with generally accepted auditing standards.

c. Perform tests to ascertain if: (1) the state conducted or contracted for the required Periodic Audits for each MCO, PIHP, and PAHP at least once in the most recent three-year period; and (2) the audits were posted on the state's website.

IV. OTHER INFORMATION

Portion of Medicaid (Title XIX) Expenditures Claimed at CHIP Enhanced FMAP
As described in Part 4, CHIP (Assistance Listing 93.767), III.A.1, "Activities Allowed or Unallowed," certain qualifying states meeting the criteria provided in section 2105(g) of the Social Security Act, 42 USC 1397ee(g), may opt to receive the CHIP enhanced FMAP for certain Medicaid program expenditures. For certain qualifying states that choose this option, the enhanced portion of such expenditures (that is, the portion that is equal to the difference between the CHIP-enhanced FMAP and the standard Medicaid FMAP) is funded by their available CHIP allotments. Qualifying states were permitted to use up to 20 percent of their CHIP allotment to fund the enhanced portion of such Medicaid expenditures for allotments through the fiscal year 2008 CHIP allotment and up to 100 percent of their available CHIP allotments beginning with the fiscal year 2009 CHIP allotment. The qualifying states, determined by CMS under section 2105(g) of the Act, 42 USC 1397ee(g) are Connecticut, Hawaii, Maryland, Minnesota, New Hampshire, New Mexico, Rhode Island, Tennessee, Vermont, Washington, and Wisconsin.

Amounts transferred into the state's Medicaid program are subject to the requirements of the Medicaid program when expended and should be included in the audit universe and total

expenditures of this program when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred in should be shown as expenditures of this program when such amounts are expended.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.775 STATE MEDICAID FRAUD CONTROL UNITS

ASSISTANCE LISTING 93.777 STATE SURVEY AND CERTIFICATION OF HEALTH CARE PROVIDERS AND SUPPLIERS (Title XVIII) MEDICARE

ASSISTANCE LISTING 93.778 GRANTS TO STATES FOR MEDICAID

Medicaid is the largest dollar federal grant program, and, under OMB budgetary guidance and Pub. L. No. 107-300, HHS is required to provide an estimate of improper payments for Medicaid. Improper payments mean any payments that should not have been made or that were made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements. This includes payments for services provided to ineligible providers, payments for an ineligible service, duplicate payments, payments for services not received, payments for ineligible or unenrolled individuals, claims that do not have the necessary documentation and payments that do not account for credit for applicable discounts.

I. PROGRAM OBJECTIVES

Note: This program is considered a “higher risk” program for 2025, according to 2 CFR section 200.519. Refer to the “Part 8, Appendix IV, Higher Risk Designation, for a discussion of the impact of the “higher risk” designation on the major program determination process.

Medical Assistance Program

The Social Security Amendments of 1965 created Medicaid by adding Title XIX to the Social Security Act, 42 USC 1396 et seq. Under the program, the federal government provides matching funds to states to enable them to provide medical assistance to residents who meet certain eligibility requirements. The objective is to help states provide medical assistance to residents whose incomes and resources are insufficient to meet the costs of necessary medical services. Medicaid serves as the nation's primary source of health coverage for low-income populations.

States are not required to participate. Those that do must comply with federal Medicaid laws under which each participating state administers its own Medicaid program, establishes eligibility standards, determines the scope and types of services it will cover, and sets the rate of payment. Eligibility requirements vary from state to state, and because someone qualifies for Medicaid in one state, it does not mean he or she will qualify in another. The federal Centers for Medicare & Medicaid Services (CMS) monitors the state-run Medicaid programs and establishes requirements for service delivery, quality, funding, and eligibility standards.

While not precluding an auditor from determining that the Medicaid cluster qualifies as a low-risk program (if prior audits have shown strong internal controls and compliance with Medicaid requirements), the above should be considered as part of the risk assessment process and audit

documentation should support the consideration. In addition, even though the state Medicaid Fraud Control Units (MFCUs) and State Survey and Certification of Health Care Providers and Suppliers have substantially fewer federal expenditures than Medicaid, they are clustered with Medicaid because these programs provide significant controls over the expenditures of Medicaid funds. It is unlikely that the expenditures for these two programs would be material to the Medicaid cluster; however, noncompliance with the requirements to administer these controls may be material.

Medicaid Fraud Control Units (MFCUs)

Under section 1902(a)(61) of the Social Security Act, states are required as part of their Medicaid state plans to maintain a MFCU, unless the Secretary of HHS waives the requirement after determining that a MFCU would not be cost-effective because minimal fraud exists in connection with the provision of covered services to eligible individuals under the state plan and that beneficiaries under the plan will be protected from abuse and neglect in connection with the provision of medical assistance under the plan without a MFCU. The primary mission of the MFCUs is to investigate and prosecute fraud by Medicaid providers, to review and investigate complaints alleging abuse or neglect of patients in Medicaid-funded healthcare facilities, and, as an optional authority, to review and investigate complaints of patient abuse or neglect in board and care facilities or involving Medicaid beneficiaries in non-institutional and other settings. States are required to refer to the MFCU for all cases of suspected provider fraud.

State Survey and Certification of Health Care Providers and Suppliers

The objective of the State Survey and Certification of Health Care Providers and Suppliers program is to determine whether the providers and suppliers of health care services under the Medicare program are following regulatory health and safety standards and conditions of participation/coverage. For certain types of providers, compliance with these health and safety standards is also required as a condition of Medicaid participation, and the Medicaid program contributes to program costs accordingly.

II. PROGRAM PROCEDURES

A. Overview

The following paragraphs are intended to provide a high-level, overall description of how Medicaid generally operates. It is not practical to provide a complete description of program procedures because Medicaid operates under both federal and state laws and regulations and states are afforded flexibility in program administration. Accordingly, the following paragraphs are not intended to be used instead of or as a substitute for the federal and state laws and regulations applicable to this program.

Administration

The Medicaid program is jointly financed by the federal and state governments and administered by the states. For purposes of this program, the term “state” includes the 50

states, the District of Columbia, and five United States territories: the US Virgin Islands, Puerto Rico, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. Medicaid operates through state Medicaid agencies, with states paying providers of medical services directly or through the use of managed care plans. Participating providers must accept the Medicaid payment amount as payment in full. Federal law and regulation set forth mandatory and optional eligibility groups and services. States are required to cover mandatory eligibility groups and services and may elect to cover optional groups and services. Within these broad federal rules, each state decides eligible beneficiary groups, types and ranges of services, payment levels for services, and administrative and operating procedures. CMS administers the Medicaid program in cooperation with state governments. CMS oversees state operations through its organization consisting of headquarters and field offices. CMS uses technical assistance extensively to promote improvements in state operation of the program, and compliance with federal rules, as well as enforcement mechanisms as the agency deems appropriate. The HHS Office of Inspector General (OIG) is the agency responsible for the federal oversight of the state MFCUs. As stated in 42 CFR 1007.5, a key requirement of the governing regulations is that a unit must be a single identifiable entity of the state government. To receive the federal grant funds necessary to sustain their operations, the MFCUs must submit a reapplication for federal assistance to the OIG on an annual basis. The State Survey and Certification of Health Care Providers and Suppliers program is administered by CMS in a manner similar to Medicaid and includes an approved state plan that addresses federal requirements.

Medicaid State Plans

States administer the Medicaid program under a CMS-approved state plan for each state. The Medicaid state plan is a comprehensive written statement submitted by the State Medicaid Agency (SMA) describing the nature and scope of its Medicaid program. A state plan for Medicaid consists of preprinted material that covers the basic requirements, and individualized content that reflects the characteristics of each particular state's program. The state plan references the applicable federal regulation and statute for each requirement.

The state plan contains all information necessary for CMS to determine whether the state plan can be approved to serve as a basis for determining the availability of federal financial participation. The state plan must specify a single state agency (hereinafter referred to as the "State Medicaid Agency – SMA") established or designated to administer or supervise the administration of the state plan. The state plan must also include a certification by the state attorney general that cites the legal authority for the SMA to administer or supervise the administration of the state plan and make rules and regulations that it follows in administering the plan or that are binding upon local agencies that administer the plan.

The state plan also describes methodologies to pay providers for covered care and services under the Medicaid program. The payment methodologies must be clear and auditable to ensure that payments are disbursed only to qualified providers, in the

appropriate amount, for medically necessary services covered by the Medicaid program and provided to eligible beneficiaries under a fee-for-service arrangement. Payments must also be based on claims that are adequately supported by medical records, and payments must not be duplicated.

At any time, a state may propose changes to the state plan through a state plan amendment (SPA). A state submits a SPA to CMS when a state proposes to modify its state plan to make changes to its Medicaid program design, policies, or operational approach. States must submit SPAs to CMS to reflect changes in federal and state law, regulation, policy, or court decisions. States must also seek amendments to the state plan whenever necessary to reflect material changes in State law, organization, or policy, or in the State's operation of the Medicaid program. This is outlined in 42 CFR 430.12. Federal and state governments use the SPA process to negotiate and agree on the terms of the amendment.

The SPA submission is reviewed by CMS to determine whether the proposal meets federal requirements. A SPA will be considered approved unless CMS, within 90 days after receipt of the SPA, sends the state written notice of disapproval. If more information is required to determine whether the proposal can be approved, CMS sends the state a request for additional information (RAI) within 90 days after receipt of the SPA. States have 90 days from the issuance of the RAI to respond to CMS. If the state does not respond within these 90 days, CMS may choose to disapprove the SPA. Once the state submits the requested information, a new 90-day review clock begins and CMS must decide to approve or disapprove the SPA. While CMS maintains state submission records, copies of approved SPAs are available on CMS' Medicaid.gov website https://www.medicaid.gov/medicaid/medicaid-state-plan-amendments or can be obtained from the SMA. More information about SPA and 1915 waiver processing can also be found at Medicaid.gov at Medicaid SPA Processing Tools for States | Medicaid

In accordance with an approved state plan or approved waiver (see the Waivers and Demonstrations section below), CMS makes quarterly grant awards to the state to cover the federal share of Medicaid expenditures for services and program administration. The grant award authorizes the state to draw federal funds as needed to pay the federal portion, as determined through the application of the Federal Medical Assistance Percentage (FMAP) or other applicable federal matching rate set by statute, for approved Medicaid expenditures. The amount of the quarterly grant is initially determined based on quarterly budget estimates submitted by the SMA on Form CMS-37. Thirty days after the end of the calendar quarter, states must submit Form CMS-64, which includes expenditures and recoveries and other items that reduce expenditures for the quarter and prior period expenditures. See https://www.medicaid.gov/medicaid/financial-management/state-expenditure-reporting-medicaid-chip/index.html. Quarterly, CMS reviews the state's expenditures for accuracy and allowability, then CMS issues a finalization grant reconciling the initial grant award determined based on budget estimates to the actual expenditures reported on the Form CMS-64. The amounts reported on Form CMS-64 and its attachments must be actual expenditures for which all supporting documentation, in readily reviewable form, has been compiled and is

available immediately at the time the claim is filed. States use the Medicaid Budget and Expenditure System (MBES) to electronically submit Form CMS-37 and Form CMS-64 directly to CMS.

Waivers and Demonstrations

The SMA may apply for a waiver of federal requirements, subject to CMS approval. The most common modes to waive federal requirements are under the authority of section 1115 called demonstrations and waivers under section 1915 of the Social Security Act (the Act). Additionally, section 1115(a) demonstration authority permits states to request federal financial participation for costs that would not otherwise be included as expenditures under section 1903 of the Act and to request waiver authority of requirements under section 1902(a) of the Act.

Section 1115(a) demonstrations and section 1915 waivers are intended to provide the flexibility needed to enable states to test new or different approaches to the efficient and cost-effective delivery of health care services, or to adapt their programs to the special needs or groups of beneficiaries. Demonstrations and waivers are not interchangeable. However, both of them allow exceptions to state plan requirements and permit a state to implement innovative programs or activities on a time-limited basis, subject to specific safeguards for the protection of beneficiaries and the program, provided that there is an evaluation of the program.

Actions that states may take under waivers of section 1915 of the Act include, but are not limited to (1) implementing a primary care case-management system or a specialty physician system; (2) designating an entity to act as a central broker in assisting Medicaid beneficiaries to choose among competing health care plans; (3) limiting beneficiaries' choice of providers to providers that fully meet reimbursement, quality, and utilization standards, which are established under the state plan and are consistent with access, quality, and efficient and economical furnishing of care; and (4) including as medical assistance, under its state plan, home and community-based services (HCBS) furnished to beneficiaries who would otherwise need inpatient care that is furnished in a hospital, nursing facility or other institutional settings, and is reimbursable under the state plan. A state may also obtain a waiver of statutory requirements to provide an array of HCBS, which may permit an individual to avoid institutionalization (42 CFR Part 441, Subpart G). Depending on the type of requirement being waived, a waiver may be effective for initial periods ranging from two to five years, with varying renewal periods. Copies of approved SPAs are available on CMS' Medicaid.gov website https://www.medicaid.gov/medicaid/medicaid-state-plan-amendments. More information about SPA and 1915 waiver processing can also be found at Medicaid.gov at https://www.medicaid.gov/medicaid/medicaid-state-plan-amendments. The section 1115 demonstrations main page is located at https://www.medicaid.gov/medicaid/section-1115-demonstrations/index.html. Lists of states' 1115 demonstrations can be found at https://www.medicaid.gov/medicaid/section-1115-demo/demonstration-and-waiver-list/index.html. CMS approves a state's Medicaid section 1115 demonstration only if it

determines the demonstration to be likely to assist in promoting the objectives of Title XIX of the Act.

Actions that states may take under a section 1115 demonstration to promote the objectives of Title XIX of the Act include, but are not limited to (1) removing barriers to coverage and care; (2) sharing with beneficiaries (through the provision of additional services) cost-savings made possible through the beneficiaries' use of more cost-effective medical care; (3) enhancing alignment between Medicaid policies and commercial health insurance products to facilitate smoother beneficiary transition between types of health insurance; and (4) advancing innovative delivery system and payment models to strengthen provider network capacity and drive greater value for Medicaid.

Beneficiary Eligibility

Beneficiary eligibility for Medicaid is generally based on financial (e.g., income and resources, as applicable) and non-financial (e.g., age, pregnancy, disability, and citizenship/immigration status, as applicable) criteria. Income eligibility is most often expressed in terms of a percent of the Federal Poverty Level (FPL), which is defined and updated by the HHS on an annual basis. Resources may include things such as savings, non-home property, stocks, and other non-cash assets.

States must cover mandatory eligibility groups. States may provide coverage to members of optional groups and medically needy individuals (i.e., individuals who are eligible for Medicaid after deducting medical expenditures from their income). The eligibility groups covered in a state and the eligibility criteria are specified in the state plan. The state plan will also describe the income methodology used for determining eligibility.

States must provide payment for Medicare premiums and cost-sharing for certain older adults and people with disabilities who are entitled to Medicare Part A, and whose income and resources do not exceed specified standards (Section1902(a)(10)(E)) of the Act (42 USC1396a(a)(10)(E)). There are four mandatory eligibility groups, collectively called the Medicare savings program eligibility groups, each of which has its own eligibility requirements and coverage limitations. Depending on the group, the medical assistance available ranges from payment of all Medicare premiums and cost-sharing expenses to payment of only the Medicare Part A or Part B premiums.

The state plan will specify if determinations of eligibility are made by agencies other than the SMA and will define the relationships and respective responsibilities of the SMA and the other agencies. States must allow individuals and families to apply online, by telephone, via mail, or in person and must require that all initial applications be signed under penalty of perjury. Electronic signatures, including those that are telephonically recorded, and handwritten signatures transmitted via any other electronic method, must be accepted. The state agency must have facts in the case record to support the agency's eligibility determination, including a record of citizenship or immigration status verification for each individual. The state must provide notice of its decision concerning eligibility and provide timely and adequate notice of the basis for denial or terminating

assistance (42 CFR sections 431.17, 431.210, 431.211, 435.907, 435.914, 435.917, 435.918; 42 USC 1320b-7).

Services

Medicaid expenditures include payments for services rendered to eligible beneficiaries, such as inpatient and outpatient hospital services, prescribed drugs, nursing facility services, and physicians' services. A listing of mandatory and optional Medicaid benefits can be found at https://www.medicaid.gov/medicaid/benefits/mandatory-optional-medicaid-benefits/index.html For a Medicaid payment to be considered valid, it must comply with the requirements of Title XIX, as amended (42 USC 1396 et seq.) and implementing federal regulations. Determinations of payment validity are made by individual states in accordance with approved state plans under broad federal guidelines.

Some states have managed care arrangements under which the state enters into a contract with a managed care plan, such as an insurance company, to arrange for or provide medical services. The state pays a risk-based periodic fixed rate per person (capitation payment) to the managed care plan for each beneficiary enrolled in that plan; the capitation payment is paid without regard to the actual medical services utilized by each beneficiary for the period covered by the payment. There are three types of managed care plans that can be paid capitation rates: managed care organizations, prepaid inpatient health plans, and prepaid ambulatory health plans (42 CFR 438.2). Managed care plans are required to provide covered services in accordance with the managed care plan's contract with the state and pursuant to federal regulations at 42 CFR Part 438.

Medicaid expenditures also include administration and training, the State Survey and Certification Program, and the establishment and operation of state MFCUs.

Background

The COVID-19 Public Health Emergency (PHE) and the Families First Coronavirus Response Act (FFCRA) continuous enrollment condition, which provided states with extra federal Medicaid funding on the condition that they maintain enrollment for most individuals through March 31, 2023 (among other conditions), interrupted many areas of regular state operations. CMS issued a series of State Health Official (SHO) letters providing guidance on returning to regular operations, including ending temporary authorities when the PHE concluded, making temporary changes permanent where legally permissible and otherwise appropriate, ending expiring requirements, and addressing pending eligibility and enrollment actions that developed as a result of the continuous enrollment condition. States should have documentation available to describe the temporary changes made to their programs in response to the PHE, as well as their plans for returning to normal operations following the expiration of the PHE.

Some of the major areas to note include the following:

1. *Telehealth*

Federal telehealth requirements provide states with significant flexibility, and states have broad variability in their approaches to incorporating telehealth into their Medicaid and CHIP programs. CMS also recognizes that in many circumstances, states have adopted Medicaid and CHIP telehealth policies that mirror Medicare telehealth policies, for which regulatory flexibilities were provided during the COVID-19 PHE. To assist states with continued understanding of the parameters regarding Medicaid and CHIP telehealth policy CMS has issued several policy and operational guides regarding the use and implementation of telehealth services. (https://www.medicaid.gov/medicaid/benefits/telehealth/medicaid-chip-telehealth-toolkit/index.html)

2. *Beneficiary Eligibility and Enrollment*

The COVID-19 PHE and the FFCRA continuous enrollment condition, which provided states with extra federal Medicaid funding on the condition that they maintain enrollment for most individuals (among other conditions), interrupted regular, timely eligibility renewal processes and resulted in a large volume of overdue renewals for states to complete. In SHO Letter # 22-001, "Promoting Continuity of Coverage and Distributing Eligibility and Enrollment Workload in Medicaid, the Children's Health Insurance Program (CHIP), and Basic Health Program (BHP) Upon Conclusion of the COVID-19 Public Health Emergency," (sho22001.pdf), CMS provided guidance regarding eligibility renewals following the end of the Medicaid continuous enrollment condition. The guidance provided that states were to initiate all pending eligibility actions within a 12-month unwinding period and to complete all work initiated during their unwinding period by the end of the 14th month after the first month of the unwinding period.

As states progressed through their unwinding periods, it became clear that some of the challenges states faced (e.g., workforce shortages, renewal compliance issues, systems limitations, etc.) impacted their ability to complete unwinding-related renewals and restore routine operations within the original timelines. To ensure sufficient time for states to complete unwinding-related renewals, address renewal backlogs, and expedite a return to compliance with renewal timeliness requirements, CMS provided authority for states, subject to specific terms and conditions outlined in a CMCS Information Bulletin (CIB) issued on August 29, 2024, to continue to use the exception under 42 CFR § 435.912(e) that allows states to delay timely processing of renewals in "unusual circumstances" through December 31, 2025.

Many states adopted strategies to ensure renewals were distributed and processed in a manner that maintains continuity of coverage for eligible individuals and facilitates seamless coverage transitions for those who become eligible for other insurance programs. SHO letter #22-001 discusses the authority at section 1902(e)(14)(A) of the Act under which states were permitted to implement time-limited strategies to protect beneficiaries in addressing the challenges states may face as they transition to routine operations during the unwinding period. This

blanket authority was extended through June 30, 2025 as discussed in the CIB issued May 9, 2024 on the extension of temporary unwinding related flexibilities (available at https://www.medicaid.gov/federal-policy-guidance/downloads/cib050924-e14.pdf). On November 14, 2024 CMS issued a CIB describing state options for use of unwinding-related strategies to support long-term improvements in their eligibility and enrollment processes (available at https://www.medicaid.gov/federal-policy-guidance/downloads/cibe1411142024.pdf). Further information about these flexibilities and the specific strategies utilized by each state can be found at https://www.medicaid.gov/resources-for-states/coronavirus-disease-2019-covid-19/unwinding-and-returning-regular-operations-after-covid-19/covid-19-phe-unwinding-section-1902e14a-waiver-approvals/index.html.

3. *Managed Care*

In April 2024 CMS issued updated regulations regarding Medicaid managed care requirements. Information can be found at https://www.medicaid.gov/medicaid/managed-care/guidance/medicaid-and-chip-managed-care-final-rules/index.html

B. Control Systems

Utilization Control and Program Integrity

The state plan must provide methods and procedures to safeguard against unnecessary or improper utilization of care and services.

In addition, the state must have (1) methods of determining criteria for identifying suspected fraud cases; (2) methods for investigating these cases; and (3) procedures, developed in cooperation with legal authorities, for referring credible allegations of fraud cases to law enforcement officials. Credible allegations of provider fraud must be referred to the state MFCU or an appropriate law enforcement agency in states with no certified MFCU.

Inpatient Hospital and Long-Term Care Facility Audits

States are required to establish, as part of the state plan, standards, and methodologies for reimbursing inpatient hospital and long-term care facilities based on payment rates that represent the cost to operate such facilities efficiently and economically and provide services to Medicaid beneficiaries. The SMA must provide for the filing of uniform cost reports by each participating provider. These cost reports are used by the SMA to aid in the establishment of payment rates. The SMA must provide for periodic audits of the financial and statistical records of the participating providers. Such audits could include desk audits of cost reports in addition to field audits. These audits are an important control for the SMA in ensuring that established payment rates are proper.

Automated Data Processing (ADP) Risk Analyses and System Security Reviews

The Medicaid program is highly dependent on extensive and complex computer systems that include controls for ensuring the proper payment of Medicaid benefits. States are required to establish a security plan for ADP systems that include policies and procedures to address: (1) physical security of ADP resources; (2) equipment security to protect equipment from theft and unauthorized use; (3) software and data security; (4) telecommunications security; (5) personnel security; (6) contingency plans to meet critical processing needs in the event of short- or long-term interruption of service; (7) emergency preparedness; and (8) designation of an agency ADP security manager.

State agencies must establish and maintain a program for conducting periodic risk analyses to ensure appropriate, cost-effective safeguards are incorporated into new and existing systems. State agencies must perform risk analyses whenever significant system changes occur. On a biennial basis, state agencies shall review the ADP system security of installations involved in the administration of HHS programs. At a minimum, the reviews shall include an evaluation of physical and data security operating procedures, and personnel practices.

As part of complying with the above requirement, a state may obtain a statement on Standards for Attestation Engagements (AT) Section 801, Reporting on Controls at a Service Organization Control (SOC) 1 Type 2 report from its service organization (if the state has a service organization). A SOC 1 Type 1 report does not address the effectiveness of a service organization's controls and would need to be supplemented by additional testing of controls at the service organization.

The specific areas covered by a SOC 1 Type 2 report differ according to each service organization's operations; however, in every instance, the Type 2 report procedures assess the sufficiency of the design of an organization's controls and test their effectiveness. Several commonly covered areas include:

a. Control Environment

b. Systems Development and Maintenance

c. Logical Security

d. Physical Access

e. Computer Operations

f. Input Controls

g. Output Controls

h. Processing Controls

Medicaid–Enterprise Systems (MES)

The MES is the set of required mechanized claims processing and information retrieval systems, including the eligibility and enrollment systems and other supporting systems, unless this requirement is waived. CMS provides general systems guidelines (42 CFR 433.110 through 433.131) but does not provide detailed system requirements or specifications for states to use in the development of MES systems. As a result, these systems will vary from state to state. The system may be maintained and operated by the state, or a contractor overseen by the state.

A module of the MES is normally used to process payments for most Medicaid services. The Operations Management business area supports the Claims Receipt, Claims Adjudication, and Point-of-Service subsystems to process provider claims for Medicaid care and services to eligible medical assistance recipients. Many edits and controls are generally implemented to identify aberrant billing practices for follow-up by the state. The state plan will describe the administration of each state's claims-processing subsystems.

The state may use other MES modules, or other systems, to process some or all Medicaid payments, such as claims from state agencies (e.g., state-operated intermediate care facilities for individuals with intellectual disabilities (ICF/IID) and certain selected types of claims). The claims payments processed in these ways may be material to the Medicaid program.

C. Related Programs

Medicare Savings Program

The Medicare Buy-In Program, which includes QMB (Qualified Medicare Beneficiary), SLMB (Specified Low-Income Medicare Beneficiary), QI (Qualified Individual), and Qualified Disabled and Working Individuals (QDWI), commonly referred to as the Medicare savings program, is designed to protect low-income Medicare beneficiaries from the significant and growing costs required to cover Medicare premiums, deductibles, coinsurance, and copayments. The program connects the two largest public health programs in the country, Medicare and Medicaid, as Medicaid pays for all or part of the Medicare premium and/or cost-sharing amounts for financially eligible individuals.

The QMB program serves individuals with modest assets with combined incomes that do not exceed 100 percent of the federal poverty level. For example, in 2024 the asset limit for the QMB program is $9,430 for an individual and $14130 for couples and the monthly income limits in 2024are $1,275 for an individual and $1,724 for couples for all states excluding Alaska and Hawaii. If individuals are eligible for the QMB program, the state Medicaid program pays their Medicare Part B premiums as well as Medicare Part A premiums for those who are not eligible for premium-free Part A, and their Medicare deductibles, coinsurance, and copayments.

For individuals with slightly higher incomes, the SLMB program pays only the Part B premium. To be eligible for the SLMB program, an individual must have an income that exceeds 100 percent but is less than 120 percent of the federal poverty level. The SLMB program has the same asset limits as the QMB program.

The QI program also pays only the Part B premium. The QI program serves individuals with income at or above 120 percent but less than 135 percent of the federal poverty level. The QI program has annual allotments for each state. The QI program has the same asset limits as the QMB program.

QDWI program pays the Part A premium for working disabled persons under 65 who lost their premium-free Part A when they went back to work. These individuals are eligible for the QDWI program if their income does not exceed 200 percent of the federal poverty level and their resources do not exceed two times the SSI resource limit.

Indian Health Care

Federal Medicaid statute includes several protections specific to American Indians and Alaska Natives (AI/AN). These include:

a. Special treatment for certain AI/AN financial interest—as described at 42 CFR 435.603(e)(3), certain types of AI/AN income are excluded when determining household income based on modified adjusted gross income (MAGI).

b. Protections related to the imposition of enrollment fees, premiums, and cost-sharing charges—as described at 42 CFR 447.56(a)(1)(x), AI/ANs cannot be charged any enrollment fees or premiums if they are eligible to receive items or services furnished by an Indian health care provider, and they are exempt from all cost sharing if they are both eligible to receive and have received items or services furnished by an Indian health care provider or through referral under contract health services (CHS), now, Purchased Referred Care (PRC). In addition, 42 CFR 447.56(c)(2) prohibits any cost-sharing-related reduction in payment due under Medicaid to the Indian healthcare provider serving an AI/AN (i.e., a state must pay these providers the full Medicaid payment rate for furnishing the service).

c. Managed care protections – Network and coverage requirements related to AI/AN protections within managed care are codified at 42 CFR 438.14(b). These protections address network adequacy, access, claims payment, and disenrollment for AI/AN beneficiaries.

d. Requirements for payment to Indian Health Service (IHS)/Tribal facilities – States receive 100 percent FMAP for Medicaid services provided to AI/ANs through an IHS /Tribal facility. Per SHO letter #16-002, (https://www.medicaid.gov/sites/default/files/Federal-Policy-Guidance/Downloads/sho022616.pdf) states receive 100 percent FMAP for services provided to AI/ANs by non-IHS/Tribal providers when a care

coordination agreement is in place between an IHS/Tribal facility and a non-IHS provider, and other requirements of the SHO letter are met. Payment methodologies, including rates, for all services provided by IHS/Tribal facilities and non-IHS/Tribal providers are described in the Medicaid state plan.

e. Per January 18, 2017 FAQs (https://www.medicaid.gov/federal-policy-guidance/downloads/faq11817.pdf), CMS provided a grace period to permit IHS/Tribal facilities to continue to claim Medicaid reimbursement under the clinic services benefit at 42 C.F.R. § 440.90 (including at the IHS All Inclusive Rate (AIR)) for services provided outside of the "four walls" of the facility. The grace period ended on January 30, 2021. Recognizing the need to focus limited resources on addressing the COVID-19 PHE, CMS extended a grace period previously granted to permit such claims through October 31, 2021; a CMCS Informational Bulletin issued on October 4, 2021, further extended this grace period to nine months after the end of the COVID-19 PHE (February 11, 2024). https://www.medicaid.gov/sites/default/files/2021-01/cib11421.pdf (This was further extended until February 11, 2025. https://www.medicaid.gov/sites/default/files/2023-09/cib090823.pdf

Payment Error Rate Measurement (PERM) Program

The PERM program is utilized by HHS to calculate national improper payment rates in Medicaid and CHIP. The regulations at 42 CFR Part 431, Subpart Q, specify requirements for estimating improper payments in Medicaid and CHIP. The PERM program annually measures the national Medicaid and CHIP improper payment rates and uses a 17-state three-year rotation process. The national Medicaid and CHIP improper payment rates include findings from the most recent three-cycle measurements so that all states are captured in one rate. The national improper payment rates are comprised of three components: fee-for-service, managed care, and eligibility. States are expected to issue state-specific corrective action plans to address the root cause of errors and deficiencies.

Medicaid Eligibility Quality Control (MEQC) Program

The regulations at 42 CFR Part 431, Subpart Q, specify the requirements for the MEQC program, which is designed to reduce erroneous expenditures by monitoring the accuracy of eligibility determinations and work in conjunction with the PERM program. The MEQC program requires each state to conduct a MEQC pilot in the two years between the state's PERM review periods and report case findings to CMS and implement corrective actions to address all errors and technical deficiencies found to ensure continuous oversight of both Medicaid and CHIP state eligibility determinations. States have the flexibility to review error-prone areas identified through their PERM findings and must review areas not reviewed under the PERM program, such as denials and terminations.

Source of Governing Requirements

The federal law that authorizes these programs is Title XIX of the Social Security Act (Title XIX), enacted in 1965 and subsequently amended (42 USC 1396 et seq.). The federal regulations applicable to the Medicaid program are found in 42 CFR parts 430 through 456, 1002, and 1007.

The Families First Coronavirus Response Act (Pub. L. No. 116-127), as amended by section 9811 of the American Rescue Plan (Pub. L. No. 117-2).

Awards under the Medical Assistance Program (Assistance Listing 93.778) are subject to the requirements of 45 CFR Part 95 and the cost principles under Office of Management and Budget Circular A-87/2 CFR Part 200, Subpart E.

Federal requirements for the establishment and continued operations of the MFCUs are contained in 42 USC 1396b(a)(6), 1396b(b)(3), and 1396b(q); and 42 CFR Part 1007.

This program is subject to the requirements of 45 CFR Part 75 (the HHS implementation of 2 CFR Part 200) and 45 CFR Part 95.

Availability of Other Program Information

The HHS OIG issues fraud alerts, some of which relate to the Medicaid program. These alerts are available from the HHS OIG home page, Special Fraud Alerts section (https://oig.hhs.gov/compliance/alerts/index.asp).

Up-to-date program information, including State Medicaid Director and State Health Official letters, is available through Medicaid.gov at https://www.medicaid.gov/federal-policy-guidance/index.html.

Up-to-date information on Medical Loss Ratio is available at https://www.medicaid.gov/medicaid/managed-care/guidance/medical-loss-ratio/index.html.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	Y	N	N	N	Y	N	Y

General Audit Approach for Medicaid Payments

To be allowable, Medicaid costs for medical services must be (1) covered by the state plan or CMS-approved waivers/demonstrations; (2) reviewed by the state consistent with the state's documented procedures and system for determining the medical necessity of claims; (3) properly coded; and (4) paid at the rate allowed by the state plan. Furthermore, beneficiaries must be eligible (or presumptively eligible) at the time of service, whether covered under fee-for-service or managed care. Additionally, Medicaid costs must be net of beneficiary cost-sharing obligations and applicable credits (e.g., insurance, recoveries from other third parties who are responsible for covering the Medicaid costs, and drug rebates), paid to eligible providers, and only provided on behalf of eligible individuals.

Due to the complexity of Medicaid program operations, it is unlikely the auditor will be able to support an opinion that Medicaid expenditures comply with applicable laws and regulations (i.e., are allowable under the state plan) without relying upon the systems and internal controls.

Examples of complexities include:

1. Dependence upon large and complex ADP systems to process the large volume of Medicaid transactions for a fee for services arrangements.
2. Medical services are normally provided directly to an eligible beneficiary without prior approval by the state.
3. Medical service providers normally determine the scope and medical necessity of the services.
4. Notice to the state that a service was rendered after the fact when a claim for payment is issued.
5. Payments systems do not include a review of original detailed documentation supporting the claim before payment.
6. Complex payment structures for various medical services may exist, including the significance of proper coding of services for fee-for-service (e.g., billing by diagnosis-related groupings (DRG)). Managed care and waiver-based programs are dependent on the respective SPA and resulting agreements with the providers. Managed care programs are dependent on the authority for the program and the contracts with the managed care plans.

7. Payment rates and policies differ among service types and delivery methods, such as fee for service arrangements, managed care, and waivers (e.g., inpatient hospital, physicians, prescription drugs and drug rebates, and risk-based capitation payments for a specific set of covered services).
8. State contracts with third parties, such as managed care plans, to provide or arrange for services for all or part of beneficiary care. Managed care plans have contracts with providers to create networks. Managed care plans may also subcontract with other managed care plans and/or administrative services organizations to delegate some of their contractual obligations.

Medicaid has required control systems that should aid the auditor in obtaining necessary audit evidence for Medicaid expenditures. These control systems are discussed in the preceding Program Procedures section under Control Systems and are: (1) utilization control and program integrity; (2) inpatient hospital and long-term care facility audits; (3) ADP risk analyses and system security reviews (e.g., of the MES); and (4) MES claims processing and other modules normally include edits and controls that identify unusual items for follow up by the utilization control and program integrity function. The first three generally are performed by specialists retained by the SMA. The following table indicates the major types of Medicaid services (i.e., excludes administrative expenses) to which these controls will likely relate:

Type of Medicaid Payment	1	2	3	4
Inpatient Hospital	X	X	X	X
Physicians (including dental)	X		X	X
Prescription Drugs (net of rebates)	X		X	X
Institutional Long-Term Care	X	X	X	X
Managed Care Waiver	X	X	X	X
Home and Community-Based Waiver Program	X		X	

Each of the above Medicaid payment types is tested for compliance with applicable laws and regulations under one of the following: III.A, "Activities Allowed or Unallowed;" III.B, "Allowable Costs/Cost Principles;" or III.E.1, "Eligibility – Eligibility for Individuals." Based on the assessed level of control risk, the auditor should design appropriate tests of the allowability of Medicaid payments, which may include a sample of medical claims. Given the complexity of medical records, if medical claims are sampled, the auditor should consider engaging the assistance of specialists in the medical community to assist in the review. The auditor may consider using the same specialists used by the state. Appropriative privacy measures must be taken to protect health information (i.e., medical claims).

A. Activities Allowed or Unallowed

1. *Summary* – FFP funds can be used only for Medicaid benefit payments (as specified in the state plan, federal regulations, or an approved waiver/demonstration), expenditures for administration and training, expenditures for the State Survey and Certification Program, and expenditures for the establishment and operation of state MFCUs (42 CFR 435.10, 440.210, 440.220, and 440.180). Payments may only be made to providers determined by the SMA

to be eligible to participate in the Medicaid program. See III.N.4., "Provider Eligibility (Screening and Enrollment)" for related testing.

2. *Case Management Services* – Medicaid case management services may fall under the category of an administrative expense or as an optional medical state plan benefit. The term "case management services" means services that will assist individuals eligible under the plan in gaining access to needed medical, social, educational, and other services. Services, programs, and providers to which the individual is gaining access do not have to be specifically medical in nature and may include services for securing shelter, personal needs, and so forth (e.g., services provided by community mental health boards, county offices of aging). Case management services are an area of risk because of the high growth of expenditures and prior experience that indicates problems with the documentation of case management expenditures.

   Except for case management services (covered under a periodic payment (usually monthly) for each beneficiary) or risk-based managed care, federal regulations typically require the following documentation for case management services: date of service; the name of recipient; name of provider agency and person providing the service; nature, extent, or units of service; and place of service (section 1915(g) of the Act (42 USC 1396n(g)); 42 CFR Part 434).

   Administrative case management – Services must be assessed as a Title XIX benefit (e.g., outreach services provided by public school districts to Medicaid recipients).

   Case Management/targeted case management provided as an optional state plan service – Services must be provided to an eligible Medicaid recipient and must include: a comprehensive assessment and periodic reassessment of individual needs, development (and periodic revision) of a care plan that is based on the information collected through the assessment, making referrals to help the eligible individual obtain needed services and monitoring to ensure that the care plan is implemented and services are meeting the individual's needs.

3. *Managed Care* – A state may obtain a waiver of statutory requirements under 1915(a) or (b) waivers, amend its state plan under 1932(a) authority, or use 1115(a) demonstration authority, to develop a managed care delivery system that is intended to more effectively address the health care needs of its population. For example, a waiver/SPA/Demonstration may involve the use of managed care plans for the delivery of some or all Medicaid benefits for selected beneficiaries. Managed care plans' networks of providers must be eligible to participate in the program at the time services are rendered, payments to managed care plans should only be for eligible beneficiaries for the proper period and use the proper rate cell, and the capitation rates must be actuarially sound. Generally, FFS Medicaid should not pay a beneficiary's claims for services that are covered by the managed care plan contract. States should ensure that capitated payments to managed care plans are discontinued when a beneficiary is no longer enrolled in a

plan. All Medicaid managed care guidance can be found at https://www.medicaid.gov/medicaid/managed-care/guidance/index.html.

Payment risks in Medicaid-managed care can exist at the state level, the plan level, and the network provider level. At the state level, inaccurate state payments can be made to managed care plans because of inaccurate data or because the capitation rate setting includes costs that should be excluded when developing capitation rates.

4. *Medicaid Health Insurance Premiums* – A state may pay premiums for employer-sponsored insurance or private group health insurance, on behalf of a Medicaid beneficiary, if it is cost-effective to do so. When providing premium assistance, states must ensure that participating beneficiaries have access to all benefits available to other Medicaid beneficiaries and that they are not required to incur greater out-of-pocket costs for premiums, deductibles, co-payments, or similar cost-sharing charges than other Medicaid beneficiaries. A state's policy related to premium assistance is described in the Medicaid state plan.

5. *Disproportionate Share Hospital* – FFP is available for payments to states for qualifying hospitals that serve a disproportionate number of low-income patients with special needs. The state plan must specifically define a disproportionate share of hospitals and the method of calculating the rate for these hospitals. Section 1923 of the Act limits DSH payments on a state-wide basis to annual DSH allotments and a hospital-specific basis to each qualifying hospital's uncompensated care costs. Section 1923(j) of the Act (42 USC 1396r(4) *(OMB PRA 0938-0746*)) also requires each state to obtain, and submit to CMS, an annual independent certified audit of their Medicaid DSH to determine compliance with the hospital-specific DSH limit for individual hospitals within their program. These audits must be completed no later than the last day of the Federal fiscal year ending three years from the end of the Medicaid State plan rate year. Completed audit reports are due to CMS no later than 90 days after completion. 42 CFR 455.300-304 specifies the details and timing for these audits. If the audit identifies an individual hospital overpayment the auditor should determine whether the state plan allows for redistribution to other hospitals that were reimbursed under their hospital-specific DSH limit. Please see https://www.Medicaid.gov/medicaid/financial-management/medicaid-disproportionate-share-hospital-dsh-payments/index.html.

6. *Home and Community-Based Services (HCBS)* – A state may obtain a waiver of statutory requirements to provide an array of HCBS which may permit an individual to avoid institutionalization primarily through 1915(c) of the Act (42 CFR Part 441, Subpart G). States may also offer HCBS under their state plan under authority provided by section 1915(i) of the Act. States must operate their HCBS programs per certain "assurances," including three assurances related to quality of care. To meet these assurances, states must demonstrate that they have systems to effectively monitor the adequacy of service plans, the qualifications of providers, and the health and welfare of beneficiaries.

7. *Medicare Part B Buy-In* – 42 CFR 431.625(d)(1) specifies

   FFP funds are available for state payment of

   - Medicare Part B premiums for cash assistance recipients (SSI/SSP) and "deemed" cash recipients;
   - Part A or B premiums, deductibles, coinsurance, and copays for QMBs; and
   - Part B premiums for SLMBs and QIs.

   FFP is not available for state payment of Part B premiums for other categories of Medicaid for individuals 65 years old and older or who have blindness and disability.

B. Allowable Costs/Cost Principles

1. States must have a system to identify medical services that are the legal obligation of third parties, such as private health or accident insurers. Such third party resources should be exhausted before paying claims with program funds. Where third party liability is established after the claim is paid, reimbursement from the third party should be sought (section 1915 of the Act 42 USC 1396k; 42 CFR 433.135 through 433.154).

2. Before calculating the amount of FFP, certain revenues received by a state will be deducted from the state's medical assistance expenditures. The revenues to be deducted are (1) donations made by health care providers or related entities (except for bona fide donations and, subject to a limitation, donations made by providers for the direct costs of out-stationed eligibility workers); and (2) impermissible health care-related taxes. The requirements for provider-related donations and health care-related taxes are specified in section 1903(w) of the Act and implementing regulations at 42 CFR 433 Subpart B.

   These provisions apply to the 50 states and the District of Columbia, except those states whose entire Medicaid program is operated under a waiver granted under Section 1115 of the Social Security Act (42 CFR Part 433.50(c)).

3. Section 1927 of the Act (42 USC 1396r-8) requires manufacturers that wish to have their covered outpatient drugs covered by Medicaid to agree with CMS under which the manufacturers agree to pay rebates for drugs dispensed and paid for by state Medicaid agencies under the state plan ("rebate agreement"). Those rebates are shared between the state and federal governments. Claims are submitted on a National Council of Prescription Drug Program (NCPDP) transaction using a National Drug Code (NDC) or a medical claim transaction using either Healthcare Common Procedure Coding System (HCPCS) or revenue codes in the authorization. In addition to identifying the claims that are for covered outpatient drugs (CODs), the units need to be appropriate to the

definition of the rebate program. Within 30 days of state invoicing, manufacturers are required to pay the rebate or provide the state with written notice of disputed units not paid because of discrepancies found.

In addition, to receive FFP states must invoice for covered outpatient single and certain multiple source (top 20 multiple source drugs as published by the Secretary, https://www.medicaid.gov/sites/default/files/2021-06/top20-covered-oms-drugs.pdf) source physician-administered drugs (42 USC 1396r-8(a)(7)), states must also provide for collection and submission of such utilization data using the NDC according to Section 1927 (a)(7) of the Act and codified under 42 CFR 447.520. Physician-administered drugs include both injectable and non-injectable drugs. They are typically administered by medical professionals in physicians' offices, clinics, or hospital outpatient departments.

Generally, for payment to be available for covered outpatient drugs, drug manufacturers are required to have entered into a rebate agreement and meet various product and price reporting requirements, in addition to paying rebates. As part of the product and price reporting requirements, manufacturers must certify to CMS all covered outpatient drugs and, every quarter, are required to provide their average manufacturer's price and their best price for each covered outpatient drug, as applicable. Based on these data, CMS calculates a unit rebate amount for each drug, which it then provides to states. No later than 60 days after the end of the quarter, the SMA must provide drug utilization data to manufacturers, including drug utilization data of those Medicaid beneficiaries enrolled in managed care plans.

4 *Non-Disproportionate Share Hospital Supplemental Payments* – States make supplemental payments to hospitals and other providers such as nursing homes and physician groups that serve high-cost Medicaid beneficiaries. The upper payment limit (UPL) against which non-disproportionate share hospital supplemental payments are measured is codified at 42 CFR 447.272 for Institutional Services and 42 CFR 447.321 for Outpatient Hospital and Clinic Services.

5. *Non-Risk Contracts* – Non-risk contracts are defined in 42 CFR 438.2 as contracts between a state and a PIHP or PAHP under which the contractor (1) is not at financial risk for changes in utilization or for costs incurred under the contract that do not exceed the upper payment limits specified in 42 CFR 447.362 of this chapter; and (2) may be reimbursed by the state at the end of the contract period based on the incurred costs, subject to the specified limits.

6. *American Rescue Plan Act of 2021 (ARP) section 9817* - Provides qualifying states with a temporary 10 percentage point increase to the federal medical assistance percentage (FMAP) for certain Medicaid expenditures for home and community-based services (HCBS) beginning April 1, 2021, and ending March 31, 2022. CMS released State Medicaid Director Letter (SMDL) #21-003, https://www.medicaid.gov/federal-policy-guidance/downloads/smd21003.pdf, on

May 13, 2021, to provide guidance to states on the implementation of section 9817 of the ARP, and subsequently released SMD letter #22-002 extending the deadline to fully expend state funds equivalent to the number of federal funds attributable to the increased FMAP (https://www.medicaid.gov/federal-policy-guidance/downloads/smd22002.pdf). CMS expects states to expend the funds by March 31, 2025.

As described in SMD #21-003, states must comply with two program requirements to receive the increased FMAP for HCBS expenditures: (1) federal funds attributable to the increased FMAP must be used to supplement existing state funds expended for Medicaid HCBS in effect as of April 1, 2021; and (2) states must use the state funds equivalent to the amount of federal funds attributable to the increased FMAP to implement or supplement the implementation of one or more activities to enhance, expand, or strengthen HCBS under the Medicaid program. CMS requires participating states to submit both an initial and quarterly HCBS spending plan and narrative to CMS on the activities that the state has implemented and/or intends to implement to enhance, expand, or strengthen HCBS under the Medicaid program to demonstrate that the state is supplementing, but not supplanting, existing state funds expended for Medicaid HCBS. Many of these activities are eligible for Medicaid matching funds after states submit Form CMS-64 after the end of each quarter. However, some of the activities are not eligible for Medicaid matching funds, and states are only required to report spending on quarterly Spending Plans submitted to CMS. A state's approved Spending Plan and subsequent quarterly updates are listed on the CMS website (https://www.medicaid.gov/medicaid/home-community-based-services/guidance/arp-section-9817-state-spending-plans-and-narratives-and-cms-approval-letters/index.html) or obtained from the state.

Discrepancies between what the state reported spending on its Spending Plan and documentation of actual spending would constitute a potential violation of the 9817 requirements that states must use the state funds equivalent to the amount of federal funds attributable to the increased FMAP to implement or supplement existing state funds expended for Medicaid HCBS.

E. Eligibility

As discussed in the General Audit Approach for Medicaid Payments, the auditor may coordinate III.A, "Activities Allowed or Unallowed," III.B, "Allowable Costs/Cost Principles," and III.E, "Eligibility." Therefore, compliance requirements related to amounts provided to, or on behalf of, eligible individuals and presumptively eligible individuals are combined with III.A, "Activities Allowed or Unallowed" and III.B, "Allowable Costs/Cost Principles" such as, was the service incurred during the period the individual was eligible to receive benefits and was the provider paid the correct amount for the service billed."

The state verifies the financial and nonfinancial factors of eligibility, with the exceptions described below, by checking electronic data sources per federal requirements at 42 CFR

435.948 through 435.956 and state requirements (as documented in the state plan, verification plan, and eligibility manual). The state is required (as described at 42 CFR 435.914) to maintain facts in the case file to support the eligibility determination. When data sources used by the state are not available to the auditor, or information is not required to be available for the period under audit, auditors would not be expected to test verification other than the requirement to maintain information in the case file. For states that accept applicant self-attestation for certain factors of eligibility such as household composition, and do not require further verification or documentation, the auditors are not expected to test beyond the requirements of the state.

The exceptions to the verification process described above are eligibility determinations made by an Exchange, either the Federally Facilitated Exchange (FFE) or a State-based Exchange (SBE), elements of a determination made by an express lane agency, and presumptive eligibility (PE) determinations made by qualified entities. In states that have delegated eligibility determinations to a FFE or SBE, the state relies on the verifications conducted by the Exchange, and auditors are not expected to test verification. When express lane eligibility is used, the SMA relies upon elements of the determination made by an express lane agency. For PE determinations, the qualified entity accepts attestation of all needed information and states may not require verification or documentation of any eligibility criteria. When testing a PE determination, auditors are not expected to test verification.

1. Eligibility for Individuals

To participate in Medicaid, federal law requires states to cover certain groups of individuals. Examples of these mandatory eligibility groups are Infants and Children under Age 19, Pregnant Women, and Individuals Receiving Supplemental Security Income (SSI). States may also elect to extend coverage to optional groups of individuals. Examples of optional eligibility groups are Individuals Needing Treatment for Breast or Cervical Cancer, Optional State Supplement Recipients, and Family Opportunity Act Children with a Disability. In addition, states have the option to provide coverage to medically needy individuals who have income and/or resources that exceed the eligibility standards otherwise applicable to such individuals. Mandatory, optional, and medically needy coverage options are described in 42 CFR Part 435, subparts B, C, and D and the options elected by a state are detailed in its Medicaid state plan.

Eligibility for Medicaid includes both financial and nonfinancial requirements and each eligibility group can have its specific standards. Financial eligibility for most individuals is based on MAGI, which is described at 42 CFR 435.603. MAGI-based income is calculated using the financial methodologies defined in section 36B of the Internal Revenue Code with certain exceptions, such as the exclusion of certain types of AI/AN income (described above) and special rules for individuals who do not expect to file taxes or to be claimed as a tax dependent (non-filer rules). MAGI-based financial eligibility determinations include only an income test; states cannot apply a resource test when determining eligibility based on MAGI.

Certain groups of individuals are excepted from the use of MAGI. MAGI-excepted individuals are described at 42 CFR 435.603(j) and include individuals whose eligibility does not require a determination of income by the agency, such as individuals who are eligible based on their receipt of SSI; individuals whose eligibility for Medicaid is determined based on being age 65 or older or having blindness or a disability (often referred to as aged, blind or disabled, or ABD); and individuals being evaluated for coverage as medically needy.

When making non-MAGI financial eligibility determinations, states generally apply the income and resource methodologies of the most closely associated cash assistance program. For most individuals, the SSI financial eligibility methodology would be applied, including SSI rules related to both income and resources, per 42 CFR 435.601 and 435.602. Most MAGI-excepted eligibility determinations include a resource (sometimes called "asset") standard. However, states have the flexibility to modify resource standards by disregarding certain types or amounts of resources.

Certain nonfinancial requirements, such as age limitations, pregnancy, or parent/caretaker requirements, apply only to specific eligibility groups. Other non-financial requirements apply to all eligible individuals. Medicaid beneficiaries must generally be residents of the state in which they are receiving Medicaid, and they must be either US citizens or qualified non-citizens (referred to as aliens in the statute). Many qualified aliens, as defined at 8 USC 1641, who entered the United States on or after August 22, 1996, are not eligible for Medicaid for a period of five years, beginning on the date the alien was granted the qualified alien immigration status unless the alien is exempt from the five-year waiting period under 8 USC 1613. States must provide Medicaid to certain qualified aliens per the terms of 8 USC 1612(b)(2), provided that they meet all other eligibility requirements. States may provide Medicaid to all other otherwise eligible qualified aliens, subject to the five-year waiting period under 8 USC 1613. States also have the option to provide Medicaid coverage to lawfully residing pregnant women and children under age 21 per 42 USC 1396b(v)(4), which provides coverage to all lawfully present non-citizens who are otherwise eligible for Medicaid, including during the five-year waiting period, for those subject to it under 8 USC 1613. All aliens who otherwise meet the Medicaid eligibility requirements are eligible for treatment of an emergency medical condition under Medicaid, as defined in 8 USC 1611(b)(1)(A), regardless of immigration status or date of entry.

The Consolidated Appropriations Act, 2021 (Pub. L. No. 116-260) established a new requirement effective December 27, 2020, for states to extend full Medicaid eligibility to citizens of the Freely Associated States (the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau) living in the United States under the Compacts of Free Association (COFA). Additional information is provided in SHO letter #21-005 regarding Medicaid Eligibility for COFA Migrants available at https://www.medicaid.gov/sites/default/files/2021-10/sho21005.pdf.

To facilitate immediate access to services for individuals who are likely Medicaid eligible, without having to wait for a final eligibility determination to be made, states may establish a program of PE. Under this option, the state authorizes certain healthcare providers, schools, and/or other outside entities (referred to as "qualified entities") to screen for Medicaid eligibility and immediately enroll individuals who appear to be eligible. PE is time limited and ends within two months unless the individual submits a full Medicaid application.

The processes used by states to determine and renew eligibility for Medicaid must comply with certain federal requirements, which are described at 42 CFR Part 435, Subpart J. State processes for presumptive eligibility are described at 42 CFR Part 435, Subpart L. However, states have flexibility within this framework to establish processes that meet the unique needs of their state. Specific requirements to be considered when auditing eligibility determinations for individuals include:

a. Eligibility Determination

(1) States must accept applications submitted online, by telephone, via mail, or in person. This includes electronic, telephonically recorded, and handwritten signatures. The SMA must have documentation in the case record to support the agency's eligibility determination, including a record of verification of income and citizenship or satisfactory immigration status for each individual. The state must provide notice of its decision concerning eligibility and provide timely and adequate notice of the basis for denial or termination of assistance (section 1137(d) of the Act 42 USC 1320b-7(d); 42 CFR 435.907, 435.914, 435.917, 431.17, 431.211, 431.213, 431.214).

(2) Federal law requires that certain types of information be collected during the application process. As a condition of eligibility, each individual seeking Medicaid must furnish his or her Social Security number (SSN) as described at 42 CFR 435.910. If the individual does not recall his/her SSN or has not been issued an SSN, the state must assist the individual in obtaining or applying for an SSN. This requirement does not apply if the individual (a) is not eligible to receive an SSN, (b) does not have an SSN and may be issued an SSN only for a valid non-work reason, or (c) refuses to obtain a SSN because of well-established religious objections.

(3) States are directed at 42 CFR 435.912, to determine eligibility promptly and without undue delay. For individuals applying for Medicaid based on disability, the determination of eligibility may not exceed 90 days. For all other applicants, the determination of eligibility may not exceed 45 days.

(4) The 42 CFR 435.1200 requires coordination between SMAs and other insurance affordability programs, including an Exchange. Typically, electronic accounts must be transferred from the Medicaid/CHIP agency to the Exchange and vice versa. States utilizing the FFE must enter into an agreement in which the FFE makes either a determination or an assessment of MAGI Medicaid/CHIP eligibility and sends the individual's electronic account to the SMA for enrollment (FFE determination) or a final determination and enrollment (FFE assessment). Additional information may be found in the July 25, 2016, CMCS Informational Bulletin on Coordination of Eligibility and Enrollment between Medicaid, CHIP, and the Federally Facilitated Marketplace (FFM or "Marketplace") https://www.medicaid.gov/federal-policy-guidance/downloads/cib072516.pdf.

(5) When determining eligibility for a child, SMAs may rely on elements of a determination made by an express lane agency (as defined in section 2.1(e) of the Medicaid state plan) as to whether a child satisfies one or more requirements of Medicaid eligibility. The SMA may use an income determination from an express lane agency without regard to differences in a budget unit, income disregards, deeming, or other differences in methodology between the express lane agency and Medicaid. Auditors are not expected to test verification of express lane determinations relied upon by the SMA. Additional information may be found in section 1902(e)(13) of the Act (42 USC 1396a(e)(13)) and SHO letter #10-003 issued on February 4, 2010. https://www.medicaid.gov/sites/default/files/Federal-Policy-Guidance/downloads/SHO10003.PD

b. Eligibility Verification

(1) States must request information from reliable electronic data sources, including other agencies in the state and other state and federal programs to the extent that such information is determined useful in verifying the financial eligibility of an individual. As described in the state's verification plan for MAGI determinations, and state policies and procedures for both MAGI and non-MAGI determinations, this may include information from agencies such as the State Wage Information Collection Agency, the Social Security Administration, and the Internal Revenue Service. States may also use information related to eligibility or enrollment from other state programs such as the Supplemental Nutrition Assistance Program. For MAGI determinations, if the information provided by or on behalf of an individual is reasonably compatible with information obtained from the electronic data sources, as described

in the state's verification plan, then the agency must determine or renew eligibility based on such information and may not require the individual to provide any further documentation. If the information is not reasonably compatible, then the agency must provide the individual with a reasonable time to explain the discrepancy or furnish additional information (42 CFR 435.948 and 435.952). See the November 20, 2024 CIB on Financial Eligibility Verification Requirements and Flexibilities for additional information (available at https://www.medicaid.gov/federal-policy-guidance/downloads/cib11202024.pdf).

(2) States may choose to accept self-attestation of information needed to determine or renew eligibility except with respect to income, SSN, and citizenship or immigration status. When self-attestation is accepted, further information, including documentation, cannot be required from the individual. In such cases, the auditor would not be expected to test documentation other than required by the state. States must follow the requirements described in 42 CFR 435.948 through 435.956 for verification and documentation of income and citizenship and immigration status.

(3) Asset Verification Program – Section 1940 of the Act (42 USC 1396w) requires states to have a mechanism in place to verify assets, through access to information held by financial institutions, for purposes of determining or renewing Medicaid eligibility when an asset test is applicable for aged, blind, and disabled Medicaid applicants or beneficiaries.

c. Periodic Renewal

As required at 42 CFR 435.916, states must renew MAGI-based determinations of eligibility once every 12 months and no more frequently than once every 12 months. For non-MAGI beneficiaries, states must renew eligibility at least once every 12 months as described in the Medicaid state plan. When renewing eligibility, states must first attempt to renew based on reliable information available to the agency without requiring information from the individual. If sufficient information is not available to complete a renewal, or if the state has information that suggests that the beneficiary is ineligible, the state must provide the beneficiary with a renewal form and inform the individual of any additional information or documentation needed to determine eligibility. For MAGI-based determinations, the renewal form must be prepopulated with the most recent and reliable information known to the agency. Consistent with regulations at 42 CFR 435.930(b), the agency must continue to furnish Medicaid to beneficiaries who have returned their renewal form and all requested documentation unless and until they are

determined to be ineligible for eligibility under all groups covered by the state. Additional information may be found in the CMCS Informational Bulletin (CIB) on Medicaid and Children's Health Insurance Programs (CHIP) Renewal Requirements issued on December 4, 2020 (https://www.medicaid.gov/federal-policy-guidance/downloads/cib120420.pdf) and the November 26, 2024 CIB on Basic Requirements for Conducting *Ex Parte* Renewals of Medicaid and CHIP Eligibility (available at https://www.medicaid.gov/federal-policy-guidance/downloads/cib11262024.pdf).

d. Continuous Eligibility for Children

All states are required to provide 12 months of continuous eligibility for Medicaid beneficiaries under age 19. A long-standing state plan option, the Consolidated Appropriations Act, 2023 (CAA, 2023) (Pub. L. 117-328) made continuous eligibility mandatory, effective January 1, 2024. The CAA, 2023 amended section 1902(e)(12) of the Act (42 USC 1396a(e)(12)) to require one year of continuous eligibility under the state plan or a waiver of the state plan for all children under age 19. Medicaid beneficiaries under age 19 remain eligible until the earlier of (a) the end of the 12-month period beginning on the date of the beneficiary's eligibility determination; (b) the time the individual attains the age of 19; or (c) the date the individual ceases to be a resident of the state. The regulatory requirements are described at 42 CFR 435.926. They were revised effective January 1, 2025, to reflect the mandatory continuous eligibility requirement.

Additional information on continuous eligibility for children may be found in SHO# 25-001.

e. Continuous Eligibility During Pregnancy & Postpartum Coverage

All pregnant Medicaid beneficiaries are eligible under the state plan for at least pregnancy-related services through the end of the month in which the 60-day period, beginning on the last day of pregnancy, ends regardless of the eligibility group in which the beneficiary is enrolled, and regardless of any changes in income that would otherwise result in a loss of eligibility. Section 9812 of the American Rescue Plan Act (Pub. L. 117-2) established a new section 1902(e)(16) of the Act (42 USC 1396a(e)(16)), which was made permanent by the CAA, 2023. This provision gives states the option to provide 12 months of extended postpartum coverage to pregnant individuals enrolled in Medicaid. The 12-month postpartum period begins on the last day of a beneficiary's pregnancy and extends through the end of the month in which the 12-month period ends. Similar to the 60-day postpartum period, individuals are entitled to extend postpartum coverage regardless of the eligibility group in which the individual is enrolled. However, pregnant individuals eligible for extended postpartum coverage

are also entitled to continuous eligibility, so they remain eligible during pregnancy and the postpartum period regardless of any changes in circumstances including income and other factors of categorical eligibility.

The availability of continuous coverage under the extended postpartum coverage option renders any regular renewal scheduled before the end of the 12-month postpartum period unnecessary. Rather, the Medicaid agency must conduct the renewal at the end of the individual's extended 12-month postpartum period in accordance with renewal regulations at 42 CFR 435.916. A state may, but is not required to, conduct redeterminations and periodic renewals of eligibility based on available information without requesting information from the individual during a period of continuous eligibility, and if appropriate, move the individual to a new eligibility group as long as the transition to the new group would not result in a loss of or reduction in coverage (e.g., reduction in benefits, increase in premiums or cost-sharing).

Additional information on the extended postpartum coverage option can be found in SHO# 21-007 (https://www.medicaid.gov/federal-policy-guidance/downloads/sho21007.pdf).

f. Presumptive Eligibility

States have the option to establish PE for specific eligibility groups, as described in 42 CFR Part 435 Subpart L. In general, states must provide PE for pregnant women and children before extending PE to most other MAGI-based eligibility groups. The options elected by each state are described in the Medicaid state plan.

When selecting the PE option, states designate qualified entities, such as health care providers, community-based organizations, and schools to make PE determinations. These qualified entities are trained on the state's PE screening process and state-specific requirements for PE. In many states, qualified entities also help individuals to complete the full application process. A qualified entity is responsible for collecting and recording all information necessary to make a PE determination.

To be determined presumptively eligible, an individual must meet the basic requirements of an eligibility group for which PE is available. For example, to be presumptively eligible for the Infants and Children Under Age 19 group, the individual must be a child aged 18 or younger and must have a household income at or below the standard established by the state for this group. When determining income, states may use a simplified method such as gross income. In addition to the basic requirements of the eligibility group, states may, but are not required to, consider state residency and US citizenship or eligible immigration status when making a PE determination. Other information that would be collected on a full

application, cannot be required for a PE determination. In addition, individuals attest to all information needed for a PE determination. States may not require verification or documentation of any eligibility criteria as a condition of presumptive eligibility.

The PE period begins the day on which the qualified entity makes the PE determination. The end date varies depending on whether or not the individual submits a Medicaid application. If the individual submits a Medicaid application by the last day of the month following the month in which PE was determined, the PE period will continue until full Medicaid eligibility is either approved or denied. If the individual does not submit a Medicaid application, the PE period ends on the last day of the month following the month in which PE was determined. States must adopt reasonable standards regarding the number of PE periods that will be authorized for an individual.

g. Eligibility for Inmates of Public Institutions

As described in subdivision (A) in the matter following section 1905(a)(30) of the Act (42 USC 1396d(a)(30)) the provision of FFP for inmates of public institutions (in this case, correctional institutions) is limited to inpatient services furnished to inmates when they are patients in a medical institution. To implement this payment exclusion states historically terminated the eligibility and enrollment of beneficiaries when they entered a correctional institution. However, section 1001 of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (Pub. L. No. 115-271) added a new paragraph (84) to section 1902(a) of the Act (42 USC 1396a), which (1) prohibits states from terminating the Medicaid eligibility of an "eligible juvenile" who becomes an inmate of a public institution, (2) requires states to process applications submitted by incarcerated youth, and (3) requires states to redetermine the Medicaid eligibility of eligible juveniles before their release from a public institution. State Medicaid Director letter #21-002 (available at https://www.medicaid.gov/Federal-Policy-Guidance/Downloads/smd21002.pdf) describes the options available to states to suspend eligibility or benefits rather than terminating Medicaid eligibility, and it describes the requirements for renewals, notices, fair hearings, and other related matters. The Consolidated Appropriations Act, 2024 (P.L. 118-42) amends section 1902(a)(84), effective January 1, 2026, to remove the language limiting this protection to juveniles.

Further, CMS issued guidance to address the statutory requirements in the Consolidated Appropriations Act, 2023 (CAA, 2023) (P.L. 117- 328), which was signed into law on December 29, 2022. The CAA, 2023 includes two provisions impacting the availability of certain state plan services for incarcerated youth in Medicaid and CHIP. The CAA, 2023

also included another provision that modifies CHIP eligibility requirements for children who become incarcerated. All of these provisions are effective January 1, 2025. States will need to submit Medicaid and CHIP state plan amendments (SPA) with an effective date of January 1, 2025. https://www.medicaid.gov/federal-policy-guidance/downloads/sho24004.pdf

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

Not Applicable

3. Eligibility for Sub-recipients

Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

The state is required to pay part of the costs of providing Medicaid services and part of the costs of administering the program. The percentage of federal funding is determined based on the amount of the expenditure and the application of the FMAP that is determined for each state using a formula outlined in section 1905(b) of the Act (42 USC 1396d), or other applicable federal matching rates specified by the statute. In particular, the matching rates for states' administrative expenditures authorized by the Act are found in section 1903(a) of the Act (42 USC 1396b).

2. Level of Effort

2.1 Level of Effort- *Maintenance of Effort*

Not applicable.

2.2 Level of Effort – *Supplement Not Supplant*

American Rescue Plan Act of 2021 (ARP) Section 9817. To demonstrate compliance with the requirement to supplement, not to supplant existing state funds expended for Medicaid HCBS, states must: not impose stricter eligibility standards, methodologies, or procedures for HCBS programs and services than were in place on April 1, 2021; preserve covered HCBS, including the services themselves and the amount, duration, and scope of those services, in effect as of April 1, 2021; and maintain HCBS provider payments at a rate no less than those in place as of April 1, 2021.

Please note that these requirements do not supersede other statutory or regulatory requirements that apply to section 1915(c) waivers, or other requirements under other provisions authorizing HCBS, including requirements outlined in Special

Terms and Conditions under section 1115 demonstrations and managed care authorities under which states are delivering HCBS. For example, if states have implemented temporary changes to HCBS eligibility, covered services, and/or payment rates through the Appendix K template for section 1915(c) waivers, a disaster relief state plan amendment for section 1915(i) or (k) programs, or an Attachment K for HCBS services under a section 1115 demonstration, states are expected to retain those changes for as long as allowable under those authorities (e.g., according to the end date approved under an Appendix K but no later than six months post PHE). However, CMS will not apply penalties or non-compliance restrictions on the receipt of the increased FMAP once the authority for those temporary changes has expired or if the state needs to implement changes to comply with other federal statutory or regulatory requirements. CMS expects states to expend any funds by March 31, 2025, although states may request extensions beyond this date.

3. Earmarking

A state waiver may contain an earmarking requirement.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable for expenditure reporting for the administrative costs of the state MFCUs; not applicable for expenditure reporting all other components of the cluster

d. *CMS-64, Quarterly Statement of Expenditures for the Medical Assistance Program (OMB No. 0938-1265)* – Required to be used instead of the SF-425, Federal Financial Report (for all components of the cluster other than administrative costs of the state MFCUs), prepared quarterly and submitted electronically to CMS within 30 days after the end of the quarter. Various provisions of the Act provide for an FMAP that is increased either permanently, or temporarily. Lines and forms on the CMS-64 that reflect these increases present more risk than others. States must report expenditures on the CMS-64 that reflect the date of payment, not the date of service, to obtain the correct FMAP (see 42 CFR 430.30(c)).

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3. L for audit guidance.

N. Special Tests and Provisions

1. Utilization Control

Compliance Requirements The state plan must provide methods and procedures to safeguard against unnecessary utilization of care and services (42 CFR Part 456). The SMA must implement a statewide surveillance and utilization control program that (1) safeguards against unnecessary or inappropriate use of Medicaid services against excess payments, (2) assesses the quality of those services, and (3) provides for the control of the utilization of all services provided under the state plan per 42 CFR 456 Subparts B-I. The SMA must establish and use written criteria for evaluating the appropriateness and quality of Medicaid services. The agency must have procedures for the ongoing post-payment review, on a sample basis, of the need for, and the quality and timeliness of, Medicaid services. The SMA may conduct this review directly or may contract with an independent entity (42 CFR sections 456.5, 456.22, and 456.23).

Audit Objectives Determine whether the state has established and implemented procedures to safeguard against unnecessary utilization of care and services.

Suggested Audit Procedures

a. Determine if the SMA established and implemented procedures to conduct utilization reviews.

   (1) Obtain an understanding of the procedures used by the SMA to conduct utilization reviews.

   (2) Evaluate the qualifications of the personnel conducting the reviews. Ascertain that the individuals possess the necessary skill or knowledge by considering the following:

      (a) professional certification, license, or specialized training;

      (b) the reputation and standing of licensed medical professionals in the view of peers if relevant; and

      (c) experience in the type of tasks to be performed.

(3) Ascertain if the personnel performing the utilization review are organized sufficiently independently of other Medicaid operations to objectively perform their function.

(4) Ascertain if the SMA or independent entity's sampling plan was properly designed and executed.

b. Select a sample of cases examined by the SMA and ascertain if such examinations were by the SMA's procedures or per the SMA's contract with the independent entity.

2. Inpatient Hospital and Long-Term Care Facility Audits

Compliance Requirements The SMA pays for inpatient hospital services and long-term care facility services through the use of rates that are economical and efficient and are by the state plan. To the extent the state pays reconciled costs, the SMA must provide for the filing of uniform cost reports for each participating provider to establish payment rates. The SMA must provide for periodic audits of the financial and statistical records of participating providers. The specific audit requirements will be established by the state plan (42 CFR 447.253).

Audit Objectives Determine whether the SMA performed inpatient hospital and long-term care facility audits as required and established in the state plan.

Suggested Audit Procedures

a. Review the state plan and SMA operating procedures and document the types of audits performed (e.g., desk audits, field audits), the methodology for determining when audits are conducted, and the objectives and procedures of the audits.

b. Through examination of documentation, determine if the sampling plan was conducted as planned.

c. Select a sample of audits and ascertain if the audits complied with the SMA's audit procedures.

3. ADP Risk Analysis and System Security Review

Compliance Requirements SMAs must establish and maintain a program for conducting periodic risk analyses to ensure that appropriate and cost-effective safeguards are incorporated into new and existing systems. SMAs must perform risk analyses whenever significant system changes occur. SMAs shall review the ADP system security installations involved in the administration of HHS programs on a biennial basis. At a minimum, the reviews shall include an evaluation of physical and data security operating procedures, and personnel practices. The SMA shall maintain reports on its biennial ADP system security reviews, together with pertinent supporting documentation, for HHS on-site reviews (45 CFR 95.621).

Audit Objectives Determine whether the SMA has performed the required ADP risk analyses and system security reviews.

Suggested Audit Procedures

a. Review the SMA's policies and procedures, and document the frequency, timing, and scope of ADP security reviews. This should include any Service Organization Control (SOC) 1 Type 2 reviews following the statement on Standards for Attestation Engagements (AT-C) Section 320, Reporting on an Examination of Controls at a Service Organization that may have been performed on outside processors (service organizations).

b. Evaluate the appropriateness and extent of reliance on such reviews based on the qualifications of the personnel performing the risk analyses and security reviews and their organizational independence from the ADP systems.

c. Review the work performed during the most recent risk analysis and security review to determine if findings were identified and what actions the SMA took to address the findings.

4. Provider Eligibility (Screening and Enrollment)

Compliance Requirements To receive Medicaid payments, providers must: (1) be licensed per federal, state, and local laws and regulations to participate in the Medicaid program (42 CFR 431.107 and 447.10; and Section 1902(a)(9) of the Act (42 USC 1396a(a)(9)); (2) screened and enrolled per 42 CFR Part 455, Subpart E (sections 455.400 through 455.470); and make certain disclosures to the state (42 CFR Part 455, Subpart B, sections 455.100 through 455.106). Medicaid managed care network providers are subject to the same disclosure, screening, enrollment, and termination requirements that apply to Medicaid fee-for-service providers per 42 CFR Part 438, Subpart H. States must also follow guidance issued in the Medicaid Provider Enrollment Compendium (MPEC) at https://www.medicaid.gov/medicaid/program-integrity/downloads/mpec.pdf to enroll providers into their Medicaid programs. This guidance was updated on April 15, 2024.

Providers who have been barred from participation by the OIG exclusion list are not eligible to be enrolled in the Medicaid program (see 42 CFR 455.436). Lists may be found at https://oig.hhs.gov/exclusions/?utm_source=oigNewsletter&utm_medium=oig-nl-nav&utm_campaign=leie-nl.

Audit Objectives Determine whether Medicaid providers of medical services have the required medical licenses and are eligible to participate in the Medicaid program per federal, state, and local laws and regulations and whether the providers have made the required disclosures to the state.

Suggested Audit Procedures

a. Obtain an understanding of the state plan's provisions for licensing and entering into agreements with providers.

b. Select samples from both Medicaid fee-for-service providers and managed care network providers to ascertain if:

   (1) The provider is screened, licensed, and enrolled per the state plan and the requirement of 42 CFR 455 Subpart E.

   (2) The agreement with the provider complies with the requirements of the state plan, including the disclosure requirement of 42 CFR 455 Subpart B.

   (3) The provider complied with the requirements of the state plan, including the disclosure requirements of 42 CFR 455 Subpart B and Section 1.4 of the MPEC at https://www.medicaid.gov/medicaid/program-integrity/downloads/mpec.pdf.

   (4) The provider was not on the OIG's exclusion list at the time the services were provided.

5. Provider Health and Safety Standards

Compliance Requirements Providers must meet the prescribed health and safety standards for hospitals, nursing facilities, and ICF/IID (42 CFR Part 442). The standards may be modified in the state plan.

Audit Objectives Determine whether the state ensures that hospitals, nursing facilities, and ICF/IID that serve Medicaid patients meet the prescribed health and safety standards.

Suggested Audit Procedures

a. Obtain an understanding of the state plan provisions that ensure that payments are made only to institutions that meet prescribed health and safety standards.

b. Select a sample of providers that had a health and safety survey and who received payments for each provider type (i.e., hospitals, nursing facilities, and ICF/IID) and ascertain if the SMA has documentation that the provider has met the prescribed health and safety standards.

6. Medicaid Fraud Control Unit (MFCU)

Compliance Requirements States must have (1) methods and criteria for identifying suspected fraud cases; (2) methods for investigating these cases; and (3) procedures, developed in cooperation with legal authorities, for referring credible allegations of fraud cases to law enforcement officials (42 CFR 455.13). Credible allegations of provider fraud must be referred to the state MFCU or an appropriate law enforcement agency in

states with no certified MFCU (42 CFR 455.21). For those States that rely on Medicaid managed care plans, regulations require that managed care contracts include provisions for the prompt referral of any potential fraud to the State Medicaid agency or directly to the MFCU. (see 42 CFR 438.608(a)(7)).

States are required as part of their Medicaid state plans to maintain a MFCU unless the HHS Secretary determines that a MFCU would not be cost-effective. States must have an agreement between the MFCU and the SMA, which includes methods of coordination and procedures for referring potential fraud, including potential fraud arising in managed care networks. (see 42 CFR 455.21(c); 1007.9(d)).

Audit Objectives Determine whether the state has established and implemented procedures to (1) identify suspected fraud cases; (2) investigated these cases; and (3) referred credible allegations of fraud cases to the MFCU, or in jurisdictions without a MFCU, to another office with authority to prosecute cases of provider fraud, and to ensure that the state accurately reports overpayment recoveries resulting from MFCU activities on the CMS-64 per sections 1903(d)(2)(C) and (D) of the Act.

