

Subpart E -- Audits of State and Local Governments

§600.400 Scope and applicability.

This subpart implements, for DOE and recipients, the Single Audit Act of 1984, Public Law 98 - 502 and OMB Circular A - 128. It establishes audit requirements for State and local governments that receive financial assistance from the Department of Energy and defines responsibilities with respect to those requirements.

§600.401 Definitions.

For the purposes of this subpart, the following definitions from the Single Audit Act apply:

(a) Cognizant agency means the Federal agency assigned by the Office of Management and Budget to carry out the responsibilities described in §600.308 of this subpart.

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

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

(d) Generally accepted accounting principles has the meaning specified in the generally accepted government auditing standards.

(e) Generally accepted government auditing standards means the Standards For Audit of Government Organizations, Programs, Activities, and Functions, developed by the Comptroller General, dated February 27, 1981.

(f) Independent auditor means:

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

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

(g) Internal controls means the plan of organization and methods and procedures adopted by management to ensure that:

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

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

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

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

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

Total expenditures of Federal financial assistance for all programs		Major Federal assistance program means any program that exceeds
more than	but less than	
100 million	1 billion	3 million
1 billion	3 billion	4 million
2 billion	3 billion	7 million
3 billion	4 billion	10 million
4 billion	5 billion	13 million
5 billion	6 billion	16 million
6 billion	7 billion	19 million
7 billion		20 million

(k) Public accountants means those individuals who meet the qualification standards

included in generally accepted government auditing standards for personnel performing government audits.

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

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

§600.402 Policy.

The Single Audit Act requires the following:

(a) State or local governments that receive \$100,000 or more a year in Federal financial assistance shall have an audit made in accordance with this subpart.

(b) State or local governments that receive between \$25,000 and \$100,000 a year shall have an audit made in accordance with this subpart or in accordance with Federal laws and regulations governing the programs they participate in.

(c) State or local governments that receive less than \$25,000 a year shall be exempt from compliance with the Act and other Federal audit requirements. These State and local governments shall be governed by audit requirements prescribed by State or local law or regulation.

(d) Nothing in this paragraph exempts State and local governments from maintaining records of Federal financial assistance or from providing access to such records to Federal agencies, as provided for in Federal law and in §§600.21, 600.153, and 600.242.

§600.403 Scope of audit.

The Single Audit Act provides that:

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

(b) The audit shall cover the entire operations of a State or local government or, at the option of that government, it may cover departments, agencies or establishments that received, expended, or otherwise administered Federal financial assistance during the year. However, if a State or local government receives \$25,000 or more in General Revenue

Sharing Funds in a fiscal year, it shall have an audit of its entire operations. A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered a single audit.

(c) Public hospitals and public colleges and universities may be excluded from State and local audits and the requirements of this subpart. However, if such entities are excluded, audits of these entities shall be made in accordance with statutory requirements and the provisions of §§600.126 and 600.226.

(d) The auditor shall determine whether:

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

(2) The organization has internal accounting and other control systems to provide reasonable assurance that it is managing Federal financial assistance programs in compliance with applicable laws and regulations; and

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

§600.404 Frequency of audit.

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

§600.405 Internal control and compliance reviews.

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

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

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

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

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

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

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

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

(A) The amounts reported as expenditures were for allowable services, and

(B) The records show that those who received services or benefits were eligible to receive them.

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

(A) Matching requirements, levels of effort and earmarking limitations were met,

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

(C) Amounts claimed or used for matching were determined in accordance with OMB Circular A - 87, ``Cost principles for State and local governments, and §600.224 of subpart C, as implemented by this part.

(iii) The principal compliance requirements of the largest Federal aid programs may be ascertained by referring to the Compliance Supplement for Single Audits of State and Local

Governments, issued by OMB and available from the Government Printing Office. For those programs not covered in the Compliance Supplement, the auditor may ascertain compliance requirements by researching the statutes, regulations, and agreements governing individual programs.

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

§600.406 Subrecipients.

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

(a) Determine whether State or local subrecipients have met the audit requirements of this subpart and whether those subrecipients covered by the audit requirements of §600.126(a) have met those requirements;

(b) Determine whether the subrecipient(s) spent Federal assistance funds provided in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subrecipient made in accordance with this subpart, §600.126(a), or through other means (e.g., program reviews) if the subrecipient has not yet had such an audit;

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

(d) Consider whether subrecipient audits necessitate adjustment of the recipients own records; and

(e) Require each subrecipient to permit independent auditors to have access to the records and financial statements as necessary to comply with this part.

§600.407 Relation to other audit requirements.

(a) The Single Audit Act provides that an audit made in accordance with this subpart shall be in lieu of any financial or financial compliance audit required under individual Federal assistance programs. To the extent that a single audit provides DOE with information and assurances necessary to carry out its overall responsibilities, DOE shall rely upon and use such information. However, DOE shall make or have made any additional audits which