Suggested Audit Procedures

a. Ascertain if the Medicaid Agency has a program integrity function with qualified staff to comply with the requirements contained in 42 CFR 455.13.

b. Ascertain if the state has a MFCU and, if not, if it has received a waiver from the HHS Secretary and has alternate policies and procedures in place to detect Medicaid fraud and abuse.

c. Examine the current memorandum of understanding (MOU) between the MFCU and State Medicaid Agency and ascertain whether the MOU for the MFCU and state comply with the requirements of sections 455.21(c) and 1007.9(d)

d. Obtain an understanding of the State's policies and procedures that ensure credible allegations of provider fraud are identified and referred from the Medicaid Agency to the MFCU or in jurisdictions without an MFCU, to another office with authority to prosecute.

   For States in which Medicaid services are delivered in whole or in part by managed care plans, obtain an understanding of how referrals originating from managed care plans are referred to the Medicaid agency and/or to the MFCU when Medicaid services are delivered by in whole or in part by a managed care plan.

e. Select a sample of cases maintained by the Medicaid Agency involving the identification and investigation of potential fraud. Ascertain whether those cases reported identified credible allegations of provider fraud and if those cases were referred to the state MFCU or, if the state does not have a MFCU, to an office with authority to prosecute cases of provider fraud.

To the extent that the auditor selects a sample of MFCU cases to verify that credible allegations of fraud were referred to the MFCU, confine the sample to closed, rather than open, investigative cases.

For those States that deliver some or all Medicaid services through managed care organizations, ascertain that credible allegations of fraud originating from the managed care plans were referred to the MFCU.

f. Obtain records of monetary recoveries identified as a result of MFCU activities and ascertain whether the overpayments and other recoveries were appropriately reported on the CMS-64.

7. Refunding of Federal Share of Medicaid Overpayments to Providers

Compliance Requirements The 42 CFR 433 Subpart F outlines the requirements SMAs are to follow related to refunding the federal share of Medicaid overpayments made to providers. According to 1903(d)(2)(C) of the Act, (the Act) (42 USC 1396b), states have up to one (1) year from the date of discovery of the overpayment to recover or attempt to recover the overpayment before the federal share must be refunded to CMS via Form CMS-64 Summary, Line 9.C1- Fraud, Waste & Abuse Amounts, Line 9.C2-OIG Complaint False Claims Act, 9.D Other, 9.E. – RAC Collections, 9.F. – PERM Collections or 9.G. – MEQC Collections regardless of whether recovery is made from the provider. The state must credit the federal share to CMS as outlined under 42 CFR 433.320(a)(2) either in the quarter in which the recovery is made or in the quarter in which the one-year period following discovery ends, whichever is earlier, with limited exceptions. Under 42 CFR 433.316(d), for overpayments resulting from fraud, if not collected within one year of discovery, the SMA has until 30 days after the final judgment of a judicial or administrative appeals process to return the federal share.

Additionally, per 42 CFR 433.320(a)(4), the state will be charged interest for any non-recovered, non-refunded overpayment amounts. Any appeal rights offered to the provider do not extend the date of discovery per 42 CFR 433.316(h).

The repayment of the federal share is not required in cases where the state is unable to obtain recovery because the provider has filed for bankruptcy, or the provider is otherwise out of business as outlined in 42 CFR 433.318.

The 42 CFR 433.320(c)(1) allows for downward adjustments previously credited to CMS if it is properly based on the approved state plan, federal law and regulations governing Medicaid, and the appeals resolution process specified in state administrative policies and procedures. States are not able to enter into settlement agreements with providers that reduce the federal share of the overpayment to avoid the expense of litigation. The Departmental Appeals Board (DAB) decision No. 1391 from February 19, 1993 (https://www.hhs.gov/sites/default/files/static/dab/decisions/board-decisions/1993/dab1391.html), addressed overpayment settlements between the states and providers. This decision affirmed that states may not reduce the federal share by settling overpayment receivables for less than the actual amount of the overpayment

based on anticipated success in litigation or made simply to avoid administrative costs or litigation expenses.

For managed care, SMAs are required per 42 CFR 438.608(d)(1) to specify in each managed care contract how recoveries of provider overpayments must be treated. The refunding of the federal share of any overpayment recovered by an MCP is dependent on the retention policy outlined in the contract between the state and the MCP as required under 42 CFR 438.608(d)(1). If the state requires the MCP to refund overpayments to the state, the state must refund the federal share of that overpayment to CMS in accordance with the regulations at 42 CFR 433.312. The state must apply the FMAP rate in effect at the time the overpayment was made to determine the amount to be refunded to CMS.

Audit Objectives Determine whether the SMA reported and returned Medicaid provider overpayments per the federal requirements.

Suggested Audit Procedures

a. Review applicable federal laws and regulations, including 1903(d)(2)(C) of the Act (42 USC 1396b), 42 CFR 433 Subpart F, and the Departmental Appeals Board Decision No. 1391.

b. Should obtain an understanding of the process to identify overpayments.

c. Obtain managed care contract(s) to determine how recoveries made by MCPs to providers are treated.

d. Perform tests to ascertain if the federal share has been returned accurately per federal laws and regulations, including ensuring the full amount was refunded and any downward adjustments were made.

8. Medicaid Recovery Audit Contractors (RACs)

Compliance Requirements Under Section 1902(a)(42)(B)(i) of the Act (42 USC 1396a) and 42 CFR section 455 Subpart F, states and territories are required to establish programs to contract with one or more Medicaid RAC to identify underpayments and overpayments, and recouping overpayments under the state plan and under any waiver of the state plan with respect to all services for which payment is made to any entity under such plan or waiver. States must establish these programs in a manner consistent with State law, and generally in the same manner as the Secretary contracts with contingency fee contractors for the Medicare Fee-For-Service RAC program under Section 1893(h) of the Act (42 USC 1395ddd).

Section 1902(a)(42)(B)(i) of the Act (42 USC 1396a) specifies that states shall establish programs under which they contract with Medicaid RACs subject to such exceptions or requirements as the Secretary may require for purposes of a particular state. Under 42 CFR section 445.516(a), a state may request an exception to some or all of the Medicaid RAC contracting requirements by receiving an approved State Plan Amendment. As such, not all states have Medicaid RAC programs.

Under 42 CFR section 455.502, states must comply with reporting requirements describing the effectiveness of their Medicaid RAC programs by reporting overpayments that are collected in connection with the Medicaid RAC program on the CMS-64.

Under 42 CFR section 455.508, an entity that performs the functions of a Medicaid RAC must enter into a contract with a state to carry out any of the activities described in 42 CFR section 455.506. The entity must demonstrate to a state that it has the technical capability to carry out the activities described in 42 CFR section 455.506 (42 CFR section 455.508(a)); must hire a minimum of 1.0 FTE contractor Medical Director who is a Doctor of Medicine or Doctor of Osteopathy in good standing with the relevant state licensing authorities and has relevant work and educational experience (42 CFR section 455.508(b)); must hire certified coders unless the state determines that certified coders are not required for the effective review of Medicaid claims (42 CFR section 455.508(c)); must work with the state to develop an education and outreach program, which includes notification to providers of audit policies and protocols (42 CFR section 455.508(d)); and must provide minimum customer service measures including: a toll-free customer service telephone number in all correspondence sent to providers and staffing the toll-free number during normal business hours from 8:00 a.m. to 4:30 p.m. in the applicable time zone; compiling and maintaining provider approved addresses and points of contact; mandatory acceptance of provider submissions of electronic medical records on CD/DVD or via facsimile at the providers' request; and notifying providers of overpayment findings within 60 calendar days (42 CFR section 455.508(e)).

Under 42 CFR section 455.506, Medicaid RACs must review claims submitted by providers for which payment has been made under section 1902(a) of the Act (42 USC 1396a) or under any waiver of the state plan to identify underpayments and overpayments and recoup overpayments for the states. States may exclude Medicaid managed care claims from review by Medicaid RACs (42 CFR section 455.506(a)(1)); may coordinate with Medicaid RACs regarding the recoupment of overpayments (42 CFR section 455.506(b); must coordinate the recovery audit efforts of their RACs with other auditing entities(42 CFR section 455.506(c)); must make referrals of suspected fraud and/or abuse, as defined in 42 CFR section 455.2, to the MFCU or other appropriate law enforcement agency (42 CFR section 455.506 (d)); and must set limits on the number and frequency of medical records to be reviewed by the RACs, subject to requests for exception from RACs to states (42 CFR section 455.506(e)).

Audit Objectives To determine whether the state has established a Medicaid RAC (42 CFR section 455.502) with an eligible contractor (42 CFR section 455.508) and is conducting the required Medicaid RAC activities (42 CFR section 455.506) per the approved state plan, and any approved exceptions (42 CFR section 455.516).

Suggested Audit Procedures

a. Obtain an understanding of the state plan's provisions and approved exceptions for Medicaid RACs.
b. Ascertain whether waivers approved under 42 CFR section 445.516(a) and their expiration dates are applied as required by the State.

c. Verify the state entered into a contract(s) with a Medicaid RAC(s) consistent with federal requirements (42 CFR section 455.508).
d. Verify the state is coordinating the recovery audit efforts of their RACs with other auditing entities (42 CFR section 455.506(c)).
e. Verify the state has procedures to make referrals of suspected fraud and/or abuse, as defined in 42 CFR section 455.2, to the MFCU or other appropriate law enforcement agency (42 CFR section 455.506(d)). Verify if the state has made referrals of suspected fraud and/or abuse per their procedures.
f. Verify the state-set limits on the number and frequency of medical records to be reviewed by the RACs and complied with those limits (42 CFR section 455.506(e)).
g. Ascertain whether the state complied with reporting requirements by providing Medicaid RAC program performance results on its CMS-64 report on Form CMS 64.9O RAC (42 CFR section 455.502).

9. Medical Loss Ratio (MLR)

Compliance Requirements In the "Medicaid and Children's Health Insurance Program (CHIP) Programs; Medicaid Managed Care, CHIP Delivered in Managed Care, and Revisions Related to Third Party Liability" final rule, published in the *Federal Register* on May 6, 2016 (81 FR 27498), CMS adopted medical loss ratio (MLR) requirements for Medicaid and CHIP-managed care programs. The state must require each Medicaid-managed care plan to calculate and report an MLR for rating periods starting on or after July 1, 2017. If a state elects to mandate a minimum MLR, that minimum MLR must be at least 85 percent.

For all contracts, the state must ensure that each MCO, risk-based PIHP, and PAHP risk-based submits a report with the data elements specified in 42 CFR 438.8(k). Note that the 2016 Managed Care final rule preamble (FR Vol.81, No,88 27521-27522) indicates that "[n]on-risk PIHP or PAHP contracts by their nature do not need to calculate a MLR standard since contractors are paid an amount equal to their incurred service costs plus an amount for administrative activities." Expenditures for fraud prevention as noted in 42 CFR 438.8(k)(1)(iii) have not been defined by the private market MLR regulations at 45 part 158 and should not be included in the Medicaid MLR. The report should contain the required 13 data elements noted in the regulation, reflect the correct reporting years, and contain an attestation of accuracy regarding the calculation of the MLR as required in 42 CFR 438.8(n). The state should have a policy and procedure to indicate when the report(s) are due from plans and should not accept multiple submissions from plans unless the capitation payments are revised retroactively.

See guidance issued by CMS to provide a toolkit for states related to MLR reporting. It can be found at mlr-toolkit-sep-2024.pdf.

Audit Objectives Determine whether the state's oversight of the content and submission of MLR reports meets the requirements.

Suggested Audit Procedures

a. Perform procedures to ascertain if the state obtained the required MLR reports;

b. Verify the 13 required elements are included;

c. Verify the reporting period covered is 12 months;

d. Verify the report contains an attestation statement to address accuracy;

e. Ascertain if the state did not permit plans to submit multiple MLR reports for a specific reporting year except when a state had retroactive changes to capitation payments.

10. Managed Care Financial Audit

Compliance Requirements Concerning capitation rate setting for Medicaid managed care plans, under 42 CFR 438.4 states must provide all the validated encounter data, FFS data (as appropriate), and audited financial reports of the managed care organization (MCO), prepaid inpatient health plan (PIHP) or prepaid ambulatory health plan (PAHP) to the actuary developing the capitation rates.

Two types of audits are required for managed care:

1. Audited Financial Reports – The contract with each MCO, PIHP, and PAHP must require them to submit to the state an audited financial report specific to the Medicaid contract on an annual basis. These audited statements are in addition to MLR reports required in 42 CFR 438.8.

   These audits must be conducted in accordance with generally accepted accounting principles and generally accepted auditing standards (42 CFR section 438.3(m)). The managed care plan cannot submit financial statements that are not specific to the Medicaid line of business.

2. Periodic Audits – Effective no later than for rating periods for contracts starting on or after July 1, 2017, the state must periodically, but no less frequently than once every three years, conduct, or contract for an independent audit of the accuracy, truthfulness, and completeness of the encounter and financial data submitted by, or on behalf of each MCO, PIHP, and PAHP and post the results of these audits on its website (42 CFR section 438.602(e) and (g); May 6, 2016, *Federal Register* (81 FR 27541); OMB No. 0938-0920). In this guidance, it also indicates have flexibility and discretion in determining the standards or financial data audits, however the audits should follow generally accepted auditing standards.

Audit Objectives Determine 1) whether the required audits were conducted and 2) whether the audit reports for the Periodic Audits were posted on the state's website.

Suggested Audit Procedures

a. Review the state's policies and operating procedures for obtaining audited financial reports, conducting these required audits, and posting the Periodic Audits on the state's website.

b. Perform tests to ascertain if: (1) the state obtained annually the required Audited Financial Reports from the MCO, PIHP, and PAHP; and (2) the independent auditor's report on the financial report stated the audit was conducted per generally accepted auditing standards.

c. Perform tests to ascertain if: (1) the state conducted or contracted for the required Periodic Audits for the-MCO, PIHP, and PAHP at least once in the most recent three-year period; and (2) the audits were posted on the state's website.

IV. OTHER INFORMATION

Portion of Medicaid (Title XIX) Expenditures Claimed at CHIP Enhanced FMAP

As described in Part 4, CHIP (Assistance Listing 93.767), III.A.1, "Activities Allowed or Unallowed," certain qualifying states meeting the criteria provided in section 2105(g) of the Social Security Act, 42 USC 1397ee(g), may opt to receive the CHIP enhanced FMAP for certain Medicaid program expenditures. For certain qualifying states that choose this option, the enhanced portion of such expenditures (that is, the portion that is equal to the difference between the CHIP-enhanced FMAP and the standard Medicaid FMAP) is funded by their available CHIP allotments. Qualifying states were permitted to use up to 20 percent of their CHIP allotment to fund the enhanced portion of such Medicaid expenditures for allotments through the fiscal year 2008 CHIP allotment and up to 100 percent of their available CHIP allotments beginning with the fiscal year 2009 CHIP allotment. The qualifying states, determined by CMS under section 2105(g) of the Act, 42 USC 1397ee(g) are Connecticut, Hawaii, Maryland, Minnesota, New Hampshire, New Mexico, Rhode Island, Tennessee, Vermont, Washington, and Wisconsin. Amounts transferred into the state's Medicaid program are subject to the requirements of the Medicaid program when expended and should be included in the audit universe and total expenditures of this program when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred in should be shown as expenditures of this program when such amounts are expended.

Improper Payment Findings

Auditors should be alert to the following that have been identified in audit findings both as noncompliance and material weaknesses: If these items are identified, the auditors should determine if further review is appropriate.

1. Beneficiary Eligibility Determinations

Findings related to internal control deficiencies for eligibility determinations include:

- eligibility determination and renewal were not performed timely and/or performed within the timeliness standards;
- eligibility determinations are not made accurately;
- lack of internal controls over obtaining adequate documentation to support eligibility determinations, when applicable;
- eligibility system data was not accurate;
- beneficiary information was not verified according to the state's verification plan;
- program staff did not have sufficient knowledge of program requirements and policies due to high turnover and/or a lack of training; and
- MEQC review staff were not functionally and physically separate from both the eligibility determination staff and the Medicaid policy staff.

2. Medicaid Claims Processing

Findings related to significant weaknesses in Medicaid claims processing include:

- inadequate documentation to support the payments claimed in the CMS-64;
- payments reported on the CMS-64 were not readily traceable to the individual claims or information in the sub-system or the financial statements;
- inadequate internal control over utilization, fraud, and accuracy of Medicaid claims;
- lack of understanding of when to report payments in the CMS-64;
- inadequate internal control to assure that payments to providers were made in compliance with federal regulations (e.g., payments for services that were not medically necessary and providers were not eligible Medicaid providers);
- review of cost reports and recoupment of rate adjustments were not timely.

3. Other areas of weaknesses identified include:

- inadequate monitoring and oversight of subcontractors;
- inadequate monitoring and oversight to assure provider licensing, agreements or required certification were in effect and up-to-date, and that the related documentation was in file or the state MES;
- inadequate internal control related to the implementation of the MES module;

- inadequate internal control regarding user access to the MES modules, including terminated employees' user access rights; and
- MES module was not programmed and updated timely and accurately with proper information.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.870 MATERNAL, INFANT AND EARLY CHILDHOOD HOME VISITING GRANT PROGRAM

I. PROGRAM OBJECTIVES

The goals of the Maternal, Infant, and Early Childhood Home Visiting (MIECHV) programs are to (1) strengthen and improve the programs and activities carried out under Title V of the Social Security Act, (2) improve coordination of services for at-risk communities, and (3) identify and provide comprehensive services to improve outcomes for families who reside in at-risk communities.

The MIECHV programs include grants to states and six jurisdictions (District of Columbia, Puerto Rico, US Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands). Per 42 USC 711(h)(2)(B), nonprofit organizations with an established record of providing early childhood home visiting programs or initiatives in a state or several states are eligible for funding to provide services in states that are not participating in the programs. The legislation requires that awardees demonstrate improvement in six benchmark areas: improved maternal and newborn health; prevention of child injuries, child abuse, neglect, or maltreatment, and reduction of emergency department visits; improvement in school readiness and achievement; reduction in crime or domestic violence; improvement in family economic self-sufficiency; and improvements in the coordination and referrals for other community resources and supports.

These programs are intended to support and strengthen cooperation and coordination and promote linkages among various programs that serve pregnant women, expectant fathers, young children, and families in tribal communities and result in high-quality, comprehensive early childhood systems in every community.

II. PROGRAM PROCEDURES

The Health Resources and Services Administration (HRSA) administers the MIECHV programs in partnership with the Administration for Children and Families (ACF), with awards under this Assistance Listing number made by HRSA (ACF awards are made under Assistance Listing 93.508). HRSA and ACF are Operating Divisions of the Department of Health and Human Services (HHS).

Grants are awarded to states, the District of Columbia, Puerto Rico, Guam, the US Virgin Islands, the Commonwealth of the Northern Mariana Islands, and America Samoa to conduct needs assessments, and to those entities and nonprofit organizations providing services in states that are not participating in the programs, to develop the infrastructure needed for the widespread planning, adopting, implementing, and sustaining of evidence-based maternal, infant, and early childhood home visiting programs; and provide high-quality, voluntary, evidence-based home visiting services to pregnant women and families with young children from birth to age 5.

Nonprofit organizations are required to carry out the program based on the needs assessment conducted by the state.

Also, to the greatest extent practicable, nonprofit organizations are subject to the program requirements that apply to states (e.g., coordination with other programs under Title V of the Social Security Act and the limitation on costs associated with administering the award).

Source of Governing Requirements

These programs are authorized under 42 USC 711(c), as amended by section 6101 of Pub. L. No. 117-328.

Availability of Other Program Information

Other program information is available from the HRSA website at: http://mchb.hrsa.gov/programs/homevisiting/ and https://www.hrsa.gov/grants/manage-your-grant/policies-regulations-guidance.

Additional information related to eligible evidence-based models can be found at: https://homvee.acf.hhs.gov/HRSA-Models-Eligible-MIECHV-Grantees.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	N	Y	Y	Y	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

As specified in the Notice of Funding Opportunities (NOFOs), funds may be used to:

a. identify unmet needs and target at-risk communities, based on the most recent and approved statewide needs assessment.

b. develop the infrastructure and capacity needed to implement and sustain evidence-based maternal, infant, and early childhood home visiting programs in those communities; and

c. provide home visiting services to eligible families (home visiting is defined as an evidence-based program, implemented in response to findings from a needs assessment, that includes home visiting as a primary service delivery strategy (excluding programs with infrequent or supplemental home visiting), and is offered on a voluntary basis to pregnant women or children birth to age 5 targeting the participant outcomes in the legislation which include improved maternal and child health, prevention of child injuries, child abuse, or maltreatment, and reduction of emergency department visits, improvement in school readiness and achievement, reduction in crime or domestic violence, improvements in family economic self-sufficiency, and improvements in the coordination and referrals for other community resources and supports).

2. *Activities Unallowed*

As stated in the NOFOs, funds generally may not be used to support the delivery or costs of direct medical, dental, mental health, or legal services; however, some limited direct services may be provided (typically by the home visitor) to the extent required in fidelity to an evidence-based model approved for use.

B. Allowable Costs/Cost Principles

Costs charged to federal funds under this program must comply with the cost principles at 45 CFR part 75, subpart E, and any other requirements or restrictions on the use of federal funding.

G. Matching, Level of Effort, Earmarking

1. Matching

Recipients are subject to a matching requirement for Matching Grant funds (42 USC 711(c)(4)(B)). Recipients must contribute $1 in non-federal funds to receive $3 in federal grant award funding (25 percent state/jurisdiction contribution and 75 percent federal contribution).

There is no matching requirement for Base Grant funds (42 USC 711(c)(4)(A)).

2. Level of Effort

2.1 **Level of Effort** – *Maintenance of Effort*

Recipients must maintain non-federal funding for evidence-based home visiting and home visiting initiatives at a level that is not less than expenditures for such activities in state fiscal year 2019 or 2021, whichever is the lesser.

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

Not Applicable

3. Earmarking

Recipients shall not use more than 10 percent of the funds to cover the costs of administration (42 USC 711(d)(5)(A)), except when the recipient meets a specified condition (described below) and is authorized by the secretary to exceed the limitation by not more than 5 percentage points (42 USC 711(d)(5)(B)(i)).

A recipient meets a condition and if authorized by the secretary may exceed the limitation by not more than 5 percentage points if the recipient:

a. Conducts the program directly by providing home visits to eligible families and without a subrecipient (42 USC 711(d)(5)(B)(ii)(I));

b. Proposes, in the fiscal year for which the grant is made, to expand services in 1 or more communities identified in the statewide needs assessment and in which home visiting services are not provided (42 USC 711(d)(5)(B)(ii)(II)); or

c. Has conducted the program for fewer than 3 years (42 USC 711(d)(5)(B)(ii)(III)).

J. Program Income

The Notice of Award provides guidance on the use of program income. The addition method is used for this program.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

Part 3.L for audit guidance.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.914 HIV EMERGENCY RELIEF PROJECT GRANTS

I. PROGRAM OBJECTIVES

The objective of this program is to improve access to a comprehensive continuum of high-quality, community-based primary medical care and support services in metropolitan areas that are disproportionately affected by the incidence of Human Immunodeficiency Virus (HIV)/Acquired Immune Deficiency Syndrome (AIDS). The statute refers to both people with HIV and those who have AIDS (as reported to and confirmed by the Centers for Disease Control and Prevention (CDC)). These terms are used interchangeably in this compliance supplement but refer to this total universe of eligible individuals.

Emergency financial assistance in the form of formula-based funding, supplemental project-based funding, and formula-based Minority AIDS Initiative (MAI) funding is provided to eligible metropolitan areas (EMAs) and transitional grant areas (TGAs) to develop, organize, and operate health and support services programs for people with HIV and their care givers. The supplemental grants are discretionary awards and are awarded, following competition, to EMAs and TGAs that demonstrate need beyond that met through the formula award. They must also demonstrate the ability to use the supplemental amounts quickly and cost effectively. Other criteria contained in annual application guidance documents may also apply. All EMAs and TGAs that are receiving formula assistance are also receiving supplemental assistance and will continue to receive such assistance unless they fail to meet the legislative requirements related to unobligated balances.

II. PROGRAM PROCEDURES

The Health Resources and Services Administration (HRSA), a component of the Department of Health and Human Services (HHS), administers the HIV emergency relief programs. Eligibility for Ryan White HIV/AIDS Program (RWHAP) Part A grants depends, in part, on the number of confirmed AIDS cases within a statutorily specified “metropolitan area.” The secretary of HHS uses the Office of Management and Budget’s (OMB) census-based definitions of a Metropolitan Statistical Area (MSA) in determining the geographic boundaries of a RWHAP metropolitan area. HHS relies on the OMB geographic boundaries in effect when a jurisdiction was or is (if newly eligible) initially funded under RWHAP Part A. A metropolitan area is not eligible if it does not have an overall population of 50,000 or more.

HRSA uses data reported to and confirmed by CDC to determine eligibility. An EMA is a metropolitan area for which there has been reported to, and confirmed by, the director of the CDC a cumulative total of more than 2,000 cases of AIDS for the most recent five calendar-year periods for which data are available. A TGA is a metropolitan area for which there has been reported to, and confirmed by, the director of the CDC a cumulative total of at least 1000, but fewer than 2000, cases of AIDS during the most recent period of five calendar years for which

data are available. MAI funding is awarded using a formula that is based on the distribution of HIV/AIDS cases among racial and ethnic minorities.

After subtracting the amount available for MAI project assistance, HRSA must make at least two-thirds (66 2/3 percent) of the appropriated amount available for the EMAs' and TGAs' formula allocation and award the remainder as supplemental funding on the basis of demonstrated need and other factors. EMAs and TGAs are funded from the formula, supplemental, and MAI allocation on the basis of a single application and a combined award.

Funds are made available to the chief elected official of the EMA or TGA in accordance with statutory requirements and program guidelines. Day-to-day responsibility for the grant is ordinarily delegated to the jurisdiction's public health department, and some administrative functions may be outsourced to a private entity. The chief elected official of the jurisdiction is also required to establish or designate an HIV health services planning council, which carries out a planning process, coordinating with other state, local, and private planning and service organizations, and establishes the priorities for allocating funds. Newly eligible areas designated as TGAs in fiscal year (FY) 2007 and beyond are exempt from the requirement to establish and use an HIV health services planning council but must provide a process for obtaining community input as prescribed in the RWHAP Part A legislation.

Consistent with funding and service priorities established through the public planning process, the receiving jurisdiction uses the funds to provide assistance to public entities or private nonprofit or for-profit entities to deliver or enhance HIV/AIDS-related core medical and support services and, within established limits, for associated administrative and clinical quality management activities. Administrative activities include EMA or TGA oversight of service provider performance and adherence to their subrecipient obligations. Most of these service providers are nonprofit organizations.

Source of Governing Requirements

This program is authorized under sections 2601–2610 of Title XXVI of the Public Health Service Act, as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009 (Pub. L. No. 111-87) and is codified at 42 USC 300ff-11 through 300ff-20. The MAI is authorized under Section 2693(b)(2)(A) of the Public Health Service Act, 42 USC 300ff- 121(b)(2)(A).

All HRSA awards are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements at 45 CFR Part 75. As per 45 CFR parts 75.201 and 301, recipients may use a fixed-award instrument to obtain services based on a reasonable estimate of actual cost and based on performance and results related to improvement of program outcomes.

There are no program regulations specific to this program.

Availability of Other Program Information

Additional information about this program is available at https://ryanwhite.hrsa.gov/ .

Additional information on allowable uses of funds under this program is contained in policy notices and standards found at https://ryanwhite.hrsa.gov/grants/policy-notices and

https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/grants/2022-rwhap-nms-part.pdf.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	N	N	N	Y	N	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

Funds may be used only for core medical services, support services, clinical quality management, and administrative expenses (42 USC 300ff-14(a)).

a. Core medical services with respect to people with HIV (including co-occurring conditions (i.e., one or more adverse health conditions of an individual with HIV, without regard to whether the individual has AIDS or whether the conditions arise from HIV) means (1) outpatient and ambulatory health services; (2) AIDS Drug Assistance Program treatments; (3) AIDS pharmaceutical assistance; (4) oral health care; (5) early intervention services meeting the requirements of 42 USC 300ff-14(e); (6) health insurance premium and cost sharing assistance for low-income individuals; (7) home health care; (8) medical nutrition therapy;

(9) hospice services; (10) home and community-based health services; (11) mental health services; (12) substance abuse outpatient care; and (13) medical case management, including treatment adherence services (42 USC 300ff-14(c)(3)).

b. Support services means services that are needed for people with HIV to achieve their medical outcomes (those outcomes affecting the HIV-related clinical status of an individual with HIV) (for example, respite care for persons caring for people with HIV, outreach services, medical transportation, linguistic services, referrals for health care and support services, and such other services specified by HRSA) (42 USC 300ff-14(d)).

c. Clinical quality management means assessing the extent to which HIV health services provided to patients under the grant are consistent with the most recent Public Health Service guidelines for the treatment of HIV/AIDS and related opportunistic infections, and as applicable, developing strategies for ensuring that such services are consistent with the guidelines for improvement in the access to and quality of HIV health services (42 USC 300ff-14(h)(5)(A)). Policy Clarification Notice #15-02, https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/grants/pcn-15-02-cqm.pdf.

d. Administrative expenses at the recipient level include (1) activities related to routine grant administration and monitoring (for example, development of applications, receipt and disbursal of program funds, development and establishment of reimbursement and accounting systems, development of a clinical quality management program, preparation of routine programmatic and financial reports, and compliance with grant conditions and audit requirements); (2) contract development, solicitation review, award, monitoring, and reporting; and (3) activities carried out by the HIV health services planning council (42 USC 300ff-14(h)(3) and 300ff-12(b)).

e. Subrecipient administrative expenses include usual and recognized overhead activities, including those that are reimbursed through approved indirect cost rates; management oversight of funded activities; and other types of program support such as quality assurance, quality control, and related activities (42 USC 300ff-14(h)(4)).

2. *Activities Unallowed*

a. Funds may not be used to make payment for any item or service if payment has already been made or can reasonably be expected to be made under any state compensation program, under an insurance policy or any federal or state health benefits program, or by an entity that provides health services on a pre-paid basis except for programs administered by or

providing the services of the Indian Health Service (42 USC 300ff-15(a)(6)).

b. Funds may not be used to purchase or improve land or to purchase, construct, or make permanent improvement to any building. Minor remodeling is allowed (42 USC 300ff-14(i)).

c. Funds may not be used to make cash payments to intended recipients of RWHAP services (42 USC 300ff-14(i)) and Ryan White HIV/AIDS Program Services: Eligible Individuals and Allowable Uses of Funds, Policy Clarification Notice #16-02, https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/grants/service-category-pcn-16-02-final.pdf.

d. Funds may not be used to purchase sterile needles or syringes for the hypodermic injection of any illegal drug (Consolidated Appropriations Act, 2016, Division H, Title V, Section 520 (Pub. L. No. 114-113) and subsequent appropriations, as applicable). Other elements of syringe services programs may be allowable if in compliance with applicable HHS and HRSA-specific guidance.

e. Funds may not be used for AIDS programs or to develop materials, designed to promote or encourage, directly, intravenous drug use or sexual activity, whether homosexual or heterosexual (42 USC 300ff-84).

E. Eligibility

1. Eligibility for Individuals

Eligible beneficiaries are low-income individuals with HIV or, in certain circumstances, families of people with HIV. To the maximum extent practicable, services are to be provided to eligible individuals regardless of their ability to pay for the services and their current or past health condition (42 USC 300ff-15(a)(7)(A)).

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

Not Applicable

3. Eligibility for Subrecipients

The EMA or TGA may make funds available to public or private nonprofit entities or to private for-profit entities if they are the only available providers of quality HIV care in the area (42 USC 300ff-14(b)(2)).

J. Program Income

The Notice of Award provides guidance on the use of program income. The addition method is used for this program. Program income must be used for activities described in III.A.1, "Activities Allowed."

M. Subrecipient Monitoring

1. The HHS Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards *(*45 CFR Part 75) requires pass-through entities: (1) to evaluate each subrecipient's risk of noncompliance in order to determine the appropriate monitoring level; (2) to monitor the activities of subrecipient organizations to ensure that the subaward is in compliance with applicable federal statutes and regulations and terms of the subaward; and (3) to verify that subrecipients are audited as required under this guidance. Specifically, the recipient must conduct monitoring activities in accordance with sections 75.351 through 75.353 of Subpart D of 45 CFR Part 75.

2. Recipients must ensure that all requirements imposed by the federal government are passed down to subrecipients so that the HHS award is used in accordance with federal statutes, regulations, and the terms and conditions of the award.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.917 HIV CARE FORMULA GRANTS

I. PROGRAM OBJECTIVES

The objective of this program is to assist states and territories in improving the quality, availability, and organization of healthcare and support services for low-income, uninsured, and underinsured people with Human Immunodeficiency Virus (HIV).

II. PROGRAM PROCEDURES

The Department of Health and Human Services (HHS) administers the Ryan White HIV/AIDS Program (RWHAP) Part B through the Health Resources and Services Administration's (HRSA) HIV/AIDS Bureau (HAB). Grants are awarded annually, on a formula basis, to all 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands following submission of an application to, and approval by, HAB. The responsible state agency, usually the state health department, is designated by the governor.

The application addresses how the state plans to address each of the six specified program components: (1) HIV care consortia, (2) home and community-based care, (3) health insurance continuation program, (4) provision of treatments, (5) state direct services, and (6) Minority AIDS Initiative (MAI). This includes the state's plans for the AIDS Drug Assistance Program (ADAP). ADAP funding is provided to the state as a separate formula amount in addition to the base formula grant amount and can only be used for ADAP services.

States may use a variety of service delivery mechanisms. States may provide some or all services directly or may enter into subawards with local HIV care consortia, associations of public and nonprofit healthcare and support service providers, and community-based organizations that plan, develop, and deliver services for low-income, uninsured, and underinsured people with HIV. The state also may delegate some of its authority to monitor provider agreements to a "lead agency" (fiscal agent), with specific responsibilities contained in a formal agreement between the state and that agency. Finally, the state may provide subawards to healthcare or other service providers.

Source of Governing Requirements

The RWHAP Part B formula grant program is authorized under Sections 2611-2623 of Title XXVI of the Public Health Service Act as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009 (Pub. L. No. 111-87) and codified at 42 USC 300ff-21 through 300ff-31b. The MAI is authorized under Section 2693(b)(2)(B) of the Public Health Service Act, 42 USC 300ff-121(b)(2)(B).

There are no regulations specific to the RWHAP Part B.

Availability of Other Program Information

Further information about the RWHAP Part B is available at https://ryanwhite.hrsa.gov/.

Additional information on allowable uses of funds under this program is contained in policy notices and standards found at https://ryanwhite.hrsa.gov/grants/policy-notices and https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/grants/fiscal-monitoring-partb.pdf.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	Y	N	N	Y	N	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. Grant funds (and required matching funds) may be used for core medical services, support services, planning and evaluation, clinical quality management, and administrative expenses (42 USC 300ff-22(a); 42 USC 300ff-28(b)).

(1) Core medical services with respect to people with HIV (including the co-occurring conditions of the individual) means (1) outpatient and ambulatory health services; (2) AIDS Drug Assistance program treatments; (3) AIDS pharmaceutical assistance; (4) oral healthcare; (5) early intervention services meeting the requirements of 42 USC 300ff-22(d); (6) health insurance premium and cost sharing assistance for low-income individuals; (7) home healthcare; (8) medical nutrition therapy; (9) hospice services; (10) home and community-based health services; (11) mental health services; (12) substance abuse outpatient care; and (13) medical case management, including treatment adherence services (42 USC 300ff-22(b)(3)).

(2) Support services means services that are needed for people with HIV to achieve their medical outcomes (those outcomes affecting the HIV-related clinical status of people with HIV) (for example, respite care for persons caring for people with HIV, outreach services, medical transportation, linguistic services, referrals for healthcare and support services, and such other services specified by HRSA). Expenditures for or through consortia are considered support services (42 USC 300ff-22(c); 42 USC 300ff-23(f)).

(3) Clinical quality management means assessing the extent to which HIV health services provided to patients under the grant are consistent with the most recent Public Health Service guidelines for the treatment of HIV/AIDS and related opportunistic infections, and as applicable, developing strategies for ensuring that such services are consistent with the guidelines for improvement in the access to and quality of HIV health services (42 USC 300ff-28(b)(3)(E)(i) and Policy Clarification Notice #15-02, https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/grants/pcn-15-02-cqm.pdf).

(4) Administrative expenses at the recipient level include activities related to (1) routine grant administration and monitoring (for example, development of applications, receipt and disbursal of program funds, development and establishment of reimbursement and accounting systems, development of a clinical quality management program, preparation of routine programmatic and financial reports, and compliance with grant conditions and audit requirements); (2) contract development, solicitation review, award, monitoring, and reporting; and (3) planning and evaluation activities (42 USC 300ff-28(b)(3)(C)).

(5) Subrecipient administrative expenses include usual and recognized overhead activities, including those that are reimbursed through

approved indirect cost rates; management oversight of funded activities; and other types of program support, such as quality assurance, quality control, and related activities (42 USC 300ff-28(b)(3)(D)).

b. Any drug rebates received on drugs purchased from funds provided to establish a program of therapeutics must be used to support the types of activities otherwise eligible for funding under RWHAP Part B, with priority given to activities related to providing therapeutics (42 USC 300ff-26(g)). To assess whether a state or subrecipient is giving priority to activities related to providing therapeutics, the state (or subrecipient) should be able to demonstrate, that, before undertaking any type of activities other than ADAP purchases for medications or insurance that are allowed under paragraph 1.a. above, it (1) has no waiting list for ADAP services; (2) the ADAP formulary includes the required classes of HIV antiretroviral medications and opportunistic infection-related medications; and (3) the financial eligibility to access the ADAP is established at no less than 200 percent of the federal poverty level (the poverty guidelines are available at https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines and are also published each year in the *Federal Register*).

c. Rebates may be used for allowable RWHAP Part B services that exceed the recipient's RWHAP Part B implementation work plan. Rebates are not part of the recipient's RWHAP Part B award, and, therefore, are not subject to the 10 percent administrative cost cap, the planning and evaluation cost cap, clinical quality management cost cap, nor to the requirement to spend 75 percent on core medical services (see III.G.3.b and h, "Matching, Level of Effort, and Earmarking – Earmarking" below). Rebates can be used to meet both a recipient's state matching and maintenance of effort (MOE) requirements (42 USC 300ff-26(g) and Policy Clarification Notice #15-04 Utilization and Reporting of Pharmaceutical Rebates, https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/grants/pcn-15-04-pharmaceutical-rebates.pdf).

2. *Activities Unallowed*

a. Funds may not be used to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility (42 USC 300ff-28(b)(6)).

b. Funds may not be used to make cash payments to intended recipients of RWHAP services. Where direct provision of the service is not possible or effective; store gift cards, vouchers, coupons, or tickets that can be exchanged for a specific service or commodity (e.g., food or transportation) must be used. Recipients are advised to administer voucher

and store gift card programs in a manner which assures that vouchers and store gift cards cannot be exchanged for cash or used for anything other than the allowable goods or services, and that systems are in place to account for disbursed vouchers and store gift cards (42 USC 300ff-28(b)(6)) and Ryan White HIV/AIDS Program Services: Eligible Individuals and Allowable Uses of Funds, Policy Clarification Notice #16-02, https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/grants/service-category-pcn-16-02-final.pdf).

c. Funds may not be used to make payments for any item or service to the extent that payment has been made or can reasonably be expected to be made for that item or service under any state/territory compensation program, under an insurance policy, or under any federal or state health benefits program or by an entity that provides health services on a prepaid basis except for a program administered by or providing the services of the Indian Health Service (42 USC 300ff-27(b)(7)(F)).

d. Funds may not be used for inpatient hospital services, or nursing home or other long-term care facilities (42 USC 300ff-24(c)(3)).

e. Funds may not be used to pay any costs associated with creation, capitalization, or administration of a liability risk pool (other than those costs paid on behalf of individuals as part of premium contributions to existing liability risk pools) or to pay any amount expended by a state/territory under Title XIX of the Social Security Act (Medicaid) (42 USC 300ff- 25(b)).

f. Funds may not be used to develop materials designed to promote or encourage, directly, intravenous drug use or sexual activity, whether homosexual or heterosexual (42 USC 300ff-84).

g. Funds may not be used to purchase sterile needles or syringes for the hypodermic injection of any illegal drug (Consolidated Appropriations Act (Pub. L. No. 114-113), 2016, Division H, Title V, Section 520 and subsequent appropriations, as applicable). Other elements of syringe services programs may be allowable if in compliance with applicable HHS and HRSA-specific guidance.

h. ADAP rebates cannot be shared with other entities including, but not limited to, RWHAP Part A recipients, high-risk insurance pools, Marketplace plans, Medicaid, or any other state or federal program (42 USC 300ff- 31(b)).

i. International travel.

E. Eligibility

1. Eligibility for Individuals

To be eligible to receive assistance in the form of therapeutics, an individual must have a medical diagnosis of HIV and be (1) a low-income individual (as defined by the state), and (2) a resident of the state (as defined by the state) (42 USC 300ff-26(b)).

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

A state must use Emerging Communities funding in the geographic area specified as an Emerging Community, as defined in 42 USC 300ff-30(d)—a metropolitan area for which there has been reported to and confirmed by the Centers for Disease Control and Prevention a cumulative total of at least 500, but fewer than 1,000, cases of AIDS during the most recent period of five calendar years for which such data are available (42 USC 300ff-32(b)(1) and 300ff-30).

3. Eligibility for Subrecipients

a. To receive funding from the state under a consortium agreement, an applicant consortium must agree to provide, directly or through agreements with other service providers, essential health services, and essential support services, and must meet specified application and assurance requirements. These include conducting a needs assessment within the geographic area served and developing a plan (consistent with the state's comprehensive plan required by 42 USC 300ff-27(b)(5)) to meet identified service needs following a consultation process (42 USC 300ff-23(c)(2)).

b. For consortia otherwise meeting these requirements, the state shall give priority first to consortia that are receiving assistance from HRSA for adult and pediatric HIV-related care demonstration projects and then to any other existing HIV care consortia (42 USC 300ff-23(e)).

G. Matching, Level of Effort, Earmarking

1. Matching

a. States and territories (excluding Puerto Rico) with greater than one percent of the aggregate number of national cases of HIV/AIDS in the two-year period preceding the federal fiscal year in which the state is applying for a grant must, depending on the number of years in which this threshold requirement has been met, provide matching funds as follows (42 USC 300ff-27(d)):

Year(s) in Which Matching Required	Minimum Percentage of Nonfederal Matching	Ratio of Nonfederal to Federal Expenditures
First	16 2/3	$1 nonfederal/$5 Federal
Second	20	$1 nonfederal/$4 Federal
Third	25	$1 nonfederal/$3 Federal
Fourth and subsequent	33 1/3	$1 nonfederal/$2 Federal

b. All recipients are subject to a matching requirement for ADAP supplemental funds in an amount equal to $1 for every $4 of federal funds (42 USC 300ff-28(a)(2)(F)(ii)(III)). Those recipients that are required to match the base formula funds may request and receive a waiver from this additional matching requirement.

2. Level of Effort

2.1 Level of Effort – *Maintenance of Effort*

The state/territory will maintain HIV-related activities at a level that is equal to not less than the level of such expenditures by the state/territory for the one-year period preceding the fiscal year for which the state/territory is applying for RWHAP Part B funds (42 USC 300ff-27(b)(7)(E)).

2.2 Level of Effort – *Supplement Not Supplant*

Funds awarded under a grant must supplement and not supplant other funds available to the entity for the provision of early intervention services for the fiscal year involved (42 USC 300ff-22(d)(2)(B)).

3. Earmarking

a. The state may not use more than 10 percent of the amounts received under the grant for planning and evaluation activities (42 USC 300ff-28(b)(2)).

b. The state may not use more than 10 percent of the amounts received under the grant for administration (42 USC 300ff-28(b)(3)(A)).

c. A state may not use more than a total of 15 percent of the amounts received for the combined costs for administration and planning and evaluation (42 USC 300ff-28(b)(4)). States and territories that receive a minimum allotment (between $50,000 and $500,000) may expend up to the amount required to support one full-time equivalent employee for any or all of these purposes (42 USC 300ff- 28(b)(5)).

d. The aggregate of expenditures for administrative expenses by subrecipients may not exceed 10 percent of the total amount of grant funds sub awarded by the state (without regard to whether particular entities

spend more than 10 percent for such purposes) (42 USC 300ff-28(b)(3)(B)).

e. Unless waived by the secretary, for the purpose of providing health and support services to women, youth, infants, and children with HIV, including treatment measures to prevent the perinatal transmission of HIV, a state shall use for each of these populations not less than the percentage of RWHAP Part B funds in a fiscal year constituted by the ratio of the population involved (women, youth, infants, or children) in the state with AIDS to the general population in the state of individuals with AIDS (42 USC 300ff-22(e)). This information is provided to the state by HRSA with reporting requirements (i.e., annual progress report) as listed on the Notice of Award (NoA). Recipients demonstrate compliance with the WICY expenditure requirement in their annual progress report and may request a waiver as part of the annual progress report.

f. A state shall use a portion of the funds awarded to establish a program to provide therapeutics to treat HIV/AIDS or prevent the serious deterioration of health arising from HIV/AIDS in eligible individuals, including measures for the prevention and treatment of opportunistic infections. The specific amount for ADAP will be provided in the grant agreement. Of the specific amount in the grant agreement for this purpose, the state may use not more than 5 percent to encourage, support, and enhance adherence to, and compliance with, treatment regimens (including related medical monitoring) unless the secretary (or designee) approves a 10 percent limit (42 USC 300ff-26(c)).

g. A state shall establish a clinical quality management program to determine whether the services provided under the grant are consistent with the most recent Public Health Service guidelines for the treatment of HIV disease and related opportunistic infection and, as applicable, to develop strategies for bringing these services into conformity with the guidelines. Funds used for this purpose may not exceed the lesser of 5 percent of the amount received under the grant or $3,000,000 and are not considered administrative expenses for purposes of the limitation under paragraph 3.b above (42 USC 300ff-28(b)(3)(E)).

h. Unless waived by the secretary, HHS (or designee), not less than 75 percent of the amount remaining after reserving amounts for state administration, planning and evaluation, and a clinical quality management program shall be used to provide core medical services to eligible people with HIV (including services regarding the co-occurring conditions of those individuals) (42 USC 300ff-22(b)).

J. Program Income

1. The NoA provides guidance on the use of program income. Generally, the addition method is used for this program; program income may also be used to satisfy all or part of the state matching requirements. Program income must be used for activities described in III.A.1, "Activities Allowed."

2. The terms and conditions of award under the RWHAP Part B regarding program income do not apply to drug rebates. Rather, drug rebates must be used as specified in III.A.1.b and c, "Activities Allowed or Unallowed – Activities Allowed."

M. Subrecipient Monitoring

1. HHS Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards (45 CFR Part 75) requires pass-through entities: (1) to evaluate each subrecipient's risk of noncompliance in order to determine the appropriate monitoring level; (2) monitor the activities of subrecipient organizations to ensure that the subaward is in compliance with applicable federal statutes and regulations and terms of the subaward; and (3) verify that subrecipients are audited as required under this guidance. Specifically, the grantee must conduct monitoring activities in accordance with sections 75.351 through 75.353 of Subpart D of 45 CFR Part 75.

2. Recipients must ensure that all requirements imposed by the federal government are passed down to subrecipients so that the HHS award is used in accordance with federal statutes, regulations, and the terms and conditions of the award.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.918 GRANTS TO PROVIDE OUTPATIENT EARLY INTERVENTION SERVICES WITH RESPECT TO HIV DISEASE

I. PROGRAM OBJECTIVES

The Grants to Provide Outpatient Early Intervention Services With Respect to HIV Disease program (also referred to as the Ryan White HIV/AIDS Program (RWHAP) Part C Early Intervention Services (EIS)) provides outpatient, high-quality, early intervention services and primary care related to the Human Immunodeficiency Virus (HIV) and the Acquired Immune Deficiency Syndrome (AIDS).

II. PROGRAM PROCEDURES

The Department of Health and Human Services (HHS) administers the RWHAP Part C EIS through the Health Resources and Services Administration's (HRSA) HIV/AIDS Bureau (HAB). Grants are awarded to public and nonprofit private entities, including federally qualified health centers under Section 1905(1)(2)(B) of the Social Security Act (42 USC 1396d (l)(2)(B)).

Grants also are awarded to (1) grantees under Section 1001 (regarding family planning) other than states, (2) comprehensive hemophilia diagnostic and treatment centers, (3) rural health clinics, (4) health facilities operated by or pursuant to a contract with the Indian Health Service, (5) community-based organizations, clinics, hospitals, and other health facilities that provide early intervention services to people with HIV, or (6) nonprofit private entities that provide comprehensive primary care services to populations at risk for HIV/AIDS, including faith-based and community-based organizations. Providers must be qualified Medicaid-participating providers unless an exception is granted by HRSA (42 USC 300ff-52(a)(1)(A) through (G) and 42 USC 300ff-52(b)).

The RWHAP Part C EIS enables the provision of comprehensive primary health care and support services in an outpatient setting, provided directly by the recipient or through referrals, contracts, or memoranda of understanding (MOUs) with other service providers, including (1) HIV counseling, (2) targeted testing, (3) periodic medical evaluation, clinical, and diagnostic services, (4) provision of therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising with HIV/AIDS; and (5) referrals to appropriate providers of health care and support services. RWHAP Part C EIS recipients work with their community and public health partners to improve outcomes across the HIV care continuum so that individuals diagnosed with HIV are linked and engaged in care and started on antiretroviral therapy (ART) as early as possible.

Minority AIDS Initiative (MAI) funds are provided to recipients based on the percentage of the RWHAP Part C EIS populations served within racial/ethnic minority communities.

Services may be provided directly by the recipient or through contractual agreements with other service providers/subrecipients.

Source of Governing Requirements

The RWHAP Part C EIS is authorized under sections 2651–2667 of Title XXVI of the Public Health Service (PHS) Act, as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009 (Pub. L. No. 111-87) and is codified at 42 USC 300ff-51 through 300ff-67. The MAI is authorized under Section 2693(b)(2)(C) of the Public Health Service Act (42 USC 300ff-121(b)(2)(C)).

The RWHAP Part C EIS has no program-specific regulations.

Availability of Other Program Information

Further information about the RWHAP Part C EIS is available at https://ryanwhite.hrsa.gov/.

Additional information on allowable uses of funds under the RWHAP Part C EIS is contained in policy notices and standards found at https://ryanwhite.hrsa.gov/grants/policy-notices.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	Y	N	N	Y	Y	N	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

a. Funds may be used for counseling concerning HIV (whether or not associated with HIV testing) and targeted testing for HIV (42 USC 300ff-51(e)(1)(A) and (B) and 42 USC 300ff-62(f)).

b. Funds may be used to provide clinical and diagnostic services regarding HIV/AIDS and periodic medical evaluations of individuals with HIV. Funds also may be used for providing therapeutic measures for preventing and treating the deterioration of the immune system and related conditions (including STD, hepatitis C, and tuberculosis) (42 USC 300ff- 51(e)(1)(D) and (E)).

c. Funds may be used to refer people with HIV to providers of health and support services, as appropriate. This includes recipients of funding under the RWHAP Part A and Part B for the provision of health and support services; biomedical research facilities of institutions of higher education that offer experimental treatment for such disease; community-based organizations or other entities that provide such treatment; and, in the case of pregnant women, recipients of funding under RWHAP Part D (42 USC 300ff-51(e)(1)(C) and -51(e)(2)(A-C)).

d. Core medical services encompass the following services: (1) outpatient and ambulatory health services; (2) AIDS Drug Assistance Program treatments defined under 42 USC 300ff-26; (3) AIDS pharmaceutical assistance; (4) oral healthcare; (5) early intervention services described in 42 USC 300ff-51(e); (6) health insurance premium and cost sharing assistance for low-income individuals in accordance with 42 USC 300ff-15; (7) home health care; (8) medical nutrition therapy; (9) hospice services; (10) home and community-based health services as defined under 42 USC 300ff-14(c); (11) mental health services; (12) substance abuse outpatient care; and (13) medical case management, including treatment adherence services (42 USC 300ff-51(b)(1)(A) and 51(c)).

e. Funds may be used to pay the costs of providing support services that are needed for people with HIV to achieve their medical outcomes. These services include but are not limited to, outreach services, nonmedical case management, medical transportation, translation, and referrals for healthcare and support services. Support services are subject to the approval of the secretary of HHS or designee (42 USC 300ff-51(b)(1)(B) and 51(d)).

f. Funds may be used for the establishment of a clinical quality management program to assess the extent to which medical services that are provided to patients are consistent with the most recent Public Health Service

guidelines for the treatment of HIV/AIDS and related opportunistic infections, and, as applicable, to develop strategies for ensuring that such services are consistent with the guidelines, and to ensure that improvements in the access to and quality of HIV health services are addressed (42 USC 300ff-64 (g)(5)). Policy Clarification Notice #15-02, https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/grants/pcn-15-02-cqm.pdf.

2. *Activities Unallowed*

a. Funds may not be used to make payments for any item or service to the extent that payment has been made or can reasonably be expected to be made for that item or service under any state compensation program, under an insurance policy (except for a program administered by or providing the services of the Indian Health Service), or under any federal or state health benefits program or by an entity that provides health services on a prepaid basis (42 USC 300ff-64(f)(1)).

b. Funds may not be awarded to for-profit entities to carry out required early intervention services unless they are the only available providers of quality HIV care in the area (42 USC 300ff-51(e)(3)(A)).

c. Funds may not be used to fund AIDS programs or to develop materials, designed to promote or encourage, directly, intravenous drug abuse or sexual activity, whether homosexual or heterosexual (42 USC 300ff-84).

d. Funds may not be used to purchase sterile needles or syringes for the hypodermic injection of any illegal drug (Consolidated Appropriations Act, 2016 (Pub. L. No. 114-113), Division H, Title V, Section 520, and subsequent appropriations, as applicable). Other elements of syringe services programs may be allowable if in compliance with applicable Health Resources and Services Administration-Specific Implementation Guidance to Support Certain Components of Syringe Services Programs, 2016 (hiv.gov).

e. Funds received under this grant will not be expended for any purpose other than the purposes for which the grant was awarded (42 USC 300ff-64(g)(1)).

f. Funds may not be used to purchase or improve land or to purchase, construct, or make permanent improvement to any building (42 USC 300ff-64(g)(1).

g. Payments for clinical research.

h. Payments for nursing home care.

i. Pre-Exposure Prophylaxis (PrEP) or Post-Exposure Prophylaxis (nPEP) medications or medical services. As outlined in the November 16, 2021, RWHAP and PrEP program letter, the RWHAP legislation provides grant funds to be used for the care and treatment of people with HIV, thus prohibiting the use of RWHAP funds for PrEP medications or related medical services, such as physician visits and laboratory costs. However, RWHAP Part C recipients and subrecipients may provide prevention counseling and information, which should be part of a comprehensive PrEP program. https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/hiv-care/prep-dcl-november-2021-508.pdf

j. International travel.

k. Funds may not be used to make cash payments to intended recipients of RWHAP services (42 USC 300ff-28(b)(6) and Ryan White HIV/AIDS Program Services: Eligible Individuals and Allowable Uses of Funds, Policy Clarification Notice #16-02, https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/grants/service-category-pcn-16-02-final.pdf.

B. Allowable Costs/Cost Principles

Costs charged to federal funds under this program must comply with the cost principles at 45 CFR Part 75, Subpart E, and any other requirements or restrictions on the use of federal funding.

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable.

2. Level of Effort

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

Recipients must agree to maintain non-federal expenditures for EIS services (i.e., counseling of individuals with respect to HIV, targeted HIV testing, referrals/linkage to care, therapeutic measures, and periodic medical evaluations of people with HIV and other clinical and diagnostic services related to HIV diagnosis). This must be at least at the same spending level for the fiscal year prior to the fiscal year for which you receive the award, as required by section 2664(d) of the PHS Act.

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

Not Applicable.

3. **Earmarking**

a. At least 75 percent of funds (after reserving amounts for administrative costs, planning/evaluation, and clinical quality management) must be used for core medical services for an individual with HIV, including the co-occurring conditions of the individual (42 USC 300ff-51(b)(1)(A) and 51(c)).

b. Funds may be used for administrative expenses; no more than 10 percent on administrative expenses (42 USC 300ff-51(b)(1)(C)).

J. Program Income

The Notice of Award guides the use of program income. The additive method (commonly referred to the addition method) is used for RWHAP Part C EIS. Program income must be used for activities described in III.A.1, "Activities Allowed."

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3. L for audit guidance.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.958 BLOCK GRANTS FOR COMMUNITY MENTAL HEALTH SERVICES

I. PROGRAM OBJECTIVES

The objective of the Community Mental Health Services Block Grant (MHBG) program is to provide funds to states and territories to enable them to carry out their respective plans for providing comprehensive community-based mental health services for adults with serious mental illness and children with serious emotional disturbances. To ensure creative and cost-effective delivery of services, states are encouraged to develop solutions to address the specific mental health concerns of their local communities.

II. PROGRAM PROCEDURES

The Substance Abuse and Mental Health Services Administration (SAMHSA), an operating division of the Department of Health and Human Services (HHS), administers the block grant program. MHBG-funded activities include (1) a comprehensive, community-based system of mental health care for adults who have a serious mental illness and children and youth who have a serious emotional disturbances, including case management, treatment, rehabilitation, employment, housing, education, medical, dental, and other support services that enable individuals to function in the community and reduce the rate of psychiatric hospitalization; (2) outreach for homeless individuals who also suffer from serious mental illness and the development of special services for individuals with serious illness living in rural areas; (3) systemic integration of social, educational, juvenile justice, and substance abuse services with health and mental health services for children with a serious emotional disturbance to ensure that care is appropriate to their multiple needs (including services provided under the Individuals with Disabilities Act); (4) collecting and reporting an estimate of the incidence and prevalence in the state of serious mental illness among adults and serious emotional disturbance among children; and (5) staffing and training for mental health services providers necessary to implement the state plan.

MHBG funds are allocated to the states according to a formula legislated by Congress. States may then distribute these funds to cities, counties, or service providers within their jurisdictions. Funds may only be used for carrying out the state plan, evaluating programs and services carried out under the plan, or planning, administration, and education activities relating to providing services under the plan.

The state must submit to SAMHSA an annual application that includes a plan to meet the community mental health services objectives described above and signed assurances required by the Act. The state plan addresses how the state intends to comply with the various requirements of Title XIX, Part B, subparts I and III of the Public Health Service Act (42 USC 300x) and its program objectives by addressing the five criteria listed in the statute.

Source of Governing Requirements

This program is authorized under Title XIX, Part B, subparts I and III of the Public Health Service Act (42 USC 300x et seq.). Criteria for the state plan may be found at 42 USC 300x-1. The 45 CFR Part 96 provides regulations for the general administrative requirements for the covered block grant programs. These regulations are in lieu of the general administrative requirements included in 45 CFR Part 75 (the HHS implementation of 2 CFR Part 200). Section 75.202 and sections 75.351 through 75.353 of Subpart D, and Subpart F of 45 CFR Part 75 apply to the MHBG. In addition, states are to administer the MHBG program according to the plans that they submitted to SAMHSA.

States are to use the fiscal policies that apply to their funds in administering MHBG. Procedures must be adequate to ensure the proper disbursal of and accounting for federal funds paid to the grantee, including procedures for monitoring the assistance provided (45 CFR section 96.30).

Under the block grant philosophy, each state is responsible for designing and implementing its own MHBG program, within very broad federal guidelines. States must administer their MHBG program according to their approved plan and any amendments and in conformance with their own implementing rules and policies.

Availability of Other Program Information

SAMHSA published a notice in the *Federal Register* on July 6, 2001 (66 FR 35658), that details approval requirements for nonrecurring expense exclusions from maintenance-of-effort calculations. A second SAMHSA *Federal Register* notice, published on November 23, 2001 (66 FR 58746-58747), addresses the retroactive application of the nonrecurring expense exclusion.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	Y	Y	N	N	Y	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

Services provided with grant funds shall be provided only through appropriate, qualified community programs (which may include community mental health centers, child mental health programs, psychosocial rehabilitation programs, mental health peer support programs, and mental health primary consumer-directed programs). Services under the plan will be provided through community mental health centers only if the services are provided as follows:

a. Services principally to individuals residing in a defined geographic area (service area);

b. Outpatient services, including specialized outpatient services for children, the elderly, individuals with serious mental illness, and residents of the centers who have been discharged from inpatient treatment at a mental health facility;

c. Twenty-four-hours-a-day emergency care services;

d. Day treatment and other partial hospitalization services or psychosocial rehabilitation services; or

e. Screening for patients being considered for admission to state mental health facilities to determine the appropriateness of such admission (42 USC 300x-2(b) and (c)).

2. *Activities Unallowed*

The state shall not use grant funds to:

a. Provide inpatient hospital services. An inpatient is a person who is formally admitted to the inpatient service of a hospital for observation, care, diagnosis, or treatment;

b. Make cash payments to intended recipients of health services;

c. Purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or any other facility, or purchase major medical equipment;

d. Satisfy any requirement for the expenditure of nonfederal funds as a condition for the receipt of federal funding; or

e. Provide financial assistance to any entity other than a public or nonprofit entity. A state is not precluded from entering into a procurement contract for services since payments under such a contract are not financial assistance to the contractor (42 USC 300x-5(a)).

B. Allowable Costs/Cost Principles

State cost principles requirements apply to MHBG (45 CFR section 96.30). As discussed in Appendix I to this Supplement, "Federal Programs Excluded from the A-102 Common Rule and Portions of 2 CFR Part 200," MHBG is exempt from the provisions of OMB cost principles.

C. Cash Management

SAMHSA will make payments at such times and in such amounts to each state from its awards in advance or by way of reimbursement in accordance with 31 USC 6503(a) and Treasury Circular No. 1075 (31 CFR Part 205) (45 CFR section 96.12).

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort

2.1 Level of Effort – *Maintenance of Effort*

a. The state shall for each fiscal year maintain aggregate state expenditures for community mental health services at a level that is not less than the average level of such expenditures maintained by the state for the two-state fiscal years preceding the fiscal year of the grant. Expenditures for the two previous fiscal years are reported in the state plan. The secretary may exclude from the aggregate state expenditures funds appropriated to the principal agency for authorized activities which are nonrecurring and for a specific purpose (42 USC 300x-4(b); *Federal Register*, July 6, 2001 (66 FR 35658), and November 23, 2001 (66 FR 58746-

58747), as specified in II, "Program Procedures – Availability of Other Program Information").

b. The state shall for each fiscal year expend an amount not less than an amount equal to the amount expended in fiscal year 1994 for systems of integrated services for children with serious emotional disturbance (42 USC 300x-2(a)(1)(C)). FY 1994 expenditures are reported in the state plan.

2.2 Level of Effort – *Supplement Not Supplant*

Not Applicable

3. Earmarking

a. The state may not expend more than 5 percent of grant funds for administrative expenses concerning the grant (42 USC 300x-5(b)).

b. A state shall expend not less than 10 percent of grant funds for carrying out evidence-based programs that address the needs of individuals with early serious mental illness, including psychotic disorders, regardless of the age of the individual at onset. Evidence-based programs are interventions that are guided by the best research evidence with practice-based expertise, cultural competence, and the values of the persons receiving the services, that promote individual-level or population-level outcomes. Different evidence-based programs are available at: https://www.samhsa.gov/resource-search/ebp. Instead of expending 10 percent of the amount received for a fiscal year, a state may elect to expend not less than 20 percent of such amount by the end of the succeeding fiscal year (42 USC 300x-9c).

c. A state shall expend at least 5 percent of grant funds to support evidence-based programs that address the crisis care needs of individuals with serious mental illnesses (SMI) and children with serious emotional disturbances (SED), which may include individuals experiencing mental health crises demonstrating serious mental illness or serious emotional disturbance, as applicable. Grant funds may be used to fund some or all of the core crisis-care service components, as applicable and appropriate, including the following: crisis call centers, 24/7 mobile crisis services, and crisis stabilization programs offering acute care or subacute care in a hospital or appropriately licensed facility. Instead of expending 5 percent of the amount the state receives pursuant to 42 USC 300x for a fiscal year to support evidence-based programs as noted above, a state may elect to spend not less than 10 percent of such amount to support such programs by the end of two consecutive fiscal years. SAMHSA guidance related to the 5 percent set-aside is available at: https://www.samhsa.gov/sites/default/files/mhbg-crisis-set-aside-

guidance.pdf Definitions for SMI and SED can be found at: https://www.samhsa.gov/sites/default/files/federal-register-notice-58-96-definitions.pdf (Public Health Service Act, Section 1920; 42 USC 300x-9d)

H. Period of Performance

Any amounts paid to the state for a fiscal year shall be available for obligation and expenditure until the end of the fiscal year following the fiscal year for which the amounts were paid (42 USC 300x-62).

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3. L for audit guidance.

IV. OTHER INFORMATION

Preparation of the Schedule of Expenditures of Federal Awards

Due to overlapping performance periods, in any given fiscal year, a state could be incurring expenditures under three different MHBG grants. However, these are individual grants with specific performance periods and therefore expenditures must not be commingled but rather reported separately to allow for a reconciliation between audited expenditures and expenditures self-reported by recipients in the SF-425, Federal Financial Report.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.959 BLOCK GRANTS FOR PREVENTION AND TREATMENT OF SUBSTANCE ABUSE

I. PROGRAM OBJECTIVES

The objective of the Substance Use Prevention, Treatment, and Recovery Services Block Grant (SUPTRS BG) program is to provide funds to states, territories, and one Indian tribe for planning, carrying out and evaluating activities to prevent, treat, and provide recovery services for Substance Use Disorder (SUD) and other related activities as authorized by the statute.

The SUPTRS BG is the primary tool the federal government uses to fund state SUD prevention, treatment, and recovery services programs. While the SUPTRS BG provides federal support to addiction prevention, treatment, and recovery services nationally, it empowers the states to design solutions to specific addiction problems that are experienced locally.

II. PROGRAM PROCEDURES

The Substance Abuse and Mental Health Services Administration (SAMHSA), an operating division of the Department of Health and Human Services (HHS), administers the SUPTRS BG program. For purposes of this guidance, the term "state" includes the 50 states, the District of Columbia, American Samoa, Guam, the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Marianas, Palau, the Commonwealth of Puerto Rico, the US Virgin Islands, and the Red Lake Band of Chippewa Indians. The states generally subaward funds for the provision of services to public and nonprofit organizations. Service providers may include for-profit organizations, but for-profits may not receive financial assistance.

Examples of SUPTRS BG activities are:

1. *Alcohol Treatment and Rehabilitation* – Direct services to patients experiencing primary problems with alcohol, such as community outreach, detoxification, withdrawal management, outpatient counseling, residential rehabilitation, hospital-based care (not inpatient hospital services), monitoring, vocational counseling, case management, central intake, recovery services, and program administration.

2. *Drug Treatment and Rehabilitation* – Direct services to patients experiencing primary problems with illicit drugs and drug use, such as outreach, withdrawal management, opioid use disorder services, outpatient counseling, residential rehabilitation, including therapeutic communities, hospital-based care (not inpatient hospital services), vocational counseling, case management, central intake, recovery services, and program administration.

3. *Primary Prevention Activities* – Education, counseling, and other activities designed to reduce the risk of substance use disorder.

The SUPTRS BG funds are allocated to the states according to a formula legislated by Congress. States may then distribute these funds to cities, counties, or service providers within their jurisdictions based on need. Of the SUPTRS BG funds dispensed to each state annually, Congress has specified that the state will expend not less than 20 percent for programs for individuals who do not require treatment for substance use disorder. The programs should (1) educate and counsel the individuals on such substance use disorder; and (2) provide for activities to reduce the risk of such substance use disorder by the individuals. SUPTRS BG statutory "set-asides" were established to fund programs targeting special populations, such as services for substance-using pregnant women and women with dependent children, and, in certain "designated states," for screening for human immunodeficiency virus (HIV).

They submit to SAMHSA for approval, an annual application that includes a state plan for SUD prevention, treatment, and recovery services objectives described above and signed assurances required by the Act and implementing regulations. The entire application, including the plan, must be reviewed by SAMHSA to ensure that all of the requirements of the law and regulations are met.

The state plan addresses how the state intends to comply with the various requirements of Title XIX, Part B, subparts II and III of the Public Health Service Act (42 USC 300x-21-66) and its program objectives and specific allocations by (1) conducting state and local demand and need assessments; (2) establishing statewide prevention, treatment, and recovery services improvement plans with specific multi-year goals for narrowing identified service gaps, implementing training efforts, and fostering coordination among SUD treatment, primary health care, and human service agencies; and (3) addressing human resource requirements, clinical standards and identified treatment improvement goals, and ensuring coordination of all health and human services for individuals with substance use disorders.

Source of Governing Requirements

This program is authorized under Title XIX, Part B, subparts II and III of the Public Health Service Act (42 USC 300x-21). The implementing regulations are published in 45 CFR Part 96. Those regulations include general administrative requirements for the covered block grant programs in 45 CFR sections 96.46 through 96.120. Specific SUPTRS BG requirements are included in 45 CFR sections 96.121 through 96.137. Section 75.202 and sections 75.351 through 75.353 of Subpart D, and Subpart F of 45 CFR Part 75 apply to the SUPTRS BG. With the exceptions noted, 45 CFR section 75.101(d) exempts SUPTRS BG from the general administrative requirements of 45 CFR Part 75.

States are to administer their SUPTRS BG programs according to the plan that they submitted to SAMHSA. States are to use the fiscal policies that apply to their funds in administering the SUPTRS BG. Procedures must be adequate to assure the proper disbursal of and accounting for federal funds paid to the grantee, including procedures for monitoring the assistance provided (45 CFR section 96.30).

Availability of Other Program Information

SAMHSA published a notice in the *Federal Register* on July 6, 2001 (66 FR 35658), that details approval requirements for nonrecurring expense exclusions from maintenance-of-effort calculations. A second SAMHSA *Federal Register* notice, published on November 23, 2001 (66 FR 58746-58747), addresses the retroactive application of the nonrecurring expense exclusion.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	Y	Y	N	N	Y	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. SUPTRS BG funds may be expended to provide for a wide range of activities to prevent, treat, and provide recovery services for substance use disorders and may be expended to deal with the use of alcohol, the use of illicit drugs, the misuse of licit drugs, and the use of tobacco products as identified in the Overview section above (sections 1921 to 1954 of the PHS Act, 42 USC 300x-21–300x-35; 58 FR 17062 No. 60, March 1993).

b. The state may use grant funds for loans from a revolving loan fund for the provision of housing in which individuals recovering from alcohol and drug use disorders may reside in groups. Individual loans may not exceed $4,000 (45 CFR section 96.129).

c. For the SUPTRS BG program's 20 percent prevention set-aside noted below (see G.3.a.), SAMHSA requires states to allocate funds in a way that is supportive of one or more of the six primary prevention strategies as part of a comprehensive approach to prevention efforts. These strategies include (1) information dissemination, (2) education, (3) alternatives, (4) problem identification and referral, (5) community-based processes, and (6) environmental strategy (42 USC 300x-22; 45 CFR sections 96.124 (b)(1) and 96.125).

2. *Activities Unallowed*

a. The state shall not use grant funds to provide inpatient hospital services except when it is determined by a physician that (a) the primary diagnosis of the individual is SUD and the physician certifies this fact; (b) the individual cannot be safely treated in a community-based non-hospital, residential treatment program; (c) the service can reasonably be expected to improve an individual's condition or level of functioning; and (d) the hospital-based SUD program follows national standards of SUD professional practice. Additionally, the daily rate of payment provided to the hospital for providing the services to the individual cannot exceed the comparable daily rate provided for community-based non-hospital residential programs of treatment for SUD and the grant may be expended for such services only to the extent that it is medically necessary (i.e., only for those days that the patient cannot be safely treated in a residential community based program) (42 USC 300x-31(a) and (b); 45 CFR sections 96.135(a)(1) and (c)).

b. Grant funds shall not be used to make cash payments to intended recipients of health services (42 USC 300x-31(a); 45 CFR section 96.135(a)(2)).

c. Grant funds shall not be used to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or any other facility or purchase major medical equipment. The secretary may provide a waiver of the restriction for the construction of a new facility or rehabilitation of an existing facility, but not for land acquisition (42 USC 300x-31(a); 45 CFR sections 96.135(a)(3) and (d)).

d. The state shall not use grant funds to satisfy any requirement for the expenditure of nonfederal funds as a condition for the receipt of federal funding (42 USC 300x-31(a); 45 CFR section 96.135(a)(4)).

e. Grant funds may not be used to provide financial assistance (i.e., a subgrant) to any entity other than a public or nonprofit entity. A state is not precluded from entering into a procurement contract for services since payments under such a contract are not financial assistance to the contractor (42 USC 300x-31(a); 45 CFR section 96.135 (a)(5)).

f. The state shall not expend grant funds to purchase sterile needles or syringes for the hypodermic injection of any illegal drug, provided that such limitation does not apply to the use of funds for elements of a program other than making such purchases if the relevant state or local health department, in consultation with the Centers for Disease Control and Prevention, determines that the state or local jurisdiction, as applicable, is experiencing, or is at risk for, a significant increase in hepatitis infections or an HIV outbreak due to injection drug use, and such program is operating per state and local law (42 USC 300ee-5; 45 CFR section 96.135 (a)(6); and Pub. L. No. 114-113, Division H, Title V, Section 520).

g. Grant funds may not be used to enforce state laws regarding the sale of tobacco products to individuals under the age of 18, except that grant funds may be expended from the primary prevention set aside of SUPTRS BG under 45 CFR section 96.124(b)(1) for carrying out the administrative aspects of the requirements such as the development of the sample design and the conducting of the inspections (45 CFR section 96.130 (j)).

h. No funds provided directly from SAMHSA or the relevant state or local government to organizations participating in applicable programs may be expended for inherently religious activities, such as worship, religious instruction, or proselytization (42 USC 300x-65 and 42 USC 290kk; 42 CFR section 54.4).

B. Allowable Costs/Cost Principles

As specified in Appendix I to this Supplement, “Federal Programs Excluded from the A-102 Common Rule and Portions of 2 CFR Part 200,” SUPTRS BG is exempt from the provisions of the OMB cost principles. State cost principles requirements apply to SUPTRS BG.

C. Cash Management

SAMHSA will make payments at such times and in such amounts to each state from its awards in advance or by way of reimbursement per section 203 of the Intergovernmental Cooperation Act (42 USC 4213) and Treasury Circular No. 1075 (31 CFR Part 205) (45 CFR section 96.12).

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort

2.1 Level of Effort – *Maintenance of Effort*

a. The state shall for each fiscal year maintain aggregate state expenditures for authorized activities by the principal agency at a level that is not less than the average level of such expenditures maintained by the state for the two-state fiscal years preceding the fiscal year for which the state is applying for the grant. The "principal agency" is defined as the single state agency responsible for planning, carrying out, and evaluating activities to prevent and treat SUD and related activities. The secretary may exclude from the aggregate state expenditures funds appropriated to the principal agency for authorized activities which are non-recurring and for a specific purpose (42 USC 300x-30; 45 CFR sections 96.121 and 96.134; and *Federal Register*, July 6, 2001 (66 FR 35658), and November 23, 2001 (66 FR 58746-58747), as specified in II, "Program Procedures – Availability of Other Program Information").

b. The state must maintain expenditures at not less than the calculated fiscal year 1994 base amount for SUD treatment services for pregnant women and women with dependent children. The fiscal year 1994 base amount was reported in the state's fiscal year 1995 application (42 USC 300x-27; 45 CFR section 96.124(c)).

c. Section 8002(c)(3) of the 21st Century Cures Act (Pub. L. No. 114-255 repealed section 1924(d) of Title XIX, Part B, Subpart II of the Public Health Service Act (42 USC 300x-24(d)). States and jurisdictions are no longer required to demonstrate compliance with the maintenance of effort requirement regarding tuberculosis and HIV.

2.2 Level of Effort – *Supplement Not Supplant*

a. The Block Grant will not be used to supplant state funding of alcohol and other drug prevention and treatment programs (45 CFR section 96.123(a)(10)).

3. Earmarking

a. The state shall expend not less than 20 percent of SUPTRS BG for primary prevention programs for individuals who do not require treatment for SUD. The programs should educate and counsel the individuals on such SUD and provide for activities to reduce the risk of such SUD by the individuals (42 USC 300x-22; 45 CFR sections 96.124 (b)(1) and 96.125).

b. Designated states (i.e., any state whose cases of Acquired Immunodeficiency Syndrome (AIDS) is 10 or more per 100,000 individuals (as indicated by the number of such cases reported to and confirmed by the Centers for Disease Control and Prevention for the most recent calendar year for which data are available)), shall expend not less than 2 percent and not more than 5 percent of the award amount to carry out one or more projects to make available to individuals early intervention services for HIV disease (EIS HIV) at the sites where the individuals are undergoing SUD treatment. If the state carries out two or more projects, the state will carry out one such project in a rural area of the state unless the secretary waives the requirement (42 USC 300x-24; 45 CFR sections 96.128(a)(1), (b), and (d)). Note: The applicable percentage is based on the percent change in a current year allotment to the base year allotment under the Alcohol, Drug Abuse, and Mental Health Services (ADMS) Block Grant. Any “designated state” whose percentage change in the allotment is greater than 5 percent is required to obligate and expend 5 percent of the SUPTRS BG allotment for the applicable federal fiscal year (FFY) to establish one or more projects designed to provide EIS HIV at the site(s) at which individuals are receiving SUD treatment.

   In FFY 2011, SAMHSA amended the EIS HIV program policy to allow states that were previously considered a “designated state” during any of the three prior FFYs for which a state was applying for a grant and whose AIDS case rates dropped below the AIDS case rate threshold, to opt to continue to set aside 5 percent of the award amount for EIS HIV. Such states are authorized to obligate and expend 5 percent of SUPTRS BG funds for EIS HIV per section 1924(b)(4) and 45 CFR section 96. 128(a)(2).

c. The state may not expend more than 5 percent of the grant to pay the costs of administering the grant (42 USC 300x-31; 45 CFR section 96.135 (b)(1)).

d. The state may not expend grant funds for providing treatment services in penal or correctional institutions in an amount more than that expended for such programs by the state for fiscal year 1991 (42 USC 300x-31; 45 CFR section 96.135(b)(2)).

H. Period of Performance

Any amounts awarded to the state for a fiscal year shall be available for obligation and expenditure until the end of the fiscal year following the fiscal year for which the amounts were awarded (42 USC 300x-62).

L. Reporting

1. Financial Reporting

a. *SF– 270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3. L for audit guidance.

M. Subrecipient Monitoring

The state or pass-through entity must conduct monitoring activities per sections 75.351 through 75.353 of Subpart D of 45 CFR Part 75.

IV. OTHER INFORMATION

Preparation of the Schedule of Expenditures of Federal Awards (SEFA)

1. Due to overlapping performance periods, in any given fiscal year, a state could be incurring expenditures under three different substance use block grants. However, these are individual grants with specific performance periods and therefore expenditures must not be commingled but rather reported separately to allow for a reconciliation between audited expenditures and expenditures self-reported by recipients in the SF-425, Federal Financial Report.

2. As described in Part 4, Social Services Block Grant (SSBG) program (Assistance Listing 93.667), III.A, “Activities Allowed or Unallowed,” a state may transfer up

to 10 percent of its annual allotment under SSBG to this and other specified block grant programs.

Amounts transferred into this program are subject to the requirements of this program when expended and should be included in the audit universe and total expenditures of this program when determining Type A programs. On the SEFA, the amounts transferred in should be shown as expenditures of this program when such amounts are expended.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.994 MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT TO THE STATES

I. PROGRAM OBJECTIVES

The objective of the program of grants to states under the Maternal and Child Health (MCH) Block Grant program is to provide funds to the 50 states, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, the Federated States of Micronesia, Palau, the Marshall Islands, and the Northern Marianas (States) for improvement of the health of all mothers and children consistent with applicable health status goals and national health objectives established under the Social Security Act.

Specifically, MCH Block Grants are intended to (1) provide and ensure mothers and children (especially those with low income or limited availability of services) access to quality maternal and child health services; (2) reduce infant mortality and the incidence of preventable diseases and disabling conditions among children; (3) reduce the need for inpatient and long-term care services; (4) increase the number of children appropriately immunized against disease and the number of low-income children receiving health assessments and follow-up diagnostic and treatment services; (5) promote the health of mothers and infants by providing prenatal, delivery, and postpartum care for low-income, at-risk pregnant women; (6) promote the health of children by providing preventive and primary care services for low-income children; (7) provide rehabilitation services for blind and disabled individuals under 16 years of age receiving benefits under Title XVI of the Social Security Act (Supplemental Security Income) to the extent medical assistance for such services is not provided under Title XIX (Medicaid); and (8) provide and promote family-centered, community-based, coordinated care for children with special health care needs and to facilitate the development of community-based systems of services for those children and their families.

II. PROGRAM PROCEDURES

The MCH Block Grant program was created by the Omnibus Budget Reconciliation Act (OBRA) of 1981. Under that legislation, several categorical grant programs were consolidated into the single MCH Block Grant program. These were maternal and child health services for children with special health care needs; supplemental security income for children with disabilities; lead-based paint poisoning prevention programs; genetic disease programs; sudden infant death syndrome programs; and adolescent pregnancy grants. Extensive amendments to the authorizing statute in 1989 increased state programmatic and fiscal accountability under the program. These include requirements for States to define health status measures and to develop measurable objectives for program efforts as well as to report progress on key maternal and child health indicators. The Division of State and Community Health administer the program, Maternal, and Child Health Bureau (MCHB), Health Resources and Services Administration (HRSA), a component of the Department of Health and Human Services (HHS). MCH Block Grant funds are awarded to States per a pre-established formula after submission to and approval

of their applications by HRSA. The application addresses how the state plans to implement prioritized tasks based on a statewide needs assessment (required to be conducted every five years) for all mothers and children, including those with special health care needs. The state health agency is responsible for overall program administration according to its approved plan, but services may be carried out by the recipient or by local nonprofit agencies that are funded per an allocation methodology determined by the recipient (and approved by HRSA).

Source of Governing Requirements

The MCH Block Grant program is authorized under the 1981 Omnibus Budget Reconciliation Act, as amended, and is codified at 42 USC 701 through 709. The implementing regulations for this and other HHS block grant programs are published in 45 CFR Part 96. Those regulations include both specific requirements and general administrative requirements for the covered block grant programs instead of 45 CFR Part 75 (the HHS implementation of 2 CFR Part 200).

Availability of Other Program Information

Further information about this program is available at http://www.mchb.hrsa.gov/.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	Y	Y	N	N	Y	N	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. Funds may be used to provide health services and related activities, including planning, administration, education, and evaluation (42 USC 704(a)).

   b. Funds may be used to purchase technical assistance from public or private entities if required to develop, implement, or administer the MCH Block Grant (42 USC 704(c)).

   c. Funds may be used for salaries and other related expenses of National Health Service Corps personnel assigned to the state (42 USC 704(a)).

   d. Funds may be used to continue funding special projects in the state-funded under Title V of the Social Security Act before the enactment of the MCH Block Grant program on August 31, 1981 (42 USC 705(a)(5)(C)(i)).

2. *Activities Unallowed*

   a. Funds may not be used to purchase or improve land, to purchase, construct, or permanently improve buildings or facilities (other than minor remodeling), or to purchase major medical equipment unless a waiver has been granted by HRSA (42 USC 704(b)(3)).

   b. Funds may not be used to make cash payments to intended recipients of services (42 USC 704(b)(2)).

   c. Funds may not be provided for research or training to any entity other than a public or nonprofit private entity (42 USC 704(b)(5)).

   d. Funds may not be used for inpatient services, other than for children with special health care needs or high-risk pregnant women and infants or other inpatient services approved by the Associate Administrator for Maternal and Child Health (42 USC 704(b)(1)). Infants are defined as persons less than one year of age (42 USC 706(a)(2)(E)).

   e. Funds may not be used to make payments for any item or service (other than an emergency item or service) furnished by an individual or entity excluded under Titles V, XVIII (Medicare), XIX (Medicaid), or XX (Social Services Block Grant) of the Social Security Act (42 USC 704(b)(6)).

   f. MCH Block Grant funds may not be transferred to other block grant programs (42 USC 702(a)(3) and 705(a)(5)(B)).

B. Allowable Costs/Cost Principles

The MCH Block Grant program is exempt from the provisions of the OMB cost principles. State cost principles requirements apply to the MCH Block Grant program.

G. Matching, Level of Effort, Earmarking

1. Matching

For every four dollars of federal funds expended, States must match three dollars of nonfederal funds (42 USC 703(a)).

2. Level of Effort

2.1. Level of Effort – *Maintenance of Effort*

The state must maintain the level of funds provided solely by the state for maternal and child health programs at a level at least equal to the level provided in FY 1989 (42 USC 705(a)(4)).

2.2. Level of Effort – *Supplement Not Supplant*

Not Applicable

3. Earmarking

a. Unless a lesser percentage is established in the state's notice of award for a given fiscal year, the state must use at least 30 percent of payment amounts for preventive and primary care services for children (42 USC 705(a)(3)(A)).

b. Unless a lesser percentage is established in the state's notice of award for a given fiscal year, the state must use at least 30 percent of payment amounts for services for children with special health care needs (42 USC 705(a)(3)(B)).

c. A state may not use more than 10 percent of allotted funds for administrative expenses (42 USC 704(d)).

H. Period of Performance

Funds available to States from their allotment for any fiscal year are available for obligation by the state in that fiscal year or the succeeding fiscal year. No payment may be made to a state from allotments for a fiscal year for expenditures made after the end of the following fiscal year (42 USC 703(b)).

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Maternal and Child Health Services Block Grant Application/Annual Report (OMB No. 0915-0172) – The state must submit an annual report by July 15 of each year (at the time it submits the annual application). The reporting forms and instructions are contained in a document entitled "Guidance and Forms for the Title V Application/Annual Report." Reports are prepared electronically

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

1. *Form 2* – MCH Budget/Expenditure Details

- 4:3 Match: For both the budget for the application year and the expenditure for the reporting year on Form 2, the 4:3 match is in place (comparing Line 1, Federal Allocation, with Line 7, Total State Match). If the match is not met for expenditures, a note is provided explaining the discrepancy.

- 30% Preventative and Primary Services: For both the budget for the application year and the expenditure for the reporting year on Form 2, 30% of federal funding is allocated to preventive and primary services for children (Line 1A). If the percentage is not met for expenditures, a note is provided explaining the discrepancy.

- 30% Children with Special Care Needs: For both the budget for the application year and the expenditure for the reporting year on Form 2, 30% of federal funding is allocated to children with special health care needs (Line 1B). If the percentage is not met for expenditures, a note is provided explaining the discrepancy.

- 10% Title V Admin Costs: For both the budget for the application year and the expenditure for the reporting year on Form 2, no more than 10% of federal funding is allocated to Title V administrative

costs (Line 1C). If the percentage is exceeded for expenditures, a note is provided explaining the discrepancy.

- State Match =/+ State MOE: For both the budget for the application year and expenditure for the reporting year on Form 2, the Total State Match (Line 7) is equal to or more than the State FY 1989 Maintenance of Effort Amount (Line 7A). If the amount is not met for expenditures, a note is provided explaining the discrepancy.

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3. L for audit guidance.

IV. OTHER INFORMATION

Federal funds from other block grant programs (e.g., Social Services Block Grant (Assistance Listing 93.667) and Preventive Health and Health Services Block Grant (Assistance Listing 93.991)) may be transferred into the MCH Block Grant program. MCH Block Grant funds, however, may not be transferred to other block grant programs (42 USC 702(a)(3) and 705(a)(5)(B)). Funds transferred into the MCH Block Grant are subject to the requirements of this program when expended and should be included in the audit universe and total expenditures of this program when determining Type, A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred in should be shown as expenditures of this program when such amounts are expended.

AMERICORPS
(Corporation for National and Community Service)

ASSISTANCE LISTING 94.006 AMERICORPS STATE AND NATIONAL

I. PROGRAM OBJECTIVES

The AmeriCorps State and National service program provides funds to national and locally based organizations to carry out national service programs described in 42 USC 12572(a) and (b).

II. PROGRAM PROCEDURES

Of the funds available for AmeriCorps State and National programs, AmeriCorps (the operating name of the Corporation for National and Community Service (CNCS)) allots 35.3 percent to State Service Commissions, 1 percent for Indian tribes, and 1 percent for the US territories. After setting aside the aforementioned funds, the remaining funds are distributed competitively by AmeriCorps—either to State Commissions for their subgrantees or directly to eligible nonfederal entities that will operate in two or more states. The State Commissions do not directly operate programs. State Commissions subgrant funds to organizations to operate community service programs within their states.

In addition to grants to fund AmeriCorps State and National programs, State Commissions also receive grants from AmeriCorps to support their administrative and training and technical assistance operations. These grants are made under programs titled State Commission Support Grants (Assistance Listing 94.003) and Commission Investment Fund Grants (Assistance Listing 94.008), which are not included in Part 4 of the Supplement.

AmeriCorps State and National grant recipients operate programs that recruit and train individuals as AmeriCorps members. Full-time AmeriCorps members receive a living allowance and are eligible for health insurance (if they are not otherwise covered while participating in the program), and childcare benefits (if they meet specific income thresholds). After the grant recipient operating a program certifies that an AmeriCorps member has satisfactorily and successfully completed the required term of service, the AmeriCorps members are eligible for the Segal AmeriCorps Education Award, which is held in the National Service Trust, and which may be used to repay qualified student loans or, qualified education costs. As directed under 42 USC 12606, AmeriCorps records the federal liability for an AmeriCorps member's education benefit at the time AmeriCorps awards a grant to an entity, based on a present value discount formula. Upon application from the AmeriCorps member and verification from the lender or educational institution, AmeriCorps' National Service Trust transmits the funds to the lender or institution. AmeriCorps members who successfully complete a term of service may also be eligible to have the National Service Trust pay qualified student loan interest that accrued during the period of their AmeriCorps member service.

Source of Governing Requirements

The AmeriCorps State and National program is authorized under the National and Community Service Act of 1990 (42 USC 12501 et seq.), as amended, and the implementing regulations in 45 CFR parts 2510, 2520–2554, and 2555.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	Y	N	N	N	Y	Y	Y

A. Activities Allowed or Unallowed

1. *Activities Allowed*

Funding is provided to carry out a community service program. Activities allowed include recruiting, training, and supervising AmeriCorps members, paying living allowances to AmeriCorps members, paying health insurance premiums and child-care benefits for eligible AmeriCorps members, paying certain employment-related taxes, paying staff and other costs for program management, evaluations, and reimbursement of grantee administrative costs (42 USC 12572, 12574, 12581, 12581a, 12583, and 12594; 45 CFR sections 2520 to 2524; 2540; and 2550). Requirements for subawards and subrecipients are included in the terms and

conditions for prime recipients at the following link under section III.B. https://americorps.gov/sites/default/files/document/2024ASNProgram508TC.pdf

2. *Activities Unallowed*

AmeriCorps grant funds may **not** be used for any of the following:

a. Attempting to influence legislation;

b. Organizing or engaging in protests, petitions, boycotts, or strikes;

c. Assisting, promoting, or deterring union organizing;

d. Impairing existing contracts for services or collective bargaining agreements;

e. Engaging in partisan political activities or other activities designed to influence the outcome of an election to any public office;

f. Participating in, or endorsing, events or activities that are likely to include advocacy for or against political parties, political platforms, political candidates, proposed legislation, or elected officials;

g. Engaging in religious instruction, conducting worship services, providing instruction as part of a program that includes mandatory religious instruction or worship, constructing or operating facilities devoted to religious instruction or worship, maintaining facilities primarily or inherently devoted to religious instruction or worship, or engaging in any form of religious proselytization;

h. Providing a direct benefit to—

(1) A business organized for profit;

(2) A labor union;

(3) A partisan political organization;

(4) A nonprofit organization that fails to comply with the restrictions contained in section 501(c)(3) of the Internal Revenue Code of 1986 except that nothing in this section shall be construed to prevent participants from engaging in advocacy activities undertaken at their own initiative; or

(5) An organization engaged in the religious activities described in paragraph (g) of this section, unless Corporation assistance is not used to support those religious activities;

i. Conducting a voter registration drive or using Corporation funds to conduct a voter registration drive;

j. Providing abortion services or referrals for receipt of such services; and

k. Such other activities as the Corporation may prohibit (45 CFR section 2520.65).

B. Allowable Costs/Cost Principles

Allowable Direct and Indirect Costs: AmeriCorps grantees must comply with the cost principles in 2 CFR Part 200, including cost allocation requirements in 2 CFR 200.405, in determining costs that may be funded with AmeriCorps grant funds. Fixed Amount Awards are only subject to certain cost principles in 2 CFR sections 200.400(g), 200.402 through 200.405, and 200.407(d). AmeriCorps grantees for whom AmeriCorps is the cognizant agency for indirect costs can establish an indirect cost rate; additional instructions to grantees can be found in annual "AmeriCorps State and National Grants Terms and Conditions" at https://americorps.gov/sites/default/files/document/2024ASNProgram508TC.pdf.

AmeriCorps includes 2 CFR 200.430 in section V.H of the AmeriCorps State and National Specific Terms and Conditions to ensure that AmeriCorps member timekeeping systems include internal controls; however, because AmeriCorps members are National Service Participants and not employees per 45 CFR 2510.20, *there is not an expectation that the recipient track time beyond a member's AmeriCorps service.* Requirements for subawards and subrecipients are included in the terms and conditions for prime recipients at the following link under section III.B. https://americorps.gov/sites/default/files/document/2024ASNProgram508TC.pdf

E. Eligibility

1. Eligibility for Individuals

a. *National Service Member Enrollment*

The following form is submitted electronically to AmeriCorps for each AmeriCorps member and is used by AmeriCorps to support the member's eligibility for a post-service education benefit. A roster of members enrolled/completed during the period should be obtained from AmeriCorps to ensure that the universe of forms submitted, as provided by the entity, is complete and matches the roster provided by AmeriCorps. Rosters may be obtained by contacting the National Service Trust at Trustcomm@americorps.gov.

AmeriCorps Enrollment and Exit Form (OMB No. 3045-0054) – This form is used by AmeriCorps to enroll participants in the National Service Trust and to process their exits. Enrollment is the process through which a grantee notifies AmeriCorps that it has selected an individual to serve as an AmeriCorps member who may be eligible to receive a post-service education benefit upon successful completion of the individual's term of service.

The following line item contains critical information:

(1) *Part 1* – AmeriCorps member enrollment information that may be helpful to ensure compliance is verification of the first name, last name, middle initial, and date of birth (which are all contained in Part I).

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

Not Applicable

3. Eligibility for Subrecipients

All requirements are passed through to subrecipients.

G. Matching, Level of Effort, Earmarking

1. Matching

a. AmeriCorps State and National match requirements are outlined in 45 CFR sections 2521.60 and 2521.80. Other requirements that govern matching are included in 45 CFR sections 2521.35, 2521.40, 2521.45, and 2521.50.

b. For awards issued before October 1, 2024, unless AmeriCorps issued a match waiver, the grant recipient's required share of program costs under a cost-reimbursement grant, including member support and operating costs, will incrementally increase to a 50 percent overall share by the tenth year and any year thereafter that it receives a grant without a break in funding of five years or more, as reflected in the this table:

AmeriCorps Funding Year	1, 2, 3	4	5	6	7	8	9	10+
Grantee Share Requirements	24%	26%	30%	34%	38%	42%	46%	50%

For awards issued after October 1, 2024, unless AmeriCorps issued a match waiver, the grant recipient's required share of program costs under a cost-reimbursement grant, including member support and operating costs, will incrementally increase to a 30 percent overall share by the tenth

year and any year thereafter that it receives a grant without a break in funding of five years or more, as reflected in this table:

AmeriCorps Funding Year	Years 1,2, and 3	Years 4,5, and 6	Years 7,8, and 9	Years 10 +
Grantee Share Requirements	24%	26%	28%	30%

c. Grantees may apply for and receive a waiver of the overall matching requirements under 45 CFR section 2521.70.

d. Matching requirements do not apply to fixed-amount grants and Education Award Only program grants (42 USC 12581(l)(4) and 12581a(c)). Public Health AmeriCorps (PHA) awards also do not have matching requirements as outlined in the FY2024, FY2023 and FY2022 PHA Notices of Funding Opportunities (NOFOs).

e. AmeriCorps has, under a limited scope, waived certain matching cost requirements on some grants due to challenges associated with COVID-19. This waiver applied to certain grants awarded in fiscal years 2019, 2020, and 2021. More information on COVID-based program flexibilities can be found on the AmeriCorps website at this link: https://americorps.gov/about/what-we-do/covid-response.

2. Level of Effort

2.1 Level of Effort – *Maintenance of Effort*

Not Applicable

2.2 Level of Effort – *Supplement Not Supplant*

Funds provided by AmeriCorps must be used to supplement the level of state and local public funds expended for services of the type being assisted in the previous fiscal year. This requirement is satisfied if the aggregate expenditure for a particular program for the fiscal year in which services are to be provided will not be less than the aggregate expenditure for the program in the previous fiscal year, excluding the amount of federal assistance provided and any other amounts used to pay the remainder of the costs of AmeriCorps state and national programs (42 USC 12633).

3. Earmarking

Administrative Costs: Generally, no more than 5 percent of assistance provided by AmeriCorps can be used for the combined administrative expenses of the grantee and its subgrantees (42 USC 12571(d); 45 CFR

sections 2521.95 and 2540.110. Limitations on administrative costs do not apply to fixed-amount grants and Education Award Only program grants (42 USC 12581(l)(4) and 12581a(c)).

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

Recipients of Fixed Amount Awards are not required to submit financial reports to AmeriCorps, including the final financial report. See AmeriCorps State and National Grants Terms and Conditions: (https://americorps.gov/sites/default/files/document/2024ASNProgram508TC.pdf) for this information. Prior year Terms and Conditions are available online: (https://americorps.gov/grantees-sponsors/manage-your-grant).

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Living Allowances

Compliance Requirements

Living allowances are paid on the basis of an AmeriCorps member's selection and enrollment as a full-time participant in a program. The living allowance that an AmeriCorps member receives is not a wage or a salary and must not be treated as such. The installment payments of living allowances are not dependent upon the actual number of hours spent on service and, unless waived, should be distributed in equal payments across the term of service. Most full-time AmeriCorps members are to receive a living allowance during the installment period of at least 100 percent, but not more than 200

percent, of the total average annual subsistence allowance provided to Volunteers in Service to America (VISTA) volunteers, another type of AmeriCorps program. For particular program years, the limits on the living allowances for full-time service members are as follows (42 USC 4955 and 12594; 45 CFR section 2522.240):

NOFO Year	Minimum Allowance	Maximum Allowance
2016	$12,530	$25,060
2017	$12,630	$24,930
2018	$13,732	$27,464
2019	$13,992	$27,984
2020	$14,279	$28,558
2021	$16,000	$32,000
2022	$16,502	$33,004
2023	$17,600	$35,200
2024	$18,700	$37,400

The minimum and maximum living allowance amounts are listed on the AmeriCorps website. The living allowance amounts can be found in the individual Notice of Funding Opportunity or Availability for the specific grant competition. Previous Notices of Funding Availability/Opportunity for AmeriCorps State and National grant competitions dating back to 2006 are located at this link: Closed Funding Opportunities | AmeriCorps: (https://americorps.gov/partner/funding-opportunities/closed-funding-opportunities). If additional assistance is required, please contact the Office of Audit and Debt Resolution at AmeriCorps Headquarters at AuditResolution@americorps.gov.

Professional Corps programs allow individuals who are professionals to serve as AmeriCorps members. The compensation from their service site location may exceed the maximum living allowance amount but may not be lower than the minimum. Grant recipients operating a Professional Corps program may not use AmeriCorps funds to pay Professional Corps members' compensation (42 USC 12594(c); 45 CFR section 2522.240).

A living allowance is not required for individuals serving in positions where the service commitment is less than 1700 hours. However, if a living allowance is provided, it must not exceed the maximum living allowance amount published in the Notice of Funding Opportunity for the position. AmeriCorps establishes pro-rated maximum living allowance amounts for each less-than-1700-hour position, also published in the Notice of Funding Opportunity. (42 USC 12593 and 12594; 45 CFR sections 2522.220 and 2522.240).

Education Award only programs are not required to provide a living allowance, but if a living allowance is provided, it must comply with the maximum requirements set forth above (42 USC 12581a(c)).

Audit Objectives Determine whether full-time AmeriCorps members are 1) being paid living allowance amounts that fall within minimum and maximum living allowance amounts for the appropriate year and 2) are in accordance with amounts listed in member agreements.

Suggested Audit Procedures

a. Auditors may request documentation supporting total living allowance amounts that full time members are eligible for and compare them to the minimum and maximum amounts.

b. Compare the supporting documentation to member agreements which list living allowance amounts and payroll records to determine amounts members are paid are in accordance with the compliance requirements.

2. National Service Criminal History Checks

Compliance Requirements

For more information on which grant types and individuals fall under the National Service Criminal History Check (NSCHC) requirement, please reference "NSCHC Manual", Appendix B: "Who is Required to Conduct NSCHC?" graphic. The NSCHC Manual is found under the NSCHC Guidance section of https://americorps.gov/grantees-sponsors/history-check.

For National Service Criminal History Checks Conducted on Persons Beginning Work or Service On or After May 1, 2021:

All three checks below must be conducted, reviewed, and an eligibility determination made by the grant recipient or subrecipient before a person begins to work or serve on an NSCHC-required grant.

- National Sex Offender Public Website (NSOPW) nationwide check
- State of residence and state of service criminal history check(s)
- Federal Bureau of Investigation (FBI) fingerprint-based check

Grant recipients or subrecipients must maintain documentation of NSCHCs as grant records (45 CFR section 2540.206). Required documentation includes:

- Evidence that all required components (NSOPW, state(s), and FBI checks) were completed and on file (45 CFR section 2540.206).
- All required components (NSOPW, state(s), and FBI) were conducted on time (45 CFR section 2540.205) and documentation reflects evidence of when checks were reviewed (adjudicated) and considered when making an eligibility determination.
- All required components (NSOPW, state(s), and FBI checks) were conducted through sources authorized by AmeriCorps (45 CFR section 2540.204) and are

consistent with the sources described in the grant recipient's adopted NSCHC policies and procedures.

- Evidence that NSOPW results include searches from all states, territories, and Indian tribes (45 CFR section 2540.204).

- Evidence that First and Last Names used on name-based checks reflect the current name of the individual.

    - Documents used to determine an individual's first and last name must be consistent with sources described in the grant recipient's adopted NSCHC policies and procedures. (Refer to agency NSCHC Manual, Name-based Checks section for guidance on name-based checks. The NSCHC Manual is found under the NSCHC Guidance section of https://americorps.gov/grantees-sponsors/history-check.)

- Documentation of consent from the candidate to conduct state and FBI checks (45 CFR section 2540.206) and of notice provided to the candidate that selection into the program is contingent upon the organization's review of the individual's NSCHC component results, if any (45 CFR section 2540.206).

- Documentation that the candidate is eligible to serve/work if a vendor returns a "do not recommend" result for the candidate (45 CFR section 2540.206).

    - Note: A vendor's adjudication recommendation not to "recommend" the candidate indicates that the selecting organization needs more information before it can make a final determination as to the fitness of the individual to work or serve. It does not mean that an individual is ineligible for work or service.

    - Grant recipients must maintain adequate documentation of the process implemented to make an eligibility determination and may include a contemporaneously dated memo to the file documenting determination of the individual's eligibility.

For National Service Criminal History Checks Conducted on Persons Working or Serving in Positions Prior to May 1, 2021, Who Continued Working or Serving in a Position on or After November 1, 2021:

Prior to May 1, 2021, some individuals only required a two-part check consisting of:

(1) A nationwide name-based search of the NSOPW; and

(2) Either:

(a) A name- or fingerprint-based search of the statewide criminal history registry in the person's state of residence and in the state where the person will serve/work; or

(b) A fingerprint-based FBI criminal history check.

Grant recipients were given until November 1, 2021 to ensure NSCHC records for individuals falling under this category are compliant with the three-part check. Individuals requiring an additional check under the NSCHC Rule, effective May 1, 2021, will have been cleared to work or serve under the grant with only two of the three checks. This is permissible. Individuals that fall into this timeframe are required to have all three National Service Criminal History Checks conducted, reviewed, and an eligibility determination made by the grant recipient or subrecipient by November 1, 2021.

Waivers and Pre-Approved Waivers

AmeriCorps may waive provisions of NSCHC for good cause, or for any other lawful basis. Certain Pre-Approved Waivers exist that any grantee may use without additional written approval from AmeriCorps. Refer to the NSCHC Manual, NSCHC Waivers section and Appendix A: Pre-Approved NSCHC Waivers. The NSCHC Manual is found on https://americorps.gov/grantees-sponsors/history-check. In addition, individual, grant-level waivers may be approved for grantees on a case-by-case basis. Grantees with waivers receive written approval from AmeriCorps that document the waived provisions of the NSCHC regulations and should be made available to auditors during testing.

Eligibility Criteria

An individual in a covered position is ineligible to serve or work if the individual:

- is registered or required to be registered on a sex offender registry;
- has been convicted of murder, as defined by 18 USC 1111;
- refuses to consent to a criminal registry check; or
- makes a false statement in connection with a grantee's inquiry concerning the individual's criminal history.

Reference: 45 CFR section 2540.202; 72 FR 48574, August 24, 2007; 77 FR 60922, October 5, 2012.

Definitions

(1) **Covered Positions (45 CFR section 2540.201)**

Individuals in covered positions are AmeriCorps members or AmeriCorps grant-funded staff who receive a grant-funded salary, stipend, living allowance, education award, or other remuneration whether funded with AmeriCorps-provided funds or used to meet the grant matching requirement.

(2) **Designated Sources**

(a) NSOPW (45 CFR section 2540.204)

NSOPW checks must be sourced from either www.NSOPW.gov *or* AmeriCorps approved vendor, Truescreen, with an AmeriCorps-affiliated Truescreen account.

(b) State (45 CFR section 2540.204)

Grantees must use either the AmeriCorps-approved state repository to conduct state checks *or* AmeriCorps approved vendor, Truescreen, with an AmeriCorps-affiliated Truescreen account in accordance with the Pre-Approved Waiver for Truescreen. The list of AmeriCorps-approved state repositories can be found in the Using NSOPW and State Repositories Manual, available at https://americorps.gov/grantees-sponsors/history-check, under How to Conduct NSCHC.

(c) FBI (45 CFR section 2540.204)

Grantees must use either the AmeriCorps-approved state repository to conduct FBI checks *or* AmeriCorps approved vendors, Truescreen or Fieldprint, with an AmeriCorps-affiliated Truescreen or Fieldprint account. The list of AmeriCorps-approved state repositories can be found in the Using NSOPW and State Repositories Manual, State Check Guidance section. This Manual is available at https://americorps.gov/grantees-sponsors/history-check, under How to Conduct NSCHC.

Audit Objectives Determine that the grantee completed the required National Service Criminal History Checks in accordance with AmeriCorps regulations, including that the grantee 1) performed the required checks; 2) prepared required documentation; and 3) made an eligibility determination within the required timelines.

Suggested Audit Procedures

a. Review grant recipient's or subrecipient's written processes and practices for conducting National Service Criminal History Checks (NSCHC) to provide

insights into the recipient's process and documentation. While AmeriCorps does not require recipients to have NSCHC policies, any policies should reflect compliance with 45 CFR sections 2540.200 through 2540.207.

b. Select a sample of individual NSCHC grant records for staff and members working or serving under the grant to determine completion of all required checks listed above under Compliance Requirements and that there is evidence that an eligibility determination has been made by the grant recipient or subrecipient prior to the person beginning work or service on an NSCHC-required grant. Electronic and/or paper copies of the required documentation are acceptable.

AMERICORPS
(Corporation for National and Community Service)

ASSISTANCE LISTING 94.011 AMERICORPS SENIORS FOSTER GRANDPARENT PROGRAM (FGP)

ASSISTANCE LISTING 94.016 AMERICORPS SENIORS SENIOR COMPANION PROGRAM (SCP)

I. PROGRAM OBJECTIVES

The **Foster Grandparent Program**, established in 1965, is an intergenerational program that engages volunteers ages 55 and older in national service to provide one-on-one mentoring, tutoring, and social-emotional support to children who have special or exceptional needs or who have an academic, social, or financial disadvantage. AmeriCorps Seniors' volunteers in the Foster Grandparent Program serve an average of 20 hours per week in schools, early education and childcare centers, hospitals, juvenile correctional institutions, community centers, and other settings where children are present. Through a one-on-one relationship, AmeriCorps Seniors' volunteers tutor children based on their specific needs, provide support in social-emotional development, and teach parenting skills to young parents, among other activities.

The **Senior Companion Program**, established in 1974, engages adults ages 55 and older in providing independent living support and companionship to other older adults and adults with disabilities. Through this program, older adults are able to age-in-place with support designed to reduce the impacts of social isolation and the negative health impacts that accompany isolation. AmeriCorps Seniors' volunteers in the Senior Companion Program serve an average of 20 hours per week, with most of the volunteer service taking place in the homes of clients. AmeriCorps Seniors' volunteers provide companionship, assist with transportation and light chores, provide respite to family caregivers, perform basic wellness checks, and alert medical professionals if needed, among other activities.

II. PROGRAM PROCEDURES

AmeriCorps (the operating name of the Corporation for National and Community Service (CNCS)) awards Foster Grandparent Program grants and Senior Companion Program grants only to state and local public agencies, private nonprofit organizations, and Indian tribes that have the capability to administer such grants. These grantees (also referred to as sponsors) are legally responsible for all programmatic and fiscal aspects of the project and may not delegate or contract these responsibilities to another entity. Also, the grantees have no subgrantees (subrecipients) (42 USC sections 5011(a) and 5013(a); 45 CFR sections 2551.22 and 2552.22).

In both programs, older Americans aged 55 and older are able to serve a minimum of 260 hours annually, or a minimum of 5 hours per week, not to exceed a total of 2,080 hours per year and, if they meet income eligibility requirements, receive small non-taxable cash stipends and other direct benefits to help offset the costs of serving. In addition, participants who do not meet the

income eligibility requirements may serve as non-stipend Foster Grandparents or Senior Companions. Those participants are eligible to receive the same training, supervision, and other support services and cost reimbursements (other than the stipend) available to participants who receive stipends (42 USC 5011(a) and (d) and 5013(a) and (b); 45 CFR Part 2551, Subpart J and 45 CFR Part 2552, Subpart J).

Prospective sponsors submit applications to AmeriCorps for Foster Grandparent or Senior Companion grants, and AmeriCorps reviews them and makes final funding decisions (45 CFR sections 2551.91 and 2552.91).

Source of Governing Requirements

These programs are authorized under the Domestic Volunteer Service Act of 1973, Title II (42 USC 5000 et seq.). The implementing regulations for these programs are found in 45 CFR parts 2551 and 2552.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	Y	N	N	N	Y	N	Y

A. Activities Allowed or Unallowed

1. *Stipends*

Grant funds may be used for stipends for participants who meet income levels set by AmeriCorps (42 USC 5011(a) and (d) and 5013(a) and (b); 45 CFR sections 2551.43, 2551.44, 2552.43, and 2552.44).

Stipends must be paid at a rate no less than the rate established by AmeriCorps. However, grantees may pay stipends at a rate *higher* than the AmeriCorps-established rate if they have the desire and non-AmeriCorps funding to do so. Grantees may also count funds used to supplement stipends toward their required match contribution. (45 CFR sections 2551.92(e) and 2552.92(e)).

2. *Direct and Administrative Costs*

Grant funds can also be used for other direct benefits for stipended Foster Grandparents and Senior Companions, such as transportation costs; physical examinations; accident, liability, and excess automobile insurance covering participants during their volunteer activities; meals; and costs for recognition of participants' volunteer efforts. Grant funds are also available for budgeted amounts of staff, office space, staff travel, and other administrative costs of the organization sponsoring the program (42 USC 5011(a) and (d) and 5013(a) and (b); 45 CFR sections 2551.46 and 2552.46).

3. *Non-stipended Foster Grandparents and Senior Companions*

Non-stipended Foster Grandparents and Senior Companions may contribute the costs they incur in connection with their participation in the program. An FGP or SCP project may not count such contributions as part of the required non-CNCS support (match) for the grant (45 CFR sections 2551.101 and 2552.102)

4. *Unallowed Activities*

Foster Grandparent and Senior Companion grant funds may not be used for the following purposes:

a. *Political activities*

(1) No part of any grant shall be used to finance, directly or indirectly, any activity to influence the outcome of any election to public office, or any voter registration activity. (45 CFR sections 2551.121(a)(1) and 2552.121(a)(1)).

(2) Per 45 CFR sections 2551.121(a)(2) and 2552.121(a)(2), no project shall be conducted in a manner involving the use of funds, the provision of services, or the employment or assignment of

personnel in a matter supporting or resulting in the identification of such project with:

(i) Any partisan or nonpartisan political activity associated with a candidate, or contending faction or group, in an election; or

(ii) Any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or

(iii) Any voter registration activity, except that voter registration applications and nonpartisan voter registration information may be made available to the public at the premises of the sponsor. But in making registration applications and nonpartisan voter registration information available, employees of the sponsor shall not express preferences or seek to influence decisions concerning any candidate, political party, election issue, or voting decision.

(3) Per 45 CFR sections 2551.121(a)(3) and 2552.121(a)(3), the sponsor shall not use grant funds in any activity for the purpose of influencing the passage or defeat of legislation or proposals by initiative petition, except:

(a) In any case in which a legislative body, a committee of a legislative body, or a member of a legislative body requests any volunteer in, or employee of such a program to draft, review or testify regarding measures or to make representation to such legislative body, committee or member; or

(b) In connection with an authorization or appropriations measure directly affecting the operation of the Senior Companion or Foster Grandparent Program.

b. *Non-displacement of employed workers.* A Senior Companion or Foster Grandparent shall not perform any service or duty or engage in any activity which would otherwise be performed by an employed worker or which would supplant the hiring of or result in the displacement of employed workers or impair existing contracts for service. (45 CFR sections 2551.121(b) and 2552.121(b)).

c. *Compensation for service*

(1) An agency or organization to which AmeriCorps Seniors (formerly, National Senior Service Corps, or NSSC) volunteers are assigned or which operates or supervises any AmeriCorps Seniors program shall not request or receive any compensation from AmeriCorps Seniors volunteers or from beneficiaries for services of AmeriCorps Seniors volunteers (45 CFR sections 2551.121(c)(1) and 2552.121(c)(1)).

(2) This section does not prohibit a sponsor from soliciting and accepting voluntary contributions from the community at large to meet its local support obligations under the grant or from entering into agreements with parties other than beneficiaries to support additional volunteers beyond those supported by AmeriCorps (45 CFR sections 2551.121(c)(2) and 2552.121(c)(2)).

(3) A Senior Companion or Foster Grandparent volunteer station may contribute to the financial support of the Senior Companion or Foster Grandparent Program. However, this support shall not be a required precondition for a potential station to obtain Senior Companion or Foster Grandparent service (45 CFR sections 2551.121(c)(3) and 2552.121(c)(3)).

(4) If a volunteer station agrees to provide funds to support additional Senior Companions/Foster Grandparents or pay for other Senior Companion/Foster Grandparent support costs, the agreement shall be stated in a written Memorandum of Understanding. The sponsor shall withdraw services if the station's inability to provide monetary or in-kind support to the project under the Memorandum of Understanding diminishes or jeopardizes the project's financial capabilities to fulfill its obligations (45 CFR sections 2551.121(c)(4) and 2552.121(c)(4).

(5) Under no circumstances shall a Senior Companion or Foster Grandparent receive a fee for service from service recipients, their legal guardian, members of their family, or friends (45 CFR sections 2551.121(c)(5) and 2552.121(c)(5)).

d. *Labor and anti-labor activity.* The sponsor shall not use grant funds directly or indirectly to finance labor or anti-labor organization or related activity. (45 CFR sections 2551.121(d) and 2552.121(d)).

e. *Fair labor standards.* A sponsor that employs laborers and mechanics for construction, alteration, or repair of facilities shall pay wages at prevailing rates as determined by the secretary of labor in accordance with the Davis-

Bacon Act, as amended, 40 USC 276a. (45 CFR sections 2551.121(e) and 2552.121(e)).

f. *Nondiscrimination.* A sponsor or sponsor employee shall not discriminate against a Senior Companion on the basis of race, color, national origin, sex, age, religion, or political affiliation, or on the basis of disability, if the Senior Companion or Foster Grandparent with a disability is qualified to serve. (45 CFR sections 2551.121(f) and 2552.121(f)).

g. *Religious activities*

(1) A Senior Companion/ Foster Grandparent or a member of the project staff funded by AmeriCorps shall not give religious instruction, conduct worship services, or engage in any form of proselytization as part of his/her duties (45 CFR sections 2551.121(g)(1) and 2552.121(g)(1)).

(2) A sponsor or volunteer station may retain its independence and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, provided that it does not use AmeriCorps funds to support any inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part (45 CFR sections 2551.121(g)(2) and 2552.121(g)(2)).

h. *Nepotism.* Persons selected for project staff positions shall not be related by blood or marriage to other project staff, sponsor staff or officers, or members of the sponsor Board of Directors, unless there is written concurrence from the Advisory Council or community group established by the sponsor under subpart B of this part, and with notification to AmeriCorps (45 CFR sections 2551.121(h) and 2552.121(h)).

E. Eligibility

1. Eligibility for Individuals

a. To be eligible to be paid a stipend, Foster Grandparents and Senior Companions must be at least 55 years old and meet income guidelines. Income eligibility is based on the applicant's total annual income (including the total annual income of the applicant's spouse), less allowable medical expenses. To be income-eligible, an applicant's income must fall at or below 200 percent of the poverty level as annually established by the Department of Health and Human Services for the state in which he or she resides.

The annual income eligibility levels for all areas are available at the AmeriCorps website (https://americorps.gov/sites/default/files/document/2023%20AmeriCorps%20Seniors%20Income%20Guidelines.pdf) by accessing the link for "Foster Grandparent Program grantees" or "Senior Companion Program grantees." You may also contact the Office of Audit and Debt Resolution at AuditResolution@americorps.gov. Stipends for Foster Grandparents and Senior Companions are currently $4.00 per hour. This may be increased by AmeriCorps from time to time (42 USC 5011 and 5013; 45 CFR sections 2551.41 through 2551.44 and 2552.41 through 2552.44).

Foster Grandparents and Senior Companion programs may enroll persons who are at least 55 years old, but who do not meet the income guidelines as non-stipended Foster Grandparents or Senior Companions (45 CFR Part 2551, Subpart J and 45 CFR Part 2552, Subpart J).

For awards made on or after January 31, 2019, participants may serve from five to 40 hours per week, not to exceed a total of 2,080 hours per year.

A volunteer's annual income calculation no longer includes the value of shelter, food, and clothing that relatives provide to the volunteer; strike benefits; training stipends; or financial support that non-resident relatives opt to provide but are not legally required to provide. The only financial support from non-resident relatives (other than the spouse living in the same residence) that is included in the volunteer's income calculation is financial support that the relatives are legally required to provide. The volunteer's spouse's income is included in the calculation only if the spouse lives in the same residence with the volunteer. As a result, when examining a volunteer's income to determine eligibility for a stipend. AmeriCorps Seniors would look only at the volunteer's income, plus the spouse's income if the spouse lives in the same residence. (45 CFR sections 2551.12, 2551.43(b), 2551.44(a), 2552.12, 2552.43(b) and 2552.44(a)).

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

The nonfederal entity is required to contribute at least 10 percent of the total cost of a project from nonfederal sources or authorized federal sources, unless the Notice of Grant Award specifies a lower percentage (42 USC 5011(a) and 5013(a); 45 CFR sections 2551.92(a) and 2552.92(a)). Grantees may also count funds used to supplement stipends toward their required match contribution.

AmeriCorps has, under a limited scope, waived certain matching cost requirements on some grants due to challenges associated with COVID-19. This waiver applied to certain grants awarded in fiscal years 2019, 2020, and 2021. (More information on COVID-based program flexibilities can be found on the AmeriCorps website at this link: https://americorps.gov/about/what-we-do/covid-response.)

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* –Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. National Service Criminal History Checks

Compliance Requirements

For more information on which grant types and individuals fall under the NSCHC requirement, please reference "NSCHC Manual", Appendix B: "Who is Required to Conduct NSCHC?" graphic. The NSCHC Manual is found under NSCHC Guidance section of https://americorps.gov/grantees-sponsors/history-check.

For National Service Criminal History Checks Conducted on Persons Beginning Work or Service On or After May 1, 2021:

All three checks below must be conducted, reviewed, and an eligibility determination made by the grant recipient before a person begins to work or serve on an NSCHC-required grant.

- National Sex Offender Public Website (NSOPW) nationwide check
- State of residence and state of service criminal history check(s)
- Federal Bureau of Investigation (FBI) fingerprint-based check

Grant recipients or subrecipients must maintain documentation of NSCHCs as grant records (45 CFR section 2540.206). Required documentation includes:

- Evidence that all required components (NSOPW, state(s), and FBI checks) were completed and on file (45 CFR section 2540.206).
- All required components (NSOPW, state(s), and FBI) were conducted on time (45 CFR section 2540.205) and documentation reflects evidence of when checks were reviewed (adjudicated) and considered when making an eligibility determination.
- All required components (NSOPW, state(s), and FBI checks) were conducted through sources authorized by AmeriCorps (45 CFR section 2540.204) and are consistent with the sources described in the grant recipient's adopted NSCHC policies and procedures.
- Evidence that NSOPW results include searches from all states, territories, and Indian tribes (45 CFR sections 2540.204).
- Evidence that First and Last Names used on name-based checks reflect the current name of the individual.

- Documents used to determine an individual's first and last name must be consistent with sources described in the grant recipient's adopted NSCHC policies and procedures. (Refer to agency NSCHC manual for guidance on name-based checks. The NSCHC Manual is found under the NSCHC Guidance section of https://americorps.gov/grantees-sponsors/history-check.)

- Documentation of consent from the candidate to conduct state and FBI checks (45 CFR section 2540.206) and of notice provided to the candidate that selection into the program is contingent upon the organization's review of the individual's NSCHC component results, if any (45 CFR section 2540.206).

- Documentation that the candidate is eligible to serve/work if a vendor returns a "do not recommend" result for the candidate (45 CFR section 2540.206).

  - Note: A vendor's adjudication recommendation not to "recommend" the candidate indicates that the selecting organization needs more information before it can make a final determination as to the fitness of the individual to work or serve. It does not mean that an individual is ineligible for work or service.

  - Grant recipients must maintain adequate documentation of the process implemented to make an eligibility determination and may include a contemporaneously dated memo to the file documenting determination of the individual's eligibility.

For National Service Criminal History Checks Conducted on Persons Working or Serving in Positions Prior to May 1, 2021, Who Continued Working or Serving in a Position on or After November 1, 2021:

Prior to May 1, 2021, some individuals only required a two-part check consisting of:

(1) A nationwide name-based search of the NSOPW; and

(2) Either:
   (a) A name- or fingerprint-based search of the statewide criminal history registry in the person's state of residence and in the state where the person will serve/work; or

   (b) A fingerprint-based FBI criminal history check.

Grant recipients were given until November 1, 2021 to ensure NSCHC records for individuals falling under this category are compliant with the three-part check. Individuals requiring an additional check under the NSCHC Rule, effective May 1, 2021, will have been cleared to work or serve under the grant with only two of the three checks. This is permissible. Individuals that fall into this timeframe are

required to have all three National Service Criminal History Checks conducted, reviewed, and an eligibility determination made by the grant recipient by November 1, 2021.

For the purposes of this compliance element, auditors may elect not to test NSCHC records for individuals who began work or service **prior to May 1, 2021 and exited** from work or service prior to November 1, 2021, since the former NSCHC regulations apply to those individuals.

Waivers and Pre-Approved Waivers

AmeriCorps may waive provisions of NSCHC for good cause, or for any other lawful basis. Certain Pre-Approved Waivers exist that any grantee may use without additional written approval from AmeriCorps. Refer to the NSCHC Manual found on https://americorps.gov/grantees-sponsors/history-check. In addition, individual, grant-level waivers may be approved for grantees on a case-by-case basis. Grantees with waivers receive written approval from AmeriCorps that document the waived provisions of the NSCHC regulations and should be made available to auditors during testing.

Eligibility Criteria

An individual in a covered position is ineligible to serve or work if the individual:

- is registered or required to be registered on a sex offender registry;
- has been convicted of murder, as defined by 18 USC 1111;
- refuses to consent to a criminal registry check; or
- makes a false statement in connection with a grantee's inquiry concerning the individual's criminal history.

Reference: 45 CFR section 2540.202; 72 FR 48574, August 24, 2007; 77 FR 60922, October 5, 2012.

Definitions:

(1) **Covered Positions (45 CFR section 2540.201)**

Individuals in covered positions are Foster Grandparents who receive a stipend, Senior Companions who receive a stipend, or AmeriCorps grant-funded staff who receive a grant-funded salary, whether funded with AmeriCorps-provided funds or used to meet the grant matching requirement.

(2) **Designated Sources**

(a) NSOPW (45 CFR section 2540.204)

NSOPW checks must be sourced from either www.NSOPW.gov *or* AmeriCorps approved vendor, Truescreen, with an AmeriCorps-affiliated Truescreen account.

(b) State (45 CFR section 2540.204)

Grantees must use either the AmeriCorps-approved state repository to conduct state checks *or* AmeriCorps approved vendor, Truescreen, with an AmeriCorps-affiliated Truescreen account in accordance with the Pre-Approved Waiver for Truescreen. The list of AmeriCorps-approved state repositories can be found in the Using NSOPW and State Repositories Manual, available at https://americorps.gov/grantees-sponsors/history-check, under How to Conduct NSCHC.

(c) FBI (45 CFR section 2540.204)

Grantees must use either the AmeriCorps-approved state repository to conduct FBI checks *or* AmeriCorps approved vendors, Truescreen or Fieldprint, with an AmeriCorps-affiliated Truescreen or Fieldprint account. The list of AmeriCorps-approved state repositories can be found in the Using NSOPW and State Repositories Manual, State Check Guidance section. This Manual is available at https://americorps.gov/grantees-sponsors/history-check, under How to Conduct NSCHC.

Audit Objectives Determine that the grantee completed the required National Service Criminal History Checks in accordance with AmeriCorps regulations, including that the grantee 1) performed the required checks; 2) prepared required documentation; and 3) made an eligibility determination within the required timelines.

Suggested Audit Procedures

a. Review grant recipient's written processes and practices for conducting National Service Criminal History Checks (NSCHC) to provide insights into the recipient's process and documentation. While AmeriCorps does not require recipients to have NSCHC policies, any policies should reflect compliance with 45 CFR sections 2540.200 through 2540.207.

b. Select a sample of individual NSCHC grant records for staff and volunteers working or serving under the grant to determine completion of all required checks listed above under Compliance Requirements and that there is evidence that an

eligibility determination has been made by the grant recipient prior to the person beginning work or service on an NSCHC-required grant. Electronic and/or paper copies of documentation are acceptable.

SOCIAL SECURITY ADMINISTRATION

ASSISTANCE LISTING 96.001 SOCIAL SECURITY – DISABILITY INSURANCE

ASSISTANCE LISTING 96.006 SUPPLEMENTAL SECURITY INCOME

I. PROGRAM OBJECTIVES

The Disability Insurance (DI) program was established in 1954 under Title II of the Social Security Act and provides benefits to disabled wage earners and their families in the event the family wage earner becomes disabled (Section 201 et seq. of the Social Security Act). In 1974, Congress enacted Title XVI, the Supplemental Security Income (SSI) program, which provides payments to financially needy individuals who are aged, blind, or disabled (Section 1601 et seq. of the Social Security Act).

II. PROGRAM PROCEDURES

Social Security Administration (SSA) is responsible for administering the DI and SSI programs. The disability process begins when a person, referred to as a "claimant," completes an application for DI benefits or SSI payments (20 CFR 404.601 et seq.). SSA field office staff verifies the claimant's nonmedical eligibility (Program Operations Manual System (POMS) (DI 10005.001 https://secure.ssa.gov/poms.nsf/lnx/0410005001). SSA field office staff then forward the claim to the state Disability Determination Services (DDS) for a medical determination of disability. DDSs make disability determinations based on the law and regulations and on written guidelines issued by SSA (POMS DI 22501.002 https://secure.ssa.gov/poms.Nsf/lnx/0422501002). To assist in making proper disability determinations, the DDS is authorized to purchase medical examinations, x-rays, and laboratory tests on a consultative basis to supplement evidence obtained from the claimant's physicians or other treating sources (POMS DI 39545.120 https://secure.ssa.gov/apps10/poms.nsf/lnx/0439545120).

The SSA pays the DDS for 100 percent of the costs incurred in making disability determinations (POMS DI 39501.020 https://secure.ssa.gov/poms.nsf/lnx/0439501020). Each year the state DDS submits a budget request to SSA for review and approval (POMS DI 39501.030 https://secure.ssa.gov/apps10/poms.nsf/lnx/0439501030). SSA notifies the DDS of budget approval using Form SSA-872, State Agency Obligational Authorization for SSA Disability Programs. Once approved, the DDS is allowed to withdraw federal funds through the Department of the Treasury's Automated Standard Application for Payment system to meet immediate program expenses (POMS DI 39506.100 https://secure.ssa.gov/poms.nsf/lnx/0439506100). At the end of each quarter of each fiscal year, the DDS submits a Form SSA-4513, State Agency Report of Obligations for SSA Disability Programs, to account for program disbursements and obligations and a Form SSA-4514, Time Report of Personnel Services for Disability Determination Services, to account for employee time (POMS DI 39506.200 https://secure.ssa.gov/poms.nsf/lnx/0439506200 et seq.).

Source of Governing Requirements

It is important to note the Social Security Disability Insurance (SSDI) program (AL 96.001) is funded by the DI Trust Fund. All claims under the SSI program (AL 96.006), including disability, are funded by the General Fund.

- 20 CFR 404.1626 https://www.ecfr.gov/current/title-20/chapter-III/part-404/subpart-Q/subject-group-ECFR04fb1f2267ccd66/section-404.1626
- 20 CFR 404.1630 https://www.ecfr.gov/current/title-20/chapter-III/part-404/subpart-Q/subject-group-ECFR04fb1f2267ccd66/section-404.1630
- 20 CFR 416.1026 https://www.ssa.gov/OP_Home/cfr20/416/416-1026.htm

Availability of Other Program Information

1. POMS DI 39503.825 Form SSA-872 https://secure.ssa.gov/apps10/poms.nsf/lnx/0439503825 State Agency Budget Approval for Disability Programs. Preparation instructions can be found in DI 39506.100 https://secure.ssa.gov/apps10/poms.nsf/lnx/0439506100.
2. SSA - POMS: DI 39503.000 - DDS Budget Procedures (https:/secure.ssa.gov/apps10/poms.nsf/lnx/0439503000)
3. SSA - POMS: DI 39506.000 - DDS Financial Management (https://secure.ssa.gov/apps10/poms.nsf/lnx/0439506000)
4. SSA - POMS: DI 39518.000 - DDS Personnel (https://secure.ssa.gov/apps10/poms.nsf/lnx/0439518000)
5. SSA - POMS: DI 39545.000 - Purchased Medical Services (https://secure.ssa.gov/apps10/poms.nsf/lnx/0439545000)
6. SSA - POMS: DI 39524.000 - DDS Travel (https://secure.ssa.gov/apps10/poms.nsf/lnx/0439524000)
7. SSA - POMS: DI 39527.000 - DDS Office Space (https://secure.ssa.gov/apps10/poms.nsf/lnx/0439527000)
8. SSA - POMS: DI 39530.000 - DDS Equipment (https://secure.ssa.gov/apps10/poms.nsf/lnx/0439530000)
9. SSA - POMS: DI 39542.000 - Contracting Out DDS Functions (https://secure.ssa.gov/apps10/poms.nsf/lnx/0439542000)

10. SSA - POMS: DI 39569.300 - Disability Determination Services Requirements for Ensuring Proper Licensures, Credentials, and Exclusions of Consultative Examination (CE) Providers, CE Provider's Employees, Medical and Psychological Consultants (MC/PC) (https://secure.ssa.gov/apps10/poms.nsf/lnx/0439569300)

11. SSA - POMS: DI 22510.010 - Selecting a Qualified Medical Source to Perform a Consultative Examination (CE) (https://secure.ssa.gov/apps10/poms.nsf/lnx/0422510010)

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	N	Y	N	N	Y	N	Y

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. Reimbursement for the cost of activities shall be in accordance with the budget request approved by SSA (20 CFR 416.1026, POMS DI 39503.000 and 39506.000).

b. Activities allowed under the disability programs include personnel services, purchased medical services, indirect costs, and other non-personnel costs (42 USC 421(e) and (f); 20 CFR sections 404.1626 and 416.1026).

c. Purchased medical services, such as Medical Evidence of Record (MER) and Consultative Examinations (CE), must be in accordance with the DDS fee schedule for purchased medical services (POMS DI 39545.000).

2. *Activities Unallowed*

a. Some state DDSs provide medical determinations for programs outside of SSA's disability programs. Charges for these determinations are not allowable charges to SSA. Each state that makes decisions for other programs has a Memorandum of Understanding (MOU) with SSA to document how the charges should be tracked. (20 CFR 404.1630, POMS DI 39518.040 https://secure.ssa.gov/apps10/poms.nsf/lnx/0439518040, POMS DI 39563.210 https://secure.ssa.gov/apps10/poms.nsf/lnx/0439563210, POMS DI 39563.803 https://secure.ssa.gov/apps10/poms.nsf/lnx/0439563803)

B. Allowable Costs/Cost Principles

1. *Direct Costs* – The SSA POMS contains guidance on direct costs for both the DI and SSI programs.

a. Personnel services (POMS DI 39518.000, SSA-4513 line item 1) include personnel costs and employee benefits.

b. Purchased medical services (POMS DI 39545.000, SSA – 4513 line item 2) include MER and CE.

c. Other non-personnel costs (SSA – 4513 line item 4) include travel (POMS DI 39524.000, SSA – 4513 line item 4h), office space (POMS DI 39527.000, SSA – 4513 line item 4a), equipment (POMS DI 39530.000, SSA – 4513 line item 4e), and contracted services (POMS DI 39542.000, SSA 4513 line item 4b).

2. *Indirect Costs*- Indirect costs (SSA- 4513 line item 3) charged to the disability program should be based on the rate approved by the cognizant federal agency as evidenced by a written agreement. Indirect costs, which may be charged to the disability program, generally arise from three sources (POMS DI 39506.300 and 39503.275):

a. Administrative costs of the parent agency related to DDS;

b. Business costs associated with the accounting, billing, and procurement services provided by the parent agency for the DDS; and

c. Automated services provided to the DDS that are operated by the parent agency.

3. *Non-SSA Work* – Some DDSs make disability determinations for claims not related to SSA benefits. When a DDS performs non-SSA work, an MOU should exist between the state and the SSA regional commissioner that outlines the specifics of the non-SSA work. SSA should not be charged the costs on the non-SSA program work (POMS DI 39563.210).

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

d. *SSA-4513, State Agency Report of Obligations for SSA Disability Programs* – This report is due quarterly for each fiscal year still open in order to account for program disbursements and unliquidated obligations (POMS DI 39506.202).

e. *SSA-4514, Time Report of Personnel Services for Disability Determination Services* – This report is due quarterly to account for employee time (POMS DI 39506.230).

Note: Many state Disability Determinations Services group transactions at a batch level, rather than storing individual transaction detail. The report should specify whether the DDS was able to provide individual transaction detail for the selected sample.

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Qualified Providers

Compliance Requirement: Each state agency is responsible for comprehensive oversight management of its process and for ensuring accuracy, integrity, and economy of its process (20 CFR sections 404.1519g and 416.919g, and POMS DI 39569.300 https://secure.ssa.gov/apps10/poms.nsf/lnx/0439569300). As part of these duties, DDSs must have, and follow, procedures for performing medical license verifications to ensure that only qualified providers perform DDSs task. By "qualified," SSA means that the medical source must:

Be currently licensed in the state and have the training and experience to perform the type of examination or test the DDS requests; and

a. Not be barred from participation in Medicare or Medicaid programs or other federal or federally assisted programs (20 CFR sections 404.1519g and 416.919g).

   Prior to using the services of any medical provider, the DDS must check the System of Award Management (SAM) website (https://sam.gov/SAM/) to verify medical licenses, credentials, and certifications with state medical boards (POMS DI 39569.300). and ensure medical staff and CE providers are qualified to perform the assigned tasks. Assigned tasks may include, but are not limited to, providing consultative examinations (CE) or final review of disability determinations.

Audit Objective: Determine whether the DDS performed the required reviews to ensure medical staff and CE providers are qualified to perform the assigned tasks.

Suggested Audit Procedure:

a. Determine whether the state agency has written procedures for verifying, before engaging the services of a provider and at least annually thereafter, whether providers have valid medical licenses and are not currently excluded, suspended, or barred from participation in federal or federally assisted programs; and whose license to provide health care is not currently lawfully revoked or suspended by any state licensing authority for reasons of fraud, abuse, or professional misconduct, as identified on the SAM website (https://sam.gov/SAM/). (20 CFR section 404.1519g and 416.919g POMS DI 39569.300)

b. Select a sample of CE service agreements entered into during the audit period and determine whether, before using the services of the CE provider, the state agency

   (1) checked the SAM website; and

   (2) verified medical licenses, credentials, and certifications with state medical boards.

c. Select a sample of Medical Consultants (MCs) and Psychological Consultants (PCs) employed by the DDS to determine whether the agency

(1) checked the SAM website to verify medical licenses, credentials, and certifications with state medical boards.

d. Determine whether

(1) The state agency performed an annual review for each selected CE, MC, and PC;

(2) The results were adequately documented; and

(3) As appropriate, actions were taken to terminate CE agreements.

DEPARTMENT OF HOMELAND SECURITY

ASSISTANCE LISTING 97.036 DISASTER GRANTS – PUBLIC ASSISTANCE (PRESIDENTIALLY DECLARED DISASTERS)

I. PROGRAM OBJECTIVES

The mission of the Federal Emergency Management Agency's (FEMA) Public Assistance (PA) grant program is to provide assistance to state, tribal, territorial, and local governments (SLTT), and certain types of private nonprofit (PNP) organizations so that communities can quickly respond to and recover from major disasters or emergencies declared by the president.

II. PROGRAM PROCEDURES

A. Overview

Following a presidential declaration of a major disaster or an emergency, the FEMA, Department of Homeland Security (DHS), awards grants to assist SLTT governments and certain PNP entities to respond to and recover from disasters. Specifically, through the PA program, FEMA provides supplemental federal disaster grants assistance for debris removal, emergency protective measures, and the restoration of disaster-damaged, publicly owned facilities and the facilities of certain PNP organizations. The PA program also encourages protection of these damaged facilities from future events by providing assistance for hazard mitigation measures during the recovery process.

The PA program is based on a partnership with the recipient (state, tribal, or territorial government), the subrecipient (Tribe, local government or PNP) and FEMA. FEMA is responsible for managing the program, approving grants, and providing technical assistance to the SLTT and subrecipients. The Tribal Nation, state, or territory, acts as the recipient for the PA program and is responsible for providing technical advice and assistance to eligible subrecipients, providing support for damage survey activities, ensuring that all potential applicants are aware of funding assistance available, and submitting documents necessary for grant awards (44 CFR sections 206.200 through 206.253). The subrecipient requests assistance, identifies the damaged facilities, provides information to support the request, maintains accurate documentation, and performs necessary work (a recipient can also be a subrecipient).

Public Assistance Terms and Definitions

- For a complete list of terms and definitions please refer to the most recent version of the Public Assistance Program and Policy Guide (PAPPG) available here: Public Assistance Resource Library.

Applicant – A nonfederal entity submitting an application for assistance under the recipient's federal award.

Emergency Work – Work that must be done immediately to save lives, protect improved property, protect public health and safety, or avert or lessen the threat of a major disaster.

Emergency Management Mission Integrated Environment (*EMMIE*) – FEMA's legacy grants management system. All pre-award functions are conducted in the Grants Manager and Grants Portal system. Award and some post-award functions may still be conducted in EMMIE, but FEMA is currently transiting all remaining function from EMMIE to the Grants Manager and Grants Portal system**.** Only FEMA and Recipients typically have access to EMMIE.

Grants Manager and Grants Portal (GM/GP) - FEMA grants management system for all new PA events. It is used to formulate projects and conduct all other pre-award functions. Award and some post-award functions may still be conducted in EMMIE, but FEMA is currently transiting all remaining function from EMMIE to the Grants Manager and Grants Portal system**.** FEMA, Recipients, and Subrecipients have access to the Grants Manager and Grants Portal system.

Large Project – A project for which the final obligated (federal and nonfederal) amount is equal to or *greater* than the annually adjusted cost threshold for small project grants.

Management Cost – Any indirect cost, administrative expense, and any other expense that a recipient or subrecipient reasonably incurs in administering and managing the PA award.

Permanent Work – Restorative work that must be performed through repairs or replacement to restore an eligible facility on the basis of its pre-disaster design and current applicable codes and standards.

Private Nonprofit (PNP) Organization – Any nongovernmental agency or entity that currently has an effective ruling letter from the US Internal Revenue Service, granting tax exemption under sections 501(c), (d), or (e) of the Internal Revenue Code of 1954, or satisfactory evidence from the state that the nonrevenue producing organization or entity is a nonprofit one organized or doing business under state law. Private Nonprofit Organizations include Houses of Worship and other faith-based organizations.

Project – A logical grouping of work required as a result of the declared major disaster or emergency, with a scope of work and cost estimate. This was previously referred to as a Project Worksheet (PW). The approved project will be documented on either the Subgrant Application - FEMA Form 90-91 in EMMIE, or the Project Report in Grants Manager or Grants Portal.

Small Project – A project for which the final obligated (federal and non-federal) amount is less than the annually adjusted cost threshold for small project grants.

B. Funding

For more information on funding please refer to the most recent version of the PAPPG available here: Public Assistance Resource Library

Through the PA program, FEMA provides:

- Grant funding for emergency protective measures and debris removal (Emergency Work) (PAPPG) Chapter 7, page(s) 97-139 for a full overview of Emergency Work eligibility and considerations.)
- Grant funding for permanent restoration of damaged facilities, including cost-effective hazard mitigation to protect the facilities from future damage (Permanent Work) (PAPPG) Chapter 8, page(s) 140-182 for a full overview of Permanent Work eligibility and considerations.)
- Grant funding for building code and floodplain management administration and enforcement to provide communities with the resources needed to effectively administer and enforce building codes and floodplain management regulations (e.g., substantial damage, permitting, etc.) increasing the overall speed of recovery and enhancing National Flood Insurance Program (NFIP) compliance.

Project Funding

The PA Project Application is the form FEMA uses to document the details of the applicant's project and costs claimed. It contains the information necessary for FEMA to review and approve the scope of work (SOW) and costs.

Unlike many pass-through federal grants, FEMA directly approves individual subawards in the Public Assistance program. FEMA's approval of a subaward is indicated when FEMA obligates the federal share of the eligible project cost to the recipient. Once obligated, the Project Application constitutes the official record of the approved scope of work for the project.

The initial award date of a specific subaward can be confirmed by inspecting the Date Awarded at the top of the Subgrant Application - FEMA Form 90-91 in EMMIE, or on the Award Information page in the Project Report in Grants Manager or Grants Portal. FEMA may also refer to the award date as the obligation date, while these two terms have slightly different technical meanings, the obligation and award occur simultaneously for Public Assistance awards and subawards.

Project Thresholds

FEMA establishes a minimum project threshold for each federal fiscal year. The threshold applies to incidents declared within that fiscal year and is based on the Consumer Price Index. FEMA establishes a dollar threshold each federal fiscal year for the implementation of Simplified Procedures under Section 422 of the Stafford Act.

- A Large Project is a Project with a cost equal to or greater than the threshold.

- A Small Project is a Project with a cost below the threshold.

The threshold applies to incidents declared within that fiscal year. FEMA administers funding for Large and Small Projects differently. For Large Projects that are not capped, FEMA adjusts any estimated costs to the actual incurred amount so that the final approved funding is based on actual costs. For Small Projects, FEMA does not adjust estimated costs to the actual incurred amount. FEMA determines whether a project is large or small based on the final approved amount of eligible costs after any costs adjustments, including insurance reductions.

Exceptions to the fiscal year application of the threshold: For major disasters and emergencies declared between March 13, 2020, and Aug. 3, 2022, the Simplified Procedures threshold was adjusted to $1 million, however the change only applies to projects whose initial award occurred on or after Aug 3, 2022. Projects that were initially awarded prior to Aug 3, 2022, will retain the threshold in effect at the time of their award, even if the project is later amended or provided supplemental funding.

- A listing of thresholds by fiscal year is available here: https://www.fema.gov/assistance/public/tools-resources/per-capita-impact-indicator

- For more information on large projects and small projects refer to the PAPPG v4 at page 183.

Project Types

Expedited Projects. FEMA may provide expedited funding for Emergency Work Projects (Category A or B) that meet or exceed the Large Project threshold. FEMA awards an expedited project based on a conceptual estimate, and funds Expedited Projects at 50 percent of the Federal share of the estimated project cost. FEMA will amend the project and award the Federal cost share for the remaining 50 percent of the project cost once the Applicant provides all of the documentation required to support the estimated project cost for a non-Expedited Project.

Capped Projects. FEMA provides three options that provide flexibility for the applicant to use PA funding differently than restoring the pre-disaster design and function of the facility. For these options, FEMA caps the amount of PA funding based on the estimated amount to restore the damaged facility to its pre-disaster design and function, including applicable and federally required codes and standards.

Improved Project: A project that restores the pre-disaster function, and at least the same capacity, of the damaged facility and incorporates improvements or changes to its pre-disaster design not required by eligible codes or standards.

Alternate Projects: The use of funds toward a project that does not restore the pre-disaster function of the damaged facility. If the applicant determines the public welfare would not be best served by restoring a damaged public facility or its function, it may use the funding toward a different facility (or facilities) that benefit the same community.

Alternative Procedures: Title IV of the Stafford Act (42 USC 5121 et seq.) (Stafford Act) Section 428, authorizes FEMA to implement alternative procedures for the PA program through a pilot program. FEMA is currently piloting these Alternative Procedures as optional procedures. These procedures are available to each Applicant on a voluntary basis.

See page(s) 163-168 the PAPPG for an overview of PA capped project funding for Improved, Alternate, and Alternative projects and procedures.) If one of these project types is applicable, it will be identified in the project award documents, typically in the scope of work section of the Subgrant Application - FEMA Form 90-91 in EMMIE, or the same section of the Project Report in Grants Manager or Grants Portal.

- Information on Public Assistance Capped Project funding can be found on pages 163-168 of the PAPPG.
- Information on Alternative Procedures can be found on pages 156, 165, 188, 195, 202 and 263) ofthe PAPPG.

Source of Governing Requirements

This program is authorized by 42 USC 5121 et seq. Program regulations issued by FEMA are codified at 44 CFR sections 206.200 through 206.349. The program is also responsible for complying with other regulatory requirements, such as those found in 2 CFR, insurance requirements, floodplain management requirements, and environmental and historic preservation requirements.

Availability of Other Program Information

Additional program information is available on the FEMA website at: www.fema.gov/assistance/public.

The Public Assistance Program and Policy Guide (PAPPG) available here: Public Assistance Resource Library

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not

being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	Y	N	N	Y	Y	Y

B. Allowable Costs/Cost Principles

FEMA evaluates the eligibility of all costs claimed by the applicant. Not all costs incurred as a result of the incident are eligible. Chapter 6, pg. 65;

Chapter 6, pages 65 & 93-95. Cost must be:

- Directly tied to the performance of eligible work;
- Adequately documented (2 CFR section 200.403(g));
- Reduced by all applicable credits, such as insurance proceeds and salvage values (Stafford Act section 312, 42 USC section 5155, and 2 CFR section 200.406);
- Authorized and not prohibited under federal, state, territorial, tribal, or local government laws or regulations;
- Consistent with applicant's internal policies, regulations, and procedures that apply uniformly to both federal awards and other activities of the applicant; and
- Necessary and reasonable to accomplish the work properly and efficiently (2 CFR section 200.403).

1. *Applicant (Force Account) Labor*

FEMA refers to the applicant's personnel as "force account." FEMA reimburses force account labor based on actual hourly rates plus the cost of the employee's actual fringe benefits. FEMA calculates the fringe benefit cost based on a

percentage of the hourly pay rate. Because certain items in a benefit package are not dependent on hours worked (e.g., health insurance), the percentage for overtime is usually different than the percentage for straight-time.

For more information of Force Account Labor refer to the PAPPG v4 at pages 68-71.2.

2. Applicant (Force Account) Equipment and Purchase Equipment

FEMA provides PA funding for the use of applicant-owned equipment (force account equipment), including permanently mounted generators, based on hourly rates. FEMA may provide PA funding based on mileage for vehicles, if the mileage is documented and is less costly than hourly rates.

There are instances when an applicant does not have sufficient equipment to effectively respond to an incident. If the applicant purchases equipment that it justifiably needs to respond effectively to the incident, FEMA provides PA funding for both the purchase price and either:

- The use of the equipment based on equipment rates (without the ownership and depreciation components); or
- The actual fuel and maintenance costs.

FEMA provides PA funding for force account equipment usage based on FEMA, state, territorial, tribal, or local equipment rates in accordance with the specific criteria.

For more information On Applicant (Force Account) Equipment and Purchase Equipment refer PAPPG v4 at pages 72-76.

3. *Contracts*

FEMA reimburses costs incurred using three types of contract payment obligations: fixed-price, cost-reimbursement, and, to a limited extent, time and materials (T&M). The specific contract types related to each of these are described in FEMA's *Procurement Guidance for Recipients and Subrecipients Under 2 CFR Part 200 (Uniform Rules),* which is available here*:* https://www.fema.gov/sites/default/files/2020-07/fema_procurement-under-grants-field-manual-supplement_1.pdf.

The applicant must include required provisions in all contracts awarded and maintain oversight to ensure that contractors perform according to the conditions and specifications of the contract and any purchase orders.

FEMA does not reimburse costs incurred under a cost plus a percentage of cost contract or a contract with a percentage of construction cost method.

For more information on Contracts refer to PAPPG v4 pages 76-85.

4. *Mutual Aid*

When an applicant does not have sufficient resources to respond to an incident, it may request resources from another jurisdiction through a "mutual aid" agreement. FEMA refers to the entity requesting resources as the Requesting Entity. FEMA refers to the entity providing the requested resource as the Providing Entity.

FEMA provides PA funding to the Requesting Entity as it is legally responsible for the work. FEMA does not provide PA funding directly to the Providing Entity. For the work to be eligible, the Requesting Entity must have requested the resources provided.

For more information on Mutual Aid refer PAPPG v4 at pages 85-86.

5. *Donated Resources*

Individuals and organizations often donate resources (equipment, supplies, materials, or labor) to assist with response activities. FEMA does not provide PA funding for donated resources; however, the applicant may use the value of donated resources to offset the nonfederal share of its eligible projects and Direct Federal Assistance.

For more information on Donated Resources refer to PAPPG v4 at pages 88-92.

6. *Insurance Proceeds*

FEMA cannot provide PA funding that duplicates insurance proceeds. Consequently, FEMA reduces eligible costs by the amount of:

- Actual insurance proceeds, if known; or
- Anticipated insurance proceeds based on the applicant's insurance policy if the amount of actual insurance proceeds is unknown. FEMA subsequently adjusts the eligible costs based on the actual amount of insurance proceeds the applicant receives.

FEMA cannot provide financial assistance for any loss for which financial assistance has been received from any other source. For COVID-19 projects where an applicant received revenue from patient care, including medical insurance, FEMA identifies the potential duplication by conducting a project and applicant review and reduces the project if necessary to avoid duplication in accordance with the COVID-19 Patient Care Revenue Duplication of Benefits Recipient and Subrecipient Guide. A reduction following the procedures in this guide meets the intent of this section, completion of a review will be documented in a review memo attached to the project file.

For more information on Insurance Proceeds refer to PAPPG v4 at pages 93-94 and Public Assistance Policy on Insurance (https://www.fema.gov/sites/default/files/2020-07/fema_public-assistance-insurance-policy-FP-206-086-1_6-29-2015.pdf).

The COVID-19 Patient Care Revenue Duplication of Benefits Recipient and Subrecipient Guide can be found https://www.fema.gov/sites/default/files/documents/fema_covid-19-patient-care-revenue-duplication-benefits.pdf.

G. Matching, Level of Effort, Earmarking

1. Matching

a. Costs must be on a shared basis, as specified in the FEMA-State Agreement. The minimum federal share is 75 percent of eligible costs (44 CFR section 206.65). The nonfederal share that is split between the recipient and each subrecipient may vary. The accountability for meeting the matching requirement resides with the recipient and is determined at the time of project accounting as part of project closeout (i.e., the nonfederal share does not have to be met until the end of the project).

b. Under certain circumstances, the president can authorize an increased Federal cost share for a limited timeframe for emergency work or for the duration of the disaster.

c. *Common Exceptions to the standard Cost Share:*
There is no matching requirement for PA grants made to Louisiana, Mississippi, Florida, Alabama, and Texas in connection with hurricanes Katrina, Wilma, Dennis, and Rita (Title IV, Pub. L. No. 110-28).
The minimum federal share is 90 percent for any emergency or major disaster with a declaration occurring or an incident period beginning between January 1, 2020, and December 31, 2021. (Sec. 311 Pub. L. No: 117-103).

There is no matching requirement for Emergency Work (Category B) performed January 20, 2020, through July 1, 2022, under any emergency or major disaster declared for the COVID-19 Pandemic. (87 FR 26366)

2. Level of Effort

Not Applicable

3. Earmarking

Management Costs

a. For major disaster or emergency declarations prior to November 13, 2007, the recipient makes funding available to subrecipients for their direct costs to request, obtain, and administer PA projects according to the following formula: (a) 3 percent of the subrecipient's first $100,000 of net eligible project costs; (b) 2 percent of the subrecipient's next $900,000 of such costs; (c) 1 percent of the subrecipient's next $4 million of such costs; and (d) 0.5 percent of the subrecipient's net eligible costs over $5 million (interim final rule, 44 CFR section 207.9(b)(2), effective November 13, 2007, 72 FR 57878, October 11, 2007).

b. For major disaster or emergency declarations on or after November 13, 2007, until August 1, 2017, the recipient makes management cost funding available to subrecipients, as prescribed in the recipient's administrative plan, to administer PA projects (interim final rule, 44 CFR sections 206.207 and 206.228 and Part 207, effective November 13, 2007, 72 FR 57876 through 57878, October 11, 2007).

   For major disaster or emergency declarations from August 1, 2017, through October 4, 2018, recipients and subrecipients with no awarded Direct Administrate Costs as of November 14, 2018, follow the management cost procedures in section c; all other recipients and subrecipients follow this section, unless they opted in writing to utilize section c by February 12, 2019.

c. For major disaster or emergency declarations on or after October 5, 2018, FEMA makes available up to an additional 12 percent of the total award amount with up to 7 percent for the recipient and 5 percent for the subrecipient. Management costs include both direct and indirect administrative expenses by the state, local, tribal, or territorial government.

   For more information refer to the Public Assistance Management Cost (Interim) Policy*:* https://www.fema.gov/sites/default/files/2020-07/pa_management_costs_interim_policy.pdf.

H. Period of Performance

The period of performance of a specific subaward can be confirmed by verifying the period of performance at the top of the Subgrant Application - FEMA Form 90-91 in EMMIE, or on the Activity Completion Deadline in the Project Report in Grants Manager or Grants Portal.

1. Debris Removal (Category A) and Emergency Protective Measures (Category B)

a. The default period of performance for Debris Removal (Category A) and Emergency Protective Measures (Category B) is six months from the date that a major disaster or emergency is declared and apply to all projects.

b. The recipient may extend the period of performance for Debris Removal (Category A) and Emergency Protective Measures (Category B) for an additional 6 months.

c. FEMA approval is required for further extensions.

2. Permanent Work (Categories C-G)

a. The default period of performance for Permanent Work is 18 months from the date that a major disaster or emergency is declared and apply to all projects.

b. The recipient may extend the period of performance for Permanent Work for an additional 30 months.

c. FEMA approval is required for further extensions.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Applicable only to those nonfederal entities who do not or are unable to utilize the Department of Health and Human Services, Payment Management System.

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Project Accounting

Compliance Requirements For large projects, the recipient is required to make an accounting to FEMA of eligible costs. Similarly, the subrecipient must make an accounting to the recipient. In submitting the accounting, the entity is required to certify that reported costs were incurred in performance of eligible work, that the approved work was completed, that the project is in compliance with the provisions of the FEMA-State Agreement, all grant conditions were met, and that payments for that project were made in accordance with the applicable payment provisions. For improved and alternate projects, if the total cost of the projects does not equal or exceed the approved eligible costs, then the auditor should expect to see an adjustment to reduce eligible costs (44 CFR section 206.205).

For Small Projects, FEMA does not adjust estimated costs to the actual incurred amount. The Federal payment for small projects shall not be reduced if all of the approved funds are not spent to complete a project. The Subrecipient must certify that they completed the approved SOW, and the Recipient must certify that they made all payments in accordance with the FEMA-State/Territory/Tribe agreement. This is typically completed on a Small Project Completion Certification. (44 CFR section 206.205)

Audit Objectives Determine whether ongoing and completed projects were accounted for in accordance with the required certification.

Suggested Audit Procedures

Projects not completed – Select a sample of ongoing large projects and ascertain if costs submitted for reimbursement were in compliance with the requirements for eligible work under the applicable Project. Testing should consider the differences in the requirements and approvals required of improved and alternate projects.

Completed projects – Select a sample of large projects completed during the audit period and ascertain if the entity's files document the total costs as allowable costs and if the costs are for allowable activities under the applicable Project. This testing should consider the differences in the requirements and approvals required of improved and alternate projects.

IV. OTHER INFORMATION

For more in-depth information please refer to PAPPG v4.

Nonfederal entities must record expenditures on the Schedule of Expenditures of Federal Awards (SEFA) when (1) FEMA has approved the nonfederal entity's Project, and (2) the nonfederal entity has incurred the eligible expenditures. FEMA's approval of a subaward is indicated when FEMA obligates the federal share of the eligible project cost to the recipient Federal awards

expended in years subsequent to the fiscal year in which the Project is approved are to be recorded on the nonfederal entity's SEFA in those subsequent years.

For example:

1. If FEMA approves the Project in the nonfederal entity's fiscal year 2024 and eligible expenditures are incurred in the nonfederal entity's fiscal year 2025, the nonfederal entity records the eligible expenditures in its fiscal year 2025 SEFA.

2. If the nonfederal entity incurs eligible expenditures in its fiscal year 2024 and FEMA approves the nonfederal entity's Project in the nonfederal entity's fiscal year 2025, the nonfederal entity records the eligible expenditures in its fiscal year 2025 SEFA with a footnote that discloses the amount included on the SEFA that was incurred in a prior year.

DEPARTMENT OF HOMELAND SECURITY

ASSISTANCE LISTING 97.039 HAZARD MITIGATION GRANT PROGRAM (HMGP)

I. PROGRAM OBJECTIVES

The purpose of the Hazard Mitigation Grant Program (HMGP) is to mitigate the vulnerability of life and property to future disasters during the recovery and reconstruction process following a disaster. HMGP provides funds to implement projects to reduce risk from future hazard events in accordance with priorities identified in state, Indian tribal government, territory, or local hazard mitigation plans. It also provides funds designed to develop state, Indian tribal government, and local mitigation plans that meet the planning requirements outlined in 44 CFR Part 201.

II. PROGRAM PROCEDURES

HMGP is a cost-shared program administered by the Federal Emergency Management Agency (FEMA), Department of Homeland Security (DHS). FEMA provides HMGP awards to states and federally recognized Indian tribal governments (recipients), which, in turn, may provide subawards to state agencies, local governments, Indian tribal governmental agencies, and other eligible entities (subrecipients). Each recipient administers the HMGP according to a FEMA-state or FEMA-Indian tribal government agreement, a comprehensive Standard or Enhanced Mitigation Plan, and a state or Indian tribal government HMGP Administrative Plan. These plans must be approved by FEMA before funds are awarded to the state or Indian tribal government. FEMA is responsible for approving or denying project applications and reviewing the recipient's quarterly and final reports.

FEMA also provides funding for costs incurred by recipients and their subrecipients in administering HMGP. For federal disasters declared prior to November 13, 2007, the recipient receives a statutory administrative cost allowance determined according to a formula based on percentages of the aggregate federal share of funding provided to subrecipients for hazard mitigation projects. Management costs not covered by the allowance may be allowed with FEMA prior approval. The recipient awards statutory administrative cost allowances to the subrecipient according to a formula based on percentages of the subrecipient's net eligible project costs. If requested, management costs are awarded as a part of the HMGP ceiling.

For federal disasters declared on or after November 13, 2007, but prior to August 1, 2017, FEMA makes available funds for costs incurred by recipients and their subrecipients in administering and managing HMGP. These costs are now termed "management costs" and include any indirect costs, administrative expenses, and any other expenses not directly chargeable to a specific project that are reasonably incurred by a recipient or subrecipient in the administration and management of HMGP. Recipients may identify and make available a percentage or amount of pass-through funds for management costs to their subrecipients. The basis, criteria, or formula for equitable distribution is determined by the recipient and must be included in the FEMA-approved state or Indian tribal government HMGP Administrative Plan before funds for management costs can be awarded. Management costs are not subject to the

federal funding limits for HMGP projects (see III.G.1, "Matching, Level of Effort, Earmarking – Matching") and are provided in addition to the HMGP program ceiling.

On Oct. 5, 2018, the Disaster Recovery Reform Act of 2018 (DRRA) was signed into law as part of the Federal Aviation Administration Reauthorization Act of 2018. The DRRA changed how FEMA calculates management costs for HMGP. A recipient may be reimbursed not more than 15 percent of the total amount of the grant award of which not more than 10 percent may be used by the recipient and 5 percent by the subrecipient for such costs. DRRA management cost calculations apply to all major disasters declared on or after August 1, 2017, Management costs are provided outside of, and separate from, the HMGP ceiling amount.

For federal disasters declared on or after August 1, 2017, FEMA caps management costs made available to recipients and their subrecipients. The change was brought on by the signing of the Disaster Recovery Reform Act of 2018 (DRRA) on October 5, 2018, as part of the Federal Aviation Administration Reauthorization Act of 2018. Management costs are now calculated which not more than 10 percent may be made available to the recipient and 5 percent made available to the subrecipient. Management costs continue to be provided outside of, and separate from, the HMGP ceiling amount.

Application and Award Process

After determining that disaster relief and recovery needs cannot be met with resources available within the state, the governor requests a presidential major declaration designating the state a disaster area. Indian tribal governments may also submit a request for a major disaster declaration within their impacted area. For major disasters declared prior to August 15, 2024, applicants have up to 12 months from the date the disaster is declared to review and submit applications. For major disaster declarations declared on or after August 15, 2024, the application period is 15 months from the date of disaster declaration. The application must identify the specific mitigation measure(s) for which the state or Indian tribal government requests funding, and any entities to which the recipient intends to make subawards.

In addition to submitting applications and supporting documents to FEMA, the recipient's authorized representative appoints a state hazard mitigation officer. This official ensures that all potential applicants are made aware of the assistance available under the HMGP and provides technical advice and assistance to eligible subrecipients. Indian tribal governments can receive HMGP assistance as subrecipients of states or apply directly to FEMA. Where FEMA provides an award directly to an Indian tribal government, the two entities enter into a FEMA-tribal agreement.

Source of Governing Requirements

HMGP is authorized by Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (the Stafford Act), 42 USC 5170c. Program regulations are codified at 44 CFR parts 80; 201; and 206, Subpart N (Hazard Mitigation Grant Program).

A. Performance Metrics

Performance metrics for this program are as follows:

1. Quarterly Progress Reports (QPR)
   FEMA uses the QPR data reported by the recipient to evaluate project status and identify potential funding issues (e.g., cost overruns). The scorecard evaluates the status and progress of quarterly progress reporting for all obligated projects using the following seven criteria:

   a) Timeliness

   b) Regions submitted to HQ on time

   c) Data Completeness

   d) Critical data elements that are reported on each project – Cost Code, Status, Percentage Work Complete, Total Recipient Drawdown, and Sub-recipient Expenditures to date

   e) Data Reasonableness and Accuracy

   f) Comparative data analysis between current and previous QPRs

   g) Closeout

Availability of Other Program Information

Other program information is available at http://www.fema.gov/hazard-mitigation-grant-program.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	N	Y	N	N	Y	N	N

A. Activities Allowed or Unallowed

The activities allowed for an HMGP project are those described in the grant application approved by FEMA and the supporting documentation. All projects funded must also conform to the state, and/or Indian tribal government's (when applying directly to FEMA), comprehensive Hazard Mitigation Plan. Additionally, all subaward projects funded under HMGP must be in accordance with priorities identified in the Indian tribal government or local hazard mitigation plans (44 CFR sections 201.6 and 201.7). Eligible projects include, but are not limited to:

1. Structural hazard control or protection projects;

2. Construction activities that will result in protection from hazards;

3. Retrofitting of facilities;

4. Property acquisition or relocation;

5. Development of state, Indian tribal government, or local mitigation standards;

6. Development or improvement of warning systems; and

7. Development of a mitigation plan meeting the requirements of 44 CFR Part 201. (44 CFR section 206.436(d)(2)).

B. Allowable Costs/Cost Principles

1. *Administrative Costs for Federal Disasters Declared Prior to November 13, 2007*

   a. *Recipient Direct Costs* – A state or Indian tribal government may use funds made available by FEMA under its administrative cost allowance only for extraordinary direct costs of preparing applications and quarterly reports and making final audits and related field inspections. Specific cost items allowable as direct administrative costs include overtime pay, per diem and travel expenses for state or Indian tribal government employees,

but not their regular (straight-time) salaries. Cost items not eligible for funding from the state's or Indian tribal government's administrative cost allowance, but still related to managing the program, may be funded from the award if FEMA gives prior approval. Regular (straight-time) salaries may be funded in this way. In the case of staffing costs for the state's or Indian tribal government's portion of the Joint Field Office, FEMA gives prior approval by approving the state's staffing plan (44 CFR section 207.9(b)(1)).

b. *Subrecipient Administrative Costs* – A subrecipient may use funds made available by the recipient in its administrative cost allowance only for direct costs of requesting, obtaining, and administering its subawards (44 CFR section 207.9(b)(2)).

c. *Indirect Costs* – Recipient indirect costs identified in accordance with the federal cost principles are allowable. Indirect costs at the subrecipient level are unallowable (44 CFR section 207.9(c)).

2. *Management Costs for Federal Disasters Declared on or after November 13, 2007*

a. *Recipient* – A state or Indian tribal government may use funds made available by FEMA under its management cost allowance for any indirect costs, any administrative expenses, and any other expenses not directly chargeable to a specific project that are reasonably incurred in administering and managing the HMGP. All charges must be in accordance with 44 CFR Part 207.

b. *Subrecipient* – A state or Indian tribal government may identify and make funds for management costs available to subrecipients in accordance with the FEMA-approved HMGP Administrative Plan. A subrecipient may use funds made available for management costs for any indirect costs, administrative expenses, and other expenses not directly chargeable to a specific project that are reasonably incurred in administering and managing the HMGP subaward (44 CFR section 207.6). See also definition of "Management Costs," 44 CFR section 207.2.

3. *Management Costs for Federal Disasters Declared on or after August 1, 2017*

a. *Recipient* – A state or Indian tribal government may use funds made available by FEMA under its management cost allowance for any indirect costs, any direct administrative expenses, and any other administrative expenses associated with a specific project under HMGP. FEMA is capped on making funds available not to exceed 10% of the total amount of the award. The amounts, allowable uses, and procedures for HMGP management costs are established in Section 324 of the Stafford Act, as amended (42 U.S.C. § 5165b). Additional information can be found in the

Hazard Mitigation Assistance Program and Policy Guide, July 30, 2024 - Part 10.

b. *Subrecipient* – A subrecipient may identify and apply for subrecipient management costs in accordance with the FEMA-approved HMGP Administrative Plan. A subrecipient may use management costs for any indirect costs, administrative expenses, and other any other administrative expenses associated with a specific project under HMGP. FEMA is capped on making funds available not to exceed 5% of the total amount of the award. The amounts, allowable uses, and procedures for HMGP management costs are established in Section 324 of the Stafford Act, amended (42 U.S.C. § 5165b). Additional information can be found in the Hazard Mitigation Assistance Program and Policy Guide, July 30, 2024 - Part 10.

E. Eligibility

1. Eligibility for Individuals

Not Applicable

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

Not Applicable

3. Eligibility for Subrecipients

The following types of entities are eligible to apply for HMGP subawards. Additionally, an eligible entity must have a FEMA-approved Mitigation Plan to be eligible to receive a project subaward (44 CFR sections 201.6 and 201.7).

a. State and local governments;

b. Private nonprofit organizations or institutions that own or operate a private nonprofit facility as defined at 44 CFR section 206.221(e); and

c. Indian tribal governments and Alaskan Native villages or organizations (44 CFR section 206.434(a)).

L. Reporting

1. Financial Reporting

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

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

IV. OTHER INFORMATION

In the administration of this grant, the state or Indian tribal government may provide subaward funds to another part of the state (e.g., a state agency) or designated area within an Indian tribal government. If the part of the state or Indian tribal government receiving the subaward is included in the audit of the state, such as a state-wide audit, or Indian tribe, as applicable, then for purposes of determining Type A programs and reporting on the Schedule of Expenditures of Federal Awards, these subawards within the single audit reporting entity (state or Indian tribe) should be eliminated. However, all federal awards expended under this program (including subawards) are subject to 2 CFR Part 200, Subpart F.

DEPARTMENT OF HOMELAND SECURITY

ASSISTANCE LISTING 97.067 HOMELAND SECURITY GRANT PROGRAM (HSGP)

I. PROGRAM OBJECTIVES

The purpose of the Homeland Security Grant Program (HSGP) is to support state, local, tribal, and territorial efforts to prevent acts of terrorism and other catastrophic events, and to prepare the nation for the threats and hazards that pose the greatest risk to the security of the United States. The HSGP supports core capabilities across the five mission areas of Prevention, Protection, Mitigation, Response, and Recovery. The building, sustainment, and delivery of these core capabilities are not exclusive to any single level of government, organization, or community, but rather, require the combined effort of the whole community. HSGP comprises three grant programs: State Homeland Security Program (SHSP), Urban Area Security Initiative (UASI), and Operation Stonegarden (OPSG). Together, these grant programs fund a range of activities, including planning, organization, equipment purchase, training, exercises, and management and administration across all core capabilities and mission areas.

State Homeland Security Program: The State Homeland Security Program (SHS assists state, local, tribal, and territorial preparedness activities that address high-priority preparedness gaps across all core capabilities where a nexus to terrorism exists. All supported investments are based on capability targets and gaps identified during the Threat and Hazard Identification and Risk Assessment (THIRA) process and assessed in the Stakeholder Preparedness Review (SPR).

Urban Area Security Initiative: The UASI program addresses the unique risk-driven and capabilities-based planning, organization, equipment, training, and exercise needs of high-threat, high-density urban areas based on the capability targets identified during the THIRA process and associated assessment efforts and assists them in building an enhanced and sustainable capacity to prevent, protect against, mitigate, respond to, and recover from acts of terrorism.

Operation Stonegarden: OPSG supports enhanced cooperation and coordination between Customs and Border Protection (CBP), the United States Border Patrol (USBP), and federal, state, local, tribal, and territorial law enforcement agencies in a joint mission to secure the United States' borders along routes of ingress/egress to and from international borders, to include travel corridors in states bordering Mexico and Canada, as well as states and territories with international water borders. The THIRA/SPR process is not required for OPSG.

II. PROGRAM PROCEDURES

All 56 states and territories, including any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the US Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, are eligible to apply for SHSP funds. The State Administrative Agency (SAA) is the only entity eligible to submit HSGP applications to DHS/FEMA, including those applications submitted on behalf of UASI and OPSG applicants.

Tribal governments may not apply directly for HSGP funding; however, funding may be available to tribes under the SHSP and OPSG through the SAA.

Eligible high-risk urban areas for the fiscal year (FY) 2025 UASI program will be determined through an analysis of relative risk of terrorism faced by the 100 most populous Metropolitan Statistical Areas (MSAs) in the United States and anticipated effectiveness as required by the Homeland Security Act of 2002, as amended. Subawards will be made by the SAAs to the designated high-risk urban areas.

Eligible subrecipients under OPSG are local units of government at the county level or equivalent level of government and federally recognized tribal governments in states on or near the border with Canada, or Mexico, and states and territories with international water borders. All applicants must have active ongoing USBP operations coordinated through a CBP sector office to be eligible for OPSG funding. Subrecipients eligible to apply for and receive a subaward directly from the SAAs are divided into three Tiers. Tier 1 entities are local units of government at the county level or equivalent and federally recognized tribal governments that are on a physical border in states bordering Canada or Mexico, and states and territories with international water borders. Tier 2 eligible subrecipients are those not located on the physical border or international water but are contiguous to a Tier 1 eligible subrecipient. Tier 3 eligible subrecipients are those not located on the physical border or international water but are contiguous to a Tier 2 eligible subrecipient. Tier 2 and Tier 3 eligible subrecipients may be eligible to receive funding based on border security risk as determined by the USBP.

Source of Governing Requirements

These programs are authorized under Section 2002 of the Homeland Security Act of 2002 (Pub. L. No. 107-296, as amended) (6 U.S.C.§ 603). This program is also funded through the following appropriations: Department of Homeland Security Appropriations Act, 2014 (Pub. L. No. 113-76); Department of Homeland Security Appropriations Act, 2015 (Pub. L. No. 114-4); Department of Homeland Security Appropriations Act, 2016 (Pub. L. No. 114-113); Department of Homeland Security Appropriations Act, 2017 (Pub. L. No. 115-31); Department of Homeland Security Appropriations Act, 2018 (Pub. L. No. 115-141); Department of Homeland Security Appropriations Act, 2019 (Pub. L. No. 116-6); and Department of Homeland Security Appropriations Act, 2020 (Pub. L. No. 116-93); Department of Homeland Security Appropriations Act, 2021 (Pub. L. No. 116-260); Department of Homeland Security Appropriations Act, 2022 (Pub. L. No. 117-103); Consolidated Appropriations Act, 2023 (Pub. L. No. 117-328); Department of Homeland Security Appropriations Act, 2024, Pub. L. No. 118-47, Title III, Protection, Preparedness, Response, and Recovery (2024 DHS Appropriations Act). There are no program regulations. The applicable program guidance is incorporated by reference into awards and becomes part of the terms and conditions of award.

Availability of Other Program Information

Additional information concerning this Program is available at https://www.fema.gov/homeland-security-grant-program.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	Y	N	N	Y	Y	Y

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. Funds may be used to enhance the capability of state, local, tribal, and territorial jurisdictions to prepare for and respond to terrorist acts, including events of terrorism involving weapons of mass destruction and biological, nuclear, radiological, incendiary, chemical, and explosive devices, and other catastrophic events. Allowable activities include management and administrative costs, the hiring of intelligence analysts, overtime costs for specific purposes, the purchase of needed equipment, the provision of training and technical assistance, and the conduction of exercises. Funds may be used under the following cost categories: planning, organization, equipment, training, and exercises.

   b. Funds may be used for management and administration of the grant (Consolidated Appropriations Act, 2012 (Pub. L. No. 112-74, 125 Stat. 961; Consolidated Appropriations Act, 2013 (Pub. L. No. 113-6, 127 Stat. 358; Consolidated Appropriations Act, 2014 (Pub. L. No. 113-76, 128

Stat. 262); Department of Homeland Security Appropriations Act, 2015 (Pub. L. No. 114-4, 129 Stat. 54); Department of Homeland Security Appropriations Act, 2016 (Pub. L. No. 114-113); the Department of Homeland Security Appropriations Act, 2017 (Pub. L. No. 115-31); and *Department of Homeland Security Appropriations Act, 2018* (Pub. L. No. 115-141); Department of Homeland Security Appropriations Act, 2019 (Pub. L. No. 116-6); and Department of Homeland Security Appropriations Act, 2020 (Pub. L. No. 116-93); Department of Homeland Security Appropriations Act, 2021 (Pub. L. No. 116-260); Department of Homeland Security Appropriations Act, 2022 (Pub. L. No. 117-103); Consolidated Appropriations Act, 2023 (Pub. L. No. 117-328); Department of Homeland Security Appropriations Act, 2024, Pub. L. No. 118-47, Title III, Protection, Preparedness, Response, and Recovery (2024 DHS Appropriations Act)).

c. OPSG funds may be used for operational overtime costs associated with law enforcement activities, in support of border law enforcement agencies for enhanced border security.

2. *Activities Unallowed*

a. Funds awarded for law enforcement terrorism prevention activities under SHSP and UASI cannot be used for construction of facilities, except for a minor perimeter security project, not to exceed the greater of $1,000,000 or 15 percent of the grant award, as determined necessary by the Secretary of Homeland Security.

(1) The erection of communication towers that are included in a jurisdiction's interoperable communications plan does not constitute construction.

(2) Subject to all applicable laws, regulations, and licensing provisions, projects for the installation of communication towers are typically eligible under the program. Such projects are not considered construction, and, therefore, are, not subject to the otherwise applicable funding limits on construction activities.

b. HSGP funds may not be used to support the hiring of sworn public safety officers for purposes of fulfilling traditional public safety duties or to supplant traditional public safety positions and responsibilities (6 USC 609(b)(1)(A)). Per section 2008(b)(1)(A) of the Homeland Security Act of 2002 (codified as amended at 6 USC 609(b)(1)(A)), HSGP funds may not be used to supplant state or local funds, but there is no prohibition on using funds for otherwise permissible uses under section 2008(a) on the basis that state or high-risk urban area has previously used its funds to support the same or similar use.

c. OPSG funds may not be used for the following:

(1) Evidence collection, arrest processing, prosecution, and Traffic/DUI checkpoints, such as evidence documentation cameras, fingerprinting supplies, alcohol breathalyzers, portable work lights, traffic barricades, and similar law enforcement expenses

(2) Staffing (other than overtime) and general information technology computing equipment and hardware, such as personal computers, faxes, copy machines, and modems

(3) Hiring full-time or permanent sworn public safety officers

(4) Supplanting of inherent routine patrols and law enforcement operations or activities not directly related to providing enhanced coordination between local and federal law enforcement agencies

(5) Constructing and/or renovating costs

(6) Exercise expenses

d. HSGP funds may not be used for the purchase of weapons and weapons accessories, including ammunition.

e. HGSP funds may not be used for the purchase of equipment not approved by FEMA. The following equipment is prohibited from purchase with grant funds: firearms; ammunition; grenade launchers; bayonets; or weaponized aircraft, vessels, or vehicles of any kind with weapons installed.

f. HSGP funds may not be used for reimbursement for the maintenance or wear and tear costs of general use vehicles (e.g., construction vehicles), medical supplies, and emergency response apparatus (e.g., fire trucks, ambulances).

g. HSGP funds may not be used for equipment that is purchased for permanent installation and/or use, beyond the scope of the conclusion of the exercise (e.g., electronic messaging sign).

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort

Not Applicable

3. Earmarking

As directed by Section 2008(b)(2) of the Homeland Security Act of 2002 (codified as amended at 6 USC 609(b)(2)), all personnel and personnel-related costs, including those of intelligence analysts and operational overtime, are allowed up to 50 percent of HSGP funding without time limitation placed on the period of time that such personnel can serve. FEMA may provide a waiver at the request of the recipient to allow personnel expenses to exceed 50 percent of the amount awarded. Construction and renovation projects are generally prohibited under SHSP and UASI, with specific exceptions. One notable exception allows for minor perimeter security projects, provided they do not exceed $1,000,000 or 15 percent of the grant award.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Subgrant Awards

Compliance Requirements States (with the exception of the District of Columbia, Guam, American Samoa, the US Virgin Islands, and the Commonwealth of the Northern Mariana Islands) must obligate at least 80 percent of the funds awarded to them under

SHSP and UASI to local or tribal governments within 45 calendar days of receipt of the funds (6 USC 604(d)(2)). SAA recipients of OPSG funds can retain a maximum of 2.5% of the allocation for Management and Administration (M&A) costs, applicable to the allocations provided to eligible jurisdictions within that same time frame. "Receipt of funds" occurs either when the recipient accepts the award or 15 calendar days after the recipient receives notice of the award, whichever is earlier. "Obligate" has the same meaning as in federal appropriations law (i.e., there must be an action by the state to establish a firm commitment; the commitment must be unconditional on the part of the state; there must be documentary evidence of the commitment; and the award terms must be communicated to the subrecipient and, if applicable, accepted by the recipient).

Audit Objectives To determine if (1) the state complied with the requirement to obligate 80 percent of the funds awarded under SHSP and UASI and 100 percent of the OPSG allocation passed through to local or tribal governments within 45 calendar days of receipt of the funds, and (2) subrecipients were able to draw down funds immediately following state obligation of funds.

Suggested Audit Procedures

a. Determine if the state has written procedures for making SHSP, UASI, and OPSG subgrant awards to local and tribal governments, including any standards for administrative lead time for obligation of funds and issuance of awards.

b. Review the state's written procedures, if any, for consistency with the compliance requirement.

c. Determine if subgrant amounts were obligated by the state in a timely manner, consistent with SHSP, UASI, and OPSG requirements and the state's own procedures.

d. Select a sample of subgrant awards under these funding streams and review the subrecipients' payment requests to determine if funds were disbursed by the state to the local or tribal units of government consistent with the dates of their subawards, i.e., the date of obligation.

e. Review the state required submissions for compliance with award requirements.

IV. OTHER INFORMATION

When completing the Schedule of Expenditures of Federal Awards (SEFA), recipients should record their expenditures using the Assistance Listings number(s) shown on the legal award document for the period in which the funds were awarded. Subawards issued by the primary recipient are legally binding agreements, and, therefore, Assistance Listings numbers cited by the recipient in the subgrant award must be used by the subrecipient as the Assistance Listings reference in the SEFA.

It also should be noted that, except as otherwise provided by statute, DHS awards of property and/or equipment are subject to the audit requirements of 2 CFR Part 200, Subpart F.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

ASSISTANCE LISTING 98.007 FOOD FOR PEACE DEVELOPMENT ASSISTANCE PROGRAM

ASSISTANCE LISTING 98.008 FOOD FOR PEACE EMERGENCY PROGRAM

I. PROGRAM OBJECTIVES

The United States Agency for International Development (USAID) donates agricultural commodities to foreign countries under Title II of the Food for Peace Act (formerly the Agricultural Trade Development and Assistance Act of 1954) (Pub. L. No. 480) (7 USC 1691 through 1738r). These programs include donated commodities, monetization proceeds from the sale of commodities, and cash assistance (referred to as Section 202(e) funding (7 USC 1722(e)), and International Transportation, Storage, and Handing (ITSH) funding (7 USC 1736 and 1736a).

II. PROGRAM PROCEDURES

A. General Overview

As the primary conduit of humanitarian assistance for USAID, the Bureau for Democracy, Conflict, and Humanitarian Assistance (DCHA) is charged with the overall responsibility for USAID's response to humanitarian crises, both natural and complex. The Office of Food for Peace (FFP) manages the Pub. L. No. 480, Title II (7 USC 1721 through 1726b) provision of agricultural commodities channeled to foreign countries as food assistance. Food assistance is also authorized and delivered under titles I and III of Pub. L. No. 480, as well as under other legislation. This supplement covers only food assistance authorized and delivered under Title II.

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

"Cooperating sponsor" is the term used to define the organization entering into an agreement with USAID for the use of agricultural commodities or funds. Cooperating sponsors may include governments and public or private agencies, including intergovernmental organizations such as the World Food Program, and nongovernmental

organizations. Nongovernmental cooperating sponsors include private voluntary organizations and cooperatives. Title II assistance is provided to cooperating sponsors for emergency and nonemergency programs. Activities include direct distribution as well as food assistance for programs that support smallholder agriculture, market liberalization through policy change, nutrition, and other child survival programs, community development, such as water and sanitation and environmental restoration, and small-scale infrastructure development. A portion of Title II commodities can be monetized (sold to obtain cash for use in US assistance programs) by cooperating sponsors to fund complementary interventions to enhance the impact of food programs and contribute to food security. Monetization of food aid under emergency programs occurs to fund complementary activities such as distribution, repackaging, and wet feeding in refugee camps.

B. Program Operation

1. *General*

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

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

2. *Host Country Food for Peace Program Agreement (HCFFPA)*

Each nongovernmental cooperating sponsor is required to enter into a separate written agreement with the foreign government of each country for which Title II commodities are transferred to the cooperating sponsor. The agreement must establish terms and condition needed by the nongovernmental cooperating sponsor to conduct a Title II program in accordance with 22 CFR Part 211. When this is not appropriate or feasible, the USAID mission or diplomatic post may instead provide assurance to FFP that the program can be effectively implemented in compliance with 22 CFR Part 211 without a HCFFPA (22 CFR section 211.3(b)).

3. *Recipient Agencies*

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

4. *Monetization*

Monetization is a critical resource for cooperating sponsors. The cooperating sponsor remains responsible for the commodities, monetized proceeds, and program income in accordance with the Operational Plan or Transfer Authorization (22 CFR section 211.3(c)(3)).

C. Other Resources

In addition to commodities (including ocean and inland freight costs) and monetization proceeds, cash resources, from either Section 202(e) funds or ITSH funds, are made available to cooperating sponsors for establishing new programs and meeting the specific administrative, management, and personnel costs of programs (7 USC 1722 (e)), as well as in support of commodity transportation within the host country, warehousing, fumigation, and more ITSH-related costs of the program (7 USC 1736(b) and 1736a(c)).

Source of Governing Requirements

This program is authorized under Title II of the Food for Peace Act (formerly the Agricultural Trade Development and Assistance Act of 1954) (Pub. L. No. 480) (7 USC 1691 through 1738r). Implementing regulations are found at 22 CFR Part 211.

Availability of Other Program Information

USAID maintains a web page with information on the "Food for Peace" program, including laws, regulations, and other information at https://www.usaid.gov/food-assistance.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a

direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	N	Y	N	N	Y	Y	Y

A. Activities Allowed or Unallowed

1. *Use of Funds*

   a. *General* – The Operational Plan and Transfer Authorization set forth the description of the activities for which commodities, monetized proceeds, or program income shall be used.

   b. *Program Management (Section 202(e) Funds)* – Cash resources provided by USAID under this provision of Title II may be used for activities including (1) direct program costs of a Title II program – administrative, management, distribution, and other program implementation costs; (2) improving the impact of food aid—feasibility assessments, baseline studies, and technical assistance; and (3) costs of implementing audit and evaluation recommendations (7 USC 1722 (e) and (f)).

   c. *Internal Transportation, Storage and Handling* – Emergency and eligible nonemergency programs to cover ITSH costs (7 USC 1736 and 1736a(c)).

2. *Use of Commodities and Monetization Proceeds*

   a. Except as USAID may otherwise agree in writing, agricultural commodities donated by USAID shall not be distributed, handled, or allocated by any military forces (22 CFR section 211.5(e)).

b. Within the limits of the total amount of commodities, monetized proceeds, and program income as approved by USAID in the Operational Plan or Transfer Authorization, the cooperating sponsor may increase or decrease by not to exceed 10 percent the amount of commodities, monetized proceeds, or program income allocated to approved program categories or components of the Operational Plan (22 CFR section 211.5(a)).

c. A cooperating sponsor is required to provide proper storage, care, and handling of commodities. In determining whether there was a proper exercise of the cooperating sponsor's responsibility, USAID considers normal commercial practices in the country of distribution and the problems associated with carrying out programs in developing countries (22 CFR section 211.9(d)).

d. Cooperating sponsors are not required to monitor, manage, report on, or account for the distribution or use of commodities after title to the commodities has passed to buyers or other third parties pursuant to a sale under a monetization program and all sales proceeds have been fully deposited in the special interest-bearing account established by the cooperating sponsor for monetized proceeds (22 CFR section 211.5(j)).

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

L. Reporting

1. Financial Reporting

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

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Recipient Agencies

Compliance Requirements Cooperating sponsors are responsible for determining that recipient agencies to which they distribute commodities are eligible in accordance with the Operational Plan or Transfer Authorization and 22 CFR Part 211.

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

In entering into agreements with recipient agencies for the transfer of commodities, monetized proceeds, or program income, the cooperating sponsor remains responsible for such resources transferred in accordance with the Operational Plan or Transfer Authorization and 22 CFR Part 211 (22 CFR section 211.3(c)(3)). In monitoring recipient agencies, the cooperating sponsor is required to provide adequate supervisory personnel for the efficient operation of the program, including personnel to (a) plan, organize, implement, control, and evaluate programs involving distribution of commodities or use of monetized proceeds and program income; (b) make warehouse inspections, physical inventories, and end-use checks of food or funds, and (c) review books and records maintained by recipient agencies that receive monetized proceeds and/or program income (22 CFR section 211.5(b)).

Audit Objectives Determine whether (1) the cooperating sponsor entered into written agreements with the recipient agencies; (2) the use of the recipient agencies was consistent with the Operational Plan and Transfer Authorization; and (3) the cooperating sponsor monitored the activities of recipient agencies to ensure proper performance of assigned activities and use of commodities, monetized proceeds, and program income.

Suggested Audit Procedures

Select a sample of recipient agencies and ascertain if:

a. The cooperating sponsor entered into a written agreement with the recipient agency.

b. The cooperating sponsor's use of the recipient agency was consistent with the Operational Plan and Transfer Authorization.

c. The cooperating sponsor appropriately monitored the activities of the recipient agency to ensure proper performance of assigned activities and use of commodities, monetized proceeds, and program income.

PART 5 – CLUSTERS OF PROGRAMS

INTRODUCTION

Part 5 identifies those programs that are considered to be clusters of federal programs. As defined by 2 CFR section 200.1, a cluster of programs means a grouping of closely related programs that share common compliance requirements. The clusters of programs included in this Part are research and development (R&D) in section 5.2 and student financial assistance (SFA) in section 5.3, as well as certain other programs included in Part 4, "Agency Program Requirements," that are deemed to be "other clusters" in section 5.4.

A cluster of programs must be considered as one program when determining major programs, as described in 2 CFR section 200.518 (major program determination), and with the exception of R&D as described in 2 CFR section 200.501(d), whether a program-specific audit may be elected.

"Other clusters" also may be designated by a state for federal awards the state provides to its subrecipients that meet the definition of a "cluster of programs." When designating an "other cluster," a state must identify the federal awards included in the cluster and advise the subrecipients of compliance requirements applicable to the cluster, consistent with 2 CFR section 200.332. This part of the Supplement does not identify any state-designated clusters of programs.

For the R&D and SFA clusters, this part is the equivalent of Part 4 coverage. In developing the audit procedures to test for compliance with the requirements for the R&D and SFA clusters, the auditor must determine from each cluster's matrix included in III. Compliance Requirements (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit, and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the cluster at the auditee. For each compliance requirement subject to audit, the auditor must use Part 3 (which includes generic details about each compliance requirement, other than Special Tests and Provisions) and the supplement sections for R&D and SFA (which includes any cluster-specific requirements) to perform the audit. The compliance requirements, audit objectives, and suggested audit procedures for Special Tests and Provisions that are unique to R&D and SFA are not included in Part 3. Instead, they are included in the R&D and SFA sections that follow.

The descriptions of the compliance requirements in parts 3 and 5 generally are a summary of the actual compliance requirements. The auditor must review the referenced citations (e.g., statutes and regulations) for the complete compliance requirements.

RESEARCH AND DEVELOPMENT PROGRAMS

I. PROGRAM OBJECTIVES

The federal government sponsors research and development (R&D) activities under a variety of types of awards, most commonly grants, cooperative agreements, and contracts, to achieve objectives agreed upon between the federal awarding agency and the recipient or subrecipient. The types of R&D conducted under these awards vary widely. The objective of an individual project is explained in the federal award.

II. PROGRAM PROCEDURES

As defined in 2 CFR section 200.1, *Research and Development*, "research" is a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. "Development" is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes. R&D means all research activities, both basic and applied, and all development activities performed by the recipient or subrecipient. The term "research" also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other R&D activities and when such activities are not included in the instruction function. The absence of the words "research" and/or "development" in the title of the federal award does not indicate it should be excluded from the R&D cluster. The substance of the federal award should be evaluated by the recipient and the auditor to determine the proper inclusion/exclusion in the R&D cluster.

Grants, cooperative agreements, and contracts for R&D are awarded to recipients and subrecipients on the basis of applications/proposals submitted to federal agencies or pass-through entities. These proposals are sometimes unsolicited. An award is then negotiated in which the purpose of the project is specified, the amount of the award is indicated, and terms and conditions are delineated.

All National Science Foundation (NSF) and National Institutes of Health (NIH) awards meet the definition of R &D as follows:

NSF

All awards issued by the National Science Foundation (NSF) meet the definition of "Research and Development" at 2 CFR section 200.1. As such, recipients must identify NSF awards as part of the R&D cluster on the Schedule of Expenditures of Federal Awards (SEFA) and the auditor must use this section when testing any of those awards. NSF recognizes that some awards may have another classification for purposes of reimbursement of indirect costs. The auditor is not required to report this difference in treatment (i.e., the award is classified as R&D for 2 CFR Part 200, Subpart F purposes, but non-research for indirect cost rate purposes), unless the recipient is charging indirect

costs at a rate other than the rate(s) specified in the award document(s). This guidance complies with the NSF Proposal and Award Policies and Procedures Guide (PAPPG), the current and prior versions of which may be found at http://www.nsf.gov/bfa/dias/policy.

NIH

All awards issued by the National Institutes of Health (NIH) meet the definition of "Research and Development" at 45 CFR section 75.2. As such, recipients must identify NIH awards as part of the R&D cluster on the SEFA, and the auditor must use this section when testing any of those awards. NIH recognizes that some awards may have another classification for purposes of reimbursement of indirect costs. The auditor is not required to report this disconnect (i.e., the award is classified as R&D for 2 CFR Part 200, Subpart F, purposes, but non-research for indirect cost rate purposes), unless the recipient is charging indirect costs at a rate other than the rate(s) specified in the award document(s). (See the NIH Grants Policy statement, the current and prior versions of which may be found at http://grants.nih.gov/grants/policy/policy.htm.)

Although NIH and NSF awards are noted above as meeting the definition of R&D, note that other awards may also meet the R&D definition.

The administrative requirements that apply to R&D grants and cooperative agreements arise from 2 CFR Part 200, and in some legacy situations, OMB Circular A-110 (2 CFR Part 215), as applicable to an award, and the federal agencies' codification of the OMB circular/guidance. The cost principles that apply to R&D cost-reimbursement contracts to recipients and subrecipients are found in FAR subparts 31.2, 31.3, 31.6, and 31.7, as applicable.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	Y	N	Y	Y	N	N	Y	Y

When selecting a sample for testing of compliance requirements, the auditor should choose a sample from the universe of R&D awards appropriate to the objective being tested. The selected items should incorporate a variety of award sizes, award types (grants, cooperative agreements, and cost-reimbursement contracts), funding sources, and federal awarding agencies.

In the Schedule of Findings and Questioned Costs, the auditor must associate any questioned costs with the specific ALN and award number(s) in the audit finding detail. When the finding applies to the entire R&D cluster (i.e., systemic findings), the auditor must clearly indicate that the finding applies to the R&D cluster and also identify by ALN and award number the questioned costs for the specific award(s) impacted. This information is necessary for the auditee to prepare the corrective action plan, and for federal awarding agencies and pass-through entities to issue a management decision on the audit findings in a timely manner.

A. Activities Allowed or Unallowed

The objectives of individual R&D projects are explained in the applicable award. Testing of compliance with this requirement should ensure that funds were used only for such objectives.

B. Allowable Costs/Cost Principles

Testing of compliance with this requirement should ensure that costs were reasonable and necessary for performance of the R&D effort identified in the applicable award.

Compensation

The auditor should give particular attention to individual employee compensation and related benefits costs.

The 2 CFR section 200.430 provides that federal agencies may approve alternative methods of accounting for salaries and wages based on achievement of performance outcomes, including instances when funding from multiple programs/awards is blended to achieve a combined outcome more efficiently.

1. In accordance with the documentation standards of 2 CFR section 200.430(a), costs of compensation for personal services are allowable to the extent the total compensation for individual employees:

    a. Is reasonable for the services rendered and conforms to the established written policy of the recipient or subrecipient consistently applied to both federal and non-federal activities;

    b. Follows an appointment made in accordance with the recipient's or subrecipient's laws, rules or written policies and meets the requirements of federal statute, where applicable; and

    c. Is determined and supported as provided in 2 CFR section 200.430(g), including charges to federal awards for salaries and wages must be based on records that accurately reflect the work performed.

2. The auditor should determine if the awards contain any negotiated wage or salary rates, or contain any restrictions on salaries and wages, such as the NIH restriction on the amount that may be charged for individual salaries (https://grants.nih.gov/grants/policy/salcap_summary.htm). If so, a sample of these should be included as a part of allowable costs testing.

Indirect (facilities and administrative) costs and cost transfers

1. Indirect or facilities and administrative (F&A) costs are a second major category of cost charged to R&D projects. (See the coverage in Part 3 relating to the review of indirect costs.)

2. Transfers of costs between cost centers or research projects are commonly used to correct the financial records (such as transfers of costs between projects when costs were initially charged to the wrong project and the recipient or subrecipient's control system found the error) and for other valid reasons.

    a. Cost transfers should be tested for allowability. A cost transfer from one project to another project may appear to be an unallowable charge to the second project. However, the auditor should assess whether, because of the closely linked nature of the research as verified by the auditee, the costs would be allowable charges to either project. Alternatively, transfers would not be allowable under the second project if the terms and conditions of that project identify the costs as unallowable. Auditors should note that a significant number of cost transfers between unrelated projects could be an indication of poor internal controls and might result in a noncompliance finding.

F. Equipment and Real Property

Entities are required to appropriately safeguard and maintain all equipment purchased with federal funds. For the R&D cluster, only considering equipment purchased under federal awards during the current audit period to assess whether the requirement is direct and material may not properly address requirements for the continued use of equipment on federally sponsored projects or programs and the safeguarding of equipment that is maintained by entities over multiple years.

When assessing whether this compliance requirement is direct and material, auditors should consider the significance, both qualitative and quantitative factors, of all equipment purchased with federal awards that are part of the R&D cluster. Based on this assessment, auditors should design appropriate procedures to determine internal control over and compliance with equipment management requirements.

M. Subrecipient Monitoring

When deciding whether the subrecipient monitoring compliance requirement applies, the auditor must assess whether the recipient or subrecipient entered into any relationships under the federal award that it identified as subawards. A subrecipient relationship exists when funding from a pass-through entity is provided to another entity to perform a portion of the federal award. It does not include payments for the purpose of obtaining goods and services for the recipient or subrecipient's own use. A subaward may be provided through any form of legal agreement, including an award that a pass-through entity makes under a federal cost-reimbursement contract that is subject to the FAR, in which case the subaward is termed a subcontract. In determining whether a subrecipient relationship exists, the substance of the relationship is more important than the term used to describe it (2 CFR section 200.331).

N. Special Tests and Provisions

R&D awards may contain special terms and conditions that could have a direct and material effect on the R&D cluster. The auditor should make inquiries of the recipient's or subrecipient's management and review a sample of the R&D awards to ascertain if such special terms and conditions exist. Entities should have internal controls to ensure that (1) federal awards are reviewed to identify special award terms and conditions, and (2) compliance with the special terms and conditions identified. When special terms and conditions exist that could have a direct and material effect on the R&D cluster, the auditor should determine the audit objectives and develop and perform procedures for internal control and compliance as required under 2 CFR sections 200.514(c) and (d). One example of a specific cross-cutting special term and condition is key personnel.

Key Personnel

Applications/proposals or awards may include staffing proposals that specify individuals who will work on the project and the extent of the planned involvement of personnel. The

recipient or subrecipient may change the staffing mix and level of involvement within limits specified by agency policy or in the award but may be required to obtain federal awarding agency approval of changes in key personnel (as identified in the award, which may differ from the recipient or subrecipient's designation in the application/proposal) and changes in the principal investigator's/project director's time commitment/level of participation in the project. For grants and cooperative agreements, this may include not only a change in the principal investigator or project director but also the disengagement from the project for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator (2 CFR sections 200.308(f) (2) and (3)). For cost-reimbursement contracts under the FAR, specific key personnel requirements are included in the contract (or task order).

Audit Objectives To determine whether the recipient or subrecipient adhered to key personnel commitments specified in the application/proposal or award (which may be an incorporation by reference of the approved application/proposal) and obtained any required federal awarding agency approval for changes.

Suggested Audit Procedures

a. Review the recipient or subrecipient's procedures for determining if key personnel were involved in the project.

b. Review a sample of projects and determine if key personnel identified in the application/proposal and award were involved in the project as required.

c. Determine if the recipient or subrecipient complied with any award requirements for approval of changes in key personnel or absence from, or changes in time committed to, the project by the approved project director or principal investigator.

STUDENT FINANCIAL ASSISTANCE PROGRAMS

DEPARTMENT OF EDUCATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 84.007 FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS (FSEOG)

ASSISTANCE LISTING 84.033 FEDERAL WORK-STUDY PROGRAM
ASSISTANCE LISTING 84.038 FEDERAL PERKINS LOAN PROGRAM

ASSISTANCE LISTING 84.063 FEDERAL PELL GRANT PROGRAM

ASSISTANCE LISTING 84.268 FEDERAL DIRECT STUDENT LOANS

ASSISTANCE LISTING 84.379 TEACHER EDUCATION ASSISTANCE FOR COLLEGE AND HIGHER EDUCATION GRANTS (TEACH Grants)

ASSISTANCE LISTING 84.408 POSTSECONDARY EDUCATION SCHOLARSHIPS FOR VETERAN'S DEPENDENTS (Iraq and Afghanistan Service Grant (IASG))

ASSISTANCE LISTING 93.264 NURSE FACULTY LOAN PROGRAM (NFLP)

ASSISTANCE LISTING 93.342 HEALTH PROFESSIONS STUDENT LOANS, INCLUDING PRIMARY CARE LOANS AND LOANS FOR DISADVANTAGED STUDENTS (HPSL/PCL/LDS)

ASSISTANCE LISTING 93.364 NURSING STUDENT LOANS (NSL)

ASSISTANCE LISTING 93.925 SCHOLARSHIPS FOR HEALTH PROFESSIONS STUDENTS FROM DISADVANTAGED BACKGROUNDS – SCHOLARSHIPS FOR DISADVANTAGED STUDENTS (SDS)

I. PROGRAM OBJECTIVES

The objective of the student financial assistance (SFA) programs is to provide financial assistance to eligible students attending eligible institutions of postsecondary education.

II. PROGRAM PROCEDURES

A. Overview

Institutions must apply to either the Secretary of Education (ED) or Secretary of Health

and Human Services (HHS) to participate in their particular SFA programs. Some applications must be filed annually, others upon initial entry and once approved, periodically thereafter. Institutions may be approved to participate in only one program or a combination of programs. Institutions are responsible for: (1) determining student eligibility; (2) verifying student data (when required); (3) calculating, as required, the amount of financial aid a student can receive;(4) drawing funds from the federal government and disbursing SFA funds to students directly or by crediting students' accounts; (5) making borrowers aware of loan repayment responsibilities; (6) submitting, as requested, data on borrowers listed on National Student Loan Data System (NSLDS®) roster; (7) returning funds to students and Title IV programs, as appropriate, if students withdraw, drop out, or are expelled from their program of study; (8) collecting SFA overpayments; (9) establishing, maintaining, and managing (including collecting loan repayments) a revolving loan fund for applicable programs; and (10) reporting the use of funds. Institutions may contract with third-party servicers to perform many of these functions.

B. Title IV Programs - General

The Title IV programs cited in this cluster that are administered by the Department of Education (ED) (those with Assistance Listings beginning with 84) are authorized by Title IV of the Higher Education Act of 1965, as amended (HEA), and collectively are referred to as the "Title IV programs." Because they are administered at the institutional level, the Federal Perkins Loan Program, the Federal Work-Study Program, and Federal Supplemental Educational Opportunity Grant Program are referred to collectively as the "campus-based programs."

To participate in the Title IV programs, an institution must be an eligible institution. Public and non-profit institutions can qualify as an eligible institution of higher education (34 CFR 600.4) and/or an eligible postsecondary vocational institution (34 CFR 600.6). Depending on the programs offered by an institution, it can be considered both an institution of higher education and a postsecondary vocational institution and must meet the program eligibility requirements for the programs offered by a postsecondary vocational institution.

For Title IV programs, students complete a paper or electronic application (Free Application for Federal Student Aid (FAFSA®) and send it to the FAFSA Processing System - FPS. FPS provides FAFSA Submission Summaries to applicants and provides Institutional Student Information Records (ISIRs) to institutions. Among other things, the FAFSA Submission Summary contains the applicant's Student Aid Index (SAI). The institution uses the ISIR or the FAFSA Submission Summary provided by the student to help determine student eligibility, award amounts, and disbursements. (Note: FPS is a service organization of ED, not of the institution. Therefore, AU-C Section 402, *Audit Considerations Relating to an Entity Using a Service Organization*, does not apply when auditing the institution.)

C. Federal Supplemental Educational Opportunity Grants (FSEOG) (Assistance Listing 84.007)

The FSEOG program provides grants to eligible undergraduate students. Priority is given to Pell recipients who have the lowest SAI. Federal funds are matched with institutional funds (34 CFR 676.21(a) and (c). Title III and Title V institutions may obtain a waiver of the matching requirement under 34 CFR 676.21(b) of the FSEOG regulations.

D. Federal Work-Study (FWS) (Assistance Listing 84.033)

The FWS program provides part-time employment to eligible undergraduate and graduate students who need earnings to help meet the costs of postsecondary education. This program also authorizes the establishment of the Job Location and Development (JLD) program, the purpose of which is to expand off-campus part-time or full-time employment opportunities for all students, regardless of their financial need, who are enrolled in eligible institutions and to encourage students to participate in community service activities. Institutions that participate in the FWS program may also use their funds for the Work-Colleges program, whose purpose is to recognize, encourage, and promote the use of comprehensive work-learning programs as a valuable educational approach when it is an integral part of the institution's educational program and a part of a financial plan that decreases reliance on grants and loans and to encourage students to participate in community service activities (34 CFR 675.43).

Funds are provided to institutions upon submission of an annual application, *Fiscal Operations Report and Application to Participate* (FISAP) (*OMB No. 1845-0030*) (this application covers all campus-based programs), and in accordance with statutory formula. Institutions must provide matching funds unless they are an eligible Title III or Title V institution, or unless the student is employed in a position which is authorized for payment with 100 percent of federal funds (34 CFR 675.26(d)). The institution determines the award amount, provides on campus and off campus (if applicable) FWS employment opportunities for students and pays the student or arranges to have the student paid by an off-campus employer. The student is responsible for applying, interviewing, and obtaining the FWS employment opportunity. The institution may use a portion of FWS funds for a JLD program.

E. Federal Perkins Loan Program (Assistance Listing 84.038)

Under the Perkins Loan Extension Act of 2015 (Extension Act) (Pub. L. No. 114-105), the authority to award new Perkins Loans to graduate students expired on September 30, 2016, and the authority to award new Perkins Loans to undergraduate students expired September 30, 2017. No disbursements were permitted after June 30, 2018 (Pub. L. No. 114-105). Institutions are required to continue servicing their Perkins Loan portfolio (or contract with a third-party servicer for such servicing) and administrative and reporting requirements remain until the institution has completed the liquidation process and program closeout. Although the Federal Perkins Loan Program is a loan program in which the proceeds were received and expended in prior years, the federal government is at risk for the loans until the debt is repaid. The guidelines at 2 CFR 200.502(b) must be

used to calculate the value of federal awards expended under the Federal Perkins Loan Program each year, because the HEA, regulations, and terms and conditions of the Federal Perkins Loan Program impose continuing compliance requirements other than to repay the loans.

F. Federal Pell Grant (Pell) (Assistance Listing 84.063)

The Federal Pell Grant program provides grants to eligible students enrolled in eligible undergraduate programs and certain eligible post-baccalaureate teacher certificate programs and is intended to provide a foundation of financial aid. The program is administered by ED and postsecondary educational institutions. Maximum and minimum Pell Grant awards are established by statute, but the amount for which each student is eligible is based on Maximum or Minimum Pell Grant eligibility criteria or the student's SAI. ED provides funds to the institution based on actual and estimated Pell expenditures.

G. William D. Ford Federal Direct Loans (Direct Loan) (Assistance Listing 84.268) (Includes Direct Subsidized, Direct Unsubsidized, and Direct PLUS loans)

The Direct Loan Program makes Direct Subsidized Loans for eligible undergraduate students and Direct Unsubsidized Loans to all eligible students, and Direct PLUS Loans to eligible graduate or professional students or to eligible parents of dependent undergraduate students, to pay for the cost of attending postsecondary educational institutions. Direct Loans are made by the Secretary of Education. The student's FAFSA Submission Summary or ISIR, along with other information, is used by the institution to originate a student's Direct Loan. The financial aid administrator is also required to provide and confirm certain information.

H. Teacher Education Assistance for College and Higher Education Grants (TEACH Grants) (Assistance Listing 84.379)

The TEACH Grant program is a non-need-based grant program for eligible students who are enrolled in an eligible program, and who agree to serve as a full-time teacher, in a high-need field, in an elementary school, secondary school, or educational service agency serving low-income students for at least four years within eight years of ceasing enrollment at the institution where the TEACH Grant was awarded (34 CFR 686.1). If the grant recipient fails to complete the required teaching service, the TEACH Grant is treated as a Direct Unsubsidized Loan (34 CFR 686.43).

I. Postsecondary Education Scholarships for Veteran's Dependents (Iraq and Afghanistan Service Grant (IASG)) (Assistance Listing 84.408)

The Higher Educational Technical Corrections, Pub. L. No. 111-39, amended the HEA to allow an eligible student (less than 24 years old or enrolled in college at time of parent or guardian's death) whose parent or guardian died as a result of US military service in Iraq or Afghanistan after September 11, 2001, to receive this non-need-based grant if he or

she was not eligible to receive a Pell Grant. Beginning with the 2024-2025 award year, IASG is no longer a separate program and eligibility was rolled into Pell Grants under the Special Rule (HEA Section 401(c)).

J. Nurse Faculty Loan Program (NFLP) (Assistance Listing 93.264)

The Nurse Faculty Loan Program (NFLP), as authorized by Title VIII of the Public Health Service Act (PHS Act), Section 846A, as amended by the Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, Section 5311, provides funding to institutions of nursing to support the establishment and operation of a distinct NFLP loan fund at the institution to increase the number of qualified nursing faculty. The award to the institution, the Federal Capital Contribution (FCC) award, must be deposited into the NFLP loan fund. The institution is required to deposit the Institutional Capital Contribution (ICC) that is equal to no less than one-ninth of the FCC award. Participating institutions make loans from the regular NFLP loan fund to eligible graduate (master's and doctoral) nursing students to complete the nursing education program. Accredited collegiate institutions of nursing are eligible to apply for funding. Eligible institutions must offer an advanced education nursing degree program(s) that will prepare the graduate student to teach. The institution is fully responsible for administering the program (i.e., approving, disbursing, and collecting the loans).

All funds awarded for the specified budget or project period should be drawn down from the Payment Management System (PMS) account and deposited in an appropriate loan fund. It is expected that loan activity will be conducted though the institutional NFLP loan fund rather than drawdowns from the PMS account.

Active NFLP grantees are permitted to maintain their loan fund balances in the revolving institutional NFLP loan fund account without fiscal year restriction. The loan fund balance should continue to be disbursed (expended) through the current budget or project period.

Program guidance is available at https://www.hrsa.gov/grants/find-funding/HRSA-22-047.

K. Health Professions Student Loans (HPSL)/Primary Care Loans (PCL)/Loans for Disadvantaged Students (LDS) (Assistance Listing 93.342) Nursing Student Loans (NSL) (Assistance Listing 93.364)

The HPSL/PCL/LDS and NSL programs provide long-term low-interest loans to students who demonstrate the need for financial aid to pursue their course of study at postsecondary educational institutions. Revolving loan funds are established and maintained at institutions through applications to participate in the programs. The funds are started with the FCC and a matching ICC. Repayments of principal and interest, new FCC, and new ICC are deposited in the revolving funds. The institution is fully responsible for administering the program (i.e., approving, disbursing, and collecting the loans).

Primary Care Loans have new requirements for borrowers as of July 1, 1993. First-time recipients of these funds after July 1, 1993, must agree to enter and complete a residency training program in primary health care, not later than four years after the date on which the student graduates from medical school. For new loans issued after March 23, 2010, the borrower must practice in such care for at least ten years (including residency training in primary health care) or through the date on which the loan is paid in full, whichever occurs first. Students who received HPSL Allopathic or Osteopathic Medicine loans before July 1, 1993, are exempt from this requirement and may continue to repay their loans without any restrictions.

L. Scholarships for Health Professions Students from Disadvantaged Backgrounds – Scholarships for Disadvantaged Students (SDS) (Assistance Listing 93.925)

The SDS program provides grants to eligible health professions and nursing institutions to award scholarships to financially needy full-time students from disadvantaged backgrounds who are attending institutions of medicine, osteopathic medicine, dentistry, nursing, pharmacy, podiatric medicine, optometry, veterinary medicine, public health, chiropractic, or allied health; institutions offering graduate programs in behavioral and mental health practice; or entities providing programs for the training of physician assistants. For purposes of this program, HHS defines disadvantaged as a student who (1) comes from an environment that has inhibited the individual from obtaining the knowledge, skills, and abilities required to enroll in and graduate from a health professions institution, or from a program providing education or training in an allied health profession; or (2) comes from a family with an annual income below a level based on low-income thresholds according to family size published by the US Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and adjusted by the secretary of HHS for use in health professions and nursing programs.

Source of Governing Requirements

The ED programs are authorized by Title IV of the Higher Education Act (HEA) of 1965, as amended (20 USC 1001 et seq.). The regulations are found in 34 CFR 600 and 668-690.

The HHS programs in this cluster are authorized by the Public Health Service Act (PHS Act). The PHS Act was amended by the Health Professions Education Partnership Act of 1998, Pub. L. No. 105-392 and, for the NFLP, further amended by the Patient Protection and Affordable Care Act of 2010 (Affordable Care Act), Pub. L. No. 111-148, Section 5311.

Availability of Other Program Information

ED annually publishes the Federal Student Aid Handbook (*FSA Handbook)*, which provides detailed guidance on administering the Title IV programs. This handbook and other guidance material are available at https://fsapartners.ed.gov/knowledge-center/fsa-handbook.

HHS publishes the Student Financial Aid Guidelines, which provide detailed guidance on

administering the Title VII and VIII programs. This and other materials are available at https://bhw.hrsa.gov/funding/schools-manage-loan-programs.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y (HHS) N (ED)	N	Y	Y	N	N	N	N	N	Y	N	Y

A. Activities Allowed or Unallowed

1. *Health Professions Student Loans/Primary Care Loans /Loans for Disadvantaged Students (Assistance Listing 93.342) and Nursing Student Loans (NSL) (Assistance Listing 93.364)*

   Funds from both programs may also be used for capital distribution as provided in sections 728 and 839, or, as agreed to by the secretary of HHS for costs of litigation; costs associated with membership in credit bureaus and, to the extent specifically approved by the secretary, for other collection costs that exceed the usual expenses incurred in the collection of loan funds (HPSL/PCL/LDS, 42 CFR 57.205(a); NSL, 42 CFR 57.305(a)).

2. *Nurse Faculty Loan Program (NFLP) (Assistance Listing 93.264)*

Funds may be used for capital distribution under Section 846A of the PHS Act, Title VIII, as further amended by the Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, Section 5311 or, as agreed to by the secretary of HHS for costs of litigation; costs associated with membership in credit bureaus and, to the extent specifically approved by the secretary, for other collection costs that exceed the usual expenses incurred in the collection of NFLP loan funds.

C. Cash Management

SFA Title IV Programs: An institution requests funds from ED under the advance, reimbursement, or heightened cash monitoring payment methods. An institution's Program Participation Agreement will indicate whether the institution has been placed on the reimbursement or heightened cash monitoring payment method. An institution could have had more than one Program Participation Agreement during a given payment period in that it could have been placed on or taken off of the reimbursement or heightened cash monitoring payment method at any point during the fiscal year. Many institutions on the Advance method of payment elect to post Title IV disbursements prior to drawing funds from the G5 system. This is an acceptable practice and does not constitute the institution being on the Heightened Cash Monitoring (HCM) or Reimbursement. ED publishes a list of institutions on heighted cash monitoring or reimbursement by quarter at: Heightened Cash Monitoring | Federal Student Aid.

For purposes of determining compliance with cash management requirements to minimize time between funds transfer and disbursement, a disbursement of funds occurs on the date an institution credits a student's account or pays a student or parent directly with either Title IV funds or institutional funds used in advance of drawing down federal funds (34 CFR 668.164(a)(1)(i) & (ii)).

The payment methods and associated cash management requirements are listed below.

- *Advance Payment Method*: An institution submits a drawdown request for funds utilizing ED's electronic grants management system, known as G5, that may not exceed the amount of funds needed to make immediate disbursements to eligible students and parents. If the request is accepted, ED initiates an electronic funds transfer to the institution's account. The institution must then disburse the requested funds no later than three business days following receipt of those funds from ED.

  For institutions on the Advance Payment Method, any amount of Title IV funds not disbursed to recipients by the end of the third business day is considered excess cash. ED allows an institution to retain, for up to seven days, excess cash that does not exceed one percent of the total amount of funds drawn by the institution in the prior award year. The institution must return to ED any excess cash over the tolerable amount (one percent) and any amount remaining after the tolerance period (seven days). Questioned costs would be those in excess of the one percent threshold.

- *Heightened Cash Monitoring (HCM) Payment Methods*: An institution must credit a student's account for the amount of Title IV funds the student is eligible to receive and pay the amount of any credit balance due before the institution submits a request for funds or seeks reimbursement. In other words, the "costs" that must be paid prior to a request for funds (HCM1) or a reimbursement (HCM2) are the amounts of the eligible disbursement and any credit balance. An institution's request may not exceed the amount of the disbursements the institution made to the students included in that request. While HCM is an ED prescribed payment method, for purposes of testing in using Part 3 of the Compliance Supplement, it would fall generally under the Reimbursement Payment method since the school must disburse funds before ED makes a payment.

    - *HCM1 Payment Method*: After making a disbursement to eligible students from institutional funds and submitting disbursement records to the Common Origination and Disbursement (COD) system, the institution draws down funds to cover those disbursements through G5 the same way as an institution on the Advance Payment Method.

    - *HCM2 Payment Method*: After making disbursements to eligible students from institutional funds, a reimbursement payment request must be submitted for those funds the same way as an institution on the Reimbursement Payment Method (see Reimbursement Payment Method below). HCM2 differs from Reimbursement only to the extent that ED may modify the documentation required and the review procedures used to review the payment request.

- *Reimbursement Payment Method*: An institution must credit a student's account for the amount of Title IV funds the student is eligible to receive and pay the amount of any credit balances due before the institution seeks reimbursement from ED for those disbursements. The reimbursement request must include supporting documentation for the disbursements. After the reimbursement request is approved, ED initiates an electronic funds transfer to the institution's account.

G5 is the system through which institutions request and return Title IV funds. The G5 External Award Activity Report is a statement for an institution's G5 awards that displays both cumulative and detailed information on drawdown activity, refunds, adjustments, available balances, and authorization changes for each award.

HHS Programs

For the HHS programs, requests for new FCC must only be made when needed. Any monies associated with the fund must be deposited in an income-producing account and all excess cash, including interest earned in excess of $500 in the aggregate, must be returned to HHS.

For Health Professions Student Loans (HPSL)/Primary Care Loans (PCL)/Loans for Disadvantaged Students (LDS), and Nursing Student Loans (NSL), the institution must maintain all monies relating to each individual fund in interest bearing accounts. If the

institution integrates the funds with other institution resources for investment purpose, the institution must maintain separate accountability and reimburse the funds for any losses that occur (HPSL/PCL/LDS 42 CFR 57.203 and 57.205; NSL, 42 CFR 57.303 and 57.305).

For NFLP (Assistance Listing 93.294), the institution must maintain all monies relating to each individual fund in interest-bearing accounts. Any monies associated with the fund must be deposited in an income-producing account and all excess cash, including any interest earned in excess of $500 in the aggregate, must be returned to HHS. Unused loan funds should be retained in the loan fund for making additional loans. However, unused NFLP funds must be used within 18 calendar months from the end of the NFLP designated budget period. The unused accumulation (cash balance) in the NFLP fund must be reported annually. The NFLP loan fund may be voluntarily or involuntarily terminated if the unused accumulation is deemed excessive. If an institution is determined to have an excessive unused accumulation, future awards may be affected (Program Guidance, Overview of Institutional Management of NFLP Funds https://bhw.hrsa.gov/funding/schools-manage-loan-programs).

E. Eligibility

1. Eligibility for Individuals

a. Most of the requirements for student eligibility are contained in Appendix A (located after Section IV, "Other Information," of this Part 5).

In the process of a student applying for ED federal financial aid, an ISIR is sent electronically to the institution and a FAFSA Submission Summary, or information on how to access the FAFSA Submission Summary, is sent to the student. The original ISIR or FAFSA Submission Summary for an award year may contain codes that relate to student eligibility requirements numbers 2, 4, 5, 9, 10, and 12 in Appendix A. If the original ISIR or FAFSA Submission Summary does not contain codes relating to those eligibility requirements, and the institution has no information indicating otherwise, the student can be considered to have met them. The *ISIR Guide* contains all the ISIR and FAFSA Submission Summary codes and is available as Volume 6 of the 2024-2025 FAFSA Specifications Guide (https://fsapartners.ed.gov/knowledge-center/library/handbooks-manuals-or-guides/2023-05-31/2024-25-fafsa-specifications-guide-july-2024-update-2). The ISIR Guide changes annually and should be obtained and reviewed for the period under audit.

(1) *Calculation of Benefits*

In addition to the requirements and limits described below, awards must be coordinated among the various programs and with other federal and nonfederal aid (need and non-need based aid) to ensure that total aid is not awarded in excess of the student's financial

need or cost of attendance (34 CFR 668.42, FWS, and FSEOG, 34 CFR 673.5 and 673.6; Direct Loan, 34 CFR 685.301). The TEACH Grant is a non-need-based grant and may replace a student's SAI, but the amount of the grant that exceeds the student's SAI is considered other financial assistance (34 CFR 686.21(d)).

The determination of need-based SFA award amounts is based on financial need. Financial need is defined as the student's COA minus the student's SAI (as computed by the FAFSA processing system (FPS) and included on the student's FAFSA Submission Summary/ISIR). An SAI less than 0 (can be as low as -1500) should be treated as a 0 in the need formula. Once a student is awarded any financial aid, to find remaining financial need one would use the following formula -- COA minus SAI minus Other Financial Assistance (OFA) (§ 668.2) = remaining need. To avoid overpayments, need-based SFA awards, in general, cannot exceed the student's overall financial need. However, there are some circumstances where a student may be awarded a Pell Grant that exceeds their financial need.

1. Students eligible for a Pell Grant under the Minimum Pell Grant eligibility criteria (HEA Sec. 401(b)(1)(C)) may receive the Min Pell Grant amount, even if that amount exceeds the student's financial need.
2. Students eligible for a Pell Grant under the Special Rule (HEA Sec. 401(c)) may receive the Max Pell Grant amount, regardless of financial need or calculated SAI.

Students receiving a Pell Grant under one of these specific circumstances may not receive any other need-based SFA awards.

See the section **Pell Grant Eligibility for Dependents of Certain Deceased Servicemembers and Public Safety Officers** for additional information on the "Special Rule" described above**.**

Non need-based SFA awards are not limited to financial need but cannot exceed the student's COA. To determine non need-based SFA awards (unsubsidized aid) one would use the following formula – COA minus OFA.

An institution may (1) exclude from both other financial assistance and the COA, financial assistance provided by a state if that assistance is designated by the state to offset a specific component of the COA; and (2) include a limited allowance for food and housing in a student's COA for students who are less than half-time students. In this context, a limited allowance for food and

housing is an allowance for up to three semesters (or equivalent), with no more than two of the semesters being consecutive at any one institution (sections 480(j)(3), 472(b), and 472(4)(C) of HEA; [20 USC 1087vv(j)(3), 20 USC 1087ll(13) and (4)(C)]).

For Title IV programs, the COA is generally the sum of the following: tuition and fees; an allowance for books, course materials, supplies, equipment, transportation, and miscellaneous personal expenses; an allowance for food and housing; when applicable, allowances for costs for dependent care; cost of obtaining a license, certification, or a first professional credential; costs associated with study abroad and cooperative education; costs related to disabilities; and fees charged for Federal student loans. There are exceptions for students attending less than half-time, correspondence students, and incarcerated students. The financial aid administrator also has authority to use professional judgment to adjust the COA or alter the data elements used to calculate the SAI on a case-by-case basis to allow for special circumstances.

A crossover payment period is one that includes both June 30 and July 1 overlapping two award years. If a student enrolls in a crossover payment period, the institution must consider the crossover payment period to occur entirely within one award year and must have a valid FAFSA Submission Summary or valid ISIR for the selected award year. The choice of which award year the institution assigns to a crossover payment period ("header" or "trailer") must be outlined in the institution's Pell Grant crossover payment period policy and can be made on a student-by-student basis. The crossover payment period may be assigned to a different award year for Pell Grant purposes than the award year used for the student's other Title IV aid for that period. See Volume 3 of the *FSA Handbook* for additional information on crossover payment periods.

Additional program specific individual eligibility requirements can be found at the following: *20 USC 1087ll-1087mm; FWS, 34 CFR section 675.9; FSEOG, 34 CFR section 676.9; Direct Loan, 34 CFR sections 685.200 and 301; Pell, 34 CFR section 690.75; HPSL/PCL/LDS, 42 USC 293a(d)(2); 42 CFR section 57.206(b); NSL, 42 USC 297n-1(c)(2); 42 CFR section 57.306(b)); NFLP, Affordable Care Act, Section 5311 and Program Guidance*.

(2) *Federal Pell Grant (Assistance Listing 84.063)*

Each year, Congress establishes the maximum Pell Grant amount. ED will announce the maximum Pell Grant award amount for the

award year, as required, when the amount is available. The minimum Pell Grant award amount will be 10% of the maximum Pell Grant award amount for the award year. Both the maximum and minimum award amounts will be rounded to the nearest $5 (see Volume 7, The Federal Pell Grant Program of the *FSA Handbook* for 2024-25 for guidance on Max and Min Pell Grant eligibility, Calculated Pell Grant eligibility based on SAI, selecting formulas for calculating cost of attendance, prorating costs for programs less or greater than an academic year, and determining payment periods). Maximum and minimum Pell Grant award amounts for the 2024-25 award year can be found at the following link: 2024-2025 Federal Pell Grant Maximum and Minimum Award Amounts (GEN-24-01).

Federal Pell Grant Payment and Disbursement Schedules will be retired with the 2023–24 award year. Beginning with the 2024-25 award year, each student's Scheduled Award is one of the following:

- An automatic Maximum Pell Grant Award (Max Pell)
- SAI-calculated Pell Grant, determined by subtracting the student's SAI from the annual published Max Pell
- A Minimum Pell Grant Award (Min Pell)

Maximum and Minimum Pell Grant eligibility are determined based on tax filing requirements, family size and composition (i.e., single parent or non-single parent), poverty guidelines, and state of residence (see Volume 7, The Federal Pell Grant Program of the *FSA Handbook* for 2024-25 for specific eligibility criteria). If a student qualifies for a Maximum Pell Grant, the SAI is not used to determine the amount of that grant. An SAI-calculated Pell Grant is determined by subtracting the student's calculated SAI from the annual published Max Pell. If the SAI-calculated Pell Grant is less than the published Min Pell, the student is ineligible for an SAI-calculated Pell Grant. However, the student may still be eligible for a Min Pell if they meet the minimum Pell Grant eligibility requirements. The Scheduled Award should be rounded to the nearest $5, except when such rounding would exceed the student's Pell COA or the student's remaining lifetime eligibility, described below.

Students that receive Pell Grant may not receive more than six Scheduled Awards (12 semesters, or the equivalent) as measured by the percentage of "lifetime eligibility used" (LEU) field in COD (tracked by ED) (20 USC 1070a(c)(5)). The LEU maximum percentage for student eligibility is 600 percent.

The steps to determine Pell awards that an institution must perform are as follows:

(a) Determine the student's enrollment intensity (enrolled credits divided by the school's definition of full-time credits). Note that for nonterm credit and clock hour programs, students are always considered to be full-time (100% enrollment intensity) for Pell Grant purposes except to the extent that fewer cost of attendance components are included in the calculation of a Pell Grant award for less-than-half-time students (see Volume 7, The Federal Pell Grant Program, of the *FSA Handbook* for more information). There are also special considerations for determining enrollment intensity for students enrolled in correspondence courses, as described under 34 CFR 690.8.

(b) Calculate the cost of attendance. This is always based on the cost for a full-time enrollment intensity for a full academic year. If the student is enrolled in a program or enrollment period that is longer or shorter than an academic year, the costs must be prorated so that they apply to one full academic year. There are two allowable proration methods. Costs can be on an actual cost-per-student basis or an average cost for groups of similar students. If the student is enrolled less than half-time, the student's COA must include any components (tuition and fees; books, course materials, supplies, and equipment; and transportation) normally applied to students who are enrolled less than half-time, along with any other components (disability expenses, etc.) that are not expressly prohibited for less than half-time students (e.g., miscellaneous personal expenses). May also include an allowance for living expenses, including food and housing costs, for up to three semesters, or the equivalent, with no more than two semesters being consecutive.

(c) Determine the Scheduled Award, based on the cost of attendance calculated above, Max or Min Pell eligibility criteria, and SAI (see Volume 7, Chapter 2, The Federal Pell Grant Program, of the *FSA Handbook* for more information).

(d) Determine the payment period. For term programs, standard or nonstandard, the payment period is the term.

(e) Calculate the payment for the payment periods. The calculation of the payment for the payment period may

vary depending on the formula used, the length of the program compared to the academic year, and whether the institution uses an alternative calculation for students who attend summer terms or for students enrolled in correspondence courses (34 CFR 690.62 through 690.66. Also see Volume 7, The Federal Pell Grant Program, *FSA Handbook*).

(f) Disburse funds at prescribed times (this is tested under III.N. 3, "Special Tests and Provisions – Disbursements To or On Behalf of Students") (34 CFR 690.61 through 690.66, and 690.75 through 690.76; General Provisions regulations, part 668, subpart K, and *FSA Handbook*).

Additional Pell Grant Award Eligibility

Under the Year Round Pell Grant provisions, to be eligible for the additional Pell Grant funds, the student must be otherwise eligible to receive Pell Grant funds for the payment period.

For a student who is eligible for the additional Pell Grant funds, the institution must pay the student all of the student's eligible Pell Grant funds, up to 150 percent of the student's Pell Grant Scheduled Award for the award year. Note that the provisions of the law state that any Pell Grant received will be included in determining the student's Pell Grant duration of eligibility and Lifetime Eligibility Used (LEU) in accordance with section 401(c)(5) of the HEA (also see Dear Colleague Letter GEN-13-14 at https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2013-05-16/gen-13-14-subject-federal-pell-grant-duration-eligibility-and-lifetime-eligibility-used).

Pell Grant Eligibility for Dependents of Certain Deceased Servicemembers and Public Safety Officers

The FAFSA Simplification Act changed eligibility for what were formerly called "Iraq and Afghanistan Service Grants (IASG)" and "Children of Fallen Heroes (CFH) Scholarships." Beginning with the 2024-25 award year, students who meet the eligibility requirements for Pell Grants under the Special Rule in HEA Section 401(c) will receive a maximum Pell Grant award, regardless of their calculated SAI. To receive a Pell Grant based on eligibility under the Special Rule, a student must be:

- The child of a parent or guardian who died in the line of duty while either (a) serving on active duty as a member of the U.S. Armed Forces on or after September 11, 2001; or

(b) actively serving as and performing the duties of a public safety officer; and

- Less than 33 years old as of the January 1 prior to the award year for which the applicant is applying (e.g., for the 2024–25 award year, a student must be less than 33 years old as of January 1, 2024, to be eligible).

In this situation, eligible students will have a Scheduled Award equal to a maximum Pell Grant award, regardless of SAI or financial need. Other aid for these students will be based on their calculated SAI (see Volume 7, The Federal Pell Grant Program, of the *FSA Handbook* for more information and Electronic Announcement GRANTS-24-03 for additional information).

Pell Grants for Confined or Incarcerated Individuals

Effective July 1, 2023 the FAFSA Simplification Act added a new HEA section 483(t)(3), which requires confined or incarcerated individuals who otherwise meet Pell Grant eligibility requirements to be enrolled in an eligible Prison Education Program (PEP) in order to receive Pell funds (Note: the law does not require a school to make changes to existing postsecondary educational programs in correctional facilities unless the school seeks to make those programs eligible for Pell Grant funds). The Act made several other significant changes that directly or indirectly affect the eligibility of confined or incarcerated individuals for student assistance under title IV of the HEA.

The Act also removed the prohibition in HEA section 401(b)(6) that prevented institutions from awarding Federal Pell Grants to any individual who is not incarcerated in any Federal or State correctional facility but is subject to an involuntary civil commitment upon completion of a period of incarceration for a forcible or nonforcible sexual offense. As of July 1, 2023, the implementation date of the Act, these individuals are not considered to be confined or incarcerated and are not required to enroll in a PEP to receive title IV aid.

For a confined or incarcerated individual enrolled in an eligible PEP, a Federal Pell Grant cannot exceed the cost of attendance (as defined in section 472 of the HEA) at the institution the student attends. If an institution determines that a student's Federal Pell Grant exceeds the cost of attendance for that year, the institution must reduce the amount of the Federal Pell Grant until the Federal Pell Grant does not exceed the cost of attendance and does not result in a Title IV credit balance under 34 CFR § 668.164(h). If a confined or incarcerated student's Pell Grant, combined with any

other financial assistance, exceeds the student's cost of attendance, the financial assistance other than the Pell Grant must be reduced by the amount that the total financial assistance exceeds the student's cost of attendance. If the student's other financial assistance cannot be reduced (there is a statutory prohibition against reducing Veterans Administration educational grants, for example), the student's Pell Grant must be reduced by the amount that the student's total financial assistance exceeds the student's cost of attendance.

Prior to July 1, 2023, students confined or incarcerated in a correctional facility that is not a federal or state facility were eligible for Pell if they were enrolled in an eligible title IV program. Effective July 1, 2023, all confined or incarcerated students must be enrolled in an eligible PEP in order to receive Pell funds. In an effort not to interrupt the postsecondary program of incarcerated students receiving Pell Grants for programs prior to the implementation of PEP requirements, otherwise eligible confined or incarcerated students who were enrolled in an eligible Title IV program prior to July 1, 2023, may continue to receive a Federal Pell Grant until the earlier of: (1) July 1, 2029; (2) the student no longer meets Satisfactory Academic Progress (SAP) requirements and reaches the maximum timeframe for program completion under 34 CFR 668.34; or (3) the student has reached their Pell LEU, exhausting their Pell Grant eligibility under 34 CFR 690.6(e). See DCL-GEN-23-05.

(4) *Campus-Based Programs (FWS, FSEOG) (Assistance Listing 84.033, Assistance Listing 84.007)*

The maximum amount that can be awarded under the campus-based programs is equal to the student's financial need (COA minus SAI) minus aid from other SFA programs and other resources. For programs of study or enrollment periods less than or greater than an academic year, the COA for campus-based aid is based on the student's actual costs for the period for which need is being analyzed, rather than being prorated to the costs for a full-time student for a full academic year. The financial aid administrator has discretion in awarding amounts from each program, subject to certain limitations.

The FSEOG program provides grants to eligible undergraduate students who have not previously earned a bachelor's or first professional degree. Priority is given to Pell Grant recipients who have the lowest SAIs. The institution decides the amount of the grant, which can be up to $4,000 but not less than $100, for an academic year. The maximum amount may be increased to $4,400

for a student participating in a study abroad program that is approved for credit by the student's home institution (34 CFR 676.10 and 676.20).

(5) *TEACH Grants (Assistance Listing 84.379)*

The TEACH Grant is a non-need-based grant that provides annual grants of up to $4,000 to eligible undergraduate and graduate students who agree to teach specified high-need subjects at an elementary school, secondary school, or educational service agency serving primarily disadvantaged populations for four years within eight years of ceasing enrollment at the institution where they received their TEACH Grants. The aggregate amount of TEACH Grants that a student may receive for undergraduate or post-baccalaureate study may not exceed $16,000. The aggregate amount that a graduate student may receive may not exceed $8,000. If the student is enrolled less than full-time, including less than half-time, the amount of the annual TEACH Grant that he or she may receive must be reduced in accordance with 34 CFR 686.21. The amount of the TEACH Grant, in combination with other assistance the student may receive, may not exceed the cost of attendance. If the TEACH Grant and other aid exceeds the cost of attendance for an academic year, the student's aid package must be reduced. The TEACH Grant may replace a student's SAI, but the amount of the grant that exceeds the student's SAI is considered other financial assistance (34 CFR 686.21).

a. Note: Under the Budget Control Act of 2011 sequester required reductions to TEACH Grant award amounts remain in effect for the 2024-2025 award year (awards first disbursed on or after October 1, 2024, and before October 1, 2025). The Federal FY 2025 Sequester reduction is 5.70% from the TEACH Grant statutory maximum award amount of $4,000. This is a dollar reduction of $228, resulting in an adjusted maximum award amount of $3,772. See Electronic Announcement GENERAL-24-51 for FY 25 Sequester-Required Changes to the Title IV Student Aid Programs (https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2024-04-30/fy-25-sequester-required-changes-title-iv-student-aid-programs).

(6) *Direct Loans (Assistance Listing 84.268)*

In determining loan amounts for Direct Subsidized Loans, the financial aid administrator subtracts from the COA, the SAI, and the OFA for the period of enrollment that the student (or parent on behalf of the student) will receive from federal, state, institutional

or other sources. Direct Unsubsidized Loans, Direct PLUS Loans, TEACH Grants, loans made by an institution to assist the student, state-sponsored loans, private education loans, and any other non-need-based loans may be used to replace the SAI (34 CFR 685.102(b)). A financial aid administrator may use professional judgment to offer dependent-level Direct Unsubsidized Loans (but no other Title IV aid) to a dependent student whose parents do not support the student or who refuse to complete a FAFSA (20 USC 1087(a)).

The annual loan limits apply to the length of the institution's academic year. Except for Direct PLUS loans and Direct Unsubsidized Loans made to graduate or professional students, proration of the annual loan limit is required when a program is less than an academic year as measured in either clock hours or credit hours or number of weeks; or when a program exceeds an academic year but the remaining portion of the program is less than an academic year in length. For the purpose of determining annual loan limits for a borrower who received an associate or bachelor's degree and has re-enrolled in another eligible program for which the prior degree is a prerequisite, the grade level determination includes the number of years that a student has completed in the previously completed program of undergraduate study.

Annual Limits for Direct Subsidized Loans and Direct Unsubsidized Loans

Direct Subsidized Loans and Direct Unsubsidized Loans have annual loan limits that vary based on the student's grade level and (for Direct Unsubsidized Loans) dependency status (34 CFR 685.203). The annual loan limit is the maximum amount that a student may receive for an academic year.

For undergraduate students there is a combined annual loan limit for Direct Subsidized Loans and Direct Unsubsidized Loans, of which not more than a specified amount may be comprised of Direct Subsidized Loans ("annual subsidized maximum").

For dependent undergraduate students (excluding dependent undergraduates whose parents are unable to borrow Direct PLUS Loans), the combined Direct Subsidized Loan and Direct Unsubsidized Loan annual loan limits are (34 CFR 685.203(a) and (b):

- $5,500 for **dependent first-year undergraduates**, not more than $3,500 of which may be subsidized:

- $6,500 for **dependent second-year undergraduates**, not more than $4,500 of which may be subsidized; and

- $7,500 for **dependent third-, fourth-, and fifth-year undergraduates**, not more than $5,500 of which may be subsidized.

For independent undergraduate students (and for dependent undergraduate students whose parents are unable to obtain Direct PLUS Loans), the annual loan limits are (34 CFR 685.203(a) and (c):

- $9,500 for **independent first-year undergraduates**, not more than $3,500 of which may be subsidized;

- $10,500 for **independent second-year undergraduates**, not more than $4,500 of which may be subsidized; and

- $12,500 for **independent third-, fourth-, and fifth-year undergraduates**, not more than $5,500 of which may be subsidized.

Note that the annual subsidized maximum is the same for both dependent and independent undergraduate students. However, the combined subsidized/unsubsidized annual loan limits are higher for independent undergraduates and for dependent undergraduates whose parents are unable to borrow Direct PLUS Loans.

An undergraduate student who is not eligible for a Direct Subsidized Loan may receive up to the total combined subsidized/unsubsidized annual loan limit in Direct Unsubsidized Loans.

For undergraduate students, the annual loan limit must be prorated if the student is enrolled in a program (or in the remaining portion of a program) that is less than an academic year in length. (For details on loan proration requirements, see Volume 8, of the 2024-2025 *FSA Handbook*. The *FSA Handbook* is available at https://fsapartners.ed.gov/knowledge-center/fsa-handbook.)

For graduate and professional degree students, there is an annual loan limit only for Direct Unsubsidized Loans (graduate and professional students are not eligible to receive Direct Subsidized Loans). The annual loan limit for graduate and professional students is $20,500 in Direct Unsubsidized Loans (34 CFR 685.203(b)(2)(iii) and 685.203(c)(2)(v)).

There are higher Direct Unsubsidized Loan annual loan limits for graduate and professional students who are enrolled in certain health professions programs. (For details on the increased annual loan limits for certain health professions students, see Volume 8, of the 2024-2025 *FSA Handbook*. The *FSA Handbook* is available at https://fsapartners.ed.gov/knowledge-center/fsa-handbook.)

Aggregate Loan Limits for Direct Subsidized Loans and Direct Unsubsidized Loans

Under 34 CFR 685.203(d) and (e) the aggregate loan limits for Direct Subsidized Loans and Direct Unsubsidized Loans (a borrower's maximum allowable outstanding loan debt, excluding capitalized interest, but including amounts borrowed under the Federal Family Education Loan Program prior to 2010) are:

- $31,000 for **dependent undergraduate students** (except for dependent students whose parents are unable to borrow Direct PLUS Loans), not more than $23,000 of which may be subsidized;

- $57,500 for **independent undergraduate students** (and for dependent students whose parents are unable to borrow Direct PLUS Loans, not more than $23,000 of which may be subsidized; and

- $138,500 for **graduate and professional students**, not more than $65,500 of which may be subsidized. The total $138,500 limit includes loans for undergraduate study. The $65,500 subsidized maximum includes subsidized loans received for undergraduate study and subsidized loans received by graduate and professional students for periods of enrollment beginning before July 1, 2012, when graduate and professional students were eligible to receive subsidized loans.

Direct PLUS (PLUS)

Direct PLUS Loans are available to parents of dependent undergraduate students and to graduate and professional students (34 CFR 685.200(b) and (c)(2)). A parent or graduate/professional student with an adverse credit history is prohibited from obtaining a Direct PLUS Loan unless he or she meets additional criteria. A parent must meet the same citizenship and residency requirements as a student. Similarly, a parent who owes a refund on an SFA grant or is in default on an SFA loan is ineligible for a PLUS loan

unless satisfactory arrangements have been made to repay the grant or loan.

There are no fixed annual or aggregate loan limits for Direct PLUS Loans. A Direct PLUS loan may not exceed the student's cost of attendance minus other financial aid awarded during the period of enrollment for that student (34 CFR 685.101(b), 685.200, and 34 CFR 685.203(f), (g), (h) and (j) also apply).

b. *HHS Programs*

In determining the financial resources available for the HHS programs, the institution must use one of the need analysis systems or any other procedures approved by the secretary of education. The institution must also take into account other information that it has regarding the student's financial status. For the HHS programs, the costs reasonably necessary for the student's attendance include any special needs and obligations which directly affect the student's ability to attend the institution. The institution must document the criteria used for determining these costs (HPSL, PCL, and LDS, 42 CFR 57.206; NSL, 42 CFR 57.306(b)); NFLP, Affordable Care Act, Section 5311, and Program Guidance).

Health Professions Student Loans/Primary Care Loans)/Loans for Disadvantaged Students (Assistance Listing 93.342), Nursing Student Loans (Assistance Listing 93.364)

For periods after November 13, 1998, the total amounts of HPSL/PCL/LDS loans to a student for an institution year may not exceed the cost of attendance (including tuition, other reasonable educational expenses, and reasonable living expenses). The amount of the loan may, in the case of the third or fourth year of a student at an institution of medicine or osteopathic medicine, be increased to pay balances of loans that were made to the individual for attendance at the institution (42 CFR 57.210; Pub. L. No. 105-392, 134 (1) and (2)). The total amount of NSL loans made to a student for an academic year may not exceed $5,693 except that for each of the final two academic years of the program the total must not exceed $8,955. The total of all NSL loans may not exceed $28,078 (Section 5202 (a) of the Affordable Care Act). After July 1, 2021, the loan limits will increase annually by 4.277% per year until 2030.

(1) *Nurse Faculty Loan Program (NFLP) (Assistance Listing 93.264)*

The total amount of NFLP loans made to a student for an institution year may not exceed $35,500 for a maximum of five years to support the cost of tuition, fees, books, laboratory expenses and other reasonable education expenses. NFLP loans do not include stipend support (i.e., living expenses, student

transportation cost, room/board, personal expenses). For students who are applying for a NFLP loan, the student must be enrolled full-time or part-time in an eligible graduate (master's and doctoral) nursing education program at the institution. The institution must make its selection of NFLP student applicants to receive loan funds by taking into consideration the other resources available to the student. Section 847(f) added a funding priority for sections 847 and 846A of the PHS Act. This funding priority is awarded to the institution of nursing student loan funds that support doctoral nursing students. Institutions that receive the doctoral funding priority should fund new doctoral student applicants ahead of new master's student applicants (Title VIII, Section 846A, PHS Act, as amended by the Patient Protection and Affordable Care Act of 2010, Pub. L. No.111-148, Section 5311).

(2) *Scholarships for Disadvantaged Students (Assistance Listing 93.925)*

Individual student awards must be at least 50 percent of the student's annual tuition costs. The maximum amount of $30,000 must be awarded for students whose tuition is more than $60,000; however, no student can be awarded SDS funds greater than $30,000 in a given year. Scholarships will be awarded by institutions to any full-time student who is from a disadvantaged background; has a financial need for a scholarship; and is enrolled (or accepted for enrollment) in a program leading to a degree in a health profession or nursing. Such scholarships may be expended only for tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in the attendance of such institution (42 USC 293a; Section 737, PHS Act).

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

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement (Form 270, Request for Title IV Reimbursement or Heightened Cash Monitoring 2 [OMB No. 1845-0089])* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

d. *Common Origination and Disbursement (COD) System (OMB No. 1845-0039.*

SFA – Title IV Programs

Institutions submit Direct Loan, Pell Grant, and TEACH Grant origination records and disbursement records to the COD system. Origination records can be sent well in advance of any disbursements, as early as the institution chooses to submit them for any student the institution reasonably believes will be eligible for a payment. An institution follows up with a disbursement record for that student no earlier than (1) seven calendar days prior to the disbursement date under the Advance or Heightened Cash Monitoring 1 payment methods, or (2) the date of the disbursement under the Reimbursement or Heightened Cash Monitoring 2 Payment Method (see *Federal Register*, Volume 86, Number 119, June 24, 2021). The disbursement record reports the actual disbursement date and the amount of the disbursement. ED processes origination and/or disbursement records and returns acknowledgments to the institution. The acknowledgments identify the processing status of each record: Rejected, Accepted with Corrections, or Accepted. In testing the origination and disbursement data, the auditor should be most concerned with the data ED has categorized as accepted or accepted with corrections. Institutions must report student disbursement data within 15 calendar days after the institution makes a disbursement or becomes aware of the need to make an adjustment to previously reported student disbursement data or expected student disbursement data. Institutions may do this by reporting once every 15 calendar days, bi-weekly or weekly, or may set up their own system to ensure that changes are reported in a timely manner. Please note that for the 2024-2025 award year, due to batch correction issues and the need for institutions to process corrections individually through FAFSA Partner Portal (FPP), institutions were not required to report disbursements made for the 2024-2025 award year until November 30, 2024, or 15 calendar days after the disbursement is made, whichever is later (see GENERAL-24-96 Update on Batch Corrections for Institutions via the Electronic Data Exchange, Flexibilities, and Additional Support for the 2024-25 FAFSA Cycle | Knowledge Center https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2024-07-30/update-batch-corrections-institutions-electronic-data-exchange-flexibilities-and-additional-support-2024-25-fafsa-cycle).

Key items to test on origination records for the fiscal year are: award amount, enrollment date, verification status code (when the applicant is selected for verification), transaction number, cost of attendance, and the “Academic Start Date” and “Academic End Date”. Key items to test on disbursement records are disbursement date and amount. The information may be accessed by the

institution for the auditor (34 CFR 690.83; *FSA Handbook*, technical references on COD Reports can be found in the 2024-2025 COD Technical Reference in Volume VI, Section 6.

2. Performance Reporting

Not Applicable

3. Special Reporting

Report Title: *ED Form 646-1, Fiscal Operations Report and Application to Participate (FISAP)*

OMB PRA Number: *OMB No. 1845-0030*

Report Authority: *34 CFR 674.19 (Federal Perkins Loan), 34 CFR 675.19 (FWS), and 34 CFR 676.19 and 20 U.S.C. 1094 (FSEOG)*

Reporting Period: *By October 1st of each year (or the date established by a Federal Register announcement), an institution must electronically submit its FISAP via the COD website. The Fiscal Operations Report will cover the most recently completed award year (award years run from July 1 to June 30) and the Application to Participate is for the award year subsequent to the current award year.*

Link to report and report instructions: *https://fsapartners.ed.gov/knowledge-center/library/resource-type/FISAP%20Form%20and%20Instructions* The auditor must obtain a copy of the most recently submitted electronic report from the institution.

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

1. Part II (Application), Section D, Line 7: Total number of students for schools with a traditional calendar.
2. Part II (Application), Section D, Lines 9-20: Total number of students for schools with a non-traditional calendar.
3. Part II (Application), Section E, Line 22: Total tuition and fees
4. Part II (Application), Section E, Line 23: Total Federal Pell Grant expenditures
5. Part II (Application), Section F, Lines 25-39: Information on eligible aid applicants
6. Part III (Perkins): Section A, Line 1.1 Cash on hand and in depository
7. Part IV (FSEOG): Section C, Lines 12-14: Funds to FSEOG recipients
8. Part V (FWS): Section C, Lines 12-14: Total compensation for FWS

4. Special Reporting for Federal Funding Accountability and Transparency Act

Not Applicable

N. Special Tests and Provisions

1. Institutional Eligibility

Compliance Requirements: An institution is not an eligible institution under 34 CFR 600.7(a)(1) if in its latest complete award year (an award year is July 1 to June 30) –

- More than fifty percent of the institution's courses were correspondence courses (34 CFR 600.7(a)(1)(i));
- Fifty percent or more of the institution's regular enrolled students were enrolled in correspondence courses (34 C.F.R, 600.7(a)(1)(ii));
- More than twenty-five percent of the institution's regular enrolled students were incarcerated (34 C.F.R. 600.7(a)(1)(iii));
- More than fifty percent of its regular enrolled students had neither a high school diploma nor the recognized equivalent of a high school diploma, and the institution does not provide a four-year or two-year educational program for which it awards a bachelor's degree or an associate degree, respectively (34 CFR 600.7(a)(1)(iv)).

Institutions are not required to report this information to ED, however; an institution must maintain documentation of its compliance with the requirements. The regulations require an annual attestation on compliance with these institutional eligibility requirements. ED issued an Electronic Announcement on how this requirement should be applied to Single Audit institutions on December 21, 2023. ED's regulations describe the auditor's substantiation of these calculations, and reporting thereon, as an attestation performed in accordance with the American Institute of Certified Public Accountant's Statement on Standards for Attestation Engagements. However, ED does accept coverage of these calculations through an institution's annual Title IV compliance audit or Single Audit submission, even if that audit is performed in accordance with auditing standards rather than attestation standards. These annual attestation requirements are required except to the extent that: (1) an institution is granted a waiver or exemption from the annual compliance audit requirement, or (2) in the case of an institution that, under the Single Audit, did not have its Title IV programs audited, either because the audited entity's SFA Cluster was not a major program or because the institution was not included by the auditor for audit evaluation and testing of the administration of the Title IV programs consistent with Single Audit Act requirements under 2 CFR 200 Subpart F. However, if the institution's Title IV programs either were audited or were required to be audited for any fiscal year, the attestations described above must be performed for that fiscal year, see (GENERAL-23-121) Requirement for Institutions to Have Certain Calculations Related to Institutional and Program Eligibility Substantiated by an Independent Auditor for additional information.

For purposes of the institutional eligibility percentages at 34 CFR 600.7(a)(1)(ii), (iii), and (iv); a regular enrolled student is a person who is enrolled at an institution for the purpose of obtaining a degree, certificate, or other recognized educational credential offered by that institution.

When counting regular enrolled students for the required calculations in 34 C.F.R. 600.7(a)(1)(ii), (iii) and (iv); the institution is required to —

- Count each regular enrolled student without regard to the full-time or part-time nature of the student's attendance (i.e., “head count” rather than “full-time equivalent”);
- Count a regular enrolled student once regardless of the number of times the student enrolls during an award year; and
- Determine the number of regular students who enrolled in the institution during the relevant award year by calculating the number of regular students who enrolled during that award year as specified above; and excluding from this number, the number of regular students who enrolled but subsequently withdrew or were expelled from the institution and were entitled to receive a 100 percent refund of their tuition and fees less any administrative fee that the institution is permitted to keep under its fair and equitable refund policy (34 C.F.R. 600.7(e)(1)).

Correspondence courses and Correspondence Students

A course offered through correspondence is a course in which the institution provides instructional materials, by mail or electronic transmission, including examinations on the materials, to students who are separated from the instructors. Interaction between instructors and students in a correspondence course is limited, is not regular and substantive, and is primarily initiated by the student. If a course is part correspondence and part residential training, the Secretary considers the course to be a correspondence course. A correspondence course is not considered distance education (34 CFR 600.2 Correspondence Course).

If a course is offered where students are separated from the instructor and are not being taught in the same physical space, the course is considered a correspondence course if it does not meet the requirements for distance education. Under the administrative capability regulations at 34 C.F.R. 668.16(c) an institution participating in the Title IV, HEA programs must have an adequate system of internal control. An adequate system of internal control would include internal controls to ensure that any courses identified as distance education courses meet the regulatory requirements to qualify as distance education courses and should not be classified as correspondence courses. If an institution cannot document that a course meets the requirements for distance education, it should be considered a correspondence course.

Delivery of education through distance education has a number of requirements for courses offered through this mode of educational delivery to not be considered correspondence courses. Distance education uses one or more technologies including the internet; one-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices; audio conference; or a combination of technologies with other media used in a course to deliver instruction to students who are separated from the instructor or instructors and to support regular and substantive interaction between the students and the

instructor or instructors, either synchronously or asynchronously (34 CFR 600.2 Distance education (1) and (2)).

For purposes of distance education, an instructor is an individual responsible for delivering course content and who meets the qualifications for instruction established by an institution's accrediting agency (34 CFR 600.2 Distance education (3)).

A course offered through distance education must support regular and substantive interaction between the students and the instructor or instructors, either synchronously or asynchronously. An institution demonstrates that a course supports regular interaction between a student and an instructor or instructors by, prior to the student's completion of a course or competency:

- Providing the opportunity for substantive interactions with the student on a predictable and scheduled basis commensurate with the length of time and the amount of content in the course or competency; and
- monitoring the student's academic engagement and success and ensuring that an instructor is responsible for promptly and proactively engaging in substantive interaction with the student when needed on the basis of such monitoring, or upon request by the student (34 CFR 600.2 Distance education (5)).

Substantive interaction for education delivered through distance education is engaging students in teaching, learning, and assessment, consistent with the content under discussion. In order for a course to be considered offered through distance education, substantive interaction must include at least two of the following –

- Providing direct instruction;
- Assessing or providing feedback on a student's coursework;
- Providing information or responding to questions about the content of a course or competency;
- Facilitating a group discussion regarding the content of a course or competency; or
- Other instructional activities approved by the institution's or program's accrediting agency (34 CFR 600.2 Distance education (4)).

Academic engagement is active participation by a student in an instructional activity related to the student's course of study that is defined by the institution in accordance with any applicable requirements of its State or accrediting agency. In evaluating academic engagement, the regulations provide that it includes, but is not limited to –

- Attending a synchronous class, lecture, recitation, or field or laboratory activity, physically or online, where there is an opportunity for interaction between the instructor and students;
- Submitting an academic assignment;
- Taking an assessment or an exam;

- Participating in an interactive tutorial, webinar, or other interactive computer-assisted instruction;
- Participating in a study group, group project, or an online discussion that is assigned by the institution; or
- Interacting with an instructor about academic matters (34 CFR 600.2 Academic engagement (1) and (2)).

The regulations also provide examples of what academic engagement does not include such as living in institutional housing; participating in the institution's meal plan; logging into an online class or tutorial without any further participation; or participating in academic counseling or advisement (34 CFR 600.2 Academic Engagement (3)).

A course delivered through distance education that does not have a mechanism in place to document regular and substantive interaction between a student and instructor or instructors and academic engagement would be considered a correspondence course regardless how the institution classifies the course or program (34 CFR 600.2 Correspondence course (3)).

In calculating the number of correspondence courses, the correspondence courses may make up a complete educational program offered by correspondence or be as few as one course provided by correspondence in and on-campus (residential) educational program. In determining the number of courses for the calculation, a course must be considered as being offered only once during the award year regardless of the number of times it is offered in that year. A course that is offered both on campus and by correspondence must be considered two courses. A course that is offered both on campus and through distance education is considered one course in determining the courses that are not correspondence courses for the calculation. In determining the number of correspondence students, a student is considered “enrolled in correspondence courses” if the student's enrollment in correspondence courses constituted more than 50 percent of the courses in which the student enrolled during an award year.

The restrictions on the number of correspondence courses and students does not apply to an institution that qualifies as a “technical institute or vocational school used exclusively or principally for the provision of vocational education to individuals who have completed or left high school and who are available for study in preparation for entering the labor market” under section 3(3)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act of 1995. Very few institutions participating in the Title IV, HEA programs meet the requirements for this exemption from the limitations on correspondence courses and students.

Percentage of Incarcerated Students

To calculate the percentage of incarcerated students as required under 34 CFR 600.7(a)(1)(iii), an institution must have a process for identifying incarcerated students to ensure compliance with the limitation on the number of incarcerated students. An incarcerated student is an individual who is serving a criminal sentence in a Federal, State, or local penitentiary, prison, jail, reformatory, work farm, juvenile justice facility,

or other similar correctional institution. An individual is not considered incarcerated if that individual is subject to or serving an involuntary civil commitment, in a half-way house or home detention, or is sentenced to serve only weekends.

Section 34 CFR 600.7(c) provides for the ED to grant waivers from the limitation on the number of incarcerated students under 34 CFR 600.7(a)(1)(iii). ED has granted very few waivers from the limitation on the number of incarcerated students. To maintain the waiver, the institution must continue to meet the waiver requirements at 34 CFR 600.7(c).

Percentage of Students without a High School Diploma or its Recognized Equivalent
Although in most cases students self-certify that they have received a high school diploma, an institution must ensure that its records on those students identified as having a high school diploma, or its equivalent, are accurate. The regulations do not define a high school diploma, but do place requirements on institutions to ensure that the representation by a student that the student has received a valid high school diploma is accurate. The administrative capability regulations at 34 C.F.R 668.16(p) require institutions to develop and follow adequate procedures to evaluate the validity of a student's high school diploma if the institution or the Secretary has reason to believe that the high school diploma is not valid or was not obtained from an entity that provides secondary school education.

In order to comply with the administrative capability regulations at 34 CFR 668.16(p) the institution would need to have policies and procedures to identify situations that would lead it to believe that a high school diploma may not be valid or may not have been obtained from an entity that provides secondary education. If an institution has reason to believe that a student's high school diploma is not valid or was not obtained from an entity that provides secondary school education, the institution must develop and follow adequate procedures to evaluate the validity of the student's high school diploma. To satisfy this requirement, the institution must develop and follow adequate procedures to evaluate the validity of a student's high school diploma that must include:

- Obtaining documentation from the high school that confirms the validity of the high school diploma including at least one of the following: transcripts, written descriptions of course requirements, or written and signed statements by principals or executive officers at the high school attesting to the rigor and quality of coursework at the high school;
- If the high school is regulated or overseen by a State agency, Tribal agency, or Bureau of Indian Education, confirming with, or receiving documentation from that agency that the high school is recognized or meets requirements established by that agency; and
- If the Secretary has published a list of high schools that issue invalid high school diplomas, confirming that the high school does not appear on that list.

As of the publication date for this Compliance Supplement, the Department has not published a list of high schools that issue invalid high school diplomas.

The regulations define the recognized equivalent of high school diploma for the purposes of the required calculation at 34 C.F.R. 600.2 as —

- A General Education Development Certificate (GED); or
- A State certificate received by a student after the student has passed a State-authorized examination that the State recognizes as the equivalent of a high school diploma;
- An academic transcript of a student who has successfully completed at least a two-year program that is acceptable for full credit toward a bachelor's degree.

The regulations at 34 CFR 600.7(d) provide for ED to grant an institution a waiver of the limitation on the number of students who do not have a high school diploma or its recognized equivalent. ED has granted very few waivers of the limitation. To maintain the waiver once granted, the institution must continue to meet the requirements of 34 CFR 600.7(d).

Audit Objectives Determine whether the institution was in compliance with the institutional eligibility limitations on the number of correspondence courses, the number of correspondence students, the number of incarcerated students and the number of students without a high school diploma or the recognized equivalent for the latest complete award year ending in the institution's fiscal year.

Suggested Audit Procedures

a. Obtain written representations from management that state whether the school offered correspondence courses, provided education to incarcerated students, or (if the school does not provide a four-year bachelor's or two-year associate degree) had students that had neither a high school diploma nor the recognized equivalent. [*Note that the auditor may obtain evidence relevant to the mode of delivery and the type of students enrolled at the institution while performing work on other SFA Cluster compliance requirements. If the written representations obtained in this procedure are inconsistent with other audit evidence, the auditor should perform audit procedures to attempt to resolve the matter.*]

b. If management represented that they offered correspondence courses, provided education to incarcerated students, or had students that had neither a high school diploma nor the recognized equivalent, substantiate the institution's calculation of the ratios for its latest complete award year and determine if ratios are below the established thresholds by testing the population of regular students, correspondence students, incarcerated students, and students that had neither a high school diploma nor the recognized equivalent that the institution used for the calculations for proper classification and re-calculate the institution's ratios.

2. Verification

Compliance Requirements: An institution is required to establish written policies and procedures that incorporate the provisions of 34 CFR 668.51 through 668.61 for verifying

applicant information for those applicants selected for verification by ED. The institution shall require each applicant whose application is selected by ED to verify the information required for the Verification Tracking Group to which the applicant is assigned. However, certain applicants are excluded from the verification process as listed in 34 CFR 668.54(b). Please note that for the 2024-25 award year, a confined or incarcerated student as indicated through the new incarcerated applicant flag will only be required to verify their identity and statement of educational purpose. This means incarcerated students selected for Verification Tracking Group V4 and V5 will only be required to verify their identity and submit a statement of educational purpose. In addition, institutions are not required to verify a confined or incarcerated student selected under Verification Tracking Flag "V1" (GEN-23-12). A menu of potential verification items for each award year is published in the *Federal Register*, and the items to verify for a given application are selected by ED from that menu and indicated on the student's output documents. Verification tracking groups and verification items for each award year can also be found in the annual *FSA Handbook*, Application and Verification Guide, Chapter 4. The institution shall also require applicants to verify any information used to calculate an applicant's Pell Grant eligibility criteria or SAI that the institution has reason to believe is inaccurate and provide an accurate code for the individual's verification status in the COD system. (34 CFR 668.54(a); *FSA Handbook* Application and Verification Guide, Chapter 4).

Audit Objectives: Determine whether the institution established policies and procedures to verify information in student aid applications for students selected for verification by ED.

Determine whether the institution conducted verifications of selected applications, made corrections, and reported the verification status in COD, as applicable, in accordance with the requirements.

Suggested Audit Procedures

a. Select a sample of applications that were selected for verification by ED and review the student aid files for those applications to ascertain that the institution (1) obtained acceptable documentation to verify the information required for the Verification Tracking Group to which the applicant is assigned; (2) matched information on the documentation to the student aid application; (3) if necessary, submitted data corrections to the FPS and recalculated awards and (4) correctly coded the student's verification status in COD for Pell Grants.

3. Disbursements to or on Behalf of Students

With the exception of FWS, disbursements are made on a payment period basis and the disbursement must be made during the current payment period (34 CFR 668.164(b)(1)). For purposes of testing Title IV deadlines or timeframes, "days" refers to calendar days unless the requirement specifies "business days."

An Institution must define the payment period for each program. There are three types of payment periods that an institution may use—payment periods that measure progress in credit hours and use standard terms; payment periods that measure progress in credit hours and use non-standard terms; and payment periods that measure progress in credit hours and do not have academic terms or for a program that measures progress in clock hours (34 CFR 668.4 Payment period). An institution may make early, late, or retroactive disbursements under limited circumstances provided for at 34 CFR 668.164 sections (i), (j), and (k).

A standard or non-standard term program can also be a subscription-based program. A subscription-based program is a standard or nonstandard term program in which the institution charges a student for each term on a subscription basis with the expectation that the student will complete a specified number of credit hours (or the equivalent) during that term. However, classes in a subscription-based program are not required to begin or end within a specific timeframe in each term. Students must complete a cumulative number of credit hours (or the equivalent) during or following the end of each term before receiving subsequent disbursements of title IV, HEA program funds. An institution establishes an enrollment status (for example, full-time or half-time) that will apply to a student throughout the student's enrollment in the program, except that a student may change his or her enrollment status no more often than once per academic year.

Except for the fact that classes are not required to start and end within a term, the rules and requirements for term-based programs that are not subscription-based also apply to subscription-based programs. For more information about subscription-based programs, please see the FSA Handbook, Volume 3.

An institution may credit a student's ledger for only allowable costs and, unless on the reimbursement or Heightened Cash Monitoring 1 or 2 payment method, with the student or parent's authorization, retain a credit balance for each disbursement. An institution on the reimbursement or Heightened Cash Monitoring 1 or 2 payment method must disburse credit balances to students whether or not the institution has an authorization to hold the credit balance and must disburse the credit balance to the student prior to requesting funds from ED.

Payment Periods

a. The payment period for a student enrolled in an eligible program that measures progress in credit hours and has standard academic terms (semesters, trimesters, or quarters), or has non-standard terms that are substantially equal in length, is the academic term (34 CFR 668.4(a)). (Non-standard terms are substantially equal in length if no term is more than two weeks of instructional time longer than any other term (34 CFR 668.4(h)).

b. The payment period for a student enrolled in an eligible program that measures progress in credit hours and uses non-standard terms that are not substantially equal in length is as follows (34 CFR 668.4(b)):

(1) For Pell Grant, FSEOG, and TEACH Grants, the payment period is the academic term.

(2) For Direct Loans,

(a) If the program is one academic year or less in length (i) the first payment period is the period of time in which the student successfully completes half the number of credit hours in the program and half the number of weeks of instructional time in the program, and (ii) the second payment period is the period of time in which the student completes the program.

(b) If the program is more than one academic year in length—

(i) For the first academic year and any subsequent full academic year:

(A) The first payment period is the period of time in which the student successfully completes half the number of credit hours in the academic year and half the number of weeks of instructional time in the academic year; and

(B) The second payment period is the period of time in which the student completes the academic year.

(ii) For any remaining portion of an eligible program that is more than half, but less than a full, academic year in length:

(A) The first payment period is the period of time in which the student successfully completes half the number of credit hours in the remaining portion of the program and half the number of weeks of instructional time in the remaining portion of the program; and

(B) The second payment period is the period of time in which the student successfully completes the remainder of the program.

Please note: for a remaining portion to be more than half of an academic year, both measurements (hours and weeks) must exceed half of the institution’s academic year definition.

(iii) For any remaining portion of an eligible program that is not more than half an academic year, the payment period is the remainder of the program. In order for a remaining portion

to be more than half of an academic year, both measurements (hours and weeks) must exceed half of the institution's academic year definition. If only one measurement (or neither) exceed half of the institution's academic year definition, the remaining portion is the final payment period.

c. The payment period for a student enrolled in an eligible program that measures progress in credit hours and does not have academic terms or for a program that measures progress in clock hours (34 CFR 668.4(e)):

(1) If the program is one academic year or less in length (a) the first payment period is the period of time in which the student successfully completes half the number of credit or clock hours in the program and half the number of weeks of instructional time in the program; and (b) the second payment period is the period of time in which the student successfully completes the program.

(2) If the program is more than one academic year in length—

(a) For the first academic year and any subsequent full academic year (i) the first payment period is the period of time in which the student successfully completes half the number of credit or clock hours in the academic year and half the number of weeks of instructional time in the academic year, and (ii) the second payment period is the period of time in which the student successfully completes the academic year.

(b) For any remaining portion of an eligible program that is more than half (both measurements of hours and weeks exceed the institution's academic year definition) but less than a full academic year in length (i) the first payment period is the period of time in which the student successfully completes half the number of credit or clock hours in the remaining portion of the program and half the number of weeks of instructional time in the remaining portion of the program, and (ii) the second payment period is the period of time in which the student successfully completes the remainder of the program.

(c) For any remaining portion of an eligible program that is not more than half an academic year (only one or neither measurement of hours and weeks exceed the institution's academic year definition), the final payment period is the remainder of the program.

If an institution is unable to determine when a student has successfully completed half of the credit hours in a program, academic year, or remainder of a program, the student is considered to begin the second payment period of the program, academic year, or

remainder of a program at the later of (i) the date the institution determines the student has completed half of the academic coursework in the program, academic year, or remainder of the program; or (ii) half the number of weeks of instructional time in the program, academic year, or remainder of the program (34 CFR 668.4(c)(3)).

If a student withdraws from a credit-hour program that does not have academic terms or a clock-hour program during a payment period and reenters the same program within 180 days, the student remains in that same payment period upon reentry and is eligible to receive, subject to conditions established by ED, any Title IV funds for which they were eligible for prior to withdrawal, including funds returned as a result of a Return of Title IV Aid calculation (34 CFR 668.4(f)).

If a student withdraws from a credit-hour program that does not have academic terms or a clock-hour program during a payment period and reenters the same program after 180 days or transfers into another program (either at the same institution or at a different institution) at any time, the student generally starts a new payment period (34 CFR 668.4(g)). (See exception to this general rule in 34 CFR 668.4(g)(3).)

An institution is required to confirm at the time of disbursement that the student is eligible for the type and amount of title IV, HEA program funds identified by that disbursement (34 CFR 668.164(b)(3)). This confirmation is in addition to the determination of individual eligibility under Compliance Requirement E – Eligibility and would include confirming such eligibility requirements as whether the student is maintaining satisfactory academic progress under the institution's satisfactory academic progress requirements at 668.34.

Timing and Appropriateness of Disbursements

As described in 34 CFR 668.164(c), institutions may credit (charge) a student's ledger account with Title IV funds to pay for allowable charges associated with the payment period and prior year charges of not more than $200, in accordance with the timeframes described below. A prior year is any loan period or award year prior to the current loan period or award year, as applicable. Institutions may include the cost of books and supplies as allowable charges, provided that the requirements in 34 CFR 668.164(c)(2) are met.

Except as discussed below, the earliest an institution may disburse SFA funds (other than FWS) (either by paying the student directly or crediting the student's account) is:

- For students enrolled in credit-hour programs with terms that are substantially equal in length (excluding subscription-based programs), 10 days before the first day of classes of the payment period or module for which the disbursement is intended (34 CFR 668.164(i)(1)(i)).
- For students enrolled in credit-hour programs with terms that are not substantially equal in length (excluding subscription-based programs), non-term credit-hour programs, or clock-hour programs, the later of:
  - 10 days before the first day of classes of a payment period, or

- The date the student completed the previous payment period for which they received Title IV funds.

- For students enrolled in subscription-based programs, the later of:
  - 10 days before the first day of classes of a payment period, or
  - The date the student completed the cumulative number of credit hours associated with the student's enrollment status in all prior terms that the student attended under the definition of a subscription-based program in 34 CFR 668.2.

If an institution credits a student's account with its own funds (i.e., funds not drawn down from ED) earlier than 10 days before the first day of classes, ED considers that the institution made that disbursement on the tenth day before the first day of classes (34 CFR 668.164(a)(2)(ii)).

There are exceptions to this 10-day rule for Direct Loans and FWS:

- An institution may not make a disbursement of a Direct Loan to a first-year undergraduate who is a first-time borrower until 30 days after the first day of classes of the payment period (34 CFR 668.164(i)(2)(i) and 34 CFR 685.303(b)(5)). However, an institution is not subject to this delayed disbursement requirement for first-year, first-time borrowers if:
  - The institution has a cohort default rate of less than 15 percent for each of the three most recent fiscal years for which data are available does not have to wait the 30 days, or
  - The institution is an eligible home institution originating a loan to cover the student's cost of attendance in a study-abroad program and has a cohort default rate of less than 5 percent for the single most recent fiscal year for which data are available does not have to wait the 30 days (34 CFR 685.303(b)(5)(i)(A) and (B)).

- If an institution credits the account of a student who is subject to the 30day delayed disbursement requirement for Direct Loans with its own funds (i.e., funds not drawn down from ED) earlier than 30 days before the first day after the beginning of the payment period, ED considers that the institution made that disbursement on the 30th day after the beginning of the payment period (34 CFR 668.164(a)(2)(i)).

- An institution may not compensate a student employed under the FWS program until the student earns that compensation (34 CFR 675.16(a)(5)).

Notification of Disbursement

Prior to making a disbursement, the school must notify students of the amount and

type of Title IV funds they are expected to receive, and how and when those disbursements will be made (often referred to as an award letter or college financing plan) (34 CFR 668.165(a)(1)).

Additionally, when Direct Loans or TEACH funds are being credited to a student's account, the institution must notify the student, or parent, in writing of (1) the date and amount of the disbursement; (2) the student's right, or parent's right, to cancel all or a portion of that loan or loan disbursement and have the loan proceeds returned to the holder of that loan or the TEACH Grant payments returned to ED; and (3) the procedure and time by which the student or parent must notify the institution that he or she wishes to cancel the loan, TEACH Grant, or TEACH Grant disbursement (a minimum of 14 or 30 days depending on confirmation process). The notification requirement for loan funds applies only if the funds are disbursed by EFT payment or master check (34 CFR 668.165). Institutions that implement an affirmative confirmation process (as described in 34 CFR 668.165 (a)(6)(i)) must make this notification to the student or parent no earlier than 30 days before, and no later than 30 days after, crediting the student's account at the institution with Direct Loan or TEACH Grants. Institutions that do not implement an affirmative confirmation process must notify a student no earlier than 30 days before, but no later than seven days after, crediting the student's account and must give the student 30 days (instead of 14) to cancel all or part of the loan.

Credit Balances

When Title IV funds are credited to a student account and they exceed the amount of tuition and fees, food and housing, and other authorized charges assessed the student, a credit balance is created. The institution must pay the resulting credit balance directly to the student or parent borrower within 14 days after (1) the first day of class of a payment period if the credit balance occurred on or before that day, or (2) the balance occurred if that was after the first day of class.

An institution is permitted to hold credit balances if it obtains a voluntary authorization from the student. Regardless of any authorization obtained by the institution, the institution must pay any remaining loan balance by the end of the loan period and any other remaining Title IV funds by the end of the last payment period in the award year for which the funds were awarded.

An institution that cannot identify Title IV credit balances separately from other credit balances would be in violation of 34 C.F.R, 668.24(b)(2) which provides that an institution shall establish and maintain on a current basis financial records that reflect each Title IV program transaction; and general ledger control accounts and related subsidiary accounts that identify each Title IV program transaction and separate those transactions from all other institutional financial activity.

Returning Funds After 240 Days

Note: As outlined under 34 CFR 668.164(l), an institution must have a process that ensures SFA funds never escheat to a state or revert to the institution or any other third

party. A failure to have such a process in place would call into question an institution's administrative capability, its fiscal responsibility, and its system of internal controls required under the FSA regulations.

Pell

To disburse Pell funds, the institution must have received a valid ISIR from the FPS by the earlier of the student's last date of enrollment or the deadline date established by the secretary in a notice published in the *Federal Register* (the deadline date is normally in the month of September following the end of the award year). Late disbursements of Pell for students that are now ineligible (e.g., no longer enrolled) are allowed if, before the date the student became ineligible, an ISIR or FAFSA Submission Summary was processed that contained an official SAI. The institution has discretion in disbursing funds within a payment period, but generally must disburse the full amount before the end of the payment period.

When making a late disbursement or retroactive payment of Pell for a completed period, an institution determines a student's enrollment intensity for the completed period based only on the hours completed by the student for that period (34 CFR 690.76(b)).

The institution must review and document the student's eligibility before it disburses funds each payment period (34 CFR 690.61, 690.75, 690.76, and 668.164(b)(3)). (Requirements for student eligibility are found in Appendix A.)

TEACH Grant

To disburse TEACH Grant funds, the institution must ensure that the student (a) is eligible (per 34 CFR 686.11), (b) has completed the initial or subsequent counseling (required by 34 CFR 686.32), (c) has signed an agreement to serve or repay (required by 34 CFR 686.12), (d) is enrolled in a TEACH Grant-eligible program, and€(e) if enrolled in a credit-hour program without terms or a clock-hour program, has completed the payment period, as defined in 34 CFR 668.4, for which he or she will be paid a grant (34 CFR 686.31). (Requirements for student eligibility are found in Appendix A.)

When making a late disbursement or retroactive payment of TEACH Grant funds for a previously completed period, an institution determines a student's enrollment status for the completed period based only on the hours completed by the student for that period (34 CFR 686.33(b)).

Direct Loan

Except in the case of an allowable late disbursement (34 CFR 685.303(d)), before disbursing the loan proceeds, the institution must determine that the student maintained continuous eligibility from the beginning of the loan period. In order for an institution to disburse Direct Loan funds to a student, the student must generally be enrolled at least half-time as a regular student. However, a student may be eligible to receive Direct Loan funds if the student is enrolled at least half-time in preparatory coursework for no longer than a 12-month consecutive period under 668.32(a)(1)(ii) and 685.203(a)(6). Students

may also be eligible for Direct Loan funds if they are enrolled at least half-time in teacher certification coursework under 34 CFR 685.203(a)(7).

An institution under the advance payment method may not disburse loan proceeds until they have obtained a legally enforceable promissory note. An institution under reimbursement or cash monitoring payment method must have obtained a legally enforceable promissory note and may request funds only for those that they have already disbursed funds to students (34 CFR 685.301 and 685.303). (See III.C, "Cash Management," for discussion of payment methods.) (Requirements for student eligibility are found in Appendix A.)

FWS

The student's wages are earned when the work is performed. The institution shall ensure that the student is paid at least once per month. The federal share must be paid by check or similar instrument the student can cash on his or her endorsement, or as authorized by the student, by crediting FWS funds to a student's account or by EFT to a bank account designated by the student. The institution may only credit the account for tuition, fees, institutional food and housing, and other institution-provided goods and services (34 CFR 675.16). (Requirements for student eligibility are found in Appendix A.)

HHS Programs

HPSL/PCL/LDS and NSL

Student loans may be paid to or on behalf of student borrowers in installments considered appropriate by the school, except that a school may not pay to or on behalf of any borrowers more than the school determines the student needs for any given installment period (e.g., semester, term, or quarter). However, the amount of the loan may be increased in the case of the third or fourth year of a student at a school of medicine or osteopathic medicine to pay balances of loans that were made to the individual for attendance at the school (42 USC 292r(a)(2); Section 722r(a)(2) of the PHS Act; Pub. L. No. 105-392, Section 134(a)(2)). At the time of payment, a HPSL/PCL/LDS borrower must be a full-time student, a NSL borrower must be at least a half-time student (HPSL/PCL/LDS, 42 CFR 57.209; NSL, 42 CFR 57.309). Each student loan must be evidenced by a properly executed promissory note (HPSL/PCL/LDS, 42 CFR 57.208; NSL, 42 CFR 57.308).

Nurse Faculty Loan Program (NFLP) (Assistance Listing 93.264)

NFLP loans may be paid to or on behalf of student borrowers in installments considered appropriate by the school, except that a school may not pay to or on behalf of any borrowers more than the school determines the student needs for any given installment period (e.g., semester, term, or quarter). At the time of payment, a NFLP borrower must be enrolled full-time or part-time. Each student loan must be evidenced by a properly executed promissory note (Program Guidance, Repayment Provision).

Audit Objectives: Determine if the institution (1) followed ED requirements for timing and appropriateness of disbursements, (2) made appropriate and timely disbursement notifications, (3) complied with requirements for returning credit balances, and (4) returned to ED funds that it attempted to disburse after 240 days.

Determine whether disbursements to students were made or returned to HHS in accordance with required time frames; and whether required reviews were made and required documents and approvals were obtained before disbursing HHS funds.

Suggested Audit Procedures

For ED programs

a. For a sample of student disbursements, identify the student's payment period and each disbursement date. Ascertain if the disbursement was made in accordance with the disbursement timing requirements and if the amount credited (charged) to student ledger accounts complied with the requirements for allowable current year and prior year charges.

b. Determine whether the institution's policies and procedures provide for determining a student's eligibility at the time of disbursement.

c. For the disbursements selected in step a., determine whether the institution provided notification to the student of the amount and type of Title IV funds they are expected to receive and how and when those disbursements will be made.

d. For Direct Loan or TEACH grant disbursements selected in step a., determine if the institution provided timely notification to the student of (1) the date and amount of the disbursement; (2) the student/parent's right to cancel; and (3) the procedure and time by which the student or parent must notify the institution that he or she wishes to cancel.

e. For a sample of students with a credit balance, determine if the credit balance was paid to the student or parent borrower (1) within 14 days or (2) if the institution obtained an authorization to hold credit balances and was not on the reimbursement or heightened cash monitoring payment methods, by the end of the loan period or last payment period in the award year for which the funds were awarded.

For HHS Programs

f. Review loan or other files to verify that the institution performed required procedures and obtained required documents prior to disbursing funds.

4. Using a Servicer or Financial Institution to Deliver Title IV Credit Balances to a Card or Other Access Device

Compliance Requirements: An institution may enter into an arrangement with a servicer or a financial institution to make a direct payment of FSA credit balances to students through electronic funds transfer to a bank account designated by a student or parent, to issue a check payment to the student or to use an access device such as a debit, demand, or smart card provided by the servicer or its financial partner. The regulations define an access device as a card, code, or other means of access to a financial account, or any combination thereof, that may be used by a student to initiate electronic fund transfers (34 CFR 668.161(a)(2)(i)).

Regulations at 34 CFR 668.164(e) and (f) establish two different types of arrangements between schools and financial account providers: Tier One arrangements and Tier Two arrangements. The type of arrangement determines the provisions that are applicable to the school.

Tier One Arrangement

A Tier One arrangement is an arrangement between a school and a third-party servicer, under which the servicer performs one or more of the functions associated with processing direct payments of Title IV funds on behalf of the school, and the school or third-party servicer makes payments to one of the following:

- One or more financial accounts that are offered to students under the contract;
- A financial account where information about the account is communicated directly to students by the third-party servicer, or the school on behalf of or in conjunction with the third-party servicer; or
- A financial account where information about the account is communicated directly to students by an entity contracted or affiliated with the third-party servicer. (34 CFR 668.164(e)(1)).

Examples of functions associated with processing direct payments of Title IV funds on behalf of the school include: receiving Title IV funds; posting Title IV funds to student accounts; calculating a student's Title IV credit balance; processing documents for direct payment to students; and disbursing or delivering FSA funds.

Tier Two Arrangement

A Tier Two arrangement is an arrangement between a school and a financial institution, or entity that offers financial accounts through a financial institution, under which financial accounts are offered and marketed directly to students (34 CFR 668.164(f)(1)). ED considers that a financial account is marketed directly if: (a) the school communicates information directly to its students about the financial account and how it may be opened; (b) the financial account or access device is cobranded with the school's name, logo, mascot, or other affiliation and is marketed principally to students at the institution; or (c)

a card or tool that is provided to the student for school purposes, such as a student ID card, is validated, enabling the student to use the device to access a financial account (34 CFR 668.164(f)(3)).

The requirements applicable to schools with Tier Two arrangements differ depending on whether the school falls above or below certain thresholds (referred to as the credit balance thresholds). If, in the school's prior three award years, the school had an average 500 or more students, or an average of 5 percent or more of its enrollment, receiving credit balances, then the school is considered above the credit balance thresholds and must comply with additional provisions (34 CFR 668.164(f)(2)(i) and (ii)).

Required Disclosures

A school must disclose conspicuously on its Web site the contract(s) establishing the Tier One or Tier Two arrangement, except for any portions that, if disclosed, would compromise personal privacy, proprietary information technology, or the security of information technology or of physical facilities (34 CFR 668.164(e)(2)(vi) and 668.164(f)(4)(iii)).

Schools with Tier One arrangements or Tier Two arrangements above the credit balance threshold must also disclose on their Web site: (a) the total consideration for the year, monetary and non-monetary, paid or received by the parties under the terms of the contract; (b) for any year in which the school's enrolled students open 30 or more financial accounts under the arrangement, (i) the number of students who had financial accounts under the contract at any time during the most recently completed award year, and (ii) the mean and median of the actual costs incurred by those account holders. This disclosure must be updated within 60 days after the end of each award year.

A school must also provide to ED an up-to-date URL for the contract for publication in a centralized database accessible to the public. Unless the school has a Tier Two arrangement under the credit balance threshold, the URL must also include the contract data described in the paragraph above (34 CFR 668.164(e)(2)(viii); 668.164(f)(4)(iii)(B); 668.164(f)(4)(v)).

For additional details, see Electronic Announcement Dated July 1, 2016; Cash Management Electronic Announcement #2: Posting Contract Information and Providing Contract URL to the Department of Education and Electronic Announcement Dated June 16, 2017; Cash Management Electronic Announcement #7: Tier One and Tier Two Contract Data Reporting Format.

Other Requirements of Tier One and Tier Two Arrangements

Schools have a series of obligations to ensure that students are protected when they enter into a Tier One or Tier Two arrangement:

- *Student Choice*: All Tier One and Tier Two schools must establish a selection process under which the student chooses one of several options for receiving payments by electronic funds transfer. (34 CFR 668.164(d)(4)(i))

- *Student Consent*: For all Tier One and Tier Two arrangements, in any instance where an access device is provided to a student and that access device does not serve an institutional purpose other than electronic fund transfers, such as a student ID card, it is the institution's responsibility to ensure that the student's consent has been obtained before the access device is validated, even if the consent is obtained through the financial institution, allowing the student to access the financial account. For all Tier One and Tier Two arrangements, in any instance where an access device does serve an institutional purpose, other than electronic fund transfers is provided to a student prior to validation of the access device, the institution or the financial institution must obtain the student's consent before validating the device and allowing the student access to the financial account. (34 CFR 668.164(e)(2)(i) and 668.164(f)(4)(i)(B), see EA for additional detail).

- *Terms and Conditions*: All Tier One and Tier Two schools must inform the student of the terms and conditions of the financial account before the financial account is opened (34 CFR 668.164(e)(2)(iii) and (f)(4)(ii)).

- *Credit Cards and Extending Credit*: All Tier One and Tier Two schools must ensure that financial accounts are not marketed or portrayed as, or converted into, credit cards. (34 CFR 668.164(e)(2)(v) and (f)(4)(vii)). Tier One schools must also ensure that no credit is extended or associated with the financial account (34 CFR 668.164(e)(2)(v)(B)).

- *Student Costs*: All Tier One and Tier Two schools must ensure that the student does not incur any cost for opening the financial account or initially receiving an access device. (34 CFR 668.164(e)(2)(iv)(B)(1) and (f)(4)(x)). Tier One schools must also ensure that the student does not incur costs for conducting point-of-sale transactions in a State or conducting a balance inquiry or withdrawal of funds at an ATM in a State that belongs to the surcharge-free regional or national network (34 CFR 668.164(e)(2)(iv)(B)). Tier One schools must also ensure no fee is charged to the student for any transaction or withdrawal that exceeds the balance in the financial account or on the access device, except that a transaction or withdrawal that exceeds the balance may be permitted only for an inadvertently authorized overdraft, so long as no fee is charged to the student for such inadvertently authorized overdraft (34 CFR 668.164(e)(2)(v)(B)).

- *Student Access*: Tier One schools and any Tier Two schools above the credit balance threshold must ensure that the student has access to the funds in the financial account through surcharge-free Automated Teller Machines (ATMs) sufficient in number and housed and serviced such that Title IV funds are reasonably available to students, including at the times the school or its third-party servicer makes direct payments into them (34 CFR 164(e)(2)(iv)(A) and (f)(4)(vi)). Tier One schools must also ensure that the student is provided convenient access to funds in part and in full up to the account balance via domestic withdrawals and transfers without charge, during the student's entire period of enrollment following the date that such title IV, HEA program funds are

deposited or transferred to the financial account (34 CFR 668.164(e)(2)(v)(C)).

- *Best Financial Interest of Students*: Tier One schools and any Tier Two schools above the credit balance threshold must ensure that the terms of the accounts offered pursuant to the arrangement are not inconsistent with the best financial interests of the students opening them. ED considers this requirement to be met if (a) the school documents that it conducts reasonable due diligence reviews at least every two years to ascertain whether the fees imposed under the arrangement are, considered as a whole, consistent with or below prevailing market rates; and (b) all contracts for the marketing or offering of accounts pursuant to the arrangement to the school's students make provision for termination of the arrangement by the school based on (i) complaints received from students or (ii) a determination by the school that the fees assessed under the arrangement are not consistent with or are higher than prevailing market rates. (34 CFR 668.164(e)(2)(ix) and (f)(4)(vii)).

These schools must take affirmative steps, by way of contractual arrangements with the third-party servicer as necessary, to ensure that requirements for these arrangements are met with respect to all accounts offered pursuant to the arrangement (34 CFR 668.164(e)(2)(x) and (f)(4)(ix)).

Additional guidance on Tier One and Tier Two arrangements can be found in Dear Colleague Letter GEN-22-14; Volume 4, Chapter 2 of the FSA Handbook; and the Cash Management Q&A.

Audit Objective: Determine if the institution uses a servicer or a financial institution to deliver Title IV credit balance refunds (or to make direct payments of FSA credit balances) and if the institution is following applicable ED requirements.

Suggested Audit Procedures

a. For any arrangements that the institution has with an outside entity to make direct payments of Title IV credit balances by EFT, obtain the full contract (including all attachments, appendices, affiliation agreements, and addendums) and any promotional materials provided by the entity to the school. Determine whether the arrangement is a Tier One Arrangement or a Tier Two Arrangement. *Note: As you are reviewing these records, you should be alert to evidence that the entity is performing functions associated with processing direct payments, which would be indicative of a Tier One Arrangement, especially the following functions provided by ED as examples: receiving Title IV funds; posting Title IV funds to student accounts; calculating a student's Title IV credit balance; processing documents for direct payment to students; and disbursing or delivering FSA funds.*

b. For institutions with any Tier Two arrangements, confirm that the institution performed the required annual credit balance threshold calculation to determine if they were above or below the credit balance threshold and evaluate the annual calculation for accuracy.

c. For institutions with any Tier One or Tier Two arrangement,

(1) determine whether the school established a selection process under which the student chooses an option for receiving payments by electronic funds transfer;

(2) For a sample of students for whom a financial account under the arrangement was opened and the access device does not serve an institutional purpose other than electronic fund transfers, determine whether the school informed the student of the terms and conditions of the financial account and obtained the student's consent before the access device was validated;

(3) Through review of the contract between the school and servicer determine that:

(A) The financial account or access device is not marketed or portrayed as, or converted into, a credit card; and
(B) The student would not incur costs for opening the account or receiving the access device;

(4) Determine whether the school contract(s) establishing the arrangement between the school and financial account provider exist on the school's website;

(5) Obtain documentation to determine if the school provided a URL for the contract to ED for publication in the Cash Management Contracts Database. (You may check the database directly at Cash Management Contracts | Federal Student Aid)

d. For institutions with any Tier One arrangement or a Tier Two arrangement above the credit balance threshold -

(1) Through review of the contract between the school and servicer,

(A) Determine that students would have access to the funds through surcharge-free ATMs, including at the times payments are made; and

(B) Determine that the contracts make provisions for termination of the arrangement by the school based on i) complaints received from students or (ii) a determination by the school that the fees assessed under the arrangement are not consistent with or are higher than prevailing market rates;

(2) Through review of the latest due diligence review performed by the school, determine that the school is ascertaining whether the fees imposed under the arrangement are consistent with or below prevailing market rates through its due diligence reviews at least every two years;

(3) Determine whether all required cost information related to the arrangement existed on the school's website and that the cost information was updated within 60 days after the end of each award year; and

(4) Obtain documentation to determine if the school provided a URL for the cost information to ED for publication in the Cash Management Contracts Database. (You may check the database directly at Cash Management Contracts | Federal Student Aid)

e. For institutions with any Tier One arrangement, through review of the contract between the school and servicer, determine that the student (1) would not be extended any credit with the financial account; (2) would not incur costs for conducting point-of-sale transactions and balance inquiries, or as overdraft fees; and (3) would be provided access to funds up to the account balance without charge during the student's entire period of enrollment.

5. Return of Title IV Funds

SFA - Title IV Programs

Compliance Requirements: When a recipient of Title IV grant or loan assistance withdraws from an institution during a payment period or period of enrollment in which the recipient began attendance, the institution must determine the amount of Title IV aid earned by the student as of the student's withdrawal date. If the total amount of Title IV assistance earned by the student is less than the amount that was disbursed to the student or on his or her behalf as of the date of the institution's determination that the student withdrew, the difference must be returned to the Title IV programs as outlined in this section and no additional disbursements may be made to the student for the payment period or period of enrollment. If the amount the student earned is greater than the amount disbursed, the difference between the amounts must be treated as a post-withdrawal disbursement (34 CFR 668.22(a)(1) through (a)(5)).

A student is considered to have withdrawn from a payment period or period of enrollment (34 CFR 668.22(a)(2)) if the student does not meet one of the withdrawal exemptions and:

- For credit hour programs, a student is considered to have withdrawn if the student does not complete all the scheduled days in the payment period or period of enrollment.

- For clock hour programs, a student is considered to have withdrawn if the student does not complete all the clock hours and weeks of instructional time in the payment period or period of enrollment.

- For a student in a standard or non-standard-term program, excluding a subscription-based program, is considered to have withdrawn if he or she is not scheduled to begin another course within a payment period or period of enrollment for more than 45 calendar days after the end of the module the student ceased attending unless the student is on an approved leave of absence.

- For a student in a subscription-based or a non-term program, the student is unable to resume attendance within a payment period or period of enrollment for more than 60 days after ceasing attendance, unless the student is on approved leave of absence.

For Title IV purposes, a program "offered in modules" is a program that uses a standard term or nonstandard-term academic calendar, is not a subscription-based program, and has a course or courses in the program that do not span the entire length of the payment period or period of enrollment (34 CFR 668.22(l)). A student is not considered to have withdrawn from a program offered in modules if the institution obtains written confirmation from the student, at the time that otherwise would have been a withdrawal, of the date that he or she will attend a module that begins later in the same payment period or period of enrollment and, for standard and non-standard-term programs offered in modules, excluding subscription-based programs, that module begins no later than 45 calendar days after the end of the module the student ceased attending.

For a subscription-based program, a student is not considered to have withdrawn if the institution obtains written confirmation from the student at the time that otherwise would have been a withdrawal, of the date that he or she will resume attendance, and that date occurs within the same payment period or period of enrollment and is no later than 60 calendar days after the student ceased attendance.

For a non-term program, a student is not considered to have withdrawn if the institution obtains written confirmation from the student at the time that otherwise would have been a withdrawal, of the date that he or she will resume attendance, and that date is no later than 60 calendar days after the student ceased attendance.

If the institution obtains the written confirmation, but the student does not return as scheduled, the student is considered to have withdrawn. The student's withdrawal date and the total number of calendar days in the payment period or period of enrollment are the date and days that would have applied had the student not provided written confirmation of future attendance (34 CFR 668.22(a)(2)(ii)(C)).

R2T4 Withdrawal Exemptions

Under 34 CFR 668.22(a)(2)(ii)(A), ED established withdrawal exemption criteria which, if met, allows a student who has withdrawn or otherwise ceased attendance to not be considered a withdrawn student for Title IV purposes, which means that no R2T4 calculation is necessary for that student. Prior to conducting an R2T4 calculation for a student who has ceased attendance during a payment period or period of enrollment, an

institution should review the student's circumstances to see if the student qualifies for any of the R2T4 withdrawal exemptions.

The withdrawal exemption categories are as follows:

a. Withdrawal exemption for graduates/completers

- A student who completes all the requirements for graduation from his or her program before completing the days or hours in the period that he or she was scheduled to complete is not considered to have withdrawn

Note: Institutions with clock-hour programs in which a student graduates without successfully completing all of the established hours in the program must re-prorate the amount of Title IV aid and only pay the student for the hours successfully completed. See the 2024-2025 *FSA Handbook*, Volumes 5, 7 and 8 for more information and examples.

b. Withdrawal exemptions for programs offered in modules

(1) A student is not considered to have withdrawn if the student successfully completes one module that includes 49 percent or more of the number of days in the payment period, excluding scheduled breaks of five or more consecutive days and all days between modules

(2) A student is not considered to have withdrawn if the student successfully completes a combination of modules that when combined contain 49 percent or more of the number of days in the payment period, excluding scheduled breaks of five or more consecutive days and all days between modules

(3) A student is not considered to have withdrawn if the student successfully completes coursework equal to or greater than the coursework required for the institution's definition of a half-time student under section 668.2 for the payment period

For additional information and examples regarding withdrawal exemptions, please see the 2024-2025 *FSA Handbook*, Volume 5, Chapter 1.

Post-withdrawal Disbursements

Post-withdrawal disbursements must be made from available grant funds before available loan funds (34 CFR 668.22(a)(6)). Post-withdrawal disbursements of grant funds may be credited to the student's account, without the student's authorization, for current-year outstanding charges for tuition, fees, and food and housing (if contracted with the institution) on the student's account, up to the amount of those outstanding charges. For current-year outstanding charges other than tuition, fees, and food and housing (if contracted with the institution), the institution must have the student's authorization to

credit the student's account with grant funds. Any grant funds not disbursed to the student's account must be disbursed to the student no later than 45 days after the date of the institution's determination that the student withdrew (34 CFR 668.22(a)(6)(ii)(B)(1)).

Post-withdrawal disbursements of loan funds may be credited to the student's account if current-year outstanding charges exist on the student's account, up to the amount of the current-year outstanding charges only after obtaining confirmation from the student, or parent in the case of a parent PLUS loan, that he or she still wishes to have some or all of the loan funds disbursed.

If the institution wishes to credit the student's account with a post-withdrawal disbursement of loan funds or wishes to pay a post-withdrawal disbursement of loan funds directly to the student, or parent in the case of a parent PLUS loan, the institution must, within 30 days of the date the institution determines that the student withdrew, send a written notification to the student, or parent in the case of a parent PLUS loan, that

a. Asks the student or parent if he or she wants a post-withdrawal disbursement of some or all of the loan funds credited to the student's account, or a post-withdrawal disbursement of some or all of the loan funds as a direct disbursement;

b. Explains that, if the borrower does not want the loan funds credited to the student's account, it is up to the institution to decide whether it will disburse the loan funds as a direct disbursement to the borrower;

c. Explains the obligation of the borrower to repay any loan funds disbursed; and

d. Explains that no post-withdrawal disbursement will be made (other than a credit of grant funds to the student's account for tuition and fees and food and housing, if contracted for with the institution, or a credit of grant funds for other institutional charges for which the institution has the student's authorization or a direct disbursement of grant funds) unless the student or parent responds within 14 days of the date the institution sent the notification (or a later time frame set by the institution), or the institution chooses to make a post-withdrawal disbursement based on a late response (34 CFR668.22(a)(6) and 668.164(c)).

If a student or parent accepts a post-withdrawal disbursement of loan funds, the institution must make the disbursement within 180 days after the date of the institution's determination that the student withdrew and in accordance with the request of the recipient (34 CFR668.22(a)(6)(iii)(C) and 668.164(c)(1), (c)(2), (c)(3), and (j)).

Subject to the above, an institution may credit a student's account for minor prior-award-year charges, if not more than $200 (34 CFR668.164(c)(3)).

Withdrawal Date

If an institution is required to take attendance, the withdrawal date is the last date of academic attendance, as determined by the institution from its attendance records. An institution is required to take attendance if:

a. The institution is required to take attendance for some or all of its students by an entity outside of the institution (such as the institution's accrediting agency or state agency);

b. The institution itself has a requirement that its instructors take attendance; or

c. The institution or an outside entity has a requirement that can only be met by taking attendance or a comparable process, including, but not limited to, requiring that students in a program demonstrate attendance in the classes of that program or a portion of that program (34 CFR 668.22(b)(3)).

Note: As provided in ED's Program Integrity Q&As for Return of Title IV Funds, the monitoring of whether online students log into classes does not by itself result in an institution being an institution that is required to take attendance for Title IV, HEA program purposes because monitoring logins alone is not monitoring academic engagement (as defined under 34 CFR 600.2). However, an institution that collects and maintains information about students' online activities for the purpose of tracking academic engagement is considered to be an institution that is required to take attendance for programs involving such tracking if that tracking:

(1) Involves monitoring student attendance in a synchronous class, lecture, recitation, or field or laboratory activity, physically or online via a distance education platform, where there is an opportunity for interaction between the instructor and students; or

(2) Is used to administratively withdraw students or to enforce an institutional attendance policy.

If an institution is not required to take attendance, the withdrawal date is (1) the date, as determined by the institution, that the student began the withdrawal process prescribed by the institution; (2) the date, as determined by the institution, that the student otherwise provided official notification to the institution, in writing or orally, of his or her intent to withdraw; (3) if the student ceases attendance without providing official notification to the institution of his or her withdrawal, the midpoint of the payment period or, if applicable, the period of enrollment; (4) if the institution determines that a student did not begin the withdrawal process or otherwise notify the institution of the intent to withdraw due to illness, accident, grievous personal loss or other circumstances beyond the student's control, the date the institution determines is related to that circumstance; (5) if a student does not return from an approved leave of absence, the date that the institution determines the student began the leave of absence; or (6) if the student takes an unapproved leave of absence, the date that the student began the leave of absence. Notwithstanding the above, an institution that is not required to take attendance may use

as the withdrawal date, the last date of attendance at an academically related activity as documented by the institution (34 CFR668.22(c) and (l)).

Title IV funds may be expended only towards the education of the students who can be proven to have been in attendance at the institution. In a distance education context, documenting that a student has logged into an online distance education platform or system is not sufficient, by itself, to demonstrate attendance by the student. To avoid returning all funds for a student that did not begin attendance, an institution must be able to document "attendance at any class." To qualify as a last date of attendance for Return of Title IV purposes, an institution must demonstrate that a student participated in class or was otherwise engaged in an academically related activity, such as by contributing to an online discussion or initiating contact with a faculty member to ask a course-related question.

An institution that requires attendance be taken on only one specified day (e.g., to meet a census reporting requirement), is not considered an institution required to take attendance (34 CFR 668.22(b)(3)(iv)).

Calculation of the Amount of Title IV Assistance Earned

The amount of earned Title IV grant or loan assistance is calculated by determining the percentage of Title IV grant or loan assistance that has been earned by the student and applying that percentage to the total amount of Title IV grant or loan assistance that was or could have been disbursed to the student for the payment period or period of enrollment as of the student's withdrawal date. A student earns 100 percent if his or her withdrawal date is after the completion of 60 percent of (1) the calendar days in the payment period or period of enrollment for a program measured in credit hours, or (2) the clock hours scheduled to be completed for the payment period or period of enrollment for a program measured in clock hours (34 CFR 668.22(e)(2)). Otherwise, the percentage earned by the student is equal to the percentage (60 percent or less) of the payment period or period of enrollment that was completed as of the student's withdrawal date. The percentage of Title IV grant or loan assistance that has not been earned by the student is the complement of one of these calculations. Standard term-based institutions must always use the payment period as the basis for the determination.

The unearned amount of Title IV assistance to be returned is calculated by subtracting the amount of Title IV assistance earned by the student from the amount of Title IV aid that was disbursed to the student as of the date of the institution's determination that the student withdrew (34 CFR 668.22(e)).

Use of Payment Period or Period of Enrollment

The treatment of Title IV grant or loan funds if a student withdraws must be determined on a payment period basis for a student who attended a standard term-based (semester, trimester, or quarter) educational program. The treatment of Title IV grant or loan funds if a student withdraws may be determined on either a payment period basis or a period of enrollment basis for a student who attended a non-term based or a non-standard term-

based educational program. The institution must use the chosen period consistently for all students in the program, except that an institution may make a separate selection of payment period or period of enrollment for students that transfer to the institution or reenter the institution for students who attend a non-term-based or non-standard term-based program (34 CFR668.22(e)(5)). An institution must use the payment period that ends later to calculate a "Return of Title IV Funds" when a student withdraws from a non-standard term credit hour program with terms that are not substantially equal in length, and the student was disbursed or could have been disbursed Title IV aid under more than one payment period definition (34 CFR668.22(e)(5)(iii)).

Percentage of Payment Period or Period of Enrollment Completed

The percentage of the payment period completed or period of enrollment completed is determined in the case of a program that is measured in (1) credit hours, by dividing the total number of calendar days in the payment period or period of enrollment into the number of calendar days completed in that period as of the student's withdrawal date; or (2) clock hours, by dividing the total number of clock hours in the payment period or period of enrollment into the number of clock hours scheduled to be completed as of the student's withdrawal date. The total number of calendar days in a payment or enrollment period includes all days within the period, except that institutionally scheduled breaks of at least five consecutive calendar days (including module programs that a student is not required to attend for five consecutive calendar days) and days in which the student was on an approved leave of absence are excluded from the total number of calendar days in a payment period or period of enrollment and the number of calendar days completed in that period (34 CFR 668.22(f)).

Under 34 CFR 668.22(l)(9),a student in a program offered in modules is scheduled to complete the days in a module if the student's coursework in that module was used to determine the amount of the student's eligibility for title IV, HEA funds for the payment period or period of enrollment.

When a student enrolls in a module during a payment period or period of enrollment, the student is considered to be enrolled in a program offered in modules and the institution must determine the number of days in the denominator of the R2T4 calculation based on whether the coursework, including full-term courses, was used to determine the amount of eligibility for Title IV aid. This determination will depend on several factors:

- Whether the institution uses an R2T4 Freeze Date;
- The Title IV programs for which the student was eligible; and
- Which modules/courses the student attended during the period.

An R2T4 Freeze Date is an optional (not required) policy that uses the student's enrollment schedule at a fixed calendar point to determine the number of days the student is scheduled to attend during the period for R2T4 purposes. If the institution uses an R2T4 Freeze Date, the days in a module/course are included in the R2T4 calculation if

the student attends the module/course or is enrolled in the module/course on the R2T4 Freeze Date, regardless of the types of Title IV aid awarded.

Institutions that choose to not establish an R2T4 Freeze Date will monitor changes in the student's enrollment throughout the period and which module/course days to include in the R2T4 calculation will, in part, depend on the type of Title IV aid awarded.

If the student is only eligible for Pell Grant and/or TEACH Grant funds during the period and the institution does not use an R2T4 Freeze Date, the days in a module/course must be included in the denominator of the R2T4 calculation only if the student actually attends the module/course.

If the student is eligible for Direct Loan or FSEOG funds during the period (regardless of eligibility for other Title IV programs) and does not use an R2T4 Freeze Date, the days in a module/course must be included in the R2T4 calculation if the student was enrolled in the module/ course on the first day of the period or enrolled in the module/course at any time during the period.

For additional information, please review the 2024-2025 *FSA Handbook*, Volume 5, Chapter 2.

Institution's Return of Unearned Aid

The institution must return the lesser of (1) the total amount of unearned Title IV assistance to be returned as described above, or (2) an amount equal to the total institutional charges incurred by the student for the payment period or period of enrollment multiplied by the percentage of Title IV grant or loan assistance that has not been earned by the student. If, for a non-term program an institution chooses to calculate the treatment of Title IV assistance on a payment period basis, but the institution charges for a period that is longer than the payment period, "total institutional charges incurred by the student for the payment period" is the greater of (1) the prorated amount of institutional charges for the longer period, or (2) the amount of Title IV assistance retained for institutional charges as of the student's withdrawal date (34 CFR 668.22(g)).

Student's Return of Unearned Aid

The amount a student is responsible for returning is calculated by subtracting the amount of unearned aid that the institution is required to return from the total amount of unearned Title IV assistance to be returned. However, the student need only return 50 percent of the total grant assistance that was disbursed (and that could have been disbursed) for the payment period or period of enrollment. After the 50 percent rule is applied, a student does not have to return an overpayment amount of $50 or less.

In addition, the secretary may waive grant overpayments that students are required to return if the students who withdrew were residing in, employed in, or attending an institution located in an area where the President has declared that a major disaster exists (34 CFR 668.22(g), 668.22(h)(3), and 668.22(h)(5)).

Allocation of Return of Title IV Funds

Returns of Title IV funds must be distributed in the order prescribed below. The prescribed order must be followed regardless of the institution's agreements with other state agencies or private agencies (34 CFR 668.22(i)).

a. Unsubsidized Federal Direct Stafford Loans

b. Subsidized Federal Direct Stafford Loans

c. Federal Direct PLUS

d. Federal Pell Grant

e. Iraq and Afghanistan Service Grant

f. Federal Supplemental Educational Opportunity Grants

g. Teacher Education Assistance for College and Higher Education Grants

Although the Iraq and Afghanistan Service Grant is no longer awarded as of the 2024-2025 award year, the Department has maintained the grant in the order of funds to be returned for 2024-2025 because funds could still be appropriately returned after July 1, 2024, due to crossover periods. The Department plans to remove IASG from the return order and the R2T4 calculation worksheet for 2025-2026.

Timing of Return of Title IV Funds

Returns of Title IV funds are required to be deposited or transferred into the SFA account or electronic fund transfers initiated to ED as soon as possible, but no later than 45 days after the date the institution determines that the student withdrew. Returns by check are late if the check is issued more than 45 days after the institution determined the student withdrew or the date on the canceled check shows the check was endorsed more than 60 days after the date the institution determined that the student withdrew (34 CFR 668.173(b)).

An institution that is not required to take attendance must determine the withdrawal date for a student who withdraws without providing notification to the institution no later than 30 days after the end of the earlier of the (1) payment period or period of enrollment, (2) academic year in which the student withdrew, or (3) educational program from which the student withdrew (34 CFR 668.22(j)). The institution must also notify the recipient of Title IV loans returned (34 CFR 685.306(a)(2)).

Compliance Requirements Applicable for a Student Who Does Not Begin Attendance When a recipient of Title IV grant or loan assistance does not begin attendance at an institution during a payment period or period of enrollment, all disbursed Title IV grant and loan funds must be returned. The institution must determine which

Title IV funds it must return or if it has to notify the lender or the secretary to issue a final demand letter (34 CFR 668.21).

Not beginning attendance

A student is considered to have not begun attendance in a payment period or period of enrollment if the institution is unable to document the student's attendance at any class during the payment period or period of enrollment (34 CFR 668.21(c)).

FSEOG, TEACH Grants, and Pell Grant program funds

If a student does not begin attendance, the institution must return all FSEOG, TEACH Grants, and Pell Grant program funds that were credited to the student's account or disbursed directly to the student for that payment period or period of enrollment (34 CFR 668.21(a)(1)).

Direct Loan Funds

The institution must return all Direct Loan funds that were

a. Credited to the student's account for that payment period or period of enrollment;

b. Payments made directly by or on behalf of the student to the institution for that payment period or period of enrollment, up to the total amount of the loan funds disbursed; or

c. Disbursed directly to the student if the institution knew that a student would not begin attendance prior to disbursing the funds directly to the student for that payment period or period of enrollment (e.g., the student notified the institution that he or she would not attend, or the institution expelled the student).

For remaining amounts of Direct Loan funds disbursed directly to the student for the payment period or period of enrollment (including funds disbursed directly to the student by the lender for a study-abroad program or for a student enrolled in a foreign institution), the institution must immediately notify the lender or the secretary, as appropriate, when it becomes aware that the student will not or has not begun attendance so that the lender or the secretary will issue a final demand letter to the borrower in accordance with 34 CFR 685.211 (34 CFR 668.21(a)(2)).

Deadline for return of funds by the institution

The institution must return those funds for which it is responsible as soon as possible, but no later than 30 days after the date that the institution becomes aware that the student will not or has not begun attendance (34 CFR 668.21(b)).

Timely return of funds by the institution

An institution returns Title IV funds timely if:

a. The institution deposits or transfers the funds into the bank account it maintains under 34 CFR 668.163 as soon as possible, but no later than 30 days after the date that the institution becomes aware that the student will not or has not begun attendance;

b. The institution initiates an EFT as soon as possible, but no later than 30 days after the date that the institution becomes aware that the student will not or has not begun attendance;

c. The institution initiates an electronic transaction, as soon as possible, but no later than 30 days after the date that the institution becomes aware that the student will not or has not begun attendance, that informs the lender to adjust the borrower's loan account for the amount returned; or

d. The institution issues a check as soon as possible, but no later than 30 days after the date that the institution becomes aware that the student will not or has not begun attendance; an institution does not satisfy this requirement if

   (1) The institution's records show that the check was issued more than 30 days after the date that the institution becomes aware that the student will not or has not begun attendance; or

   (2) The date on the cancelled check shows that the bank used by the secretary endorsed that check more than 45 days after the date that the institution becomes aware that the student will not or has not begun attendance (34 CFR 668.21(d)).

Audit Objectives Determine if the institution—

Accurately calculated return of Title IV funds for withdrawn students who began attendance, allocated the return of Title IV funds as required, returned Title IV funds timely (unless the student met one of the R2T4 withdrawal exemptions), and notified borrowers of returned loans;

Timely returned all Title IV funds when a student did not begin attendance as required; and

Followed the requirements for post-withdrawal disbursements as applicable.

Suggested Audit Procedures

a. Using a sample of students who ceased attendance during a payment period or period of enrollment (including those who met one of the withdrawal exemptions), dropped, on a leave of absence, never began attendance or terminated during the audit period ascertain if returns of Title IV funds were properly calculated. Obtain and inspect student academic and financial aid files, student ledger accounts, financial records, and, if applicable, attendance records. Ensure that for students enrolled in distance education courses, documented

attendance includes academic engagement, not merely logging in to an online platform; when applicable to the determination of last day of attendance (See the discussion under *FSA Handbook*, Volume 5, Chapter 2: Documenting attendance when students are enrolled in distance education courses). From the records determine:

(1) If the student's enrollment status (or enrollment intensity for Pell Grant funds) is correct (official or unofficial withdrawal or enrolled or graduated only if the student met the requirements for one of the withdrawal exemptions).

(2) Whether the calculation is calculated accurately. Calculating return of Title IV funds may be made using the worksheets found in the Appendix to Volume 5 of the *FSA Handbook.*

b. For instances in the sample tested in procedure a. above where a return of Title IV was required, trace the return of Title IV funds to disbursement and accounting records (including canceled checks to ED and students) to verify that returned Title IV funds were applied to programs in the required order and were timely. Ascertain that within 45 days (or within 30 days for students that never began attendance) of becoming aware that the student had withdrawn, deposits or transfers were made into the federal funds account, electronic transfers were initiated, or checks were issued. When an institution issues a check, the return of Title IV is not timely if the institution's records show that the check was issued more than 45 days after the institution becomes aware that the student withdrew (or more than 30 days for students that never began attendance) or the date on the cancelled check shows that the bank used by ED endorsed the check more than 60 days after the institution becomes aware that the student withdrew (or more than 45 days for students that never began attendance).

c. For a sample of students who received Title IV assistance, for which no return of Title IV funds were made, review academic and enrollment records (including class attendance records if they are required) to ascertain whether the students sufficiently completed the payment or enrollment period to earn the Title IV funds received (earned 100% of Title IV funds received if completed more than 60% of the payment period/period of enrollment) or met one of the withdrawal exemptions. When doing this, for students who received all failing and/or all incomplete grades, review records to ascertain whether the students had attended the institution or had attended but withdrawn (unofficial withdrawals). Ensure that for students enrolled in distance education courses, documented attendance includes academic engagement, not merely logging in to an online platform.

d. For instances in the sample tested in procedure a. above where the student or parent was eligible for a post-withdrawal disbursement, ascertain if appropriate notification of the post-withdrawal disbursement was given to the student or parent. Review evidence of the student or parent's acceptance or rejection of the

post-withdrawal disbursement. Determine if the institution followed the student or parent's instructions regarding the post-withdrawal disbursement.

6. NSLDS Reporting

Compliance Requirements: Institutions are required to report enrollment information under the Pell Grant and the Direct Loan and FFEL programs via the NSLDS (*OMB No. 1845-0035*), although FFEL loans are no longer made or a part of the SFA Cluster, a student may have a FFEL loan from previous years that would require enrollment reporting for that student (Pell, 34 CFR 690.83(b)(2); FFEL, 34 CFR 682.610; Direct Loan, 34 CFR 685.309; Perkins 34 CFR 674.19(f)). The administration of the Title IV programs depends heavily on the accuracy and timeliness of the enrollment information reported by institutions. Institutions must review, update, and certify student enrollment statuses, program information, and effective dates that appear on the Enrollment Reporting Roster file or on the Enrollment Maintenance page of the NSLDS Professional Access (NSLDSFAP) website which the financial aid administrator can access for the auditor. The data on the institution's Enrollment Reporting Roster, or Enrollment Maintenance page, is what NSLDS has as the most recently certified enrollment. There are two categories of enrollment information, "Campus Level" and "Program Level," both of which need to be reported accurately and have separate record types. The *NSLDS Enrollment Reporting Guide* provides the requirements and guidance for reporting enrollment details using the NSLDS Enrollment Reporting Process. The guide can be accessed at https://fsapartners.ed.gov/knowledge-center/library/resource-type/NSLDS%20User%20Resources?nslds_type=NSLDS%20User%20Documentation.

Institutions are responsible for accurately reporting all Campus-Level Record data elements. ED considers the following data elements to be high risk:

- OPEID Number – This is the OPEID for the location that the student is actually attending.

- Enrollment Effective Date – The date that the current enrollment status reported for a student was first effective. (See 4.4.2 of the *NSLDS Enrollment Reporting Guide* for the specific requirements for reporting the Enrollment Effective Date. Also see 4.4.3 of the *NSLDS Enrollment Reporting Guide* for additional guidance on effective dates for Withdrawal versus Graduation and Electronic Announcement titled – *NSLDS Enrollment Reporting – Submission Dates, Effective Dates and Certification Dates,* dated April 20, 2017, for additional information and examples at https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2017-04-20/general-subject-nslds-enrollment-reporting-submission-dates-effective-dates-and-certification-dates.)

- Enrollment Status – The student's enrollment status as of the reporting date; full-time (F), three-quarter time (Q), half-time (H), less than half-time (L), leave of absence (A), graduated (G), withdrawn (W), deceased (D), never attended (X) and record not found (Z). (See 4.4.4 of the *NSLDS Enrollment Reporting Guide* for additional guidance on reporting graduated and withdrawn for the Campus-Level

Record versus the Program Level Record and 4.4.10 for further guidance on Enrollment Status reporting at the Campus-Level Record and the Program-Level Record.)

- Certification Date – The Date enrollment certified by institution. At a minimum, institutions are required to certify enrollment every 60 days or every other month.

Institutions are responsible for accurately reporting all Program-Level Record data elements. ED considers the following data elements to be high risk:

- OPEID Number – This is the OPEID for the location that the student is actually attending.

- CIP Code – The Classification of Instructional Programs (CIP) is a set of codes that define fields of study. CIP Codes are maintained by ED's National Center for Education Statistics (NCES). They were most recently updated in 2020 and are usually updated every ten years. A listing of current CIP codes is available at: https://nces.ed.gov/ipeds/cipcode/resources.aspx?y=56.

- CIP Year – Year for the corresponding CIP code. The CIP Year for the codes currently used by NSLDS is 2020.

- Credential Level – Indicates the level of a credential the student will receive for the program the student is attending, for example undergraduate certificate, associate degree, or bachelor's degree. (See 4.4.7 of the *NSLDS Enrollment Reporting Guide* for additional guidance on reporting the Credential Level.)

- Published Program Length Measurement – The institution identifies whether the Published Program Length is in days, weeks, or years.

- Published Program Length - Published Program Length should be reported based on the definition of "normal time" to completion in the regulations at 34 CFR 668.41(a), as follows:

  > If the institution has published, in its catalog, on its website, or in any promotional materials, the length of the program in weeks, months, or years, the program length reported must a be the same as the program length that the institution has published.
  >
  > If the institution has not published a program length and the program is an associate or bachelor's degree program, the program length to be reported should be two years (associate) or four years (bachelor), respectively, unless the academic design of the program makes it longer or shorter than the typical program length.
  >
  > For all other programs for which the institution has not published a program length, the program length is based on the institution's

determination of how long, in weeks, months, or years, the program is designed for a full-time student to complete.

(See 4.4.6 of the *NSLDS Enrollment Reporting Guide* for additional guidance.)

- Program Begin Date – The Program Begin Date is the date the student first began attending the program being reported. Typically, this would be the first day of the term in which the student began enrollment in the program, unless the student enrolled in the program on an earlier date. (See 4.4.8 of the *NSLDS Enrollment Reporting Guide* for additional guidance.)

- Program Enrollment Status – The student's enrollment status as of the reporting date; full-time (F), three-quarter time (Q), half-time (H), less than half-time (L), leave of absence (A), graduated (G), withdrawn (W), deceased (D), never attended (X) and record not found (Z). (See 4.4.4 of the *NSLDS Enrollment Reporting Guide* for additional guidance on reporting graduated and withdrawn for the Campus-Level Record versus the Program Level Record and 4.4.10 for further guidance on Enrollment Status reporting at the Campus-Level Record and the Program-Level Record.)

- Program Enrollment Effective Date – The date when the student's current program status first took effect.

When a Direct Loan was made to or on behalf of a student who was enrolled or accepted for enrollment at the institution, and the student ceased to be enrolled on at least a half-time basis or failed to enroll on at least a half-time basis for the period for which the loan was intended; or a student who is enrolled at the institution and who received a loan under Title IV has changed his or her permanent address, the institution must report the change in its next updated Enrollment Reporting Roster file (due within 60 days of the change).

Audit Objectives:

- Determine whether the institution is accurately notifying ED of changes in student enrollment information at the Campus Level and Program Level and is timely notifying ED of certain changes for Direct Loan borrowers.

Suggested Audit Procedures

a. Identify a population of Pell and Direct Loan students from the institution's records that had a reduction or increase in attendance levels impacting enrollment status, graduated, withdrew, dropped out, or enrolled but never attended during the audit period and for whom the institution was required to report such change in enrollment status from the beginning of the institution's fiscal year up to the last regularly scheduled Enrollment Roster From the population identified, select a sample of students and compare the data in the student's NSLDS Enrollment Detail to the students' academic files and other institutional records and verify

that the institution is accurately reporting the significant Campus-Level and Program-Level enrollment data elements that ED considers high risk.

b. For instances in the sample tested in procedure a. above where a Direct Loan was made to or on behalf of a student who was enrolled or accepted for enrollment at the institution, and the student ceased to be enrolled on at least a half-time basis or failed to enroll on at least a half-time basis for the period for which the loan was intended; or a student who is enrolled at the institution and who received a loan under Title IV has changed his or her permanent address, determine whether the institution reported the change in its next updated Enrollment Reporting Roster file.

7. Student Loan Repayments (HPSL/PCL/LDS and NSL, and NFLP)

HHS Programs

Compliance Requirements HPSL/PCL/LDS and NSL loans made prior to November 13, 1998, including accrued interest, are repayable in equal or graduated periodic installments in amounts calculated on the basis of a 10-year repayment period. For HPSL/PCL/LDS loans the repayment period is not less than 10 and not more than 25 years, at the discretion of the institution. For NSL loans after November 13, 1998, the 10-year repayment period may be extended for ten years for any student borrower who, during the repayment period failed to make consecutive payments and who, during the last 12 months of the repayment period, has made at least 12 consecutive payments (42 USC 292r(c) and 297b(b)(8) (Sections 722(c) and 836(b)(8) of PHS Act); Pub. L. No. 105-392, Sections 133(a)(2) and 134(a)(3)). Except as required in 42 CFR 57.210(a), a repayment of a HPSL/PCL/LDS loan must begin one year after the student ceases to be a full-time student. For a NSL loan, repayment must begin nine months after the student ceases to be a full-time or half-time student, except as required in 42 CFR 57.310(a).

For NFLP, loans are repayable in equal or graduated periodic installments in amounts calculated on the basis of a 10-year repayment period. Following graduation from the nursing program, up to 85 percent of the principal and interest of an NFLP loan can be cancelled if the student borrower serves as full-time nurse faculty for four years. For this program, “full-time” is defined as either (1) a full-time faculty member at an accredited institution of nursing; or (2) a part-time faculty member at an accredited institution of nursing, in combination with another part-time faculty position or part-time clinical preceptor position affiliated with an accredited institution of nursing that, together, equate to full-time employment. The loan cancellation over the four-year period is as follows: (1) the institution will cancel 20 percent of the principal and interest on the NFLP loan, as determined on the first day of employment, upon completion by the borrower of each of the first, second, and third years of full-time employment as a faculty member in an institution of nursing; and (2) the institution will cancel 25 percent of the principal and interest on the NFLP loan, as determined on the first day of employment, upon completion of the fourth year of full-time employment as a faculty member in an institution of nursing. Repayment on the remaining 15 percent of the loan balance is

postponed during the cancellation period. NFLP loans are repayable and/or cancelled over a 10-year repayment period. NFLP loans accrue interest at a rate of 3 percent per annum for loan recipients who establish employment as full-time nurse faculty (Funding Opportunity Announcements at https://www.hrsa.gov/grants/find-funding?search=nflp&status=All&bureau=85).

Loans under the HPSL/PCL/LDS, NSL, and NFLP programs may be cancelled only in the event that the borrower dies or becomes disabled (HPSL/PCL/LDS; 42 CFR 57.211 and 57.213a; NSL; 42 CFR 57.311 and 57.313a; and NFLP Administrative Guidelines, Disability and Death (https://bhw.hrsa.gov/funding/schools-manage-loan-programs).

Institutions must exercise due care and diligence in the collection of loans (HPSL/PCL/LDS, NSL, and NFLP, 42 CFR 57.210(b) and 57.310(b), and NFLP Program Guidance, Institutional Responsibility in Repayment Process, respectively).

Audit Objectives Determine whether institutions are timely converting loans to repayment, establishing repayment plans, processing cancellation requests, and servicing loans as required.

Suggested Audit Procedures

Note: Many institutions engage third-party servicers for billing, collection, and processing deferment and cancellation requests. Although these institutions remain responsible for compliance, auditors of these institutions may exclude the audit procedures below for the compliance requirements performed by a third-party servicer.

a. Select a sample of loans that entered repayment during the audit period and review loan records to verify that the conversion to repayment was timely, and that a repayment plan was established.

b. Review the institution's requirements for applying for and documenting eligibility for loan cancellations. Select a sample of loans that were cancelled during the audit period and review documentation to ascertain whether the cancellations were adequately supported.

c. Select a sample of loans that have defaulted during the year and review loan records to ascertain if the required interviews, contacts, billing procedures, and collection procedures were carried out.

8. Incentive Compensation

SFA – Title IV Programs

Compliance Requirements According to 34 CFR 668.14(b)(22)(i), an institution agrees in its Program Participation Agreement that "[i]t will not provide any commission, bonus, or other incentive payment based in any part, directly or indirectly, upon success in securing enrollments or the award of financial aid, to any person or entity who is engaged in any student recruitment or admission activity, or in making decisions regarding the

award of title IV, HEA program funds." Dear Colleague Letter GEN-11-05 includes a Q&A on Incentive Compensation that provides additional information.

Applicable definitions:

A commission, bonus, or other incentive payment is a sum of money or something of value, other than a fixed salary or wages, paid to or given to a person or an entity for services rendered (34 CFR 668.14(b)(22)(iii)(A)).

Enrollment is the admission or matriculation of a student into an eligible institution (34 CFR 668.14(b)(22)(iii)(D)).

Securing enrollments or the award of financial aid means activities that a person or entity engages in at any point in time through completion of an educational program for the purpose of the admission or matriculation of students for any period of time or the award of financial aid to students. Securing enrollments or the award of financial aid includes contact in any form with a prospective student, such as, but not limited to - contact through preadmission or advising activities, scheduling an appointment to visit the enrollment office or any other office of the institution, attendance at such an appointment, or involvement in a prospective student's signing of an enrollment agreement or financial aid application (34 CFR 668.14(b)(22)(iii)(B)(1)).

Securing enrollments or the award of financial aid does not include making a payment to a third party for the provision of student contact information for prospective students provided that such payment is not based on any additional conduct or action by the third party or the prospective students, such as participation in preadmission or advising activities, scheduling an appointment to visit the enrollment office or any other office of the institution or attendance at such an appointment, or the signing, or being involved in the signing, of a prospective student's enrollment agreement or financial aid application; or the number of students (calculated at any point in time of an educational program) who apply for enrollment, are awarded financial aid, or are enrolled for any period of time, including through completion of an educational program (34 CFR 668.14(b)(22)(iii)(B)(2)(i) and (ii)).

An entity or person engaged in any student recruitment or admission activity or in making decisions about the award of financial aid is-

- With respect to an entity engaged in any student recruitment or admission activity or in making decisions about the award of financial aid, any institution or organization that undertakes the recruiting or the admitting of students or that makes decisions about and awards title IV, HEA program funds; and
- With respect to a person engaged in any student recruitment or admission activity or in making decisions about the award of financial aid, any employee who undertakes recruiting or admitting of students or who makes decisions about and awards title IV, HEA program funds, and any higher level employee with responsibility for recruitment or admission of students, or making decisions about awarding title IV, HEA program funds (34 CFR 668.14(b)(22)(iii)(C)(1) and (2)).

Although the definitions refer to recruiter enrollment activities that may occur "through completion," ED clarified that it does not interpret the regulations to ban compensation for recruiters that is based upon students' graduation from, or completion of, educational programs (see 80 FR 73991 (Nov. 27, 2015)).

Merit-based adjustments

The regulation specifies in 34 CFR 668.14(b)(22)(ii) that, notwithstanding 34 CFR 668.14(b)(22)(i), eligible institutions, organizations that are contractors to eligible institutions, and other entities may make merit-based adjustments to employee compensation provided that such adjustments are not based in any part, directly or indirectly, upon success in securing enrollments or the award of financial aid; and profit-sharing payments so long as such payments are not provided to any person or entity engaged in student recruitment or admission activity or in making decisions regarding the award of title IV, HEA program funds.

In GEN-11-05, ED has stated that incentive payments in the form of tuition sharing with entities may be permitted in limited circumstances when an unrelated third party provides recruiting services as part of a bundle of services.

Applicability to Title IV and non-Title IV educational offerings

Section 487(a)(20) of the HEA provides that compensation may not be based upon success in securing enrollments whether the students receive title IV, HEA funds, or some other form of student financial assistance (Federal Register, Volume 75, Number 117, Page 34817). Thus, the prohibition on the provision of any commission, bonus, or other incentive payment based in any part, directly or indirectly, upon success in securing enrollments or the award of financial aid, to any person or entity who is engaged in any student recruitment or admission activity, or in making decisions regarding the award of title IV, HEA program funds applies to all educational offerings that an institution provides whether or not those educational offerings are eligible for title IV, HEA program funds.

Applicability to contractors and employees of contractors used for covered services

Many institutions offer programs that may or may not be eligible for title IV, HEA program funds that are managed by organizations that are contractors to the institution and the prohibition on the provision of any commission, bonus, or other incentive payment would apply to any agreement between the institution and any organization it contracts with for any educational offerings provided for in the contract. The Government Accountability Office issued a report on one such type of agreement known as Online Program Manager (OPM) agreements, where prohibited commissions, bonuses, or incentive payments were included in the agreements and not identified by either the institution or the institution's auditor (GAO-22-104463). When identifying entities that institutions may utilize for recruiting and other activities, in addition to agreements such as OPM agreements, auditors should be aware of contractors used to identify and provide

prospective students to institutions, which may be referred to as "lead generators" or "aggregators."

Even though an institution may have a contract with an organization that is free from any commission, bonus or other incentive payment on its face, the organization the institution is contracting with may be providing commissions, bonuses, or other incentive payments to its employees in violation of the prohibition on commissions, bonuses, or other incentive payments. The prohibition on commissions, bonuses or other incentive payments extends to any individual involved in securing enrollment or the awarding of financial aid and the organization that the institution is contracting with is prohibited from such commissions, bonuses or other incentive payments to individuals performing under the contract.

Audit Objectives Determine if the institution complied with the ban on incentive payments to any person in the admissions/recruiting, financial aid, and registrar offices (or the equivalent of those offices) that the institution relies on to recruit, admit, and/or enroll its students, or to award Title IV funds or any contracted entity engaged in any student recruitment, enrollment, or admission activity or in making decisions regarding the award of Title IV funds.

Suggested Audit Procedures

a. Identify those positions within the institution's admissions/recruiting, financial aid, and registrar offices (or the equivalent of those offices) involved in recruitment, enrollment, admissions, or securing financial aid activities (covered positions) and those entities the institution contracts with to recruit, admit, or enroll students into any program offered by the institution, including OPM agreements (covered entities). Determine whether the institution's written policies and procedures, compensation plans, performance plans, contracts, or other documentation or guidelines for evaluating and compensating covered positions or covered entities indicate a potential incentive compensation violation.

b. For any covered position or covered entity from procedure a. where the auditor determined documentation reviewed indicated a potential incentive compensation violation, test performance, compensation, and payment records for a sample of employees in those covered positions and a sample of covered entities to determine whether the employees or entities received incentive compensation based on success in recruiting, admitting, or enrolling students in any program offered by the institution or for the awarding of Title IV funds.

c. If the institution has tuition sharing with an entity that provides recruiting services as part of a bundle of services, review the institution's records identified in procedure c for evidence that the contracted entity is related to the institution.

9. Program Eligibility

SFA - Title IV Programs

Compliance Requirements: An Educational program is a legally authorized postsecondary program of organized instruction or study that leads to an academic, professional, or vocational degree, or certificate, or other recognized educational credential, or is a comprehensive transition and postsecondary program.

Program eligibility is evaluated based on two measures: intensity of content (clock hours and credit hours) and time (academic years and weeks of instructional time).

Content

The content of a program for purposes of the Title IV programs is measured in either clock hours or credit hours. It is important to understand the definitions of both credit hours and clock hours because some programs may state that they are measured in credit hours, but in certain circumstances the regulations require those programs be measured and evaluated for program eligibility and student eligibility based on clock hours.

Clock Hours

A clock hour offered in a classroom setting is a period of time consisting of a 50- to 60-minute class, lecture, or recitation in a 60-minute period (34 CFR 600.2 Clock hour (1)(i). A clock hour in a faculty supervised laboratory, shop training, or internship is 50 to 60 minutes in a 60-minute period (34 CFR 600.2 Clock hour (1)(ii). A clock hour for a program offered through correspondence is sixty minutes of preparation in a correspondence course (34 CFR 600.2 Clock Hour (1)(iii)).

For a program offered through distance education a clock hour is 50 to 60 minutes in a 60-minute period of attendance in a synchronous or asynchronous class, lecture, or recitation where there is opportunity for direct interaction between the instructor and students; or an asynchronous learning activity involving academic engagement in which the student interacts with technology that can monitor and document the amount of time that the student participates in the activity. A clock hour in a distance education program does not meet the requirements of this definition if it does not meet all accrediting agency and State requirements or if it exceeds an agency's or State's restrictions on the number of clock hours in a program that may be offered through distance education (34 CFR 600.2 Clock Hour: (1)(iv) and (2)).

No matter how a program measured in clock hours is delivered an institution must be capable of monitoring a student's attendance in 50 out of 60 minutes for each clock hour under this definition (34 CFR 600.2 Clock Hour: (3)).

NOTE: Programs offered through direct assessment are not measured in clock hours. For traditional on ground programs, a clock hour is a period of time consisting of a 50- to 60-minute class, lecture, or recitation in a 60-minute period; or a 50- to 60-minute faculty-supervised laboratory, shop training, or internship in a 60-minute period (34 CFR 600.02 Clock Hour: (1)(i) and (ii)).

Credit Hours

Unless a program is required to use the clock to credit hour conversion, a credit hour is an amount of student work defined by an institution, as approved by the institution's accrediting agency or State approval agency, that is consistent with commonly accepted practice in postsecondary education. A credit hour reasonably approximates not less than one hour of classroom or direct faculty instruction and a minimum of two hours of out-of-class student work each week for approximately fifteen weeks for one semester or trimester hour of credit, or ten to twelve weeks for one quarter hour of credit, or the equivalent amount of work over a different period of time; or at least an equivalent amount of work for other academic activities as established by the institution, including laboratory work, internships, practica, studio work, and other academic work leading to the award of credit hours (34 CFR 600.2 *Credit Hour* (1)(i) and (ii)).

The regulations also permit an institution, in determining the amount of work associated with a credit hour, to take into account a variety of delivery methods, measurements of student work, academic calendars, disciplines, and degree levels.

For programs that lead to an associate, bachelor's, professional, or graduate degree, the content and length of the programs is established by state agencies and accrediting agencies. ED generally accepts the content and length established for those programs.

Time

The length of a program, the amount of time to complete the program, is measured in academic years and weeks of instructional time.

Academic Year

An academic year for a credit hour program must include a minimum of 30 weeks of instructional time (34 CFR 668.3(a)(1)(i)) during which a full-time undergraduate student is expected to complete a minimum of 24 semester or trimester credit hours or 36 quarter credit hours (34 CFR 668.3(a)(2)(i)). For a clock-hour program an academic year must include a minimum of 26 weeks of instructional time (34 CFR 668.3(a)(1)(ii)) during which a full-time undergraduate student is expected to complete a minimum of 900 clock-hours (34 CFR 668.3(a)(2)(ii)).

Week of Instructional Time

A week of instructional time for other than distance education or correspondence programs is a week in which at least one day of regularly scheduled instruction or examinations occurs, or, after the last scheduled day of classes for a term or payment period, at least one day of study for final examinations occurs (34 CFR 668.3(b)(2)(i)).

For a program using asynchronous coursework offered through distance education or correspondence, a week of instructional time is a week in which the institution makes available the instructional materials, other resources, and instructor support necessary for academic engagement and completion of course objectives (34 CFR 668.3(b)(2)(ii)(A); and for asynchronous coursework through distance education, the institution expects

enrolled students to perform educational activities demonstrating academic engagement during the week (34 CFR 668.3(b)(2)(ii)(B)).

Eligible Programs

A program is Title IV-eligible if it is provided by an institution that participates in one or more of the Title IV programs and meets the requirements described in 34 CFR 668.8. The first and most important requirement for an eligible program is that it must be included in an institution's accreditation and authorized by the State. Once that requirement is met, if the program is offered by a public or nonprofit institution of higher education and leads to an associate, bachelor's professional, or graduate degree, or is at least two academic years in length and fully acceptable for full credit toward a bachelor's degree, it is an eligible program. (Note: Programs that lead to an associate, bachelor's professional, or graduate degree are generally considered eligible programs.)

If the program does not lead to a degree and is not at least two academic years in length, it must lead to a certificate or other non-degree recognized credential provided by the institution, provide training that prepares a student for gainful employment in a recognized occupation, and meet ED's minimum program length requirements.

The regulations at 34 CFR 668.8(d) allow an institution to offer three types of programs offered in clock-hours, semester or trimester credit hours, or quarter credit hours (668.8(d)(1) and (2)).

The first type of program must require a minimum of 15 weeks of instruction; must be at least 600 clock hours, 16 semester or trimester hours or 24 quarter hours and may admit as regular students persons who have not completed the equivalent of an associate degree (34 CFR 668.8(d)(1)).

The second type of program must require a minimum of 10 weeks of instruction, must be at least 300 clock hours, 8 semester or trimester hours, or 12 quarter hours and must either be a graduate or professional program or admit as regular students only persons who have completed the equivalent of an associate degree (34 CFR 668.8(d)(2)).

The regulations also allow an institution to offer a "short-term" program that includes fewer than 600 clock hours and admits students who have not completed the equivalent of an associate degree. Such programs qualify only for Direct Loan funds. These programs may only be offered in clock-hours and cannot be offered using semester credit hours or quarter credit hours. They require a minimum of 10 weeks of instruction, beginning on the first day of classes and ending on the last day of classes or examinations and must be at least 300 clock hours but less than 600 clock hours and provide undergraduate training that prepares a student for gainful employment in a recognized occupation.

In addition, short-term programs must meet 70 percent completion and 70 percent placement rate requirements (34 CFR 668.8(d)(3)(v)) described in more detail below.

Appendix B provides a flowchart of the process for determining program eligibility.

Other Programs

A small number of institutions offer approved comprehensive transition and postsecondary programs and teacher certification programs where the institution does not award a credential. Please see the Federal Student Aid Handbook, Volume 2 for more information about these types of programs.

Prison Education Programs (PEPs)

Some institutions offer Prison Education Programs to otherwise eligible confined or incarcerated students. Otherwise eligible confined or incarcerated students must be enrolled in an eligible PEP in order to receive Pell funds. See 34 CFR 668, Subpart P for PEP requirements. *Programs Requiring an Evaluation of Credit Hours and Clock-to-Credit Conversion*

Under the regulations, if an institution offers an undergraduate educational program in credit hours, the appropriate conversion formula must be applied unless: 1) The program is at least two academic years in length (a minimum of 60 weeks of instructional time) and provides an associate degree, a bachelor's degree, a professional degree, or an equivalent as determined by ED; or 2) Each course within the program is acceptable for full credit toward a single associate degree, bachelor's degree, or professional degree provided by that institution, or equivalent degree as determined by ED, provided that the institution's degree requires at least two academic years of study and the institution can demonstrate that students enroll in, and graduate from the degree program (34 CFR 668.8(k)). If the appropriate number of credit hours have not been assigned to a program, all aid to students in those programs must be recalculated based on the correct conversion supported by clock hours.

For a program offered in semester or trimester credit hours without an exemption, each credit hour must include at least 30 clock hours of instruction (34 CFR 668.8(l)(1). Programs offered in quarter credit hours without an exemption must include at least 20 clock hours of instruction (34 CFR 668.8(l)(2)). The institution must perform this conversion on a course-by-course basis and must award Title IV aid to students using the correct conversion calculation by payment period. More information on the clock-to-credit conversion calculation is available in the Federal Student Aid Handbook, Volume 2, Chapter 2, under "Determining Program Eligibility and Clock-Hour to Credit-Hour Conversions."

Minimum Program Completion and Placement Rates

A "short-term" program that is a minimum of 10 weeks of instruction, beginning on the first day of classes and ending on the last day of classes or examinations; is at least 300 clock hours but less than 600 clock hours; provides undergraduate training that prepares a student for gainful employment in a recognized occupation; and admits as regular students some persons who have not completed the equivalent of an associate degree must have a substantiated completion rate of at least 70 percent and a substantiated placement rate of at least 70 percent (34 CFR 668.8(e)(1)(i) and (ii)).

To calculate its completion rate, the institution must -

1. Determine the number of regular students who were enrolled in the program during the award year.
2. Subtract from the number of students enrolled in the program during the award year, the number of regular students who, during that award year, withdrew from, dropped out of, or were expelled from the program and were entitled to and actually received, in a timely manner a refund of 100 percent of their tuition and fees.
3. Subtract from the total obtained in 2 above the number of students who were enrolled in the program at the end of that award year.
4. Determine the number of regular students who, during that award year, received within 150 percent of the published length of the educational program the degree, certificate, or other recognized educational credential awarded for successfully completing the program.
5. Divide the number determined under 4 above by the total obtained under 3 above of this section (34 C.F.R, 668.8(f)).

To calculate its placement rate, the institution must –

1. Determine the number of students who, during the award year, received the degree, certificate, or other recognized educational credential awarded for successfully completing the program.
2. Of the total obtained who completed the program determined in 1 above, determine the number of students who, within 180 days of the day they received their degree, certificate, or other recognized educational credential, obtained gainful employment in the recognized occupation for which they were trained or in a related comparable recognized occupation and, on the date of this calculation, are employed, or have been employed, for at least 13 weeks following receipt of the credential from the institution.
3. Divide the number of students determined under 2 above by the total obtained under 1 above 34 C.F.R. 668.8(g)(1).

An institution must document that each student determined to have obtained gainful employment in a recognized occupation used in the placement rate calculation obtained gainful employment in a recognized occupation. Examples of satisfactory documentation of a student's gainful employment include, but are not limited to -

- A written statement from the student's employer;
- Signed copies of State or Federal income tax forms; and
- Written evidence of payments of Social Security taxes.

Audit Objective: Determine whether the programs offered by the institution are eligible programs.

Suggested Audit Procedures

a. Through inquiries of management, observations, and review of State and accrediting agency approval documents and school marketing material, identify any direct assessment programs offered by the institution. Review approval letter to determine whether ED has approved the institution's first direct assessment program at each credential level.

b. Through inquiries of management, observations, and review of State and accrediting agency approval documents and school marketing material, identify any Title IV eligible program offered in credit hours that does not meet one of the exceptions described in 34 CFR 668.8(k) *[exceptions are for programs that are at least two academic years in length (a minimum of 60 weeks of instructional time) and leads to an associate degree, a bachelor's degree, a professional degree, or an equivalent as determined by the ED; or each course within the program is acceptable for full credit toward a single associate degree, bachelor's degree, or professional degree provided by that institution, or equivalent degree as determined by the ED, provided that the institution's degree requires at least two academic years of study and the institution can demonstrate that students enroll in, and graduate from the degree program]*. Select a sample of these programs that includes coverage of all available modes of delivery (classroom, distance, and correspondence) and apply the appropriate clock to credit hour conversion formula on each course in the program to verify that the institution applied the appropriate clock to credit hour conversion formula. Note: This requirement applies to all programs the institution identifies as Title IV eligible programs at all Title IV eligible institutions unless exempt from the requirement as described in this suggested audit procedure.

c. For the sample of programs identified in procedure b, using the correct number of credit hours (as determined in procedure b), evaluate each program's eligibility, using Appendix B as a guide, considering the students allowed to be admitted to the program, mode of delivery requirements for content, and mode of delivery requirements for time.

d. Through review of ED approvals, identify any short-term programs (at least 300 clock hours but less than 600 clock hours) and substantiate the school's calculation of its completion and placement rates by (1) selecting a random sample of the regular students who were enrolled during the award year for which the most recent completion rate was calculated and testing to verify if each student in the sample was included appropriately in each step of the rate's calculation, as described in 34 CFR 668.8(f); and (2) selecting a random sample of the students who graduated during the award year for which the most recent placement rate was calculated and testing to verify if each student in the sample was included appropriately in each step of the rate's calculation, as described in 34 CFR 668.8(g). Note: This requirement applies to all short-term programs at all Title IV eligible institutions (See Section III.B. Title IV Programs – General for a

discussion about when an institution of higher education can also be considered a postsecondary vocational institution).

10. Gramm-Leach-Bliley Act–Student Information Security

SFA - Title IV Programs

Compliance Requirements The Gramm-Leach-Bliley Act (Pub. L. No. 106-102) (GLBA) requires financial institutions to explain their information-sharing practices to their customers and to safeguard sensitive data (16 CFR 314). The Federal Trade Commission considers Title IV-eligible institutions that participate in Title IV Educational Assistance Programs as "financial institutions" and subject to the Gramm-Leach-Bliley Act because they appear to be significantly engaged in wiring funds to consumers (16 CFR 313.3(k)) Institutions agree to comply with GLBA in their Program Participation Agreement and their Student Aid Internet Gateway (SAIG) Agreement with ED. Institutions must protect student financial aid information, with particular attention to information provided to institutions by ED or otherwise obtained in support of the administration of the Federal student financial aid programs (16 CFR 314.3; HEA 483(a)(3)(C), HEA 485B(d)(2), HEA 494, and Internal Revenue Code (IRC) 6103(l)(13)). ED issued an Electronic Announcement in February 2023 on GLBA compliance that can be found at (General-23-09) Updates to the Gramm-Leach-Bliley Act Cybersecurity Requirements . ED also provides additional information about cybersecurity requirements, partner resources, and data breach reporting requirements at: https://fsapartners.ed.gov/title-iv-program-eligibility/cybersecurity.

On December 9, 2021, the FTC issued final regulations for 16 CFR Part 314 to implement the GLBA information safeguarding standards that institutions must implement. These regulations significantly modified the requirements that institutions must meet under GLBA. The regulations established minimum standards that institutions must meet. The FTC stated that it "believes many of the requirements set forth in the Final Rule are so fundamental to any information security program that the information security programs of many financial institutions will already include them if those programs are in compliance with the current Safeguards Rule." Institutions were required to be in compliance with the revised requirements by June 9, 2023.

Institutions are required to develop, implement, and maintain a comprehensive information security program that is written in one or more readily accessible parts. The regulations require the written information security program to include nine elements for institutions with 5,000 or more customers, (16 CFR 314.3(a)). The written information security program for institutions with fewer than 5,000 customers must address seven elements (16 CFR 314.3(a) and 16 CFR 314.6). In the preamble to the Final Rule, the FTC stated, "Proposed § 314.4 [Elements] altered the current Rule's required elements of an information security program and added several new elements." The FTC also stated, "[t]he elements for the information security programs set forth in this section [16 CFR 314.4} are high-level principles that set forth basic issues the programs must address, and do not prescribe how they will be addressed." The elements that an institution must

address in its written information security program are at 16 CFR 314.4. At a minimum, an institution's written information security program –

- Designates a qualified individual responsible for overseeing and implementing the institution's information security program and enforcing the information security program in compliance (16 CFR 314.4(a)).
- Provides for the information security program to be based on a risk assessment that identifies reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of customer information (as the term customer information applies to the institution) that could result in the unauthorized disclosure, misuse, alteration, destruction, or other compromise of such information, and assesses the sufficiency of any safeguards in place to control these risks (16 CFR 314.4(b)).
- Provides for the design and implementation of safeguards to control the risks the institution identifies through its risk assessment (16 CFR 314.4(c)). At a minimum, the institution's written information security program must address the implementation of the minimum safeguards identified in 16 CFR 314.4(c)(1) through (8). The eight minimum safeguards that the written information security program must address are summarized as follows:
  - Implement and periodically review access controls.
  - Conduct a periodic inventory of data, noting where it's collected, stored, or transmitted.
  - Encrypt customer information on the institution's system and when it's in transit.
  - Assess apps developed by the institution.
  - Implement multi-factor authentication for anyone accessing customer information on the institution's system.
  - Dispose of customer information securely.
  - Anticipate and evaluate changes to the information system or network.
  - Maintain a log of authorized users' activity and keep an eye out for unauthorized access.
- Provides for the institution to regularly test or otherwise monitor the effectiveness of the safeguards it has implemented (16 CFR 314.4(d)).
- Provides for the implementation of policies and procedures to ensure that personnel are able to enact the information security program (16 CFR 314.4(e)).
- Addresses how the institution will oversee its information system service providers (16 CFR 314.4(f)).
- Provides for the evaluation and adjustment of its information security program in light of the results of the required testing and monitoring; any material changes to its operations or business arrangements; the results of the required risk assessments; or any other circumstances that it knows or has reason to know may have a material impact the institution's information security program (16 CFR 314.4(g)).

The first element that an institution's written information security program must address is the designation of an individual with responsibility for implementing and enforcing an institution's written information security program. The regulations refer to this

individual as the Qualified Individual. If an institution has not designated a Qualified Individual, it is not in compliance with the GLBA requirements. The Qualified Individual, has ultimate responsibility and accountability for implementing and enforcing the institution's information security program (16 CFR 314.4(a)). The regulations do provide for an institution to use a service provider as the Qualified Individual. In cases where an institution uses a service provider as the Qualified Individual, the institution must –

- Retain responsibility for compliance with GLBA;
- Designate a senior member of its personnel responsible for direction and oversight of the Qualified Individual; and
- Require the service provider or affiliate to maintain an information security program that protects the institution in accordance with the requirements of the regulations at 16 CFR Part 314(a)(1) through (3).

Because the written information security program may be in one or more readily accessible parts and the Qualified Individual is responsible for implementing and monitoring the information security program, it is ED's expectation that the Qualified Individual would be able to provide the written information security program that addresses the elements required for the written information security program to the auditors.

Audit Objectives Determine whether the institution designated a Qualified Individual responsible for implementing and monitoring the institution's information security program.

Determine whether the institution's written information security program addresses the required minimum seven elements.

Suggested Audit Procedures

a. Verify that the institution has designated a Qualified Individual responsible for implementing and monitoring the institution's information security program.

b. Verify that the institution has a written information security program and that the written information security program addresses the remaining six required minimum elements.

11. Federal Perkins Loan Liquidation

SFA - Title IV Programs

Compliance Requirements For an institution that decided to stop participating in the Federal Perkins Loan program (Perkins) (Assistance Listing 84.038), the institution is responsible for returning any unspent funds (34 CFR section 668.14(b)(25)). The institution must perform the end-of-participation procedures in which it must (a) notify ED of the intent to stop participating in Perkins (34 CFR section 668.26(b)(1)); (b) transfer any outstanding loans left in its Perkins portfolio through assignment to ED or

purchase them (34 CFR sections 674.8(d), 674.17(a)(2), and 674.45(d)(2)); and (c) maintained program and fiscal records of all Perkins funds since the most recent Fiscal Operations Report (FISAP) was submitted, and reconciled this information with the FISAP (34 CFR section 674.19(d)). The FISAP form is available at https://fsapartners.ed.gov/knowledge-center/topics/campus-based-processing-information/fisap-form-and-instructions.

ED has compiled its guidance on the Perkins loan program wind-down, liquidation, and closeout at Campus-Based Processing Information | Knowledge Center https://fsapartners.ed.gov/knowledge-center/library/program/Perkins%20Loan. In addition to the Assignment and Liquidation Guide, the website also includes a which has further information. The website is updated by ED as additional guidance is developed.

Audit Objectives For institutions not electing to have an independent Perkins closeout audit outside of the single audit, determine whether the institution ceasing to participate in the Perkins loan program has properly performed end-of-participation procedures.

Suggested Audit Procedures

a. Review, evaluate, and document that the institution notified ED of its intent to liquidate its Perkins loan portfolio and fund.

b. If the institution has completed the liquidation of its Perkins loan portfolio, ascertain that the institution has transferred its outstanding portfolio of loans with outstanding balances through the assignment process to ED or purchased any loans with outstanding balances that were not assigned.

c. If the process of liquidating outstanding loans has not been completed, verify that the institution has begun to assign those loans to ED.

d. Ascertain that the institution, as part of its procedures for maintaining program and fiscal records for all transactions that occurred after the most recent FISAP was filed, reconciled the following information:

   (1) All loans for the total number of borrowers that make up the portfolio have been accounted for. This includes retired loans (including loans purchased) and loans assigned to ED (including validation of the computed accumulated interest charged on the loans);

   (2) Overall cash-on-hand balance (this overall cash-on-hand amount would include payment to the Perkins fund for any loans the institution may have purchased) (Section A, Line 1.1).

e. If the liquidation process is complete, validate that any remaining cash in the fund was liquidated and that the federal portion is returned to ED.

IV. OTHER INFORMATION

While the programs included in this cluster are generally similar in their intent, administration, documentation, etc., there are differences among them. Because of space considerations, this cluster supplement does not list all of the differences, exceptions to general rules or nuances pertaining to specific programs. Auditors should use regulations and guidance applicable to the year(s) being audited when auditing the SFA programs.

SFA - Title IV Programs

All Pell Payment Data for an award year must be submitted by September 30 after the award year. Adjustments for Pell Grants not claimed by September 30 can be made if the first audit report for the period in which the unclaimed Pell Grants were made contains a finding that the institution made proper Pell awards for which it has not received either reimbursement or credit.

Upcoming 2025-26 changes and information on current injunctions

There were changes to institutional eligibility requirements that were effective for the 2024-25 award year that will be addressed in the 2025-26 Compliance supplement. Some of these changes are impacted by an injunction and guidance related to the updates cannot be made until that process is completed. The areas that will be addressed in the future are provided below:

- *Distance Education requirements.* In each state in which the institution is located; students enrolled by the institution in distance education or correspondence courses are located, as determined *at the time of initial enrollment* in accordance with 34 CFR 600.9(c)(2); or for the purposes of 34 CFR 668.14(b)(32)(i) and (ii), each student who enrolls in a program on or after July 1, 2024, **and attests that they intend to seek employment**, the institution must determine that each program eligible for *Title IV* funds satisfies the applicable educational requirements for professional licensure or certification requirements in the state where the student is located at the time of initial enrollment. The Department will develop audit procedures for this new requirement and will include additional information in the 2025-26 compliance supplement.
- *State requirements and program length.* The Financial Responsibility, Administrative Capability, Certification Procedures, and Ability to Benefit Final Rule published by the Department on October 31, 2023, amends the program length restrictions at 34 CFR 668.14(b)(26) effective July 1, 2024. The revised regulations rescind the 150 percent rule that existed prior to this date, further limiting the length of GE programs. On June 21, 2024, the United States District Court for the Northern District of Texas, in 360 Degrees Education, LLC, et al. v. U.S. Department of Education, et al., granted the plaintiff's motion for a preliminary injunction preventing the Department from enforcing the changes to 34 CFR 668.14(b)(26), pending a decision by the Court. Therefore, until further notice, institutions must continue to comply with the maximum program length regulations that were in effect prior to July 1, 2024. The existing regulations limit the maximum program length of GE programs to 150 percent of a state's minimum

educational requirements for licensure, or 100 percent of the requirements of an adjacent state, whichever is greater

Important resources to consider for these 2025-26 potential future updates include:

- FSA Knowledge Center
- Electronic Announcement regarding injunction impacting the implementation of changes to 34 CFR 668.14(b)(26) (GENERAL 24-83)
- The Financial Responsibility, Administrative Capability, Certification Procedures, and Ability to Benefit Final Rule published by the Department on October 31, 2023

APPENDIX A

STUDENT FINANCIAL ASSISTANCE PROGRAMS

STUDENT ELIGIBILITY COMPLIANCE REQUIREMENTS

Requirements	PELL	FWS	FSEOG	TEACH	DIRECT LOAN	HSPL/PCL /LDS	NSL/NFLP	SDS
1. A regular student enrolled or accepted for enrollment in an eligible program (34 CFR 600.2, 668.32(a)(1)(i), 690.75, 675.9, 676.9, 685.200, 686.11, 20 USC 1070h; 42 CFR 57.206(a) and 57.306(a), 42 USC 293a(d)(2))[1] unless meeting an exception.	x	x	x	x	x	x	x	
2. The institution has resolved all ISIR codes as applicable.	x	x	x	x	x	x	x	
3. Has financial need and total awards do not exceed need (34 CFR 675.9(c), 676.9(c), 685.200(a)(2)(i), 690.63, 20 USC 1070a, 42 CFR 57.206(b) and 57.306(b); 42 USC 293a(d)(2)); 42 USC 297n-1(c)(2))	x[2]	x	x		x[3]	x	x	x
4. Must maintain good standing, or satisfactory academic progress (34 CFRs 668.16, 668.32(f), 668.34, 690.75, 675.9, 676.9, 685.200, 686.11, 20 USC 1070h; 42 CFR 57.306; 42 USC 293a(d)(2))	x	x	x	x	x	x	x	
5. Has a high school diploma, its recognized equivalent, or another indication of high school completion status, or qualifies for one of the ability-to-benefit (ATB) alternatives(34 CFR 668.32(e), 690.75, 675.9, 676.9, 685.200, 686.11, 20 USC 1070h)	x	x	x	x	x			
6. Is not enrolled in either an elementary or secondary school (34 CFR 668.32(b))	x	x	x	x	x			
7. For an undergraduate student, has not completed coursework for a first baccalaureate (34 CFR 668.32(c))[5]	x		x	x				
8. An undergraduate student has received for award year, a FAFSA Submission Summary or determination of eligibility or ineligibility for a Federal Pell Grant (34 CFR 676.10, 685.200(a)(1)(iii), 690.75, 20 USC 1070h)	x		x		x			
9. Is enrolled or accepted for enrollment as an undergraduate student at the institution (34 CFR 676.9(b), 690.75(a)(2))	x		x					
10. If the student is a confined or incarcerated individual as defined in 34 CFR 600.2, is enrolled in an eligible prison education program as defined in § 668.236	x	x	x	x				
11. If the student is not a regular student enrolled or accepted for enrollment in an eligible program (see item 1 above), the student is enrolled half-time in preparatory coursework necessary for enrollment in an eligible program for not longer than one consecutive 12-month period (34 CFR 668.32(a)(1)(ii)), 685.203(a)(6)					x			

Requirements	PELL	FWS	FSEOG	TEACH	DIRECT LOAN	HSPL/PCL /LDS	NSL/NFLP	SDS
12. If the student is not a regular student enrolled or accepted for enrollment in an eligible program (see item 1 above), the student is enrolled or accepted for enrollment as at least a half-time student (except for TEACH) at an eligible institution in a program necessary for a professional credential or certification from a state that is required for employment as a teacher in an elementary or secondary school in that state (34 CFR 668.32(a)(1)(iii))	x	x		x	x			
13. Is an undergraduate student enrolled or accepted for enrollment at the institution (34 CFR 668.32(a), 675.9(b), and 685.101(b))	x	x	x	x	x			
14. Is a graduate or professional student enrolled or accepted for enrollment at the institution (34 CFR 668.32(a), 675.9(b), and 685.101(b))		x		x	x			
15. Is enrolled or accepted for enrollment, on at least a half-time basis in an institution that participates in the Direct Loan Program (34 CFR 668.32(a)(2), 685.200(a)(1)(i))					x			
16. Parents can receive a PLUS loan if the parent does not have an adverse credit history and conditions in items 2, 4, 5, 10, and 14 above are met by the parent and the student otherwise meets all student eligibility requirements (34 CFR 668.32 and 685.200(c)(2))					x			
17. Students met FSEOG selection criteria (34 CFR 676.10)			x					
18. Has signed a TEACH Grant agreement to serve or repay (34 CFR 686.11(a)(1)(ii) and 668.12)				x				
19. Is enrolled in a TEACH Grant-eligible institution in a TEACH Grant-eligible program (34 CFR 686.11(a)(1)(iii))				x				
20. Is completing coursework and other requirements necessary to begin a career in teaching or plans to complete such coursework and requirements prior to graduating (34 CFR 686.11(a)(1)(iv))				x				
21. For the purposes of a student in a first post-baccalaureate program, has not completed the requirements for a post-baccalaureate program as described in 34 CFR 686.2(d) (34 CFR 668.32(c)(4)(ii))				x				
22. If in the first year of an undergraduate program, the student has a final cumulative secondary school GPA upon graduation of at least a 3.25; a cumulative GPA of at least 3.25 based on courses taken at the institution through the most-recently completed payment period; or a score above the 75th percentile (for that period the test was taken) on at least one of the nationally-normed standardized undergraduate admissions test, which may not include a placement test (34 CFR 686.11(a)(1)(v)(A) and (E))				x				

Requirements	PELL	FWS	FSEOG	TEACH	DIRECT LOAN	HSPL/PCL /LDS	NSL/NFLP	SDS
23. If beyond the first year of an undergraduate program, the student has a cumulative GPA of at least 3.25 as determined by the institution, through the most recently completed payment period; or a score above the 75th percentile (for that period the test was taken) on at least one of the nationally-normed standardized undergraduate, admissions test, which may not include a placement test (34 CFR 686.11(a)(1)(v)(B) and (E))				x				
24. If the student is a graduate student during the first payment period, a cumulative undergraduate GPA of at least 3.25; if the student is a graduate student beyond the first payment period, a cumulative graduate GPA of at least 3.25 through the most-recently completed payment period; or a score above the 75th percentile (for that period the test was taken) on at least one of the nationally-normed standardized undergraduate, graduate, or post-baccalaureate admissions test, which may not include a placement test (34 CFR 686.11(a)(1)(v)(C), (D), and (E))				x				
25. If the student is a current or former teacher or a retiree, the student is applying for a grant to obtain a master's degree or pursuing certification through a high-quality alternative certification route (34 CFR 686.11(b)(2))				x				
26. The student who received a Pell Grant under the Special Rule (HEA Sec. 401(c)) is eligible if he or she was the child or a parent or guardian who died in the line of duty while either (a) serving on active duty as a member of the U.S. Armed Forces on or after September 11, 2001; or (b) actively serving as and performing the duties of a public safety officer; AND was less than 33 years old as of the January 1 prior to the award year for which the applicant is applying. (20 USC 1070h)	X							

Notes:

[1] An otherwise-eligible student who is not enrolled as a regular student may be eligible to receive Direct Loan funds if the student is enrolled in preparatory coursework under 668.32(a)(1)(ii) and 685.203(a)(6). Similarly, students who are not enrolled as regular student in programs leading to a degree or certificate may receive Pell and TEACH Grants through enrollment in an eligible postbaccalaureate teacher certification program under limited circumstances under 34 CFR 690.6(c) and 686.3(a).

[2]The Pell Grant is determined based on Maximum or Minimum Pell Grant eligibility criteria, SAI, and COA, but it is not adjusted to account for other resources or other financial assistance.

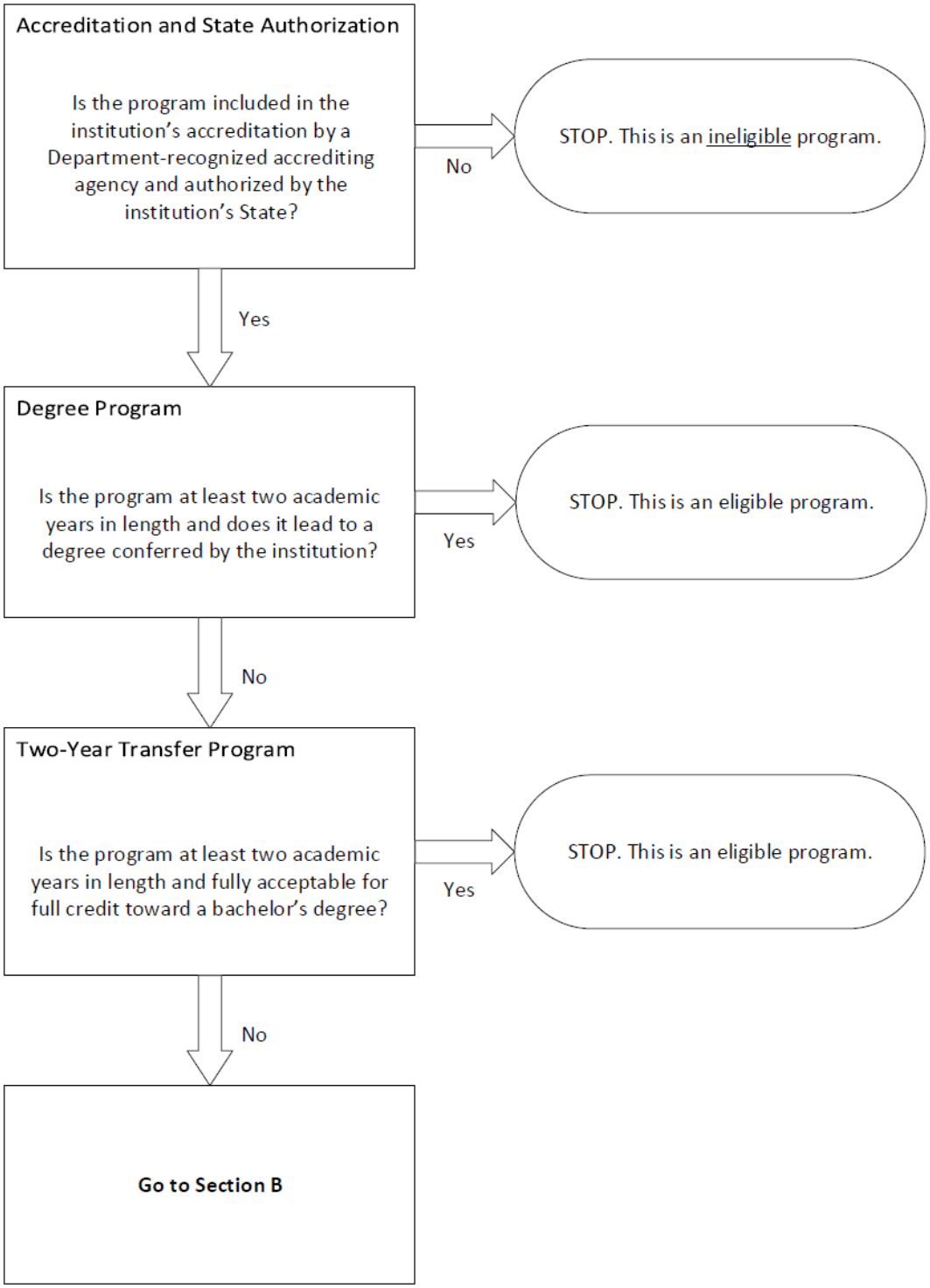
[3] Does not apply to unsubsidized loans and PLUS loans.

[4] The requirement for a Social Security Number does not apply to students who are residents of the Federated States of Micronesia, Republic of the Marshall Islands, or Republic of Palau.

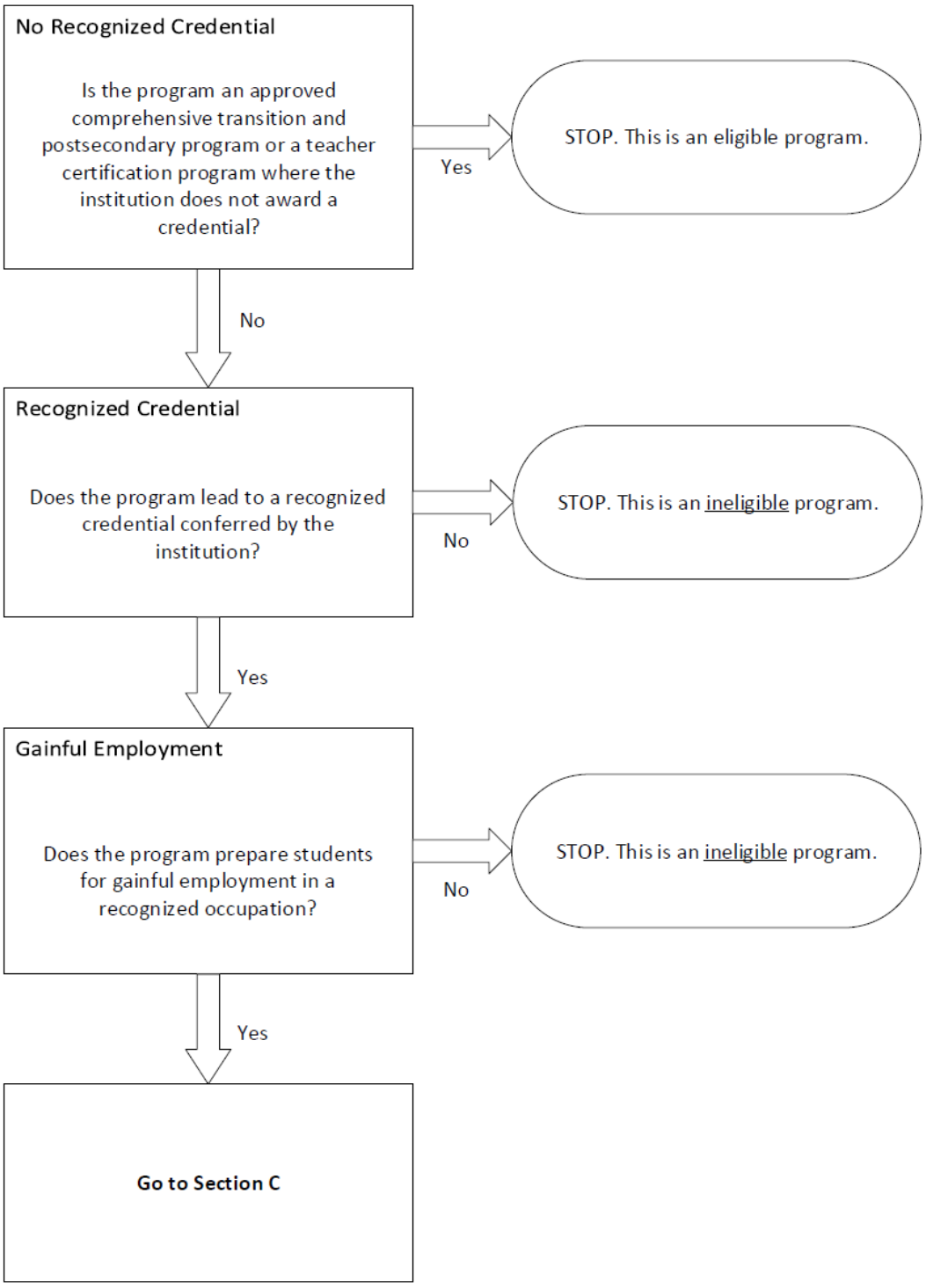
[5] There is an exception for Pell and TEACH Grants if the student meets alternative requirements through enrollment in a postbaccalaureate teacher certification or licensing program under 690.6(c) and 686.3(a).

APPENDIX B
STUDENT FINANCIAL ASSISTANCE PROGRAMS
PROGRAM ELIGIBILITY

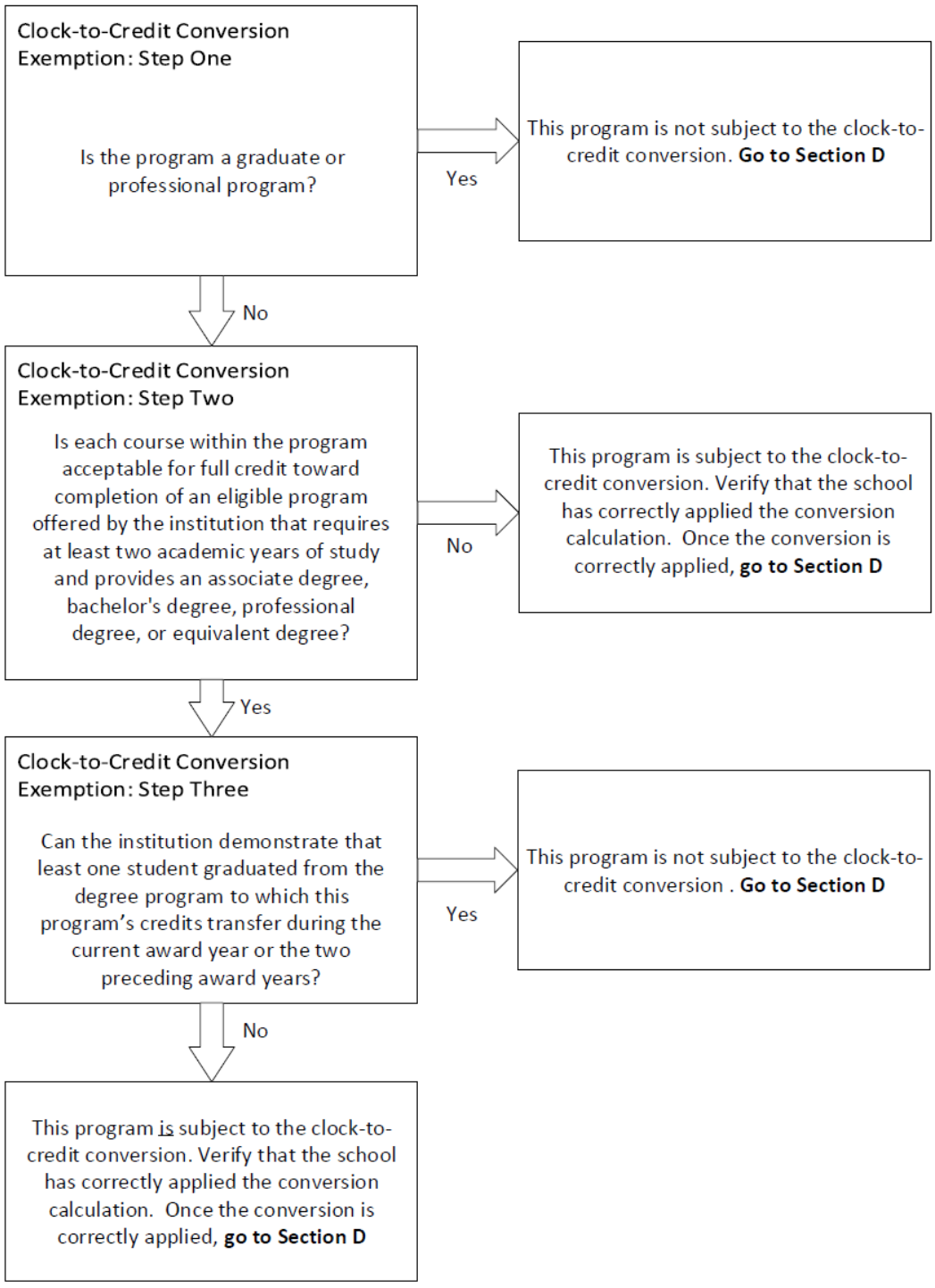
Program Eligibility Flow Chart: Section A



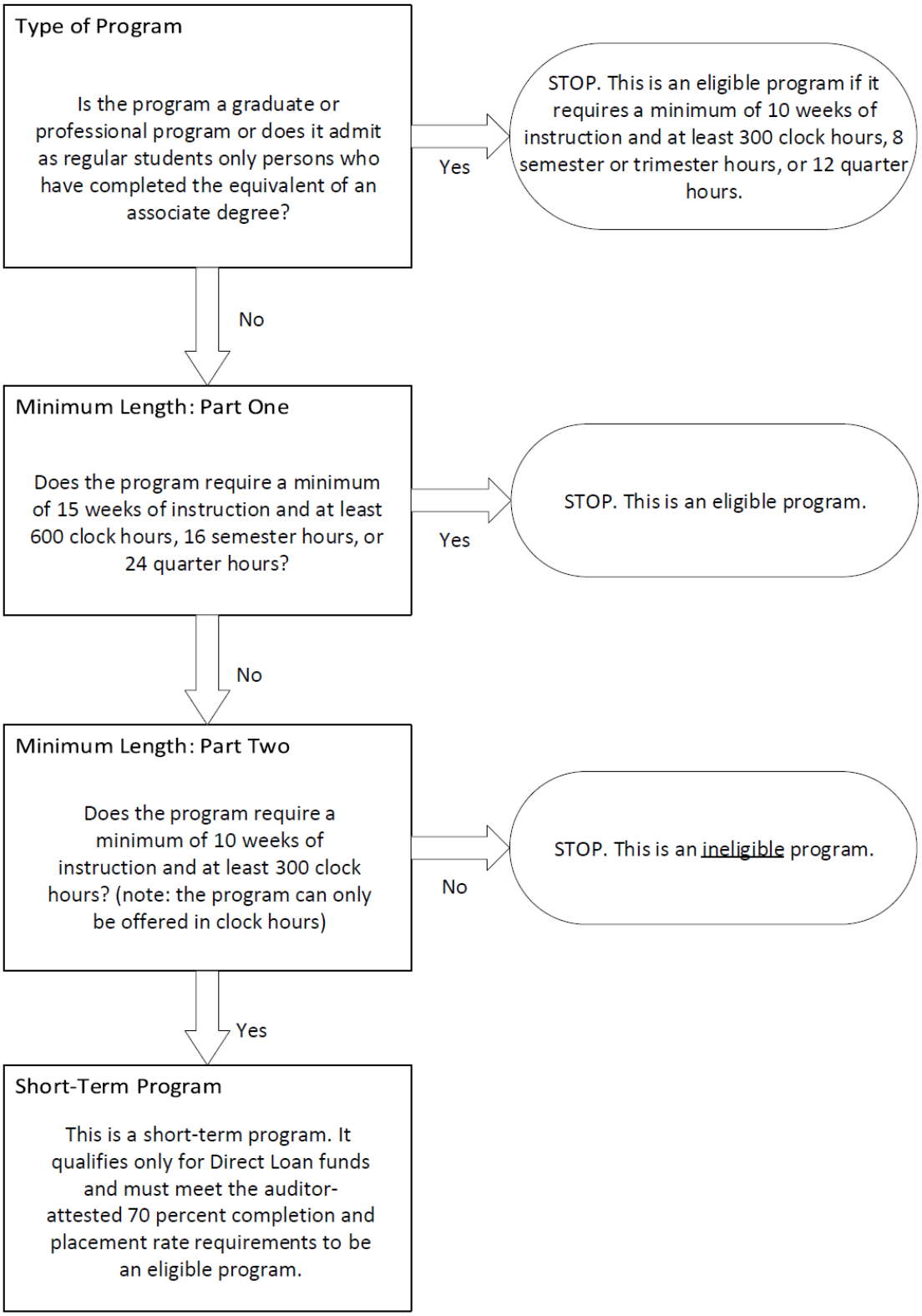
Program Eligibility Flow Chart: Section B



Program Eligibility Flow Chart: Section C



Program Eligibility Flow Chart: Section D



OTHER CLUSTERS

Programs included in this Supplement deemed to be other clusters

Agency	Assistance Listing No.	Name of Other Cluster/Program
		SNAP Cluster
USDA	10.551	Supplemental Nutrition Assistance Program
	10.561	State Administrative Matching Grants for the Supplemental Nutrition Assistance Program
		Child Nutrition Cluster
USDA	10.553	School Breakfast Program
	10.555	National School Lunch Program
	10.556	Special Milk Program for Children
	10.559	Summer Food Service Program for Children
	10.582	Fresh Fruit and Vegetable Program
		Food Distribution Cluster
USDA	10.565	Commodity Supplemental Food Program
	10.568	Emergency Food Assistance Program (Administrative Costs)
	10.569	Emergency Food Assistance Program (Food Commodities)
		Schools and Roads Cluster
USDA	10.665	Schools and Roads–Grants to States
	10.666	Schools and Roads–Grants to Counties
		Economic Development Cluster
DOC	11.300	Investments for Public Works and Economic Development Facilities
	11.307	Economic Adjustment Assistance
		Section 8 Project-Based Cluster
HUD	14.195	Project-Based Rental Assistance (PBRA)
	14.249	Section 8 Moderate Rehabilitation Single Room Occupancy
	14.856	Lower Income Housing Assistance Program Section 8 Moderate Rehabilitation

		Community Development Block Grant Cluster Entitlement/Special Purpose Grants
HUD	14.218	Community Development Block Grants/Entitlement Grants
	14.225	Community Development Block Grants/Special Purpose Grants/Insular Areas
		Community Development Block Grant Disaster Recovery Grants Cluster (CDBR-DR)
HUD	14.269	Hurricane Sandy Community Development Block Grant Disaster Recovery Grants (CDBG-DR)
	14.272	National Disaster Resilience Competition
		HOPE VI Cluster
HUD	14.866	Demolition and Revitalization of Severely Distressed Public Housing
	14.889	Choice Neighborhoods Implementation Grants
		Housing Voucher Cluster
HUD	14.871	Section 8 Housing Choice Vouchers
	14.879	Mainstream Vouchers
		477 Cluster
DOI	15.025	Services to Indian Children, Elderly and Families
	15.026	Indian Adult Education
	15.113	Indian Social Services Welfare Assistance
	15.114	Indian Education Higher Education Grant
	15.130	Indian Education Assistance to Schools
DOL	17.265	Native American Employment and Training
HHS	93.558	Temporary Assistance for Needy Families
	93.569	Community Services Block Grant
	93.575	Child Care and Development Block Grant
	93.594	Tribal Work Grants
	93.596	Child Care Mandatory and Matching Funds of the Child Care and Development Fund

Note: The DOL and HHS programs listed above have separate program supplements in Part 4 of the Supplement. The 477 cluster or the program supplement applies as indicated at the beginning of the 477 cluster.

Fish and Wildlife Cluster

DOI	15.605	Sport Fish Restoration Program
	15.611	Wildlife Restoration and Basic Hunter Education and Safety
	15.626	Enhanced Hunter Education and Safety

Employment Service Cluster

DOL	17.207	Employment Service/Wagner-Peyser Funded Activities
	17.801	Jobs for Veterans State Grant

WIOA Cluster

DOL	17.258	WIOA Adult Program
	17.259	WIOA Youth Activities
	17.278	WIOA Dislocated Worker Formula Grants

FMCSA Cluster

DOT	20.218	Motor Carrier Safety Assistance
	20.237	Motor Carrier Safety Assistance High Priority Activities Grant and Cooperative Agreements

Federal Transit Cluster

DOT	20.500	Federal Transit Capital Investment Grants
	20.507	Federal Transit Formula Grants
	20.525	State of Good Repair Grants Program
	20.526	Buses and Bus Facilities Formula, Competitive, and Low or No Emissions Programs & Discretionary Programs (Bus Program)

Transit Services Programs Cluster

DOT	20.513	Enhanced Mobility of Seniors and Individuals with Disabilities
	20.516	Job Access and Reverse Commute Program
	20.521	New Freedom Program

Highway Safety Cluster

DOT	20.600	State and Community Highway Safety
	20.616	National Priority Safety Programs

Special Education Cluster (IDEA)

ED	84.027	Special Education Grants to States
	84.173	Special Education Preschool Grants

TRIO Cluster

ED	84.042	TRIO Student Support Services
	84.044	TRIO Talent Search
	84.047	TRIO Upward Bound
	84.066	TRIO Educational Opportunity Centers
	84.217	TRIO McNair Post-Baccalaureate Achievement

Aging Cluster

HHS	93.044	Special Programs for the Aging--Title III, Part B, Grants for Supportive Services and Senior Centers
	93.045	Special Programs for the Aging, Title III, Part C, Nutrition Services
	93.053	Nutrition Services Incentive Program

Tribal Self-Governance and Determination Cluster

HHS	93.210	Tribal Self-Governance Program: IHS Compacts/Funding Agreements
	93.441	Indian Self-Determination

Health Center Program Cluster

HHS	93.224	Health Center Program (Community Health Centers, Migrant Health Centers, Health Care for the Homeless, and Public Housing Primary Care)
	93.527	Grants for New and Expanded Services under the Health Center Program

CCDF Cluster

HHS	93.489	Child Care Disaster Relief
	93.575	Child Care and Development Block Grant
	93.596	Child Care Mandatory and Matching Funds of the Child Care and Development Fund

Head Start Cluster

	93.356	Head Start Disaster Recovery
	93.600	Head Start

Medicaid Cluster

HHS	93.775	State Medicaid Fraud Control Units
	93.777	State Survey and Certification of Health Care Providers and Suppliers (Title XVIII) Medicare
	93.778	Grants to States for Medicaid

		Foster Grandparent/Senior Companion Cluster
CNCS	94.011	AmeriCorps Seniors Foster Grandparent Program (FGP) 94.011
	94.016	AmeriCorps Seniors Senior Companion Program (SCP) 94.016
		Disability Insurance/SSI Cluster
SSA	96.001	Social Security Disability Insurance
	96.006	Supplemental Security Income
		Food For Peace Cluster
USAID	98.007	Food for Peace Development Assistance Program (DAP)
	98.008	Food for Peace Emergency Program (EP)

PART 6 - INTERNAL CONTROL

The focus of this part is on internal control over compliance requirements for federal awards (sometimes referred to as internal control over compliance). It is intended for the consideration of both recipients and subrecipients and auditors and includes the following:

- A summary of the requirements for internal control for both recipients and subrecipients receiving federal awards (also referred to as auditee management) and auditors performing audits under 2 Part 200 (i.e., the Uniform Guidance);
- A background discussion on important internal control concepts; and
- Appendices that include illustrations of entity-wide internal controls over federal awards (Appendix 1), as well as illustrations of internal controls specific to each type of compliance requirement (Appendix 2).

Uniform Guidance Internal Control Requirements

2 CFR 200.303 requires that recipients and subrecipients receiving federal awards establish, document and maintain effective internal control over the federal awards that provides reasonable assurance that the recipient or subrecipient is managing the federal awards in compliance with federal statutes, regulations, and the terms and conditions of the federal awards. 2 CFR 200.514 requires auditors to obtain an understanding of the recipient and subrecipient's internal control over federal programs sufficient to plan the audit to support a low assessed level of control risk of noncompliance for major programs, and, unless internal control is likely to be ineffective, plan the testing of internal control over major programs to support a low assessed level of control risk for the assertions relevant to the compliance requirements for each major program and perform testing of internal control as planned.

Note: When internal control is likely to be ineffective in preventing and detecting noncompliance, 2 CFR 200.514 requires the auditor to report a significant deficiency or material weakness, assess control risk at the maximum, and consider whether additional compliance tests are required because of the ineffective internal control.

The objectives of internal control over compliance as found in 2 CFR 200.1, are as follows:

1. Transactions are properly recorded and accounted for in order to:
    a) Permit the preparation of reliable financial statements and federal reports;
    b) Maintain accountability over assets; and
    c) Demonstrate compliance with federal statutes, regulations, and the terms and conditions of the federal award;
2. Transactions are executed in compliance with:
    a) Federal statutes, regulations, and the terms and conditions of the federal award that could have a direct and material effect on a federal program; and

b) Any other federal statutes and regulations that are identified in the Compliance Supplement; and

3. Funds, property, and other assets are safeguarded against loss from unauthorized use or disposition.

2 CFR 200.303 indicates that the internal controls required to be established by a recipient and subrecipient receiving federal awards "should" align with guidance in "Standards for Internal Control in the Federal Government," issued by the Comptroller General of the United States (the Green Book) or the "Internal Control Integrated Framework" (revised in 2014), issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). 2 CFR 200.101(a)(3) states that "throughout subparts A through F the word "must" indicates a requirement. Whereas use of the word "should" or "may" indicates a recommended approach and permit discretion" rather than a requirement. Therefore, the Uniform Guidance is recommending that recipients and subrecipients use either the Green Book or COSO internal control frameworks but does not require it. Q-30 indicates that, while recipients and subrecipients must have effective internal control, there is no expectation or requirement that the recipient and subrecipient document or evaluate internal controls prescriptively in accordance with COSO, the Green Book, or this part of the Supplement, or that the recipient or subrecipient or auditor reconcile technical differences between them. Recipients and their auditors will need to exercise judgment in determining the most appropriate and cost-effective internal control in a given environment or circumstance to provide reasonable assurance for compliance with federal program requirements (https://www.coffa.gov/assets/files/2%20CFR%20Revised%20FAQs.pdf).

However, recipients and subrecipients and auditors should be aware that the Uniform Guidance also includes requirements for recipients and subrecipients to have written policies or procedures supporting compliance with certain compliance requirements. The areas of procurement and subrecipient monitoring are examples of compliance requirements that contain such requirements.

COSO/Green Book Concepts Relevant to Internal Control Over Compliance

The following is a summary level discussion of internal control concepts covered in both the COSO and Green Book frameworks that are relevant to internal control over compliance. Recipients and subrecipients and auditors should review COSO and the Green Book in their entirety to ensure an appropriate understanding of these concepts.

Internal control is generally defined as a process effected by an entity's oversight body, management, and other personnel that provides reasonable assurance that the objectives of an entity will be achieved.

With respect to federal awards, a system of internal control is expected to provide a recipient or subrecipient with reasonable assurance that the entity's objectives relating to compliance with federal statutes, regulations, and the terms and conditions of federal awards will be achieved.

Internal control is not one event or circumstance, but a dynamic and iterative process—actions that permeate an entity's activities and that are an integral part of the way auditee management

runs the entity. Embedded within this process are controls consisting of policies and procedures. These policies reflect auditee management or oversight body statements of what should be done to effect internal control. Procedures consist of actions that implement a policy.

Processes, which are conducted within or across operating units or functional areas, are managed through the fundamental auditee management activities, such as planning, executing, and checking. Internal control is integrated with these processes. Internal control embedded within these processes and activities are likely more effective and efficient than stand-alone controls.

Internal control provides many benefits to an entity. It provides auditee management with added confidence regarding the achievement of objectives, provides feedback on how effectively an entity is operating, and helps reduce risks affecting the achievement of the entity's compliance objectives.

Auditee management exercises judgment in balancing the cost and benefit of designing, implementing, and operating internal controls. In exercising that judgment, management considers both qualitative and quantitative factors, as well as the specific risks of their federal awards and operations.

The Green Book and COSO are both organized by five components of internal control as shown in the table below. COSO identifies 17 principles related to the five components of internal control, each of which has important attributes which explain the principles in greater detail. The Green Book adapts these principles for a government environment.

Summary of Green Book and COSO Components and Principles of Internal Control

Components of Internal Control	Principles
Control Environment	1. Demonstrate Commitment to Integrity and Ethical Values 2. Exercise Oversight Responsibility 3. Establish Structure, Responsibility, and Authority 4. Demonstrate Commitment to Competence 5. Enforce Accountability
Risk Assessment	6. Define Objectives and Risk Tolerances 7. Identify, Analyze, and Respond to Risks 8. Assess Fraud Risk 9. Identify, Analyze, and Respond to Change
Control Activities	10. Design Control Activities 11. Design Activities for the Information System 12. Implement Control Activities
Information and Communication	13. Use Quality Information 14. Communicate Internally 15. Communicate Externally
Monitoring	16. Perform Monitoring Activities 17. Evaluate Issues and Remediate Deficiencies

To determine if an internal control system is effective, auditee management assesses the design, implementation, and operating effectiveness of the five components and 17 principles. If a principle or component is not effective, or the components are not operating together in an integrated manner, then an internal control system cannot be effective.

Because both COSO and the Green Book have the same components of internal control and similar principles, for consistency, this part and its appendices are primarily based on the Green Book.

Illustrative Internal Controls Appendices

The section in this part, "Uniform Guidance Internal Control Requirements," describes the auditor's responsibility for internal control under the Uniform Guidance. The appendices to this part are intended to illustrative internal controls for each of the five components of internal control to assist recipients and subrecipients and their auditors in complying with their respective requirements.

Appendix 1 provides illustrative entity-wide controls over compliance for four of the five above described components of internal control as follows: control environment, risk assessment, information and communication, and monitoring. For this purpose, entity-wide controls are considered governance controls that apply to most, if not all, types of compliance requirements for one or more federal programs. See Appendix 1 for more information about entity-wide controls.

Appendix 2 provides illustrative specific controls for control activities, the remaining component of internal control, for each type of compliance requirement. For this purpose, specific controls are considered operational-level controls that apply to individual types of compliance requirements. See Appendix 2 for more information about specific controls.

Important Note: Auditors are cautioned that the approach taken in the appendices to present four of the five control components as being subject to entity-wide controls and the remaining component as being subject to specific controls may not reflect how a particular entity designs and implements internal control.

For example:

- Some entities may establish specific controls (versus entity-wide controls) relating to certain of the control components discussed in Appendix 1 as typically having entity-wide controls.
- Federal programs may also be administered under multiple internal control structures. This occurs when multiple organizational units (for example, locations or branches) are involved in the administration of federal programs such as a university that has several campuses administering a federal program, each having differing internal control structures.

In these situations, auditors should obtain an understanding of controls and test controls at a level that reflects the way management designs and implements internal control, as well as prepare related audit documentation at that level.

Finally, the illustrative controls in the appendices to this part are not intended to be all-inclusive or a checklist of required internal control characteristics. That is, recipients and subrecipients could have adequate internal control even though some or all of the illustrative controls are not present. Further, recipients and subrecipients could have other appropriate internal controls operating effectively that have not been included among the illustrations. Recipients and Subrecipients need to exercise judgment in determining the most appropriate and cost-effective internal control in a given environment or circumstance, to provide reasonable assurance of compliance with federal program requirements.

Appendix 1 - Illustrative Entity-Wide Controls

This appendix provides illustrative entity-wide controls over compliance for four of the five components of internal control as follows: control environment, risk assessment, information and communication, and monitoring. It is organized this way because many recipients and subrecipients consider and implement internal control in this manner.

For this purpose, entity-wide controls are considered governance controls that apply to most, if not all, types of compliance requirements for one or more federal programs. Entity-wide controls are generally governance controls established at the entity-wide level versus at the federal program or type of compliance requirement level. For example, an entity may establish controls related to the control environment for all types of compliance requirements for an individual federal program or even across all federal programs. When recipients and subrecipients implement internal controls in this manner, auditors may obtain an understanding of controls and test controls at the entity-wide level, as well as prepare related documentation at that level.

Green Book Principles

The Green Book includes a description of the five components of internal control and their related principles. The descriptions of the components and principles for control environment, risk assessment, information, and communication, and monitoring below are taken directly from the Green Book.

Note: The following provides illustrative entity-wide controls for four of the five components of internal control as follows: control environment, risk assessment, information and communication, and monitoring. It is not intended to be used as a checklist of required internal control characteristics. In addition, caution should be used as the entity-wide control approach used below may not reflect the way management considers and implements internal control. Refer to the introduction to this appendix above to ensure an appropriate understanding of this appendix and how to use it. Importantly, as noted in both the Green Book and COSO, all five components of internal control have to be present and functioning for internal control to be designed effectively.

See Appendix 2 for illustrative specific controls for control activities, the remaining component of internal control, for each type of compliance requirement.

Control Environment Component

The foundation for an internal control system. It provides the discipline and structure, which affect the overall quality of internal control. It influences how objectives are defined and how control activities are structured. The oversight body and management establish and maintain an environment throughout the entity that sets a positive attitude toward internal control.

Principle 1. The oversight body and management should demonstrate a commitment to integrity and ethical values.

Illustrative Controls for Principle 1:

- A code of conduct is developed, documented, communicated and periodically updated
- A code of conduct explicitly prohibits inappropriate management override of established controls
- Conflict of interest statements are obtained periodically from those charged with governance (TCWG) and key management

Principle 2. The oversight body should oversee the entity's internal control system.

Illustrative Controls for Principle 2:

- TCWG have the requisite skills and knowledge to provide effective oversight pertaining to federal award compliance issues and related risk
- TCWG periodically review ethical and moral conduct violations including stakeholder complaints regarding issues of federal award compliance with senior management
- A whistle blower submission process exists to receive and evaluate concerns by employees regarding questionable practices inclusive of issues impacting federal award compliance/non-compliance
- An audit committee charter exists and addresses federal compliance oversight
- The effectiveness and performance of the audit committee is evaluated annually
- TCWG have effective two-way communication with external and internal auditors
- TCWG review risk assessments including the risks of fraud for impact on federal compliance objectives

Principle 3. Management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity's objectives.

Illustrative Controls for Principle 3:

- Policies, procedures and organizational charts provide for segregation of duties within and among processes and controls
- Policies and procedures are in place to ensure that compliance responsibilities are assigned to particular positions

Principle 4. Management should demonstrate a commitment to recruit, develop, and retain competent individuals.

Illustrative Controls for Principle 4:

- Job descriptions include appropriate knowledge and skill requirements
- Appropriate training is provided that is relevant to responsibilities over compliance objectives
- Personnel with federal award compliance responsibilities are properly trained on their responsibilities

Principle 5. Management should evaluate performance and hold individuals accountable for their internal control responsibilities.

Illustrative Controls for Principle 5:

- Appropriate performance evaluations are provided that establish goals, accountability, and feedback
- Violations of the code of conduct result in remedial actions to deter others
- Consequences for noncompliance with the code of conduct are communicated and enforced
- Penalties for inappropriate behavior are adequate and publicized

Risk Assessment Component

Having established an effective control environment, management assesses the risks facing the entity as it seeks to achieve its objectives. This assessment provides the basis for developing appropriate risk responses. Management assesses the risks the entity faces from both external and internal sources.

Principle 6. Management should define objectives clearly to enable the identification of risks and define risk tolerances.

Illustrative Controls for Principle 6:

- Management establishes an effective risk assessment process that includes the use of a specific risk matrix
- Management identifies key compliance objectives for types of compliance requirements
- Management identifies and evaluates risk tolerances related for controls over compliance

Principle 7. Management should identify, analyze, and respond to risks related to achieving the defined objectives.

Illustrative Controls for Principle 7:

- Management analyzes and identifies compliance risks
- TCWG have oversight over significant areas of risks
- Employees receive appropriate training to address identified risks
- Risk mitigation strategies are implemented by management

Principle 8. Management should consider the potential for fraud when identifying, analyzing, and responding to risks.

Illustrative Controls for Principle 8:

- Management reviews audit findings to identify fraud risks

- If an internal audit function exists, it reviews fraud risks and the internal control structure
- Management reviews the internal control structure for potential fraud risks
- TCWG periodically review a report of the potential fraud risks identified and actions taken in response to those risks during the period

Principle 9. Management should identify, analyze, and respond to significant changes that could impact the internal control system.

Illustrative Controls for Principle 9:

- Management identifies changes such as new personnel, new technology, expanded operations, rapid growth, or changes in the operating environment and adjusts risk assessments to address those changes
- Management analyzes compliance requirement modifications to properly adjust risk
- A communication process with regulators is in place to identify changes in compliance requirements
- Changes in philosophies or employee turnover are evaluated by management for any potential impact on related controls

Control Activities Component – See Appendix 2 for this component and related principles 10, 11, and 12.

Information and Communication Component

Management uses quality information to support the internal control system. Effective information and communication are vital for an entity to achieve its objectives. Entity management needs access to relevant and reliable communication related to internal as well as external events.

Principle 13. Management should use quality information to achieve the entity's objectives.

Illustrative Controls for Principle 13:

- Financial and programmatic systems capture, accurately process, and timely report pertinent information
- The accounting system provides for separate identification of federal and non-federal transactions
- Adequate source documentation exists to support amounts and items reported
- Reports are provided timely to managers for review and appropriate action
- Management verifies the sources and reliability of information used in making management decisions and executes monitoring controls
- When information is derived from the organization's information technology (IT) systems:
    - Security administration
        - Written policies and procedures regarding IT security exist

        - Regarding managing user access rights, (1) rights are approved and granted based on job responsibilities; (2) rights, including super user access, are reviewed periodically; and (3) access is revoked in a timely manner
        - Duties of security personnel do not include performing compliance processes or controls, programming, or IT management
        - Remote and third party access rights are managed to include timely revocation of rights

    - Program maintenance
        - Policies around the change management process are documented, approved, and communicated
        - Segregation of duties exists between development, testing, and production
        - Changes to productions are logged and reviewed

    - Program execution
        - Policies around the program execution process are documented, approved, and communicated
        - Production job scheduling change requests are approved by appropriate IT personnel
        - The scheduling system is restricted from accessing anything that is not in the production library (applications and databases)
        - Schedule exceptions are monitored to determine if they are properly resolved

Principle 14. Management should internally communicate the necessary quality information to achieve the entity's objectives.

Illustrative Controls for Principle 14:

- Relevant internal and external information is communicated and delivered to employees responsible for federal award compliance on a timely basis
- Effective channels for communication throughout the organization exist

Principle 15. Management should externally communicate the necessary quality information to achieve the entity's objectives.

Illustrative Controls for Principle 15:

- Relevant information is communicated to external parties including subrecipients, vendors, federal granting agencies, and third party processors on a timely basis
- Effective channels exist for communications with federal granting agencies, oversight agencies and cognizant agencies

Monitoring Component

Activities management establishes and operates to assess the quality of performance over time and promptly resolves the findings of audits and other reviews.

Principle 16. Management should establish and operate monitoring activities to monitor the internal control system and evaluate the results

Illustrative Controls for Principle 16:

- Management monitors the effective operation of critical control activities
- Management monitors the use of effective self-review procedures in critical compliance areas
- Management monitors the effective review of timely and reliable metrics or key performance indicators, including reconciliation with data from financial or other reporting systems to ensure its accuracy and completeness
- Management monitors the reconciliation of key performance indicators with data from financial or other reporting systems, including reconciliation with data from financial or other reporting systems to ensure its accuracy
- If an internal audit function exists, it is staffed with qualified and competent personnel and it reports directly to TCWG
- If an internal audit function exists, its responsibilities and audit plans are aligned to the organization's risk assessment

Principle 17. Management should remediate identified internal control deficiencies on a timely basis.

Illustrative Controls for Principle 17:

- Findings, recommendations and other observations by independent auditors, internal auditors, and federal auditors are distributed and reviewed by those individuals responsible for compliance with federal requirements.
- Control deficiencies and instances of noncompliance are reported to and evaluated by management and TCWG, if applicable, for resolution on a timely basis
- Management periodically monitors the corrective action plans related to known noncompliance and control deficiencies and the organization's progress to remediating the findings

Appendix 2 – Illustrative Specific Controls for Control Activities

While Appendix 1 includes illustrative entity-wide controls over compliance for four of the five components of internal control (i.e., control environment, risk assessment, information and communication, and monitoring), this appendix provides illustrative specific controls over compliance for control activities, the remaining component of internal control. It is organized this way because many recipients and subrecipients consider and implement internal control in this manner.

For this purpose, specific controls are considered operational-level controls that apply to individual types of compliance requirements. For example, an entity may establish controls related to control activities at the applicable type of compliance requirement level (e.g., allowable costs, eligibility, reporting) for the federal programs that it participates in. When recipients and subrecipients implement internal controls in this manner, auditors should obtain the understanding of controls and test specific controls related to control activities and prepare related documentation at that level.

Control Activities Component

The actions management establishes through policies and procedures to achieve objectives and respond to risks in the internal control system, which includes the entity's information system. The Green Book includes the following three principles for control activities:

Principle 10. Design Control Activities – management should design control activities to achieve objectives and respond to risks

Principle 11. Design Activities for the Information System – management should design the entity's information system and related control activities over technology to achieve objectives and respond to risks

Principle 12. Implement Control Activities – management should implement control activities through policies

Understanding a Process vs. Controls

A process is a series of actions that lead to a particular result—for example, charging costs to a federal award. The process is where noncompliance with allowable costs/cost principles or other requirements could occur. Often the potential noncompliance is referred to as a "what-could-go-wrong" (WCGW). A control is designed to prevent or timely detect noncompliance. However, a control does not itself introduce noncompliance into a process. When identifying controls, it is important to first consider the processes and the resulting WCGWs. As controls should be designed, implemented, and maintained to be responsive to risk and WCGWs, it is difficult to determine the appropriateness of specific controls without understanding the process and the WCGWs.

Controls may be viewed as part of a process and the flow of transactions, but controls need to be separately identified. When it is difficult to identify the difference between the process and controls, there is often a missing control. Several important related considerations follow:

- Process owners are often referred to as the doers and the control owner is often referred to as the reviewer.
- A well-designed system of internal control assigns a control to each WCGW. An entity could have one control that addresses one WCGW, a suite of controls that address one WCGW, or one control that addresses multiple WCGWs.
- Controls are often described in terms of a control category, such as authorization, management review, segregation of duties, or system access.

Understanding Controls Activities

Control activities may be preventative or detective. A preventive control is designed to avoid an unintended event or result at the time of the transaction while a detective control is designed to discover an unintended event or result after the initial processing has occurred but before the ultimate objective has concluded. Entities usually employ a mix of both.

Controls need to be designed such that they *would* prevent or detect a WCGW—not just that they *could* prevent or detect a WCGW. Controls also need to be evaluated for the precision of their efforts. Generally, management has a greater need for precision and redundancy than do auditors. That is, external auditors are focused on material noncompliance, whereas management is focused on compliance.

Importantly, as noted in both the Green Book and COSO, all five components of internal control have to be present and functioning for internal control to be designed effectively—that is, control activities on their own are not an effective system of internal controls. Even within control activities, controls rely on the effective design and operation of other controls. For example, a management review control generally uses information produced by the entity. Therefore, the management review control is only effective if there are controls over the information used in the review. Also, general IT controls, typically designed and implemented as entity-wide controls described in Appendix 1, are necessary for the effective operation of application IT controls.

Note: The following provides illustrative specific controls for control activities (one of the five components of internal control) for each type of compliance requirement. It is not intended to be used as a checklist of required internal control characteristics. In addition, caution should be used as the specific control approach used below only for control activities may not reflect the way management considers and implements internal control. Refer to the introduction to this appendix above to ensure an appropriate understanding of this appendix and how to use it. Importantly, as noted in both the Green Book and COSO, all five components of internal control have to be present and functioning for internal control to be designed effectively.

See Appendix 1 for illustrative entity-wide controls for the other four components of internal control (i.e., control environment, risk assessment, information and communication, and monitoring).

PART 6 – APPENDIX 2

Illustrative Specific Controls – Control Activities (excerpted from Greenbook).

Principle 10. Design Control Activities: management should design control activities to achieve objectives and respond to risks.

A. ACTIVITIES ALLOWED OR UNALLOWED B. ALLOWABLE COSTS/COST PRINCIPLES	C. CASH MANAGEMENT	E. ELIGIBILITY	F. EQUIPMENT AND REAL PROPERTY MANAGEMENT
Management identifies and puts into effect actions needed to carry out specific responses to risks identified in the risk assessment process, such as miscoding, inappropriate cost transfers, budget overages, segregation of duties concerns, unauthorized changes to system configurations, fraud, unauthorized payments, etc.	Management identifies and puts into effect actions needed to carry out specific responses to risks identified in the risk assessment process, such as time lapses between funds transfer and disbursement, fraud, liquidity pressures, inherent risks with subrecipients, etc.	Management identifies and puts into effect actions needed to carry out specific responses to risks identified in the risk assessment process, such as providing benefits to ineligible individuals, calculating amounts to be received for or on behalf of individuals incorrectly, unauthorized changes to system configurations, fraud, unauthorized payments, etc.	Management identifies and puts into effect actions needed to carry out specific responses to risks identified in the risk assessment process for equipment and real property, such as inaccurate or incomplete recordkeeping, inappropriate use, unidentified dispositions, segregation of duties concerns, fraud, loss, damage, theft, etc.
Management reviews applicable award agreements or contracts for specific allowable activities requirements, budget parameters , indirect rates, fringe benefit rates, and those activities/costs that require pre-approval by the awarding agency and documents such features into a grant approval form which is submitted to accounting personnel for review and approval before being input into the system as the profile for the grant.	Management reviews applicable award agreements or contracts to determine applicability of drawdown method (advance or reimbursement) to develop its own control activities and to inform its establishment of a method for subrecipients, as applicable.	Management reviews applicable award agreements or contracts and identifies specific eligibility requirements including benefits to be paid.	Management reviews applicable award agreements or contracts and identifies specific equipment and real property requirements.

A. ACTIVITIES ALLOWED OR UNALLOWED B. ALLOWABLE COSTS/COST PRINCIPLES	C. CASH MANAGEMENT	E. ELIGIBILITY	F. EQUIPMENT AND REAL PROPERTY MANAGEMENT
Supervisors review and approve invoices, cost allocations, efforts of personnel, fringe benefits and indirect charges for allowability, adherence to cost principles, accuracy, and completeness.	Requests for reimbursement are reviewed/authorized prior to submission by reviewing supporting documents/schedules/reports to ensure amounts have been paid with the organization's funds prior to the reimbursement request. (Reimbursement)	Accuracy and completeness of data used to determine eligibility requirements are reviewed and agreed to support as necessary by staff and reviewed by knowledgeable supervisor.	Property additions purchased with grant funds are recorded timely and compared to source documents for accurate and complete recording.
Chart of accounts segregates unallowable costs/activities into discrete accounts to help ensure they are not coded to federal awards; directly or indirectly.	Cash flow statements/forecasts are prepared and reviewed to determine the immediate cash needs of the federal program. (Advance)	Manual checklists or automated processes used when making eligibility determinations are reviewed and approved by a knowledgeable supervisor.	Title/deeds associated with real property purchased with grant funds is maintained in a secure location and access is limited to authorized personnel.
On a monthly basis, the grant supervisor reviews the budget vs. actual report investigating unusual or unexpected variances and documents results of follow-up work performed.		Calculations of amounts to be received for or on behalf of participants are reperformed by supervisor.	
For changes in indirect rates due to new Negotiated Indirect Cost Rate Agreements (NICRAs) or reconciliations between provisional and actual indirect rates, the grant supervisor reviews the journal entry adjusting those costs by re-performing the calculation.	Drawdowns are reviewed/authorized by supervisors to ensure that amount requested minimizes the time elapsing between the transfer of funds from the US Treasury/Pass-Through Entity and their disbursement. (Advance)	Exception/edit reports are reviewed timely to identify potential ineligible participants/payments.	Leases associated with leasehold improvements purchased with grant funds have appropriate language identifying the improvements as federal property.
Journal entries to transfer costs from one project to another are reviewed for appropriateness and approved.	Drawdowns are reviewed by supervisors to ensure available program income, rebates, refunds, contract settlements, audit	Management periodically reviews documents/files/reports to ensure benefits are discontinued timely when eligibility requirements are no	Property and equipment listings associated with federal funds are reviewed periodically by knowledgeable officials to ensure completeness and accuracy.

A. ACTIVITIES ALLOWED OR UNALLOWED B. ALLOWABLE COSTS/COST PRINCIPLES	C. CASH MANAGEMENT	E. ELIGIBILITY	F. EQUIPMENT AND REAL PROPERTY MANAGEMENT
	recoveries, and interest earned is disbursed prior to requesting additional federal funds. (Advance)	longer met, or period of eligibility expires.	
	End of award close-out reconciliations are performed over cumulative program expenditures and requests for federal funds to ensure completeness and accuracy of draws.		Annual analysis of property and equipment dispositions is documented and reviewed for adherence to federal regulations by knowledgeable supervisors.
	Periodic reconciliations of excess draws and interest to be remitted are reperformed by supervisory personnel.		A sample of physical inventory counts are reperformed by a supervisor to ensure accuracy.
	Templates for subrecipient agreements include standard provisions for cash management methodology requirements.		
Individuals who initiate transactions are different from those approving the transactions and those recording the transactions in the general ledger.	Segregation of duties exists between those responsible for processing program expenditures and those processing drawdown/reimbursement requests.	Segregation of duties exists between those determining a participant's eligibility and those reviewing/approving eligibility.	Segregation of duties exists between those accounting for property and those responsible for safeguarding the property.
Where segregation of duties is not practical, management selects and develops alternative control activities.	Where segregation of duties is not practical, management selects and develops alternative control activities.	Where segregation of duties is not practical, management selects and develops alternative control activities.	Where segregation of duties is not practical, management selects and develops alternative control activities.

Principle 10. Design Control Activities: management should design control activities to achieve objectives and respond to risks.

G. MATCHING, LEVEL OF EFFORT, EARMARKING	H. PERIOD OF PERFORMANCE	I. PROCUREMENT AND SUSPENSION AND DEBARMENT	J. PROGRAM INCOME
Management identifies and puts into effect actions needed to carry out specific responses to risks identified in the risk assessment process, such as unallowable funding sources for amounts claimed as match, unsupported or unreasonable valuations of in-kind contributions, unallowable activities/costs, unsupported effort indicators, use of unapplied indirect costs as match without pre-approval, utilization of same data for more than one match when prohibited, failure to track minimum or maximum earmarking criteria, segregation of duties concerns, fraud, etc.	Management identifies and puts into effect actions needed to carry out specific responses to risks identified in the risk assessment process, such as miscoding, in appropriate cost transfers or adjustments for transactions outside the award period, segregation of duties concerns, unauthorized changes to system configurations, fraud, failure to secure approvals or extensions for coding costs outside the original performance period, etc.	Management identifies and puts into effect actions needed to carry out specific responses to risks identified in the risk assessment process, such as unidentified or unaddressed conflicts of interest, fraud, segregation of duties concerns, unauthorized procurements, unauthorized changes to vendor master file, failure to follow documented policies, failure to document history of procurement, failure to document cost/price analysis, inappropriate procurement method used, suspended or debarred vendor/subrecipient contracted with, etc.	Management identifies and puts into effect actions needed to carry out specific responses to risks identified in the risk assessment process, such as failure to identify and use program income, use of incorrect method to use program income, fraud, segregation of duties concerns, etc.
Management reviews applicable award agreements or contracts for specific matching, level of effort, and earmarking requirements including any unique requirements (such as pre-approval by the granting agency to recoup unapplied indirect costs as matching) and documents such features into a grant approval or other grant summary form which is submitted to accounting and/or programmatic personnel, as appropriate for review and approval before being input in the financial system to set up a grant match record or other programmatic tracking system as a profile for the grant.	Management reviews applicable award agreements or contracts for specific period of performance requirements, including any unique provisions about pre-award spending, extensions, and refunds of unobligated cash.	Management creates and requires the use of standard forms and templates for purchase orders, contracts, requests for proposals/bids, cost/price analyses, bid evaluation, etc. Standard documentation protocol for the history of procurements exists including rationale for the method of procurement (micro-purchase, small purchase, sealed bid, competitive proposal, or noncompetitive proposal), selection of the contract type (fixed price, cost reimbursement, etc.), cost/price analysis, basis for contractor selection/rejection, etc.	Management reviews applicable award agreements or contracts for provisions specific to program income, including identifying likely program income based on award purpose and the use of Deduction, Addition, or Cost Sharing/Matching methods for using program income and documents such features into a grant approval form which is submitted to accounting personnel for review and approval before being input into the system as the profile for the grant.
Supervisory review ensures matching contributions are supported by 3rd party evidence, or other procedures are	Supervisors review and approve invoices, cost allocations, efforts of personnel, fringe benefits and	Supervisors review and approve procurement and contracting decisions	On a monthly basis, supervisors review application of program income to the award to ensure that

G. MATCHING, LEVEL OF EFFORT, EARMARKING	H. PERIOD OF PERFORMANCE	I. PROCUREMENT AND SUSPENSION AND DEBARMENT	J. PROGRAM INCOME
performed to ensure they are from non-federal sources and were not used as match for another federally assisted program.	indirect charges to ensure they were incurred during the period of performance.	for compliance with federal and organizational policies.	the proper method was used (Deduction, Addition, or Cost Sharing/Matching), applied correctly and was supported by program income records.
		Management reviews applicable award agreements, contracts, budgets, and other appropriate sources to identify potential covered transactions. Standard forms or templates are used to document verification that parties are not suspended or debarred.	Chart of accounts segregates program income from other income accounts to ensure it is captured completely and accurately.
Supervisors review monthly reporting of cumulative matching, level of effort and earmarking data and resolution of deficiencies, variances or unexpected results is documented.	At the beginning and ending of the period of performance, the grant supervisor reviews activity posted to the federal award investigating any unusual postings, adjustments or variances and documented results of follow-up work performed.		On a monthly basis, recorded program income is reconciled with supporting documentation such as invoices, registration logs, loan ledgers, rent rolls, etc. by a supervisor.
	Journal entries or other adjustments to transfers cost into the federal award costs are reviewed for appropriateness and to ensure costs are within the period of performance.		
		Responsible officials reconcile goods/services received with those procured including evaluating performance in accordance with terms, conditions and specifications of contracts or purchase orders.	
		Responsible officials review and resolve conflicts of interest on a regular basis.	
Segregation of duties exists between those accounting for match, level of effort, and earmarking requirements	Individuals who initiative transactions are different from those approving the transactions	Individuals who initiate procurements are different from those recording the	Individuals who collect cash or other receipts are different from those who deposit receipts, generate

G. MATCHING, LEVEL OF EFFORT, EARMARKING	H. PERIOD OF PERFORMANCE	I. PROCUREMENT AND SUSPENSION AND DEBARMENT	J. PROGRAM INCOME
and those reviewing and approving the reporting of such.	and those recording the transaction in the general ledger.	resulting transactions in the general ledger or making disbursements.	invoices, record general ledger activity, and reconcile the bank statement.
Where segregation of duties is not practical, management selects and develops alternative control activities.	Where segregation of duties is not practical, management selects and develops alternative control activities.	Where segregation of duties is not practical, management selects and develops alternative control activities.	Where segregation of duties is not practical, management selects and develops alternative control activities.

Principle 10. Design Control Activities: management should design control activities to achieve objectives and respond to risks.

L. REPORTING	M. SUBRECIPIENT MONITORING	N. SPECIAL TESTS AND PROVISIONS
Management identifies and puts into effect actions needed to carry out specific responses to risks identified in the risk assessment process, such as lack of current knowledge of reporting requirements, data input errors, segregation of duties concerns, fraud, inconsistent application of accounting standards, lack of documented bridge between source data and final reports for any reconciling items and lack of or inappropriate source data or analysis used as the basis of performance or special reporting.	Management identifies and puts into effect actions needed to carry out specific responses to risks identified in the risk assessment process, such as missing federal and pass-through entity requirements in subawards, risks inherent with specific subrecipients, inappropriate/ineffective subrecipient monitoring, etc.	Illustrative internal controls cannot be provided because special tests and provisions are unique to the various federal programs.
Management reviews applicable award agreements or contracts for specific reporting requirements and establishes a reporting calendar for review and approval.	Subrecipient agreements are reviewed and approved by knowledgeable supervisors to ensure all compliance requirements are captured, that information is consistent between pass-through entity records and the subaward, and that all required elements are included.	
	Management tracks subaward notifications and maintains an inventory of executed subrecipient agreements.	
Knowledgeable supervisors review and approve reports for completeness and accuracy, including comparing to source documentation (general ledger, third party evidence or other reliable records) and any reconciliations between source data to final reporting.	Knowledgeable supervisor reviews subrecipient risk assessments to ensure they address compliance risks and Uniform Guidance requirements and approves individual subrecipient monitoring plans.	
Management periodically reviews the completeness and accuracy of and adherence to the reporting calendar.	Management requires the use of a standard template for use for all sub recipient agreements inclusive of all required elements outlined in Uniform Guidance.	
	Documentation and conclusions of results of subrecipient oversight activities including the items below are review by supervisory personnel: • Award authorization • Site visits • Financial performance, monitoring, and/or audit reports • Grant budgets and advance or reimbursement requests	

L. REPORTING	M. SUBRECIPIENT MONITORING	N. SPECIAL TESTS AND PROVISIONS
	• Technical assistance provided • Assessment of findings, corrective action, and management's decision as applicable	
	Supervisors periodically reconcile subrecipient monitoring calendar and planed monitoring activities to actual monitoring activities to ensure monitoring is taking place as planned.	
Segregation of duties exists between those preparing and those reviewing and filing required reports	Segregation of duties exist between those performing the monitoring and those approving the conclusions made about the subrecipient' s compliance.	
Where segregation of duties is not practical, management selects and develops alternative control activities.	Where segregation of duties is not practical, management selects and develops alternative control activities.	

Principle 11. Design Activities for the Information System: management should design the entity's information system and related control activities over technology to achieve objectives and respond to risks.

A. ACTIVITIES ALLOWED OR UNALLOWED B. ALLOWABLE COSTS/COST PRINCIPLES	C. CASH MANAGEMENT	E. ELIGIBILITY	F. EQUIPMENT AND REAL PROPERTY MANAGEMENT
The information system configuration prevents expenditures from being recorded to the expenditure categories in excess of the budget without appropriate review and approval.		The information system configuration prevents a participant from being approved as eligible until all criteria required by the program requirements are input.	
The information system configuration is set up such that invoices, payroll authorization forms and time sheets are only routed to personnel who have the authority to approve them for coding and payment.		The information system is configured so that amounts to be received for or on behalf of a participant conform with minimums, maximums and other criteria as set forth by the grant or contract.	The information system is configured to track federal property and equipment separate from non-federal property and equipment.
The information system is configured to only allow transactions posted to the project account that are coded to pre-selected expense categories.		The information system is set up such that the approval of a participants' eligibility is routed to personnel who have the authority to approve.	
			Periodic reconciliation of assets within the information system is performed between the general ledger/inventory records.
Access to processes and control activities in information systems specific to allowable activities/costs is limited to authorized individuals.	Access to the external electronic drawdown information system(s) is (are) restricted to authorized individuals.	Access to processes and control activities in information systems specific to eligibility is limited to authorized individuals.	Access to information systems used to track property is limited to authorized individuals.
Changes to the grant profile within the system are restricted to authorized personnel.			

Principle 11. Design Activities for the Information System: management should design the entity's information system and related control activities over technology to achieve objectives and respond to risks.

G. MATCHING, LEVEL OF EFFORT, EARMARKING	H. PERIOD OF PERFORMANCE	I. PROCUREMENT AND SUSPENSION AND DEBARMENT	J. PROGRAM INCOME
The information system configuration prevents amounts or other data from being applied as match for more than one federal funding source.	The information system configuration prevents expenditures from being recorded to the federal award outside the period of performance.		
	The information system configuration is set up such that invoices, payroll authorization forms and time sheets are routed only to personnel who have the authority to approve them for coding and payment.	The information system (procurement card system, purchase order system, etc.) is configured for purchasing/approval hierarchy and any quantity or monetary limits depending on the purchasing authority of the user.	
The information system is configured such that the grant match expense record is linked to original grant expense record and only allows transactions posted to the same pre-selected expense categories.		The information system is configured to only allow use of pre-approved vendors in a vendor master file.	The information system is configured to only allow application of program income based on the method outlined in the grant approval form.
Access to information system used to track matching, matching and level of effort is limited to authorized individuals.	Access to processes and control activities in information systems specific to period of performance is limited to authorized individuals.	Access to processes and control activities in information systems specific to procurement such as the vendor master file is limited to authorized individuals.	Access to processes and control activities in information systems specific to applying program income to grants and capturing program income are restricted to authorized personnel.
Changes to the grant profile within the system are restricted to authorized personnel.	Changes to the grant profile within the system are restricted to authorized personnel.	Changes to the vendor master file are restricted to authorized personnel.	Changes to the grant profile within the system are restricted to authorized personnel.

Principle 11. Design Activities for the Information System: management should design the entity's information system and related control activities over technology to achieve objectives and respond to risks.

L. REPORTING	M. SUBRECIPIENT MONITORING	N. SPECIAL TESTS AND PROVISIONS
Access to processes and control activities information in systems specific to gathering information for reporting is limited to authorized individuals.		
Access to external information systems used to report is limited to those preparing and reviewing reports.		

Principle 12. Implement Control Activities: management should implement control activities through policies.

A. ACTIVITIES ALLOWED OR UNALLOWED B. ALLOWABLE COSTS/COST PRINCIPLES	C. CASH MANAGEMENT	E. ELIGIBILITY	F. EQUIPMENT AND REAL PROPERTY MANAGEMENT
Written policies/procedures exist outlining processes and control activities for costs coded to federal awards (award set- up, cost of personnel and fringe, direct costs other than personnel, indirect costs, etc.).	Written policies/procedures exist outlining processes and control activities for requesting advances/reimbursement, ensuring program income and other refunds/rebates are utilized before drawing down funds, monthly reconciliations are performed and monitoring subrecipients for cash management compliance.	Written policies/procedures exist outlining processes and control activities for determining eligibility of participants and amounts awarded, as applicable.	Written policies/procedures exist outlining processes and control activities for: (1) acquiring, safeguarding, maintaining, and disposing of federal equipment and real property; (2) ensuring all property acquired with federal awards, including capitalized leasehold improvements, is detailed including the source of funds used to purchase the property (including the Federal Award Identification Number or FAIN), date of acquisition, cost, date of disposition, a description of the property (including serial number), the condition of the property, and the location of the property; (3) ensuring reconciliations of physical property to the federal award agreements is performed at least annually; and (4) identifying dispositions and to ensure compliance with disposition instructions during the award and upon close out.
Management establishes responsibility and accountability for control activities with management (or other designated personnel) of the unit or function in which the relevant risks reside.	Management establishes responsibility and accountability for control activities with management (or other designated personnel) of the unit or function in which the relevant risks reside.	Management establishes responsibility and accountability for control activities with management (or other designated personnel) of the unit or function in which the relevant risks reside.	Management establishes responsibility and accountability for control activities with management (or other designated personnel) of the unit or function in which the relevant risks reside.
Responsible personnel perform control activities in a timely manner as defined by policies and procedures.	Responsible personnel perform control activities in a timely manner as defined by policies and procedures.	Responsible personnel perform control activities in a timely manner as defined by policies and procedures.	Responsible personnel perform control activities in a timely manner as defined by policies and procedures.
Responsible personnel investigate and act on matters identified as a result of executing control activities.	Responsible personnel investigate and act on matters identified as a result of executing control activities.	Responsible personnel investigate and act on matters identified as a	Responsible personnel investigate and act on matters identified as a result of executing control activities.

A. ACTIVITIES ALLOWED OR UNALLOWED B. ALLOWABLE COSTS/COST PRINCIPLES	C. CASH MANAGEMENT	E. ELIGIBILITY	F. EQUIPMENT AND REAL PROPERTY MANAGEMENT
		result of executing control activities.	
Competent personnel with sufficient authority perform control activities with diligence and continuing focus.	Competent personnel with sufficient authority perform control activities with diligence and continuing focus.	Competent personnel with sufficient authority perform control activities with diligence and continuing focus.	Competent personnel with sufficient authority perform control activities with diligence and continuing focus.
Management periodically reviews control activities to determine their continued relevance and refreshes them, as necessary.	Management periodically reviews control activities to determine their continued relevance and refreshes them, as necessary.	Management periodically reviews control activities to determine their continued relevance and refreshes them, as necessary.	Management periodically reviews control activities to determine their continued relevance and refreshes them, as necessary.

Principle 12. Implement Control Activities: management should implement control activities through policies.

G. MATCHING, LEVEL OF EFFORT, EARMARKING	H. PERIOD OF PERFORMANCE	I. PROCUREMENT AND SUSPENSION AND DEBARMENT	J. PROGRAM INCOME
Written policies/procedures exist outlining processes and control activities specific to matching, level of effort and earmarking and including acceptance support for in-kind contributions used as match and an adherence to an organization's processes and control activities for Activities Allowed or Unallowed and Allowable Costs/Cost Principles, as appropriate.	Written policies/procedures exist outlining process and control activities for costs coded to federal awards ensuring that such costs are applied within the period of performance including the process/controls for securing approvals for pre-award spending, as applicable, and the process/controls to ensure that liquidation (payments) made at the end of the period are made within the allowed time period.	Written policies/procedures exist to address Uniform Guidance requirements such as conflict of interests, free and open competition regulations, and solicitation procedures. With respect to suspension and debarment, written policies exist outlining processes and control activities to verify organizations are not contracting or sub-awarding under covered transactions with parties who are suspended or debarred. Policies outline the frequency with which verification takes places, how that verification is documented and the acceptable methods of verification (checking the EPLS system, collecting a certification from the party or adding a clause/condition to the covered transaction with the party).	Written policies/procedures exist outlining processes and control activities for program income inclusive of identifying the proper method (Deduction, Addition, or Cost Sharing/Matching), recording program income completely and accurately and using program income in accordance with the specified method.
Management establishes responsibility and accountability for control activities with management (or other designated personnel) of the unit or function in which the relevant risks reside.	Management established responsibility and accountability for control activities with management (or other designated personnel) of the unit or function in which the relevant risks reside.	Management establishes responsibility and accountability for control activities with management (or other designated personnel) of the unit or function in which the relevant risks reside.	Management establishes responsibility and accountability for control activities with management (or other designated personnel) of the unit or function in which the relevant risks reside.
Responsible personnel perform control activities in a timely manner as defined by policies and procedures.	Responsible personnel perform control activities in a timely manner as defined by policies and procedures.	Responsible personnel perform control activities in a timely manner as defined by policies and procedures.	Responsible personnel perform control activities in a timely manner as defined by policies and procedures.
Responsible personnel investigate and act on matters identified as a result of executing control activities.	Responsible personnel investigate and act on matters identified as a result of executing control activities.	Responsible personnel investigate and act on matters identified as a result of executing control activities.	Responsible personnel investigate and act on matters identified as a result of executing control activities.
Competent personnel with sufficient authority perform	Competent personnel with sufficient authority perform	Competent personnel with sufficient authority perform control activities with diligence and continuing focus.	Competent personnel with sufficient authority perform control activities with diligence and continuing focus.

G. MATCHING, LEVEL OF EFFORT, EARMARKING	H. PERIOD OF PERFORMANCE	I. PROCUREMENT AND SUSPENSION AND DEBARMENT	J. PROGRAM INCOME
control activities with diligence and continuing focus.	control activities with diligence and continuing focus.		
Management periodically reviews control activities to determine their continued relevance and refreshes them, as necessary.	Management periodically reviews control activities to determine their continued relevance and refreshes them, as necessary.	Management periodically reviews control activities to determine their continued relevance and refreshes them, as necessary.	Management periodically reviews control activities to determine their continued relevance and refreshes them, as necessary.

Principle 12. Implement Control Activities: management should implement control activities through policies.

L. REPORTING	M. SUBRECIPIENT MONITORING	N. SPECIAL TESTS AND PROVISIONS
Written policies/procedures exist outlining processes and control activities for ensuring reporting to federal awarding agencies and pass-through entities is complete and accurate.	Written policies/procedures exist outlining processes and control activities for oversight of subrecipients.	
Management establishes responsibility and accountability for control activities with management (or other designated personnel) of the unit or function in which the relevant risks reside.	Management establishes responsibility and accountability for control activities with management (or other designated personnel) of the unit or function in which the relevant risks reside.	
Responsible personnel perform control activities in a timely manner as defined by policies and procedures.	Responsible personnel perform control activities in a timely manner as defined by policies and procedures.	
Responsible personnel investigate and act on matters identified as a result of executing control activities.	Responsible personnel investigate and act on matters identified as a result of executing control activities.	
Competent personnel with sufficient authority perform control activities with diligence and continuing focus.	Competent personnel with sufficient authority perform control activities with diligence and continuing focus.	
Management periodically reviews control activities to determine their continued relevance and refreshes them, as necessary.	Management periodically reviews control activities to determine their continued relevance and refreshes them, as necessary.	

PART 7 - GUIDANCE FOR AUDITING PROGRAMS NOT INCLUDED IN THIS COMPLIANCE SUPPLEMENT

Purpose

2 CFR 200.514(d)(3) states that for those federal programs not covered in the compliance supplement, the auditor must use the types of compliance requirements (see 12 types of compliance requirements described in Part 3) contained in the compliance supplement (this Supplement) as guidance for identifying the types of compliance requirements to test, and determine the requirements governing the federal program by reviewing the provisions of the federal award, and the laws and regulations referred in such awards.

The purpose of this Part is to provide the auditor with guidance on how to identify the applicable compliance requirements for programs not included in this Supplement for single audits and for program-specific audits when a program-specific audit guide is not available. This Supplement includes only the largest and/or riskiest federal programs. However, more than 1,500 assistance programs are currently funded by the federal government. Therefore, it is likely that the auditor will encounter programs that the auditor is required to test as major programs that are not included in this Supplement. For this reason, the following guidance is provided for the auditor to identify those compliance requirements that should be tested.

Organization of this Supplement

First, a review of how this Supplement is organized will be helpful since the auditor must consider several parts of the Supplement in identifying compliance requirements to be tested. This Supplement comprises the following parts:

Part 1 - Background, Purpose, and Applicability

Part 2 - Matrix of Compliance Requirements

Part 3 - Compliance Requirements

Part 4 - Agency Program Requirements

Part 5 - Clusters of Programs

Part 6 - Internal Control

Part 7 - Guidance for Auditing Programs Not Included in This Compliance Supplement

Appendices

In determining the compliance requirements to test for programs not included in this Supplement, the auditor must refer to parts 3 and 5. Part 3 identifies and describes the 12 types of compliance requirements where noncompliance may have a direct and material effect on a federal program and provides audit objectives and suggested audit procedures. The 12 types of compliance requirements are:

A. Activities Allowed or Unallowed

B. Allowable Costs/Cost Principles

C. Cash Management

D. (Reserved) (Note: Some agencies have made Davis-Bacon Act (Wage Rate Requirements) a Special Test and Provision; see 20.001 in Part 4 for a cross-cutting section addressing Wage Rate Requirements.)

E. Eligibility

F. Equipment and Real Property Management

G. Matching, Level of Effort, Earmarking

H. Period of Performance

I. Procurement and Suspension and Debarment

J. Program Income

K. (Reserved)

L. Reporting

M. Subrecipient Monitoring

N. Special Tests and Provisions

Part 5 enumerates those programs that are considered to be clusters of programs as defined in 2 CFR 200.1. A cluster of programs means federal programs with different Assistance Listing (CFDA) numbers that are defined as a cluster of programs because they are closely related programs and share compliance requirements. Part 5 identifies research and development (R&D) and Student Financial Assistance (SFA) as clusters, as well as certain other clusters.

For programs not included in this Supplement, the auditor must determine the applicable compliance requirements. While a federal program may have many compliance requirements, normally there are only a few key compliance requirements that could have a direct and material effect on the program. Since the single audit process is not intended to cover every compliance requirement, the auditor's focus must be on the 12 types of compliance requirements enumerated in Part 3 of the Supplement. The following are suggested procedures to assist the auditor in making this determination.

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

Steps for Identifying Compliance Requirements

Determining what compliance requirements to test involves several steps. The auditor should address the following questions:

1. *What are the program objectives, program procedures, and compliance requirements for a specific program?*

   The first step is to gain an understanding of how the program works (e.g., the program objectives and procedures) and determine what laws, regulations, and provisions of the federal award (compliance requirements) apply to the program. The auditor should consider the following steps:

   a. Discuss the program with the recipient or subrecipient and, if necessary, the federal agency or, in the case of a subrecipient, the pass-through entity.

   b. Review the federal award and referenced laws and regulations applicable to the program, including any amendments or closeout agreements. The documents or agreements may identify the name and telephone number of a federal contact person or, if a subaward, the contact person for the pass-through entity whom the auditor may wish to contact for additional information.

   Note: The auditor should be aware that a particular recipient or subrecipient, or federal award may be subject to provisions that are unique to that entity or award. For example, previous noncompliance by a recipient or subrecipient may result in additional requirements to which the recipient or subrecipient must adhere, in order to continue its participation in the federal program. Such provisions generally would not be based on laws and regulations applicable to all awards under the federal program. Reasonable procedures to identify such compliance requirements would be inquiry of recipient or subrecipient management and review of the federal award. Any such requirements identified that could have a direct and material effect on a major program must be included in the audit.

   c. Review the Assistance Listing. The Assistance Listing provides summary information about each program and includes the name and telephone number of a federal contact person. A searchable copy of the Assistance Listing is available at SAM.gov | Home.

   d. If there is a program-specific audit guide or other audit guidance issued by the federal agency's Office of the Inspector General (OIG), the auditor may consider that guidance in identifying the program objectives, program procedures, and

compliance requirements. See Part 8 – Appendix 6 of the Supplement for the availability of program-specific audit guides.

e. Consider other audit guidance, including previously issued guidance, pertaining to the program that has continuing relevance.

2. *Which of the compliance requirements could have a direct and material effect on the program?*

Generally Accepted Government Auditing Standards require that the auditor plan the audit to provide reasonable assurance that the financial statements are free of material misstatement resulting from violations of laws and regulations that have a direct and material effect on the determination of financial statement amounts. 2 CFR 200.514(d) requires the auditor to perform procedures to determine whether the auditee has complied with laws, regulations, and the provisions of the federal award that could have a direct and material effect on each major program. Therefore, the auditor must determine which compliance requirements could have a direct and material effect on each major program.

In assessing materiality, the auditor should consider that materiality is based on qualitative as well as quantitative aspects. Also, the auditor should consider whether to set materiality at lower levels in audits of federal programs than private sector audits of financial statements due to the visibility and sensitivity of such programs. Examples of characteristics indicative of compliance requirements that could have a direct and material effect on a major program include:

a. Noncompliance could likely result in questioned costs.

b. The requirement affects a large part of the federal program (e.g., a material amount of program dollars).

c. Noncompliance could cause the federal agency, or pass-through entity, in the case of a subrecipient, to take action, such as seeking reimbursement of all or a part of the award and suspending the recipient's or subrecipient's participation in the program.

3. *Which of the compliance requirements are susceptible to testing by the auditor?*

The auditor is expected to test compliance only for those requirements that are susceptible to testing by the auditor (i.e., the requirements can be evaluated against objective criteria, and the auditor can reasonably be expected to have sufficient basis for recognizing noncompliance). Further, the auditor would not be expected to test for compliance with requirements that the federal agency should have the ability to verify in the normal course of administering the program (e.g., if the requirement is that the recipient or subrecipient must file a report by a certain date, the federal agency should know whether it received the report on time). Characteristics of compliance requirements that auditors are typically expected to test include those:

a. That are practical to test.

b. With objective criteria available for the auditor to assess compliance.
c. Where an audit objective can be written that supports an opinion on compliance.

d. When testing adds value, for example:

(1) It is likely that the auditor could document the noncompliance in a manner that (a) permits the federal or pass-through entity to take action, or (b) gives the federal or pass-through entity an early warning to initiate a monitoring visit or other contact with the recipient or subrecipient.

(2) The federal or pass-through entity does not otherwise have information that verifies compliance.

4. *Into which of the 12 types of compliance requirements does each compliance requirement fall?*

Note: In performing this step, the auditor may find it helpful to prepare a matrix similar to the matrix included in Part 2 for programs included in this Supplement.

The auditor must use the 12 types of compliance requirements listed for identifying which requirements applicable to the program are subject to testing. Not all compliance requirements apply to all programs. Conversely, certain types almost always apply.

A. **Activities Allowed or Unallowed** almost always applies to federal programs. The auditor should look at the program requirements and federal award documents for what constitutes allowable or unallowable activities.

B. **Allowable Costs/Cost Principles** almost always applies since most federal programs have charges for goods or services. However, if a program only involves benefits to eligible recipients, with no administrative costs, purchases of goods or services (including salaries and overhead), or allocated costs, then allowable costs may not apply.

C. **Cash Management** almost always applies to federal programs.

E. **Eligibility** applies to most federal programs which provide benefits to individuals, groups of individuals, or make subawards. For programs with eligibility requirements, the auditor should review the program laws, regulations, and provisions of federal awards to determine the specific eligibility requirements. Eligibility involves not only individuals but also possibly groups of individuals, geographical areas, or subrecipients. Additionally, the auditor should consider whether continuing, as well as initial, eligibility requirements apply. Furthermore, eligibility involves both who is eligible and the amount of benefits provided to those who are eligible.

F. **Equipment and Real Property Management** requirements apply to federal programs that allow for purchase equipment or real property.

G. **Matching, Level of Effort, Earmarking** is not universal, and, if applicable, would be specific to the federal program and often the recipient or subrecipient. Therefore, the auditor will have to review the laws, regulations, and federal awards applicable to the program to determine specific requirements for matching, level of effort, and/or earmarking.

H. **Period of Performance** almost always applies to federal programs. The federal award often indicates the period during which the funds are available for obligation under the program. The auditor should also look for program requirements regarding carry-over of unused funds to future funding periods, and whether pre-award costs are allowable, to what extent, and under what circumstances.

I. **Procurement and Suspension and Debarment** applies, in the case of procurement, any time the entity procures goods or services. Suspension and debarment applies to certain procurements and to all subawards.

J. **Program Income** applies to any program that generates program income (primarily related to the disposition of the income). Program regulations or the federal award may specify additional criteria.

L. **Reporting** almost always applies to federal programs. The standard financial reports are described in Part 3; however, the federal agency or the pass-through entity may have developed its own forms for financial reporting. These forms may be in addition to or in lieu of the standard federal financial reports and may include electronic submissions. The auditor should determine whether the standard reports are used, and if not, whether other forms are used to report the same or similar information. Information collections (which, as defined in 5 CFR section 1320.3(c), involve 10 or more respondents) by federal agencies must be approved by OMB in accordance with the Paperwork Reduction Act of 1995 (44 USC 3501-3520) and assigned an OMB control number. A federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

For performance reporting and special reporting, if there is a program in this Supplement funded by the same federal agency that requires the same performance or special reporting required by the program for which the auditor is seeking to identify compliance requirements, and this Supplement requires testing of those data, then the auditor should use such guidance in identifying compliance requirements to test. Otherwise, the auditor is only required to test financial reporting. When applicable, the auditor is required to test compliance with the subaward reporting requirement under the Federal Funding Accountability and Transparency Act (FFATA).

M. **Subrecipient Monitoring** applies when federal awards are passed through to a subrecipient. If the entity is not a pass-through entity, this requirement does not apply.

N. **Special Tests and Provisions** include those compliance requirements that do not fit the description of the types of compliance requirements discussed above. These will generally be the most difficult type of compliance requirement to identify because, by definition, with the exception of Wage Rate Requirements (previously the Davis-Bacon Act), they are unique to each program. In addition to reviewing the program's federal awards and referenced laws and regulations, the auditor also should make inquiries of the recipient or subrecipient to help identify and understand Special Tests and Provisions.

For each of the types of compliance requirements listed above, except for Special Tests and Provisions, the auditor must consider the compliance requirements and related audit objectives in Part 3. In making a determination not to test a compliance requirement, the auditor must conclude that the requirement either does not apply to the particular recipient or subrecipient or that noncompliance with the requirement could not have a direct and material effect on a major program (e.g., the auditor would not be expected to test Procurement if the recipient or subrecipient charges only small amounts of purchases to a major program). The suggested audit procedures in Part 3 are provided to assist auditors in planning and performing tests of recipient and subrecipient compliance with the requirements of federal programs. Auditor judgment is necessary to determine whether the suggested audit procedures are sufficient to achieve the stated audit objective and whether additional or alternative audit procedures are needed.

Internal Control – Consistent with the requirements of 2 CFR Part 200, Subpart F, 200.514 (c) Part 6 includes audit objectives and suggested audit procedures to test internal control. However, the auditor must determine the specific procedures to test internal control on a case by case basis considering factors such as the recipient and subrecipient's internal control, the compliance requirements, the audit objectives for compliance, the auditor's assessment of control risk, and the audit requirement to test internal control as prescribed in 2 CFR Part 200, Subpart F.

5. *For Special Tests and Provisions, what are the applicable audit objectives and audit procedures?*

For each of the types of compliance requirements discussed above, Part 3 includes audit objectives and suggested audit procedures, except for Special Tests and Provisions. As noted above, Special Tests and Provisions (except for Wage Rate Requirements) are sufficiently unique to every program that including audit objectives and suggested audit procedures is not practicable. Therefore, the auditor will have to develop audit objectives and audit procedures for each identified Special Test and Provision (other than those related to Wage Rate Requirements, which are found in Part 4, 20.001 Wage Rates Cross Cutting Section)) using the guidance described in Part 3 under Special Tests and Provisions.

APPENDIX I

FEDERAL PROGRAMS EXCLUDED FROM THE FORMER A-102 COMMON RULE AND PORTIONS OF 2 CFR PART 200

Background

Certain grant programs (for example, block grant programs enacted under the Omnibus Budget Reconciliation Act of 1981, one special program, open-ended entitlement programs, and other specified programs) were originally exempted from the provisions of the former A-102 Common Rule and current 2 CFR Part 200. This document provides information on programs that remain exempt under the current 2 CFR Part 200. Information on this topic is also provided at 2 CFR 200.101.

Administrative Requirements

The programs that remain exempt from the administrative requirements in 2 CFR Part 200 are listed below. For programs that remain exempt, as described below, consult the agency-specific segments of Part 4 (Agency Program Requirements), at Section II (Program Procedures) of the relevant assistance listing, at the sub-section titled "Source of Governing Requirements," for the relevant governing requirements.

Note that, in some cases, the administrative requirements for entitlement programs in federal agency regulations are not identical to those in 2 CFR Part 200. Rather than identify for testing each instance where the requirements differ, this Supplement addresses only those differences that warrant special attention. One difference is in the area of procurement (see below). With respect to all other administrative requirements, the auditor must rely on the provisions of 2 CFR Part 200 and agency program requirements (see Part 4).

Differences Pertaining to Procurement

Subpart F of 45 CFR Part 95, ADP equipment and services, applies to certain HHS programs as specified in Part 4 of this Supplement. Subpart F requires prior federal written approval for the acquisition of ADP equipment and services of $5 million or more when the federal government funds at regular matching rates and prior written approval for all ADP acquisitions when the federal government funds at enhanced matching rates. In addition, the rules require prior federal written approval for sole-source contracts between $1 million and $5 million when the federal government funds at regular matching rates and for certain requests for proposals (RFPs), contracts, and amendments.

Cost Principles

The programs listed below also are exempt from the provisions of 2 CFR Part 200, Subpart E. State cost principles requirements apply to these programs (including their subrecipients).

Programs Excluded from the Requirements of Portions of 2 CFR Part 200

Some programs (both those included in the Supplement and others) are exempted from specified portions of 2 CFR Part 200. Federal award terms and conditions should indicate the applicability of 2 CFR to specific programs.

The following list provides the Assistance Listing number and program name as listed in the current Assistance Listing. A notation is included with the program name to indicate circumstances in which only some, but not all, of the awards under an Assistance Listing number are excluded from the relevant portions of 2 CFR Part 200 or to provide other clarifications.

Except for the requirement to provide public notice of federal financial assistance programs in 2 CFR sections 200.203 and 200.216, and the requirements in 2 CFR sections 200.331 through 200.333, the guidance in 2 CFR Part 200, subparts C, D, and E, as implemented by the federal agency, does not apply to the following programs:

2 CFR section 200.101(e)(1)

The Omnibus Budget Reconciliation Act of 1981 (including Community Services):

93.568	Low-Income Home Energy Assistance
93.569	Community Services Block Grant (except to the extent that subpart E apply to subrecipients of these funds pursuant to 42 USC 9916(a)(1)(B)).
93.667	Social Services Block Grant
93.958	Block Grants for Community Mental Health Services
93.959	Block Grants for Prevention for Substance Use Prevention, Treatment and Recovery Services
93.991	Preventive Health and Health Services Block Grant (not included in the Supplement)
93.994	Maternal and Child Health Services Block Grant to the States
14.228	Community Development Block Grants/State's Program and Non-Entitlement Grants in Hawaii (Note: Awards to non-entitlement counties in Hawaii are not considered "block grants" for this purpose.)

2 CFR section 200.101(e)(2)

Grants to local education agencies under the following sections of the Impact Aid program:

Section 8002, 20 U.S.C. 7702 (federal property payments), Section 8003(b), 20 U.S.C. 7703(b) (Basic support payments).

84.041 (excluding payments for children with disabilities and payments for construction)

2 CFR section 200.101(e)(3)

Payments under the Veterans Administration's State Home Per Diem Program (38 U.S.C. 1741):

64.014 Veterans State Domiciliary Care
64.015 Veterans State Nursing Home Care

2 CFR section 200.101(e)(4)

Grants authorized under the Child Care and Development Block Grant Act of 1990, as amended:

93.575 Child Care and Development Block Grant
93.596 Child Care Mandatory and Matching Funds of the Child Care and Development Fund

APPENDIX II

FEDERAL AGENCY CODIFICATION OF GOVERNMENT-WIDE REQUIREMENTS AND GUIDANCE FOR GRANTS AND COOPERATIVE AGREEMENTS

Agency (departments then agencies[1])	2 CFR Part 200[2, 3] (Final rule publication date, unless otherwise indicated)	2 CFR Revisions [4] (85 FR 19506, Aug. 13, 2020) Date applied by agency	2 CFR Revisions [5] (89 FR 30046, Apr. 22, 2024) Date applied by agency	Non-procurement Suspension & Debarment[6] (2 CFR Part 180 or predecessor common rule)
Agriculture	2 CFR 400, 415, 416 (2/16/16)	11/16/20	10/01/24	2 CFR 417
Commerce	2 CFR 1327 (7/28/15)	08/13/20 and 11/12/20	10/01/24	2 CFR 1326
Defense	2 CFR 1103 (interim final, 12/19/14)	N/A	10/01/24	2 CFR 1125
Education	2 CFR 3474 (11/2/15)	08/13/20 and 11/12/20	10/01/24	2 CFR 3485
Energy	2 CFR 910 (9/24/15)	03/18/22	10/01/24	2 CFR 901
Health & Human Services	2 CFR 300/45 CFR 75 (interim final and technical amendments, 1/20/16)	N/A	10/01/24 and 10/1/2025 [5]	2 CFR 376
Homeland Security	2 CFR 3002 (10/2/15)	08/13/20 and 11/12/20	10/01/24	2 CFR 3000
Housing & Urban Development	2 CFR 2400 (12/7/15)	08/13/20 and 11/12/20	10/01/24	2 CFR 2424
Interior	2 CFR 1402 (interim final, 12/19/14; proposed rule, 2/8/16)	10/18/21	10/01/24	2 CFR 1400
Justice	2 CFR 2800 (interim final, 09/08/16)	08/13/20 and 11/12/20	10/01/24	2 CFR 2867
Labor	2 CFR 2900 (12/30/15)	04/27/21	10/01/24	29 CFR 98
State	2 CFR 600 (6/2/15)	10/21/20	10/01/24	2 CFR 601
Transportation	2 CFR 1201 (12/17/15)	08/13/20 and 11/12/20	10/01/24	2 CFR 1200
Treasury	2 CFR 1000 (1/27/16)	08/13/20 and 11/12/20	10/01/24	31 CFR 19
Veterans Affairs	2 CFR 802 (12/1/2015)	08/13/20 and 11/12/20	10/01/24	2 CFR 801

Agency (departments then agencies[1])	2 CFR Part 200[2, 3] (Final rule publication date, unless otherwise indicated)	2 CFR Revisions [4] (85 FR 19506, Aug. 13, 2020) Date applied by agency	2 CFR Revisions [5] (89 FR 30046, Apr. 22, 2024) Date applied by agency	Non-procurement Suspension & Debarment[6] (2 CFR Part 180 or predecessor common rule)
ADF				22 CFR 1508
AID	2 CFR 700 (9/17/15)	08/13/20 and 11/12/20	10/01/24	2 CFR 780
BBG				22 CFR 513
CNCS	2 CFR 2205 (11/17/15)	08/13/20 and 11/12/20	10/01/24	2 CFR 2200
EPA	2 CFR 1500 (10/9/2015)	08/13/20 and 11/12/20	10/01/24	2 CFR 1532
EX-IM				2 CFR 3513
FMCS			10/01/24	29 CFR 1471
GSA				41 CFR 105-68
GCERC	2 CFR 5900 (12/9/15)	08/13/20 and 11/12/20	10/01/24	
IMLS	2 CFR 3187 (9/21/15)	08/13/20 and 11/12/20	10/01/24	2 CFR 3185
IAF			10/01/24	22 CFR 1006
NASA	2 CFR 1800 (9/11/15)	11/12/20	10/01/24	2 CFR 1880
NARA	2 CFR 2600 (8/25/15)	10/01/20		2 CFR 2600
NEA	2 CFR 3255 (6/29/15)	08/13/20 and 11/12/20	10/01/24	2 CFR 3254
NEH	2 CFR 3374 (9/16/15)	08/13/20 and 11/12/20	10/01/24	2 CFR 3369
NSF	2 CFR 2500 (11/27/15) (NSF's Proposal and Award Policies and Procedures Guide, may be found at http://www.nsf.gov/bfa/dias/policy/ along with significant changes from the previous version)	08/13/20 and 11/12/20	10/01/24	2 CFR 2520
ONDCP	2 CFR 3603 (9/23/15)	08/13/20 and 11/12/20	10/01/24	21 CFR 1404
OPM				5 CFR 919
Peace Corps				2 CFR 3700
SBA	2 CFR 2701 (1/11/16)	04/26/21	10/01/24	2 CFR 2700

Agency (departments then agencies[1])	2 CFR Part 200[2, 3] (Final rule publication date, unless otherwise indicated)	2 CFR Revisions [4] (85 FR 19506, Aug. 13, 2020) Date applied by agency	2 CFR Revisions [5] (89 FR 30046, Apr. 22, 2024) Date applied by agency	Non-procurement Suspension & Debarment[6] (2 CFR Part 180 or predecessor common rule)
SSA	2 CFR 2300 (11/10/15)	08/13/20 and 11/12/20	10/01/24	2 CFR 2336

Notes:

1. Abbreviations used for the following independent agencies: African Development Foundation (ADF), Agency for International Development (AID), Broadcasting Board of Governors (BBG), Corporation for National and Community Service (CNCS), Environmental Protection Agency (EPA), Export-Import Bank of the United States (EX-IM), Federal Emergency Management Agency (FEMA) (now part of the Department of Homeland Security), Federal Mediation and Conciliation Service (FMCS), General Services Administration (GSA), Gulf Coast Ecosystem Restoration Council (GCERC), Institute of Museum and Library Services (IMLS), Inter-American Foundation (IAF), National Aeronautics and Space Administration (NASA), National Archives and Records Administration (NARA), National Endowment for the Arts (NEA), National Endowment for the Humanities (NEH), National Science Foundation (NSF), Office of National Drug Control Policy (ONDCP), Office of Personnel Management (OPM), Small Business Administration (SBA), and Social Security Administration (SSA).

2. The list of exceptions in department and agency regulatory adoption/implementation of 2 CFR Part 200 approved by OMB on December 19, 2014, is available at https://www.cfo.gov/wp-content/uploads/2014/12/Agency-Exceptions.pdf. This document provides links to the applicable language in the department/agency rule.

3. The *Federal Register* (https://www.federalregister.gov/) for the date shown includes the preamble language for the final rule, which explains any changes from the interim final rule published on December 19, 2014.

4. The 2 CFR was revised on August 13, 2020 (85 FR 19506). The agencies that have adopted the 2014 2 CFR without any exceptions are not required to update their regulations (i.e., Commerce, Homeland Security, GCERC, Housing and Urban Development, IMLS, NEA, NEH, ONDCP, SSA, and Veterans Affairs). When the two dates are shown in this column, the agency has adopted the effective date of August 13, 2020 for the two sections to which it applies (§2 CFR 200.216 and §2 CFR 200.340) and November 12, 2020 for the rest of the revisions. "N/A" in this column means that agency is working on revisions to its 2 CFR sections (mostly technical amendments for section references), and the auditor must check the award's terms and conditions for applicability of the revisions.

5. The 2 CFR was revised on April 22, 2024 (89 FR 30046). Federal agencies applied the 2024 revisions in the Terms and Conditions of new Federal awards issued on or after October 1, 2024. Some agencies applied the 2024 revisions

to Federal awards issued prior to October 1, 2024, but they were not required to do so by OMB. The Department of Health and Human Services only adopted specific sections of the 2 CFR on October 1, 2024 with the remaining guidance to go into effect on October 1, 2025. Federal agencies confirmed their implementation of the 2024 revisions in a joint COFFA memorandum issued on January 15, 2025: https://www.coffa.gov/assets/files/2%20CFR%20Supplemental%20Information.pdf.

6. The OMB guidance on nonprocurement suspension and debarment is found at 2 CFR Part 180.

APPENDIX III

FEDERAL AGENCY SINGLE AUDIT, KEY MANAGEMENT LIAISON, AND PROGRAM CONTACTS

This appendix provides the federal agency national single audit coordinator (NSAC) (starts on page 8-III-2), the key management single audit liaisons (KMSAL) (starts on page 8-III-10), and the program contacts (starts on page 8-III-11) for each program/cluster included in the Supplement. NSACs can answer technical audit questions, KMSALs, can answer questions related to the administrative requirements applicable to an agency program(s), and program contacts can answer program specific questions.

Agency	Page
United States Department of Agriculture	8- III -2
Department of Commerce	8- III -2
Department of Defense	8- III -2
Department of Education	8- III -2
Department of Energy	8- III -3
Department of Health and Human Services	8- III -3
Department of Homeland Security	8- III -3
Department of Housing and Urban Development	8- III -3
Department of the Interior	8- III -4
Department of Justice	8- III -4
Department of Labor	8- III -4
Department of State	8- III -4
Department of Transportation	8- III -5
Department of the Treasury	8- III -5
Department of Veterans Affairs	8- III -5
Agency for International Development	8- III -5
Appalachian Regional Commission	8- III -6
Corporation for National and Community Service	8- III -6
Environmental Protection Agency	8- III -6
Federal Communications Commission	8- III -6
General Services Administration	8- III -7
Gulf Coast Ecosystem Restoration Council	8- III -7
National Aeronautics and Space Administration	8- III -7
National Archives and Records Administration	8- III -7
National Endowment for the Arts	8- III -8
National Endowment for the Humanities	8- III -8
National Science Foundation	8- III -8
Nuclear Regulatory Commission	8- III -8
Social Security Administration	8- III -9
Tennessee Valley Authority	8- III -9
US Small Business Administration	8- III -9
Federal Agency Key Management Liaisons	8- III -10
Federal Agency Program Contacts	8- III -11

National Single Audit Coordinator	
Agency	**Type of Audit**
United States Department of Agriculture	
US Department of Agriculture Andy Kmetz Attn: Office of Audit, USDA OIG 1400 Independence Ave SW, Ste 419 Washington, DC 20250 (404) 594-9789 E-Mail: OIG-USDAsingleaudit@oig.usda.gov	All audits
Department of Commerce	
Regional Inspector General US Department of Commerce Naima Mohammed 401 West Peachtree Street NW, Suite 2742 Atlanta, GA 30308 Phone: Voice 404-730-2780 or 404-730-2067 E-Mail: NonFederalAudits@oig.doc.gov NMohammed@oig.doc.gov	All audits
Department of Defense	
Office of the Assistant Inspector General for Audit Policy and Oversight Evelyn Cortes Office of Inspector General US Department of Defense 4800 Mark Center Drive, Suite 11H25 Alexandria, VA 22350-1500 Phone: Voice 703-604-8760 E-Mail: aponet@dodig.mil	All audits
Department of Education	
US Department of Education Office of Inspector General Attn: Mark Priebe Director of the Non-Federal Audit Team 400 Maryland Ave SW Washington, DC 20202 Phone: 202-245-8255 E-Mail: OIGNon-FederalAudit@ed.gov Web site: https://www2.ed.gov/about/offices/list/oig/nonfed/index.html	All audits

National Single Audit Coordinator	
Agency	**Type of Audit**
Department of Energy	
US Department of Energy Office of Inspector General Attn: Single Audit Contact- Heather Baumgartel 626 Cochran Mill Road, IG-301.1, NETL-PGH, Building 900, RM 118 Pittsburgh, PA 15236 Phone: Voice 412-386-4697 Fax: 412-386-5048 Web site: https://www.energy.gov/ig/office-inspector-general/	All audits
Department of Health and Human Services	
National Single Audit Coordinator – Tammie Brown DHHS/OIG/OAS/Single Audit Division 1201 Walnut Street, Suite 1338 Kansas City, MO 64106 Technical Assistance E-Mail: SingleAudit.TA@oig.hhs.gov Web site: https://www.oig.hhs.gov/compliance/single-audits/	All audits
Department of Homeland Security	
US Department of Homeland Security OCFO/Financial Assistance Policy and Oversight Trudi Powell Building 410 245 Murray Lane, SW Washington, DC 20528 Phone: 202-447-5146 Email: trudi.powell@oig.dhs.gov	All audits
Department of Housing and Urban Development	
U.S. Department of Housing and Urban Development Office of Inspector General Kimberly Dahl, National Single Audit Coordinator 801 Market Street, 13th Floor, Philadelphia, PA 19107 Email: HUDOIGSingleAuditCoordinator@hudoig.gov Email: kdahl@hudoig.gov Tollfree: 1-866-492-1740 Desk: 202-617-6886	All audits

National Single Audit Coordinator	
Agency	**Type of Audit**
Department of the Interior	
Director, Financial Audits US Department of Interior Office of Inspector General Attn: Morgan Aronson 1849 C Street, NW Mail Stop 4428 Washington, DC 20240 Phone: Voice 202-208-5724 E-Mail: morgan_aronson@doioig.gov	All audits
Department of Justice	
US Department of Justice Office of the Inspector General Attn: Wendy Bradbury, NSAC 150 M Street, NE Washington, DC 20002 E-Mail: Single.Audit@usdoj.gov	All audits
Department of Labor	
National Single Audit Coordinator-Grover Fowler US Department of Labor Office of Inspector General Francis Perkins Building Room N-4633 200 Constitution Avenue, N.W. Washington, DC 20210 Phone: Voice (202) 693-5254 E-Mail: singleaudit@oig.dol.gov fowler.grover@oig.dol.gov Web site: http://www.oig.dol.gov	All audits
Department of State	
US Department of State Office of Inspector General, OIG/AUD/CG 1700 North Moore Street Arlington, VA 22209 Phone: Voice 571-348-5491 Fax: 703-284-2622 E-Mail: DOSOIGSingleAuditCoordinator@stateoig.gov Web site: https://www.stateoig.gov	All audits

National Single Audit Coordinator	
Agency	**Type of Audit**
Department of Transportation	
US Department of Transportation Office of Inspector General Attn: National Single Audit Coordinator Matthew Straw 101 W. Lombard Street, Suite 2516 Baltimore, MD 21201 Phone: Voice (443) 825-1510 singleauditrequest@oig.dot.gov Amtrak Contact: Attn: Katherine Moore Email: Katherine.Moore@amtrakoig.gov	All audits
Department of the Treasury	
Office of Inspector General Deputy Assistant Inspector General for Audit Attn: Julie Wong 875 15th Street NW, Suite 200 Washington, DC 20005 Phone: Voice 202-927-5400 Fax: 202-927-6994 E-Mail: wongj@oig.treas.gov	All audits
Department of Veterans Affairs	
Director-Sue Schwendiman Office of Inspector General Financial Statement Audit Division (52CF) Department of Veterans Affairs 810 Vermont Ave. NW Washington, DC 20420 Phone: Voice 202-565-7013 Fax: 202-565-7771	All audits
Agency for International Development	
USAID Attn: OIG/A/FA Room 8.10-10 1300 Pennsylvania Avenue, NW Washington, DC 20523-7802 Phone: Voice 202-712-4902 Fax: 202-216-3598 E-Mail: faudit@usaid.gov Web site: https://www.usaid.gov/	For audits of all US based not-for-profit organizations

National Single Audit Coordinator	
Agency	**Type of Audit**
Appalachian Regional Commission	
Appalachian Regional Commission Office of Inspector General 1666 Connecticut Ave. NW, Suite 215 Washington, DC 20009-1068 Phone: Voice 202-884-7675 Fax: 202-884-7696 E-Mail: oig@arc.gov	All audits
Corporation for National and Community Service	
Office of the Inspector General Corporation for National and Community Service Lauren Lesko 250 E Street, SW, Suite 4100 Washington, DC 20525 Fax: 202-606-9397 E-Mail: l.lesko@americorpsoig.gov Web site: https://www.americorpsoig.gov/	All audits
Environmental Protection Agency	
US Environmental Protection Agency Office of Inspector General-Office of Audit National Single Audit Coordinator: Lisa McCowan Four Penn Center 1600 John F. Kennedy Blvd, Mail Code 3A100 Philadelphia, PA 19103-2029 Phone: 215-987-7314 E-mail: oig.epa_single_audit@epa.gov Web site: https://www.epaoig.gov	All audits
Federal Communications Commission	
Federal Communications Commission Office of Inspector General Assistant Inspector General for Audit 45 L Street NE Washington, DC 20554 Phone: 202-418-0483 E-Mail: Sophila.Jones@fcc.gov Web site: https://www.fcc.gov/inspector-general	All audits

National Single Audit Coordinator	
Agency	**Type of Audit**
General Services Administration	
Deputy Inspector General for Finance and Administrative Audits Single Audit Coordinator: Anthony Mitchell General Services Administration 1800 F Street, Room 6046 Washington, DC 20405 Phone: Voice 202-708-5340 Fax: 202-708-7494 E-Mail: anthony.mitchell@gsa.gov	All audits
Gulf Coast Ecosystem Restoration Council	
Chief Financial Officer Gulf Coast Ecosystem Restoration Council 500 Poydras Street – Suite 1117 New Orleans, LA 70130 Phone: Voice 504-239-8179 E-Mail: Vanessa.taylor@restorethegulf.gov Web site: https://www.restorethegulf.gov/ Alternate: Steve Sigler, Enterprise Risk Management Specialist Phone: 504-494-3825 E-Mail: steve.sigler@restorethegulf.gov	All audits
National Aeronautics and Space Administration	
Tamekia Anglin NASA Office of Inspector General 300 E Street, SW, Room 8Q83 Washington, DC 20546-0001 E-Mail: tamekia.s.anglin@nasa.gov	All audits
National Archives and Records Administration	
Office of Inspector General National Archives at College Park 8601 Adelphi Road – Room 1300 College Park, MD 20740-6001 Phone: Voice 301-837-3000 Fax: 301-837-3197	All audits

National Single Audit Coordinator	
Agency	**Type of Audit**
National Endowment for the Arts	
Office of Inspector General National Endowment for the Arts 400 7th Street, SW Washington, DC 20506 Phone: Voice 202-682-5402 Fax: 202-682-5649 E-Mail: oig@arts.gov Web site: http://www.arts.gov/office/inspector-general	All audits
National Endowment for the Humanities	
Office of Inspector General National Endowment for the Humanities Attn: Laura Davis 400 7th Street, SW Washington, DC 20506 Phone: Voice 202-606-8574 E-Mail: oig@neh.gov ldavis@neh.gov	All audits
National Science Foundation	
Office of Inspector General National Science Foundation Assistant Inspector General Office of Audits National Science Foundation 2 2415 Eisenhower Avenue, W 16100 Alexandria, VA 22314 Phone: Voice 703-292-7100	All audits
Nuclear Regulatory Commission	
Nuclear Regulatory Commission Office of Inspector General Mail Stop T5D28 Washington, DC 20555 Attn: Anthony C. Lipuma, Team Leader Phone: Voice 301-415-5915 Fax: 301-415-5091 E-Mail: acl@nrc.gov	All audits

National Single Audit Coordinator	
Agency	**Type of Audit**
Social Security Administration	
Social Security Administration Audit Liaison Staff Attn: Amy Gao E-Mail: Audit.Correspondence@ssa.gov	All audits
Tennessee Valley Authority	
Assistant Inspector General Audit Operations Tennessee Valley Authority Office of Inspector General 400 West Summit Hill Drive Knoxville, TN 37902-1499 Phone: Voice 865-632-3437 Fax: 865-632-4130 Web site: https://oig.tva.gov/	All audits
US Small Business Administration	
US Small Business Administration Office of Inspector General National Single Audit Coordinator Mail Stop 4112 409 Third Street SW Washington, DC 20416 Phone: Voice 202-205-8992 Email: Christina.Sweet@sba.gov	All audits

Federal Agency KMSAL		
Agency	**Name**	**E-Mail Address**
Department of Agriculture	Samantha Coles	Samantha.cole@usda.gov
Department of Commerce	John P. Geisen Greg Cross	JGeisen@doc.gov GCoss1@doc.gov
Department of Defense	Jason Day	jason.o.day.civ@mail.mil
Department of Education	Brette Fishman	Brette.Fishman@ed.gov
Department of Energy	Joel Gonzalez	Joel.Gonzalez@hq.doe.gov
Department of Health and Human Services	Kevin Tilford	Kevin.Tilford@hhs.gov
Department of Homeland Security	Michael Pellegrino	Michael.Pellegrino@HQ.DHS.GOV
Department of Housing and Urban Development	Shannon Inanloo	Shannon.E.Steinbauer@hud.gov
Department of the Interior	Cara Whitehead	cara_whitehead@ios.doi.gov
Department of Justice	MelonieThreatt Michael Freed	Melonie.Threatt@usdoj.gov Michael.Freed@usdoj.gov
Department of Labor	Latonya Torrence Anita Robinson	Torrence.Latonya@dol.gov Robinson.Anita@dol.gov
Department of State	Lorna Vasquez Kivlehan	Kivlehanlv@state.gov
Department of the Treasury	Scott Chichester	Scott.Chichester@treasury.gov
Department of Transportation	Jimese Price	jimese.price@dot.gov
Department of Veterans Affairs	Kevin Cone	Kevin.Cone@va.gov
Corporation for National and Community Service	Edris Shah	eshah@americorps.gov
Denali Commission	Christian Diamond	cdiamond@denali.gov
Environmental Protection Agency	Kysha Holliday	Holliday.Kysha@epa.gov
Federal Communications Commission	Steve Fecarotta	Steven.Fecarotta@fcc.gov
Gulf Coast Ecosystem Restoration Council	Steve Sigler	Steve.sigler@restorethegulf.gov
Institute for Museum and Library Services	Connie Cox Bodner	CBodner@imls.gov
National Aeronautics and Space Administration	Antanese Crank	antanese.n.crank@nasa.gov
National Archives and Records Administration	Christopher Eck	Christopher.Eck@nara.gov
National Endowment for the Arts	Breanna Berger	bergerb@arts.gov
National Endowment for the Humanities	Richard Brundage	rbrundage@neh.gov
National Science Foundation	Shaun Minick	sminick@nsf.gov
Office of National Drug Control Policy	Lisa Newton	Lisa_E_Newton@ondcp.eop.gov
Social Security Administration	Amy Gao	Amy.Gao@ssa.gov
US Agency for International Development	Stephanie Snyder	stsnyder@usaid.gov
US Small Business Administration	Adeyinka Abu	yinka.abu@sba.gov

	Federal Agency Program Contacts		
Assistance Listing	**Agency Contact(s)**	**E-Mail Address**	**Telephone Number**
10	**United States Department of Agriculture (USDA)**		
10.181 **10.190**	Dewell Paez-Delgado, Branch Chief Agricultural Marketing Service Mark Abbott Sean Boshard	Dewell.paez-delgado@usda.gov Mark.abbott@usda.gov Sean.boshard@usda.gov	202-260-8636
10.182 **10.185**	Samantha Cole USDA/OCFO, KMSAL	Samantha.Cole@usda.gov	
10.186	Samantha Cole USDA/OCFO, KMSAL Christina Conell MRP-AMS	Samantha.Cole@usda.gov Christina.conell@usda.gov	
10.331	Matthew Faulkner, Deputy Director, National Institute of Food and Agriculture, Office of Grants & Financial Management Samantha Cole USDA/OCFO, KMSAL	Matthew.faulkner@usda.gov Samantha.Cole@usda.gov	
10.551 **10.561** **10.553** **10.555** **10.556** **10.557** **10.558** **10.559** **10.565** **10.568** **10.569**	Amanda Musgrove Director – Office of Internal Controls, Audits, and Investigations	sm.fn.fm-singleaudits@usda.gov	404-538-7064

	Federal Agency Program Contacts		
Assistance Listing	**Agency Contact(s)**	**E-Mail Address**	**Telephone Number**
10.566 **10.582**	Amanda Musgrove Director – Office of Internal Controls, Audits, and Investigations	sm.fn.fm-singleaudits@usda.gov	404-538-7064
10.606	Samantha Cole USDA/OCFO, KMSAL	Samantha.Cole@usda.gov	
10.646	Samantha Cole USDA/OCFO, KMSAL	Samantha.Cole@usda.gov	
10.665 **10.666**	Samantha Cole Cynthia McArthur National Program Coordinator	Samantha.Cole@usda.gov Cynthia.mcarthur@usda.gov	
10.760	James Fritz, Donald Etes Community Program Specialist, Rural Utilities Service Portfolio Management	james.fritz2@usda.gov donald.etes@usda.gov	
10.766	Corey Young, Special Projects Coordinator, Community Facilities Programs, Rural Housing Service, USDA Rural Development	corey.young@usda.gov	
11	**Department of Commerce (DOC)**		
11.028 **11.029** **11.032** **11.033** **11.035**	Jennifer Duane	JDuane@ntia.gov	202-482-1763
11.300 **11.307**	Chivas Grannum	cgrannum@eda.gov	215-316-2759

	Federal Agency Program Contacts		
Assistance Listing	**Agency Contact(s)**	**E-Mail Address**	**Telephone Number**
11.611	Joi Neal	joi.neal@nist.gov	301-975-2353
12	**Department of Defense (DoD)**		
12.400 **12.401**	Steven Waggoner	steven.waggoner2.civ@army.mil	(859)-420-0994
14	**Department of Housing and Urban Development (HUD)**		
14.157 **14.181** **14.195** **14.249** **14.856** **14.218** **14.225** **14.228** **14.231** **14.239** **14.241** **14.256** **14.267** **14.269** **14.272** **14.275** **14.850** **14.862** **14.866** **14.889** **14.867**	KMSAL-Shannon Inanloo	independent-audits-inquires@hud.gov shannon.e.steinbauer@hud.gov	

	Federal Agency Program Contacts		
Assistance Listing	**Agency Contact(s)**	**E-Mail Address**	**Telephone Number**
14.871 **14.879** **14.872** **14.873** **14.881** **14.888**	KMSAL-Shannon Inanloo	independent-audits-inquires@hud.gov shannon.e.steinbauer@hud.gov	
15	**Department of the Interior (DOI)**		
15.000	Jo Ann Metcalfe	jo.metcalfe@bia.gov	703-390-6410
15.021	Sunshine Jordan	sunshine.jordan@bia.gov	202-513-7616
15.022	Vickie Hanvey Rufina Vilicana Jason Bruno	Vickie.Hanvey@bia.gov rufina.villicana@bia.gov jason.bruno@btfa.gov	918-931-0745 360-699-1006 202-329-2956
15.025	Evangeline Campbell	Evangeline.Campbell@bia.gov	202-513-7621
15.026	Spike Bighorn	spike.bighorn1@bie.edu	202-208-6666
15.030	Robert Mathis Kevin Martin Audrey Sessions Patricia Broken Leg-Brill	robert.mathis@bia.gov kevin.martin@bia.gov audrey.sessions@bia.gov patricia.brokenlegbr@bia.gov	918-781-4721 202-657-3620 202-208-4663 605-226-7468
15.042 **15.047**	Sharon Pinto Marlinda Silversmith Ventura Lovato	Sharon.Pinto@bie.edu marlinda.silversmith@bie.gov ventura.lovato@bie.edu	505-563-5235 505-525-3053 505-263-2817
15.113	Evangeline Campbell	Evangeline.Campbell@bia.gov	202-513-7621
15.114	Spike Bighorn	spike.bighorn1@bie.edu	202-208-6666
15.130	Spike Bighorn Sharon Pinto Marlinda Silversmith Katherine Campbell, Office of Post Secondary Education Ventura Lovato	spike.bighorn1@bie.edu Sharon.Pinto@bie.edu marlinda.silversmith@bie.gov katherine.campbell@bie.edu ventura.lovato@bie.edu	202-208-6666 505-563-5235 505-525-3053 202.534.8770 505-263-2817
15.252	Andrea Brandon KMSAL Cara Whitehead KMSAL	brandon@ios.doi.gov cara_whitehead@ios.doi.gov	

	Federal Agency Program Contacts		
Assistance Listing	**Agency Contact(s)**	**E-Mail Address**	**Telephone Number**
15.504 **15.507**	Joe Wilson Jeremy Black	jwilson@usbr.gov Jablack@usbr.gov	303-445-2484 303-445-2490
15.605 **15.611** **15.626**	Christy Vigfusson Christina Milloy	Christy_Vigfusson@fws.gov Christina_Milloy@fws.gov	703-358-1748 703-862-5761
15.614	Christy Vigfusson Paul Van Ryzin	Christy_Vigfusson@fws.gov Paul_Vanryzin@fws.gov	703-358-1748 703-358-1849
15.615	Holly Herod Kelly Niland	holly_herod@fws.gov Kelly_Niland@fws.gov	703-358-2068 703-358-2492
15.623	Justin Markey	Justin_Markey@fws.gov	703-358-2007
15.635	Justin Markey Guy Foulks	Justin_Markey@fws.gov Guy_b_Foulks@fws.gov	703-358-2007 703-358-1944
16	**Department of Justice (DOJ)**		
16.034	Erich Dietrich Associate Deputy Director	Erich.Dietrich@usdoj.gov askBJA@usdoj.gov	202-616-1733 866-859-2647
16.710	Donald Lango Management and Program Analyst	Donald.Lango@usdoj.gov	202-616-9215
16.738	Erich Dietrich Associate Deputy Director	Erich.Dietrich@usdoj.gov askBJA@usdoj.gov	202-616-1733 866-859-2647
16.922	Anne Insley Program Coordinator	Anne.Insley@usdoj.gov MLARS.ESProgram@usdoj.gov	202-353-8880 202-514-1263
17	**Department of Labor (DOL)**		
17.207 **17.801**	Sharon McDowell Ivan Denton	McDowell.Sharon@dol.gov Denton.Ivan.E@dol.gov	202-693-3537 202-281-4750
17.225	Delores Ferrell	Ferrell.Delores@dol.gov	202-693-3183
17.235	Steven Rietzke	Rietzke.Steven@dol.gov	202-693-3912

	Federal Agency Program Contacts		
Assistance Listing	**Agency Contact(s)**	**E-Mail Address**	**Telephone Number**
17.245	Frankie Russell	Russell.Frankie@dol.gov	202-693-2738
17.258 **17.259** **17.278**	Sharon McDowell	McDowell.Sharon@dol.gov	202-693-3537
17.264	Laura Ibanez	Ibanez.Laura@dol.gov	202-693-3645
17.265	Stephanie West	West.Stephanie.M@dol.gov	202-693-3021
20	**Department of Transportation (DOT)**		
20.001	Jimese Price Grant Management Specialist – Office of the Secretary (OST)	jimese.price@dot.gov gfa@dot.gov	202-366-7923
20.106	Darryl Groves, Grants Program Analyst, Federal Aviation Administration (FAA) Kay Ryder, Supervisory Aviation Tech Specialist, (FAA)	Darryl.Groves@faa.gov Kay.Ryder@faa.gov	202-267-8315 202-267-8170
20.205	Julie O'Dell	Julie.ODell@dot.gov	202-366-6254
20.219 **20.224**	Program Analyst, Management Programs & Analysis, Federal Highway Administration (FHWA) Danial Parker, Senior Financial Policy Analyst (FHWA)	Danial. Parker@dot.gov	801-955-3518
20.218 **20.237**	Thomas Martin Division Chief, Grants Officer Rikita Jarrett, Financial Management Specialist (FMCSA)	thomas.C.Martin@dot.gov Rikita.Jarrett@dot.gov	202-366-8768 240-530-0409

	Federal Agency Program Contacts		
Assistance Listing	**Agency Contact(s)**	**E-Mail Address**	**Telephone Number**
20.223	Eric Morvey, Financial Specialist (OST) Dimitri Kombolias, Operations Manager (OST)	eric.morvey@dot.gov Dimitri.Kombolias@dot.gov	202-366-4249 202-366-6357
20.319 **20.326** **20.327**	Lou Lorello Grants Management Specialist, Federal Railroad Administration (FRA) Jennifer Seward, Supervisory Financial Program Analyst	Lou.Lorello@dot.gov Jennifer.Seward@dot.gov	202-578-9337 202-493-0112
20.500 **20.507** **20.509** **20.513** **20.516** **20.521** **20.525** **20.526** **20.532** **20.533** **20.534**	Tia Swain, Management Analyst, Federal Transit Administration (FTA) Nancy Sipes, Management Analyst, (FTA)	Tia.Swain@dot.gov Nancy.Sipes@dot.gov	202-366-0354 202-366-2496
20.527	John Bodnar Program Analyst Federal Transit Administration	John.Bodnar@dot.gov	202-366-3102
20.600 **20.616**	Andrew Dentamaro Program Analyst National Highway Traffic Safety Administration Amy Schick Highway Safety Specialist	Andrew.Dentamaro@dot.gov Amy.Schick@dot.gov	202-493-8006 202-366-2764

	Federal Agency Program Contacts		
Assistance Listing	**Agency Contact(s)**	**E-Mail Address**	**Telephone Number**
20.708	Michael Reles, Director Budget and Finance Division, Pipeline Hazardous Materials Safety Administration (PHMSA) Cristina Keating. Grants Management Specialist, (PHMSA)	Michael.Reles@dot.gov Cristina.Keating@dot.gov	202-366-1269 202-366-4243
20.816 **20.823**	Tracey L. Ford, Director, Office of Federal Assistance Education & Engagement, Maritime Administration (MARAD) Peter Simons, Director Office of Port Infrastructure Development (MARAD)	Tracey.Ford@dot.gov peter.simons@dot.gov	202-366-0321 202-366-8921
23.003	Clayton Fox Danial Parker, Senior Financial Policy Analyst (FHWA)	cfox@arc.gov Danial.Parker@dot.gov	801-955-3518
21	**Department of the Treasury (TREAS)**		
21.011 **21.012**	Heather Hunt	hunth@cdfi.treas.gov	202-653-0385
21.016	Jackie Jackson	Jackie.Jackson@treasury.gov	202-622-2755
21.020 **21.025**	Heather Hunt	hunth@cdfi.treas.gov	202-653-0385
21.023	Nasr Fahmy, Single Audit Advisor	Nasr.Fahmy@treasury.gov	202 527-4036

	Federal Agency Program Contacts		
Assistance Listing	**Agency Contact(s)**	**E-Mail Address**	**Telephone Number**
21.026	Nasr Fahmy, Single Audit Advisor	Nasr.Fahmy@treasury.gov	202 527-4036
21.027	Nasr Fahmy, Single Audit Advisor	Nasr.Fahmy@treasury.gov	202 527-4036
21.029	Nasr Fahmy, Single Audit Advisor	Nasr.Fahmy@treasury.gov	202 527-4036
21.032	Nasr Fahmy, Single Audit Advisor	Nasr.Fahmy@treasury.gov	202 527-4036
32	**Federal Communications Commission**		
32.006 **32.009**	Steve Fecarotta	Steven.Fecarotta@fcc.gov	
45	**National Endowment for the Humanities (NEH)**		
45.129	Stefanie Walker Russ Wyland	swalker@neh.gov rwyland@neh.gov	202-606-8478 202-606-8391
59	**US Small Business Administration**		
59.075	Katherine Cox Matthew Stevens	Katherine.Cox@sba.gov Matthew.Stevens@sba.gov	
66	**Environmental Protection Agency (EPA)**		
66.458	Ron Ford	Ford.Ronald@epa.gov	202-564-2213
66.468	Howard E. Rubin	Rubin.howarde@epa.gov	202-564-2051
66.957 **66.959** **66.960**	Julie Zavala	GGRF@epa.gov Zavala.Julie@epa.gov	202-564-0138

	Federal Agency Program Contacts		
Assistance Listing	**Agency Contact(s)**	**E-Mail Address**	**Telephone Number**
81	**Department of Energy (DOE)**		
81.041 **81.042**	Carrie Craig, DOE Single Audit Team Pamela Lavergne, DOE Cognizant Federal Agency Official	carrie.craig@hq.doe.gov pamela.lavergne@ee.doe.gov	240-404-8942 720-582-3867
84	**Department of Education (ED)**		
84.000	Brette Fishman-KMSAL	Brette.Fishman@ed.gov EDAuditResolution@ed.gov	
84.002	Grace Air	grace.air@ed.gov	202-987-1383
84.010	Todd Stephenson	todd.stephenson@ed.gov	202-205-1645
84.011	Sarah Martinez	sarah.martinez@ed.gov	202-987-1549
84.027 **84.173**	Charles Kniseley	charles.kniseley@ed.gov	202-245-7322
84.032-G **84.032-L**	Charee Champ	charee.champ@ed.gov	202-377-3300
84.041	Jacqueline Bass Faatimah Muhammad	jacqueline.bass@ed.gov faatimah.muhammad@ed.gov	202-260-1546 202-453-7511
84.042	Harold Wells	harold.wells@ed.gov	202-453-6131
84.044 **84.047**	Tanisha Hamlin-Johnson	tanisha.johnson@ed.gov	202-453-6090
84.066	Rachael Wiley	rachael.wiley@ed.gov	202-987-0396
84.217	Carmen Gordon	carmen.gordon@ed.gov	202-453-7311
84.048	Adam Flynn-Tabloff	adam.flynn-tabloff@ed.gov	202-987-1410
84.126 **84.181**	David Steele	david.steele@ed.gov	202-245-6520
84.282	Anna Hinton	anna.hinton@ed.gov	202-219-1741

	Federal Agency Program Contacts		
Assistance Listing	**Agency Contact(s)**	**E-Mail Address**	**Telephone Number**
84.287	La'Shawndra Scroggins	shawn.scroggins@ed.gov	202-219-1617
84.365	Beatriz Cela	beatriz.ceja@ed.gov	202-987-0448
84.367	Patrick Rooney	patrick.rooney@ed.gov	202-219-1662
84.424	Hamed Negron-Perez	hamed.negron-perez@ed.gov	202-219-1674
84.425	Office of Elementary and Secondary Education (OESE) - Mark Washington Office of Post-Secondary Education (OPE) - Shana Jackson	mark.washington@ed.gov shana.jackson@ed.gov	202-205-0167 202-987-0388
87	**Gulf Coast Restoration Council (Restoration Council)**		
87.051 **87.052**	Steve Sigler David Gilliland	steve.sigler@restorethegulf.gov david.gilliland@restorethegulf.gov	504-494-3825 504-444-5044
93	**Department of Health and Human Services (HHS)**		
93.044 **93.045** **93.053**	Alice Kelsey Deputy Director for the Administration on Aging Keir Lipperini Director, Office of Nutrition and Health Promotion Programs	Greg.Link@acl.hhs.gov Keri.Lipperini@acl.hhs.gov	202-795-7342 202-795-7422
93.090	Gail Collins Director, Division of Program Implementation	Gail.Collins@acf.hhs.gov	202-205-8552
93.153	Makeva Rhoden Deputy Director, HIV/AIDS Programs	MRhoden@hrsa.gov	301-443-9847

	Federal Agency Program Contacts		
Assistance Listing	**Agency Contact(s)**	**E-Mail Address**	**Telephone Number**
93.210 **93.441**	Kevin Tilford-KMSAL	kevin.tilford@hhs.gov	202-480-0258
93.217	Kevin Tilford-KMSAL	kevin.tilford@hhs.gov	202-480-0258
93.224 **93.527**	Amanda Ford Senior Advisor, Bureau of Primary Health Care	aford@hrsa.gov	301-594-4431
93.268	Tracey Powell Chief, Public Health Advisor	ysa9@cdc.gov	770-448-2790
93.423	Nicole Bohannon, Division of Audit Management and Resolution Michelle Feagins, Division of Grants Management	nicole.bohannon@cms.hhs.gov michelle.feagins@cms.hhs.gov	816-426-6390 301-492-4312
93.472	Gail Collins	Gail.Collins@acf.hhs.gov	202-205-8552
93.498	Alexandra Huttinger, Deputy Associate Administration Office of Provider Support	AHuttinger@hrsa.gov	301-945-9813
93.556	Gail Collins Director, Division of Program Implementation	Gail.Collins@acf.hhs.gov	202-205-8552
93.558 (TANF)	Stanley Koutstaal Director, Division of State TANF Policy Lauren Frohlich, Associate Deputy Director	stanley.koutstaal@acf.hhs.gov lauren.frohlich@acf.hhs.gov	202-401-5457 202-961-6840
93.563	Lind Boyer Deputy Commissioner Tricia John Senior Program Specialist	linda.boyer@acf.hhs.gov Tricia.John@acf.hhs.gov	202-401-5410 202-401-4885

	Federal Agency Program Contacts		
Assistance Listing	**Agency Contact(s)**	**E-Mail Address**	**Telephone Number**
93.563	Lind Boyer Deputy Commissioner Tricia John Senior Program Specialist	linda.boyer@acf.hhs.gov Tricia.John@acf.hhs.gov	202-401-5410 202-401-4885
93.566	Sara Moomaw Director, Division of Budget, Policy and Data Analysis	sara.moomaw@acf.hhs.gov	202-401-4656
93.568 **93.569**	J. Janelle George Melissa Joseph	Jolleen.george@acf.hhs.gov Melissa.joseph@acf.hhs.gov	202-401-4830 202-690-6117
93.575 **93.596** **93.489**	Andrew Williams Director, Policy Division, Office of Child Care	Andrew.Williams@acf.hhs.gov	202-401-4795
93.600 **93.356**	Heather Wanderski	Heather.wanderski@acf.hhs.gov	202-205-5923
93.645	Gail Collins Director, Division of Program Implementation	Gail.Collins@acf.hhs.gov	202-205-8552
93.658 **93.659**	Gail Collins Director, Division of Program Implementation	Gail.Collins@acf.hhs.gov	202-205-8552
93.667	J. Janelle George	Jolleen.george@acf.hhs.gov	202-401-4830
93.671	Jan-Sheri Morris	jan-sheri.morris@acf.hhs.gov	202-480-1328
93.676	Miro Marinovich	Miro.Marinovich@acf.hhs.gov	202-729-3638
93.686	Makeva Rhoden, Deputy Director, HIV/AIDS Programs	MRhoden@hrsa.gov	301-443-9847
93.767	Nicole Bohannon, Division of Audit Management Kenneth Taylor, Division of Operations & Executive Support	Nicole.bohannon@cms.hhs.gov Kenneth.Taylor@cms.hhs.gov	816-426-6390 410-786-6736

	Federal Agency Program Contacts		
Assistance Listing	**Agency Contact(s)**	**E-Mail Address**	**Telephone Number**
93.775	Richard Stern Director, Medicaid Fraud Policy and Oversight Division	Richard.Stern@oig.hhs.gov	202-205-0572
93.777	Nicole Bohannon, Division of Audit Management and Resolution Jeffrey Pleines, Division of Survey and Certification and CLIA Budget	nicole.bohannon@cms.hhs.gov Jeffrey.Pleines@cms.hhs.gov	816-426-6390 410-786-0684
93.778	Nicole Bohannon, Division of Audit Management and Resolution Kenneth Taylor, Division of Operations & Executive Support	nicole.bohannon@cms.hhs.gov Kenneth.Taylor@cms.hhs.gov	816-426-6390 410-786-6736
93.870	Kyle Peplinski Branch Chief, Maternal and Child Health Bureau	KPeplinski@hrsa.gov	301-443 7758
93.914 **93.917** **93.918**	Makeva Rhoden, Deputy Director, HIV/AIDS Programs	MRhoden@hrsa.gov	301-443-9847
93.958	Tison Thomas, Deputy Director	Tison.Thomas@samhsa.hhs.gov	240-276-2896
93.959	Spencer Clark, Branch Chief	Spencer.Clark@samhsa.hhs.gov	240-276-1027
93.994	Shirley Payne Director Maternal and Child Health	SPayne@hrsa.hhs.gov	317-734-5025
94	**Corporation for National and Community Service (CNCS)**		
94.006	Arminda Pappas	APappas@americorps.gov	
94.011 **94.016**	Robin Corindo	rcorindo@americorps.gov	

	Federal Agency Program Contacts		
Assistance Listing	**Agency Contact(s)**	**E-Mail Address**	**Telephone Number**
96	**Social Security Administration (SSA)**		
96.001 **96.006**	Amy Gao	DCO.AUDIT@ssa.gov DCHO.AUDIT@ssa.gov Audit.Correspondence@ssa.gov Amy.Gao@ssa.gov	
97	**Department of Homeland Security (DHS)**		
97.036	Anthony Wright	Anthony.wright@fema.dhs.gov	678-294-4900
97.039	Benjamin Prince	Benjamin.prince@fema.dhs.gov	202-975-8265
97.067	Alexander Mrazik	Alexander.MrazikJr@fema.dhs.gov	202-631-5543
98	**United States Agency for International Development (USAID)**		
98.007 **98.008**	Stephanie Snyder	stsnyder@usaid.gov	
SFA Cluster			
ED	Michael Dean	Michael.Dean@ed.gov	202-401-2151
HHS	Malissa Lewis, Supervisory Management Analyst Bureau of Health Workforce	MLewis@hrsa.hhs.gov	301-443-7908
477 Cluster			
DOI **DOL** **HHS**	Terrence Parks Stephanie West Stanley Koutstaal	terrence.parks@bia.gov West.Stephanie.M@dol.gov stanley.koutstaal@acf.hhs.gov	202-513-7625 202-693-3021 202-401-5457

APPENDIX IV

HIGHER RISK DESIGNATION

INTRODUCTION

This Appendix includes a listing of programs with a "higher risk" designation and describes how that designation impacts the major program determination process.

PROGRAMS WITH "HIGHER RISK" DESIGNATION

Section 200.519(c)(2) of the Uniform Guidance states that Federal agencies, with the concurrence of OMB, may identify Federal programs that are higher risk. It also states that OMB will provide this identification in the Compliance Supplement.

The following table includes a list of programs that have been identified as "higher risk" for audits subject to the 2025 Compliance Supplement. These programs are considered higher risk either due to the inclusion of funding from the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117-58, Nov. 15, 2021), or because a federal agency has identified the program to be higher risk. The 2025 higher risk list includes one program that includes IIJA funding and one program specifically identified by a federal agency.

Agency	Assistance Listing Number (ALN)	Title
HHS	93.778/93.777/93.775	Medicaid Cluster
Interior**	15.252	Abandoned Mine Land Reclamation (AMLR)

Note:
** This program is an existing program that received additional IIJA funding.

Impact of "Higher Risk" Status on Major Program Determination

Type A Program Considerations

A "higher risk" designation will often result in a Type A program or other cluster being audited as a major program. However, an auditor is not precluded from determining that a "higher risk" Type A program qualifies as a low-risk Type A program if both of the following criteria are met:

1. the program otherwise meets the criteria for a low-risk Type A program in section 200.518 of the Uniform Guidance; and

2. the percentage of IIJA funding in the program during the non-federal entity's fiscal year is not material to the program.

Auditors should prepare audit documentation supporting the risk considerations and conclusions for "higher risk" programs.

Type B Program Considerations

Under section 200.518 of the Uniform Guidance, in certain circumstances the auditor must identify Type B programs that are high risk using professional judgment and the criteria in section 200.519 of the Uniform Guidance, which includes consideration of whether a program has been identified as "higher risk" by a Federal agency with the concurrence of OMB. Thus, there are no changes to the normal risk assessment process for Type B programs identified as "higher risk." That is, the "higher risk" identification must be considered with the other factors in section 200.519.

Further, the auditor is not required to prioritize the assessment of risk for "higher risk" Type B programs over other Type B programs.

APPENDIX V
LIST OF CHANGES FOR THE 2025 COMPLIANCE SUPPLEMENT

This appendix provides a list of changes from the 2024 Supplement dated May 2024. Please note that changes in the Matrix of Compliance Requirements are reflected in Part 2 of this Supplement and are not reflected in this appendix.

Table of Contents

The Table of Contents has been updated to show additions and deletions of programs as well as changes to program names according to SAM.gov.

Part 1 – Background, Purpose, and Applicability

- Updated for the effective date of the Supplement, and included information regarding 2 CFR 200 update.

Part 2 – Matrix of Compliance Requirements

- Matrix of Compliance changes were made for 2025. Changes are shown in yellow highlight.

Part 3 – Compliance Requirements

- Updated Introduction for the effective date of the Supplement and the implementation and applicability of the 2024 UG Revisions. The 2025 Supplement includes a Part 3.1 to be used by auditors when testing awards subject to the former UG and a Part 3.2 to be used by auditors when testing awards subject to the 2024 UG revisions.
- Part 3.1-Updated Section B, Section F, and Section I for certain UG changes and reference numbers, and updated Section L for FSRS reporting replaced with SAM.gov.
- Part 3.2-Updated to reflect 2024 UG Revisions, including references.

Part 4 – Agency Program Requirements

Changes were made to the following programs and clusters:

- 10.331-Gus Schumacher Nutrition Incentive Program
- 10.551/10.561-SNAP Cluster
- 10.553/10.555/10.566/10.559/10.582-Child Nutrition Cluster
- 10.558-Child and Adult Care Food Program

- 10.646-Summer Electronic Benefit Transfer Program for Children (new)
- 10.766-Community Facilities Loans and Grants
- 11.032-State Digital Equity Planning Grant Program and Capacity Grant Program
- 11.300/11.307-Economic Development Cluster
- 11.611-Manufacturing Extension Partnership
- 12.400-Military Construction, National Guard
- 12.401-National Guard Military Operations and Maintenance (O&M) Projects
- 14.157-Supportive Housing for the Elderly
- 14.181-Supportive Housing for Persons with Disabilities
- 14.195/14.249/14.856-Section 8 Project-Based Cluster
- 14.218/14.225-Community Development Grant Block Cluster Entitlement/Special Purpose Grants
- 14.228-Community Development Block Grants/State's program and Non-Entitlement Grants in Hawaii
- 14.231-Emergency Solutions Grant Program
- 14.239-Home Investment Partnerships Program
- 14.241-Housing Opportunities for Persons with AIDS
- 14.256-Neighborhood Stabilization Program (Recovery Act Funded)
- 14.267-Continuum of Care Program
- 14.269/14.272-Community Development Block Grant-Disaster Recovery Grants Cluster (CDBG-DR)
- 14.275-Housing Trust Fund
- 14.850-Public Housing Operating Fund
- 14.862-Indian Community Development Block Grant Program

- 14.866/14.889-HOPE VI Cluster
- 14.867-Indian Housing Block Grants
- 14.871/14.879-Housing Voucher Cluster
- 14.872-Public Housing Capital Fund
- 14.873-Native Hawaiian Housing Block Grant
- 14.881-Moving to Work Demonstration Program
- 14.888-Lead-Based Paint Capital Fund Program
- 17.207/17.801-Employment Service Cluster
- 17.225-Unemployment Insurance
- 17.235-Senior Community Service Employment Program
- 17.245-Trade Adjustment Assistance
- 17.258/17.259/17.278/-WIOA Cluster
- 17.264-National Farmworker Jobs Program
- 17.265-Native American Employment and Training
- 20.001-Wage Rate Requirements Cross-Cutting Section
- 20.205-Highway Planning and Construction
- 20.219-Recreational Trails Program
- 20.224-Federal Lands Access Program
- 20.500/20.507/20.525/20.526-Federal Transit Cluster
- 20.509-Formula Grants for Rural Areas and Tribal Transit Program
- 20.513/20.516/20.521-Transit Services Programs Cluster
- 20.534-Community Project Funding Congressionally Directed Spending
- 20.816-United States Marine Highway Grant

- 20.823-Port Infrastructure Development Program
- 21.011-Capital Magnet Fund
- 21.012-Native Initiatives
- 21.016-Equitable Sharing
- 21.020-Community Development Financial Institutions Program
- 21.023-Emergency Rental Assistance Program
- 21.025-Small Dollar Loan Program
- 21.027-Coronavirus State and Local Fiscal Recovery Funds
- 21.029-Coronavirus Capital Projects Fund
- 32.009-Emergency Connectivity Fund Program
- 66.957-Greenhouse Gas Reduction Fund: National Clean Investment Fund
- 66.959-Greenhouse Gas Reduction Fund: Section 134(a)(1)-Greenhouse Gas Reduction Fund: Solar for All
- 66.960-Greenhouse Gas Reductions Fund: Clean Communities Investment Accelerator
- 81.041-State Energy Program
- 84.000-Cross-Cutting Section
- 84.010-Title I Grants to Local Educational Agencies
- 84.0126-Rehabilitation Services Vocational Rehabilitation Grants
- 84.287-Twenty-First Century Community Learning Centers
- 84.365-English Language Acquisition State Grants
- 93.044/93.045/93.053-Aging Cluster
- 93.210/93.441-Tribal Self-Governance and Self-Determination Cluster
- 93.224/93.527-Health Center Program Cluster

- 93.472-Title IV-E Prevention Program (new)
- 93.498-Provider Relief Fund and American Rescue Plan (ARP) Rural Distribution
- 93.556-MaryLee Allen Promoting Safe and Stable Families Program
- 93.558-Temporary Assistance for Needy Families
- 93.563-Child Support Services
- 93.566-Refugee and Entrant Assistance-State/Replacement Designee Administered Programs
- 93.568-Low-Income Home Energy Assistance
- 93.569-Community Services Block Grant
- 93.575/93.596/93.489-CCDF Cluster
- 93.645-Stephanie Tubbs Jones Child Welfare Services Program
- 93.658-Foster Care-Title IV-E
- 93.667-Social Services Block Grant
- 93.676-Unaccompanied Children Program
- 93.767-Children's Health Insurance Program
- 93.775/93.777/93.778-Medical Cluster
- 93.918-Grants to Provide Outpatient Early Intervention Services with Respect to HIV Disease
- 93.958-Block Grants for Community Mental Health Services
- 93.959-Block Grants for Prevention and Treatment of Substance Abuse
- 94.006-AmeriCorps State and National 94.006
- 94.011/94.016-Foster Grandparent/Senior Companion Cluster
- 96.001/96.006-Disability Insurance/SSI Cluster
- 97.036-Disaster Grants-Public Assistance (Presidentially Declared Disasters)

- 97.039-Hazard Mitigation Grant
- 97.067-Homeland Security Grant Program

Part 5 – Clusters of Programs

- Part 5.1-Revised to clarify compliance requirements.
- Part 5.2–Revised to replace ‘non-federal entity’ with ‘recipient and subrecipient’ and clarified that NSF and NIH awards are included as R&D under Part 5.2.
- Part 5.3–Updated for the effective date of the Supplement.
- Part 5.4–Revised program names according to SAM.gov

Part 6 – Internal Control

- Revised to replace ‘non-federal entity’ with ‘recipient and subrecipient’.

Part 7 – Guidance for Auditing Programs Not Included in This Compliance Supplement

- Revised to replace ‘non-federal entity’ with ‘recipient and subrecipient’.

Part 8 – Appendixes

Appendix I – Federal Programs Excluded from the A-102 Common Rule and Portions of 2 CFR Part 200

- Updated.

Appendix II – Federal Agency Codification of Governmentwide Requirements and Guidance for Grants and Cooperative Agreements

- Updated with 2024 UG Revision.

Appendix III – Federal Agency Single Audit, Key Management Liaison, and Program Contacts

- Updated for this year’s program contacts.

Appendix IV –Higher Risk Designation

- Updated the list of programs currently designated as higher risk.

Appendix V – List of Changes for the 2024 Compliance Supplement

- List updated with changes to the programs and appendixes for 2025.

Appendix VI – Program-Specific Audit Guides

- Updated ED link.

Appendix VII – Other Audit Advisories

- Updated for the effective date of the Supplement, and included 2024 UG Revision information, single audit extension information, and transition from FSRS to Sam.gov.

Appendix VIII – Examinations of EBT Service Organizations

- No Change.

Appendix IX – Compliance Supplement Core Team

- Updated the list of team members for 2025.

APPENDIX VI

PROGRAM-SPECIFIC AUDIT GUIDES

This appendix lists program-specific audit guides for use by auditors. The listing includes the title of the guide, the date of issuance or latest update, and where to obtain a copy.

Department of Education

- Audit Guides for Student Aid Programs (https://oig.ed.gov/non-federal-audits/title-iv-audits)

Department of Housing and Urban Development

- HUD Consolidated Audit Guide (HUD Consolidated Audit Guide | Office of Inspector General, Department of Housing and Urban Development (hudoig.gov))

APPENDIX VII

OTHER AUDIT ADVISORIES

I. 2024 Revisions to the Guidance for Federal Financial Assistance.

On April 22, 2024, OMB updated the Guidance for Federal Financial Assistance in 2 CFR (referred to below as the 2024 Uniform Guidance (UG) revisions). The 2024 UG revisions may be found at 89 Fed. Reg. 30046 (Apr. 22, 2024).

Effective Date Considerations When Testing New and Existing Awards

Although the government-wide effective date for the 2024 UG revisions was October 1, 2024, federal agencies may have elected to implement the revisions at varying times, including as early as June 21, 2024, for new awards and through amendments to existing awards, or as late as October 1, 2025. In addition, the Department of Health and Human Services only adopted specific sections of the 2 CFR on October 1, 2024, with the remaining guidance to go into effect on October 1, 2025. Thus, during the period covered by this Supplement, non-federal entities may have federal awards expended that are subject to the UG requirements that were in effect prior to October 1, 2024, and awards expended that are subject to the 2024 UG revisions. As such, the introduction to Part 3 explains more about the implementation of the 2024 UG revisions to new and existing awards, and the use of Parts 3.1 and 3.2. Auditors should use Parts 3.1 and 3.2 for compliance testing based on whether the 2024 UG revisions apply to the awards subject to the audit.

Supplementary information was published by the Council of Federal Financial Assistance (COFFA) on August 15, 2024 and January 15, 2025, to support implementation of the 2024 UG revisions. This supplementary information provides additional context, background, and clarification of the general guidelines for federal agencies to adopt and implement 2 CFR Part 200 and should be considered in the single audit work plan and reviews. The supplemental information published January 15, 2025 indicates that for the most reliable information about any specific federal award, recipients, subrecipients, and auditors should refer to the terms and conditions of the award or address their questions to the federal agency that made the award (or pass-through entity as appropriate).

NOTE: Auditors are cautioned that the 2024 UG revisions appear when accessing the UG on the Code of Federal Regulations website at https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200?toc=1. To access the previous version of the UG, click the "View Historical Versions" button and insert a "Go To Date" date prior to October 1, 2024.

Effective Date of 2 CFR 200 Subpart F Revisions

The August 2024 Memorandum explains that the $1,000,000 audit and major program determination thresholds apply to non-federal entities' fiscal years beginning on or after October 1, 2024. These changes to the Single Audit thresholds are effective regardless of whether the federal agency takes any action to amend its existing awards.

II. Exceptions to the Guidance in 2 CFR Part 200

Some programs (both those included in the Supplement and others) are exempted from specified portions of 2 CFR Part 200. For the most reliable information about any specific federal award, refer to the terms and conditions of the award. Questions about the agency-level rulemakings that apply 2 CFR Part 200 should be directed to the federal agency (or pass-through entity as appropriate). The federal agency key management liaisons and the program contacts are specified in Appendix III to the Supplement.

Information on programs that remain exempt under the 2 CFR Part 200 is provided at 2 CFR 200.101 and within the Supplement Appendix I.

III. Novel Coronavirus (COVID-19)

Identification of COVID-19 Related Awards and Single Audit Applicability

Federal agencies may have incorporated COVID-19 funding into an existing program and Assistance Listing number or set up a separate COVID-19 program with a unique Assistance Listing number. Federal agencies were required to specifically identify COVID-19 related awards, regardless of whether the funding was provided under a new or existing Assistance Listing number. However, in the early days of the crisis caused by the COVID-19 pandemic with the need to respond quickly, in some cases cash was sent to non-Federal entities without application or Assistance Listing number. The non-Federal entity was required to either agree to the terms and conditions or return the funds.

When COVID-19 funding is subawarded by a pass-through entity from an existing program, the information furnished to subrecipients should distinguish the subawards of incremental COVID-19 funding included in the subawards from non-COVID-19 funding.

In order to assist recipients and auditors in the identification of all the COVID-19 funds and the related program Assistance Listing numbers, OMB has issued several summaries of Federal programs that were created by COVID-19 funding and also existing programs that received COVID-19 funding. A summary of programs that received funding under the CARES Act (and other earlier COVID-19 legislation), can be accessed at: https://bidenwhitehouse.archives.gov/wp-content/uploads/2020/04/Implementation-Guidance-for-Supplemental-Funding-Provided-in-Response.pdf. A summary of programs that received funding under the ARP Act as of October 29, 2021, can be found at: https://www.cfo.gov/assets/files/Revised-American-Rescue-Plan-Assistance-Listings_10-29-2021.pdf. Each summary includes program Assistance Listing numbers and an asterisk (*) next to Assistance Listing numbers denoting a new Assistance Listing number.

Identification of COVID-19 Related Awards on the SEFA and SF-SAC

As described in 2 CFR section 200.510(b), auditees must complete the SEFA and include Assistance Listing numbers when reporting their federal awards and subawards. To maximize the transparency and accountability of COVID-19 related award expenditures, OMB M-20-26 (June 18, 2020) instructed recipients and subrecipients to separately identify the COVID-19

Emergency Acts expenditures on the Schedules of Expenditures of Federal Awards. Therefore, non-federal entities should separately identify COVID-19 expenditures on the SEFA and SF-SAC. For existing programs that have both COVID-19 expenditures and non-COVID-19 expenditures, this may be accomplished by identifying COVID-19 expenditures on the:

- SEFA – On a separate line by Assistance Listing number with "COVID-19" as a prefix to the program name. For example:
  - COVID-19 – Temporary Assistance for Needy Families – 93.558 $1,000,000
  - Temporary Assistance for Needy Families – 93.558 – $3,000,000
  - Total – Temporary Assistance for Needy Families – 93.558 – $4,000,000

- SF-SAC – On a separate row by Assistance Listing number with "COVID-19" listed in the Additional Award Identification and Federal Program Name column.

  Example:

Federal Agency Prefix	ALN (CFDA) Three Digit Extension	Additional Award Identification	Federal Program Name	Amount Expended	Federal Program Total
93	558		TEMPORARY ASSISTANCE FOR NEEDY FAMILIES	$3,000,000	$4,000,000
93	558	COVID-19	COVID-19 TEMPORARY ASSISTANCE FOR NEEDY FAMILIES	$1,000,000	$4,000,000
					$0
					$0
					$0
					$0

Identification of COVID-19 Related Awards in Audit Findings

Consistent with identifying COVID-19 expenditures on the SEFA, auditors should include the COVID-19 identification for audit findings that are applicable to programs that are entirely COVID-19 funded and existing programs with COVID-19 funding.

Identification of Compliance Requirements for COVID-19 Related Awards

As noted in OMB Memorandum M-20-26 (June 18, 2020), federal awarding agencies are responsible for identifying COVID-19 related awards and communicating the applicable compliance requirements to the recipient. Similarly, pass-through entities are responsible for identifying COVID-19 related awards and communicating the applicable requirements to their subrecipients. Normally, this information would be in the award terms and conditions. However, for COVID-19 related awards, the compliance requirements, including terms and conditions, may in some cases have been communicated through an agency website, or modified or imposed subsequent to the date of the original award.

For COVID-19 related programs that are not included in this Supplement, the auditor must use the framework provided by Part 7 of this Supplement. Part 7 includes procedures to determine which of the compliance requirements to test.

Alternative Compliance Examination Engagement for Eligible SLFRF Recipients

The US Department of the Treasury ("Treasury") recognizes that many recipients of Coronavirus State and Local Fiscal Recovery Funds ("SLFRF") may now be required to complete a Single Audit or a Program-Specific Audit pursuant to the Single Audit Act and its implementing regulations, 2 CFR Part 200, Subpart F, due to their receipt of an SLFRF award, which may lead to them exceeding the $750,000 audit threshold in section 200.501(a) of the Uniform Guidance (or, once the 2024 revisions to 2 CFR Part 200, Subpart F become effective, $1 million for fiscal years beginning on or after October 1, 2024). This may be because the recipient has not received federal financial assistance before, or the other federal financial assistance they expended did not exceed the audit threshold set forth 2 CFR 200.501(a). As a result, Treasury has developed an alternative approach that is available for SLFRF recipients that would not otherwise be required to undergo an audit pursuant to 2 CFR Part 200, Subpart F, if it were not for the expenditures of SLFRF funds directly awarded by Treasury. Limitations to recipient eligibility for this alternative approach are explained in Treasury's guidance for the SLFRF program in Part 4 of the Supplement, including a maximum threshold of $10 million for total SLFRF awards and the ordinary audit threshold (described above) for all other federal awards.

The alternative compliance examination engagement is in accordance with the Government Accountability Office's Government Auditing Standards. For eligible recipients, it is also in lieu of a full single audit or program-specific audit as required per 2 CFR 200, Subpart F. The alternative approach along with the criteria for eligible recipients are detailed in the Part 4 – Section IV, "Other Information" of assistance listing 21.027 – Coronavirus State and Local Recovery Funds.

This alternative is intended to reduce the burden of a full Single Audit or Program-Specific Audit on eligible recipients and practitioners, as well as uphold Treasury's responsibility to be good stewards of federal funds.

IV. Effect of Changes to Compliance Requirements and Other Clusters

Removal of Compliance Requirement from Part 2 Matrix

In any instance in which a compliance requirement has been removed from a program/cluster, as shown in the Part 2 matrix, if there was an audit finding related to that compliance requirement in an audit conducted using the prior year's Supplement, that finding must continue to be reported in the summary schedule of prior audit findings and considered in the major program determination under 2 CFR section 200.518. The procedures to assess the reasonableness of the summary schedule of prior year audit findings must include all prior audit findings included in the summary schedule, regardless of whether the current Part 2 matrix identified a requirement as subject to audit. For example, if there was an audit finding relating to subrecipient monitoring in the prior year but the current year Part 2 matrix identified "M. Subrecipient Monitoring" as not subject to audit with a "No," the auditor's procedures to determine the reasonableness of the summary schedule of prior audit findings must include subrecipient monitoring. In any instance in which a compliance requirement was added to a program/cluster in the current year's Supplement, auditors are not expected to have tested for that requirement under the prior year's audit. This includes correction of an error, if any, as identified in Appendix V of the Supplement.

Addition of a New Program to an Other Cluster

One of the criteria for an "other cluster" to be considered a low-risk Type A program is that it must have been audited as a major program in at least one of the two most recent audit periods ("2-year look back" under 2 CFR section 200.518(c)(1)). In the year that this Supplement adds a new program to another cluster listed in Part 5, the determination of whether the resulting other cluster meets the 2-year look back criterion requires additional consideration. During that year, the other cluster cannot qualify as having been audited as a major program in one of the two most recent audit periods unless the auditee's current-year expenditures for the newly added program were less than or equal to 25 percent (0.25) of the Type A threshold, or all of the programs included in the resulting other cluster met the "2-year look back" criterion. The additional criteria in 2 CFR section 200.518(c) must also be evaluated by the auditor to determine if the other cluster can be considered a low-risk Type A program in the current year.

In years after this Supplement adds a program to another cluster, such addition in a prior year does not require additional consideration for the 2-year look back criterion.

The following examples are intended to illustrate consideration of the addition of a new program to another cluster. They are illustrative only and not based on the contents of the current Supplement.

Background for Examples:

* Note: As indicated in the August 2024 COFFA Memorandum, the audit and major program determination threshold increases apply to non-federal entities' fiscal years beginning on or after October 1, 2024. The parenthetical amounts in the examples below are to illustrate the amounts that will be effective once the Subpart F changes in the 2024 UG revisions become effective.

Type A threshold $750,000 (1,000,000 *).

Human Services existing other cluster (93.123, 93.125, and 93.127) was audited in 2023 with no audit findings.

Part 5 of the 2025 Compliance Supplement added Assistance Listing 93.129 to form the new other cluster with the following federal awards expended in 2025:

- 93.123: $ 500,000
- 93.125: $ 300,000
- 93.127: $ 400,000
- 93.129: $ 300,000

Considerations for 2025 major program determination using these facts:

Example 1

The Human Services cluster was audited in 2023. However, the auditee's current year expenditures for newly added Assistance Listing 93.129 exceed 0.25 of the Type A threshold of $750,000 (1,000,000*) or $187,500 ($250,000* which is .25 of the Type A threshold of $1,000,000); therefore, the resulting other cluster fails the 2-year look back criterion and cannot be considered a low-risk Type A program in 2025.

If, however, the auditee's expenditures for the newly added Assistance Listing 93.129 were equal to or less than $187,500($250,000*), the other cluster would pass the 2-year look back criterion and could be considered to have been audited as a major program in one of the two prior years.

Example 2

The Human Services cluster was audited in 2023. The newly added program Assistance Listing 93.129 was audited in 2024. If both the cluster and the newly added program met all criteria in 2 CFR section 200.518(c) to be considered low-risk programs for 2025, the other cluster would be a low-risk Type A program in 2025.

V. Due Date for Submission of Audit Reports and Low-Risk Auditee Criteria

* Note: As indicated in the August 2024 COFFA Memorandum, the audit threshold and Type A program threshold will increase for audits of non-federal entities' fiscal years beginning on or after October 1, 2024. The parenthetical amounts in the examples below are to illustrate the amounts that will be effective once the Subpart F changes in the 2024 UG revisions become effective.

As provided in 2 CFR Part 200, Subpart F (2 CFR section 200.520), in order to meet the criteria for a low-risk auditee in the current year, the two prior years' audits must have met the specified criteria, including report submission to the Federal Audit Clearinghouse (FAC) by the due date.

The auditor may consider using the following steps to identify FAC submissions that do not meet the due date.

Suggested Steps

1. Inquire of entity management and review available prior-year financial reports and audits to ascertain if the entity had federal awards expended of $750,000 ($1,000,000*) in the prior two audit periods and, therefore, was required to have an audit under the uniform guidance and file with the FAC.

2. If the entity was below the $750,000 ($1,000,000*) threshold in either of the prior two audit periods and an audit was not required under the uniform guidance, obtain written representation from management to this fact; no further audit procedures are necessary as the entity does not qualify as a low-risk auditee.

3. If a prior-year audit was conducted, obtain a copy of the data collection form (Form SF-SAC) and the reporting package.

a. Calculate the "Due Date" to file with the FAC as the earlier of (i) nine (9) months after the end of the audit period or (ii) 30 calendar days after the entity received the auditor's report (under 2 CFR 200.512(a)(1)).

b. Access the FAC web page at The Federal Audit Clearinghouse (fac.gov)https://www.fac.gov/.

- Select the "Search for audits" option and on the "Search Single Audits reports" page, locate the FAC record for the entity. Verify correct record by comparing both the entity name and Unique Entity Identification (UEI) from the entity's copy of the SF-SAC to the FAC web page.

- For the entity, compare the initial "FAC Accepted Date" to the earlier of (i) the Nine Month Due Date or (ii) 30 days after the entity received the auditor's report(s) to determine if the Due Date was met.

If the entity was not in compliance with the Due Date or did not submit the required audit to the FAC for either of the prior two audit periods, then the entity does not qualify as a low-risk auditee unless the entity received and complied with an extended due date.

4. If the entity was not in compliance with the Due Date, inquire of entity management whether it requested and received an extension from the cognizant agency for audit or oversight agency for audit. If an extension was provided, determine if the entity complied. (See Section VIII below for information on an extension provided for certain recipients and subrecipients impacted by Hurricane Helene, Hurricane Milton, and the California wildfires.)

5. Contact the FAC Help Desk at The Federal Audit Clearinghouse (FAC.gov) if additional information is needed on using the FAC website or determining the date the FAC accepted the report submission as complete.

VI. Audit Sampling

Certain suggested audit procedures in this *Compliance Supplement* lend themselves to testing using sampling. Auditors are reminded that when performing an audit under generally accepted auditing standards (GAAS), including single audits, that AU-C section 530, *Audit Sampling*, https://www.aicpa-cima.com/resources/download/aicpa-statements-on-auditing-standards-currently-effective, provides auditor requirements and guidance related to an auditor's use of sampling. Failure to follow the standards, including the requirement to determine sample sizes that are sufficient to reduce sampling risk to an acceptably low level, may result in the audit being considered nonconforming by the federal cognizant agency for audit as part of a quality control review.

The guidance in AU-C section 530 primarily addresses sampling considerations when performing a financial statement audit. The AICPA Audit Guide, Government Auditing

Standards and Single Audits, contains auditor guidance for, among other things, designing an audit approach that includes audit sampling to achieve both compliance and internal control over compliance related audit objectives in a single audit or program-specific audit performed in accordance with the Uniform Guidance. It also includes suggested minimum sample sizes for tests of controls over compliance and tests of compliance based on certain engagement-specific inputs.

Another AICPA Audit Guide, *Audit Sampling*, also provides additional guidance and technical background, which forms the basis of the practical application of audit sampling to Uniform Guidance audits.

VII. Treatment of National Science Foundation (NSF) and National Institutes of Health (NIH) Awards

NSF and NIH awards are considered in Part 5 Clusters of Programs; please reference Part 5.2 Research and Development Programs for additional information.

VIII. Single Audit Extensions

Hurricanes Helene and Milton, and the California Wildfires

In March 2025, the COFFA issued a memorandum regarding the decision by all federal grant-making agencies to authorize extensions for submitting Single Audit reports for recipients and subrecipients impacted by Hurricane Helene, Hurricane Milton, and the California Wildfires. This coordinated decision ensures that recipients and subrecipients affected by these major disasters are provided with consistent extension periods by the federal agencies responsible for making those decisions. (See Memorandum for the Federal Financial Assistance Community, subject title: Single Audit Report Extensions for Hurricane Helene, Hurricane Milton, and the California Wildfires; published March 11, 2025.) Auditors should refer to the memorandum to understand which recipients and subrecipients are eligible for the extension and the extension period.

IX. Transfer from FSRS to SAM.gov

As of March 8, 2025, the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS.gov) was retired, and all subaward reporting data and functionality moved to the System for Award Management (SAM.gov). All types of federal financial assistance recipients and contractors are required to report subawards under 2 CFR Part 170, including grants, cooperative agreements, and other assistance. Subrecipients are required to register on SAM.gov, if they have not done so previously for another purpose (e.g., submission of applications through Grants.gov), and actively maintain that registration. Entity administrators will have to grant a new role to people who report on subawards and are new to SAM.gov, and to current SAM.gov users who report on subawards but do not have the appropriate permission.

APPENDIX VIII

EXAMINATIONS OF EBT SERVICE ORGANIZATIONS

Background

States must obtain an examination report by an independent auditor of the state electronic benefits transfer (EBT) service providers (service organizations) regarding the issuance, redemption, and settlement of benefits under the Supplemental Nutrition Assistance Program (SNAP) (Assistance Listing 10.551) in accordance with the American Institute of Certified Public Accountants (AICPA) Statement on Standards for Attestation Engagements (AT) Section320, *Reporting on Controls at a Service Organization*. Also, states are required to ensure that the service organization has these examinations performed at least annually, that the examinations cover the entire period since the previous examination period, and that the examination reports are submitted to the state within 90 days after the end of the examination period. The examination report must include a list of all states whose systems operate under the same control environment. The auditor of the service organization is required to issue a report on controls placed in operation and tests of operating effectiveness of controls, which is commonly referred to as a "service organization control (SOC) 1 type 2 report" (7 CFR section 274.1(i)).

In performing audits of SNAP under 2 CFR Part 200, Subpart F, an auditor may use these SOC 1 type 2 reports to gain an understanding of internal controls and obtain evidence about the operating effectiveness of controls.

A SOC 1 type 2 report includes (1) a description by the service organization's management of its system of policies and procedures for providing services to user entities (including control objectives and related controls as they relate to the services provided) throughout the specified period of time; (2) a written assertion by the service organization's management about whether, in all material respects and based on suitable criteria, (a) the aforementioned description fairly presents the system throughout the specified period, (b) the controls were suitably designed throughout the specified period to achieve the control objectives stated in that description, and (c) the controls operated effectively throughout the specified period to achieve those control objectives; and (3) the report of the service auditor, which (a) expresses an opinion on the matters covered in management's written assertion, and (b) includes a description of the auditor's tests of operating effectiveness of controls and the results of those tests.

This appendix is intended to assist service organizations and their auditors by describing illustrative control objectives and controls that service organizations may have in place. When such controls are present and operating effectively, they may enable auditors of user organizations to assess control risk below the maximum for financial statement assertions related to EBT transactions. The illustrative control objectives and controls in this appendix may not necessarily reflect how a specific service organization considers and implements internal control. Also, this appendix is not a checklist of required controls. Service organizations' controls may be properly designed and operating effectively even though some of the controls included in this appendix are not present. Further, service organizations could have other controls operating

effectively that have not been included in this appendix. Service organizations and their auditors will need to exercise professional judgment in determining the most appropriate and cost effective controls in a given environment or circumstance.
Many of the illustrative controls are stated in relation to the kinds of policies and procedures that are "established" or "in place" at an organization. It would be insufficient for such policies and procedures to merely exist on paper and not be implemented. To meet the criteria of a SOC 1 type 2 examination, the policies and procedures would need to be suitably designed, placed in operation, and operating effectively.

1. Control Environment

Illustrative Control Objective:

Controls provide reasonable assurance that the EBT system functions in a manner consistent with the service organization's policies and complies with applicable laws and regulations (Food and Nutrition Act of 2008, as amended (7 USC 2011 et seq.) and (7 CFR section 277.18(p)).

Illustrative Controls:

- The service organization has written policies and procedures for the system processing EBT transactions.
- The organization identifies and analyzes relevant risks to the EBT process.
- Policies and procedures regarding acceptable employee practices, conflicts of interests, and codes of conduct have been established and communicated to employees with EBT responsibilities.
- Policies and procedures are established for performing background investigations of employees prior to employment.
- Policies and procedures have been established to segregate incompatible functions (e.g., application programming, systems and operation, financial duties, data storage, government reimbursement payment requests, transaction processing, and reconciliation) so no individual interacting with the system can exercise unilateral control over EBT transactions.
- Policies and procedures are in place for management to monitor the effectiveness of EBT controls and correct deficiencies or weaknesses when found.
- Policies and procedures are in place to prevent management or staff from overriding controls.

2. Systems Development and Maintenance

Illustrative Control Objective:

Controls provide reasonable assurance that changes (including emergency procedures) to EBT applications and system software are authorized, tested, approved, implemented, and documented.

Illustrative Controls:

- The service organization follows a system development methodology.
- System documentation for new and existing applications is current and complete in accordance with programming and documentation standards used by the service organization.
- Systems development staff are not responsible for system maintenance.

3. Access Controls

Illustrative Control Objective:

Controls provide reasonable assurance that the EBT system is protected against unauthorized physical and logical access.

Illustrative Controls:

- The responsibility for the development and enforcement of a security policy is at an organizational level that facilitates compliance by service organization personnel and enables enforcement of policies and procedures.
- Security policy and procedures are in place and are communicated to appropriate employees and contractors.
- Policies and procedures are in place for reporting security incidents or observed irregularities to an organizational level where such matters can be investigated and resolved.
- Policies and procedures are established for the security over filing, retention, and destruction of EBT system files.
- Policies and procedures are in place for conducting security system training.
- Policies and procedures are in place for discontinuing an employee or contractor's ability to access EBT hardware, software, and data when the employee is terminated or the employee's duties are changed.
- Access to EBT files or processes is limited based upon users' needs.

- Passwords control access to EBT files, personal identification numbers (PIN), and privacy data.
- A password change policy is in place and requires a password change at a specified interval, generally at least every 90 days.
- Firewalls or other procedures prevent unauthorized access to data from an external network.
- Policies and procedures are in place to prevent a state from reviewing or altering data for another state.

4. Computer Operations – Processing

Illustrative Control Objective:

Controls provide reasonable assurance that processing is scheduled and deviations from scheduling are identified and resolved.

5. Computer Operations – Data Transmission

Illustrative Control Objective:

Controls provide reasonable assurance that data transmissions are complete, accurate and secure.

Illustrative Controls:

- Policies and procedures require that PINs and data be encrypted throughout processing.
- Encryption keys are stored in a secure manner.
- Maintenance of encryption keys is performed by authorized service center staff.
- Policies and procedures of the service organization require proper identification, validation, and acceptance of EBT transactions processed.

6. Computer Operations – Output

Illustrative Control Objective:

Controls provide reasonable assurance that output data and documents are complete, accurate, and distributed to authorized recipients on a timely basis.

7. EBT Controls – Transactions Received from Authorized Sources

Illustrative Control Objective:

Controls provide reasonable assurance that transactions are received only from authorized sources.

Illustrative Controls:

- Policies and procedures are in place to ensure that updates of point of sale (POS) device parameters are restricted to authorized personnel.
- Policies and procedures require that POS transactions be properly validated.
- Policies and procedures for direct data entry, such as adjustments, require proper review and approval.
- Policies and procedures are in place to approve voucher transactions.
- Policies and procedures for voucher transactions prevent unauthorized access to recipient or retailer accounts.

8. EBT Controls – Transaction Amounts and Recording

Illustrative Control Objective:

Controls provide reasonable assurance that transactions are for authorized amounts and are recorded completely and accurately.

Illustrative Controls:

- Records identify the activity and events in client accounts (e.g., deposits, withdrawals, charges, and type of transactions).
- Records identify client accounts for which benefits have not been withdrawn or used beyond pre-established periods (i.e., identify inactive accounts for which deposits are still made).
- System edits prevent individual client accounts from being credited with benefits in excess of authorized amounts.

9. EBT Controls – Processing

Illustrative Control Objective:

Controls provide reasonable assurance that transactions are processed completely and accurately.

Illustrative Controls:

- Policies and procedures of the service organization include controls to:
  - monitor and investigate any unsuccessful file transfers,
  - recover or reproduce lost or damaged data,
  - examine edit checks for unusual conditions,
  - reconcile input and output of transactions processed,
  - log and store transactions, and
  - monitor rejected transactions and account adjustment actions.

10. EBT Controls – Settlement

Illustrative Control Objective:

Controls provide reasonable assurance that settlement of funds received from benefit providers and distributed to benefits acquirers for SNAP benefit purchases and withdrawals is performed timely and accurately.

Illustrative Controls:

- Policies and procedures are in place to perform reconciliations (at least weekly) of:
  - account balances,
  - net settlements, and
  - government funds.
- Policies and procedures are established for resolution of disputed transactions.
- Policies and procedures are established for requesting federal and state reimbursements.

11. Physical Environment

Illustrative Control Objective:

Controls exist to provide reasonable assurance that physical assets are protected.

Illustrative Controls:

- Policies and procedures are established for environmental controls (e.g., maintenance schedules, fire suppression equipment, water detection and protection considerations, and the availability of an uninterruptable power system designed to protect and ensure continued operations).
- Policies and procedures call for periodic facility inspections.

- Policies and procedures for proper maintenance of hardware have been established.

12. Contingency Planning

Illustrative Control Objective:

Controls exist within the data center to provide reasonable assurance of continuity of operations.

Illustrative Controls:

- Disaster recovery and business continuity plans exist for the system processing EBT transactions.
- The business continuity plan provides for periodic testing at the backup facility and the service organization has performed such testing.
- The service organization has a contractually protected access right to the backup facility.
- Backup arrangements for key applications, processes, and files are in place.

13. Card Controls

Illustrative Control Objective:

Controls are established to provide reasonable assurance that users of EBT benefit cards are authorized.

Illustrative Controls:

- Each transaction is validated with a unique account number and PIN.
- For benefit card issuance services provided by the EBT service organization policies and procedures are in place to:
  - prevent unauthorized assignment and replacement of PINs;
  - properly deliver benefit cards to participants;
  - activate cards by only authorized users;
  - deactivate damaged, lost, or stolen cards;
  - record and destroy active cards returned to the service organization; and
  - control access to and inventory levels of pre-printed unused card stock.

APPENDIX IX

COMPLIANCE SUPPLEMENT CORE TEAM

The Compliance Supplement Core Team is responsible for the annual production of the Office of Management and Budget (OMB) Compliance Supplement. The Core Team is composed of audit and program representatives from the federal grant-making agencies, OMB, and the General Services Administration. The following is a list of team members (alphabetical by last name) responsible for the production of this Supplement:

Morgan Aronson, Department of Interior
Brenna Berger, National Endowment for the Art
Connie Cox Bodner, Institute of Museum and Library Services
Dexter Brereton, Department of Education
Richard Brundage, National Endowment for the Humanities
Kimberly Butler, US Small Business Administration
Carole Clay, Department of State
Kevin Cone, Department of Veterans Affairs
Antanese Crank, National Aeronautics and Space Administration
Greg Cross, Department of Commerce
Jason Day, Department of Defense
Christopher Eck, National Archives and Records Administration
Beth Flowers, Denali Commission
Joel Gonzalez, Department of Energy
Jeff Haley, Department of Justice
Kysha Holliday, Environmental Protection Agency
Siporah Jackson, Department of the Treasury
Matt Jadud, General Services Administration
Sheela Kailasanath, Federal Communications Commission
Mitzi Mayer, Office of Management and Budget
Lisa Newton, Office of National Drug Control Policy
Michael Pellegrino, Department of Homeland Security
Jimese Price, Department of Transportation
Rochelle Ray, National Science Foundation
Anita Robinson, Department of Labor
Edris Shah, Corporation for National and Community Service
Steve Sigler, Gulf Coast Ecosystem Restoration Council
Trae Sommer, Social Security Administration
Shannon Steinbauer, Department of Housing and Urban Development
Stephanie Snyder, US Agency for International Development
Kevin Tilford, Department of Health and Human Services
Seanne Weekes, Department of Agriculture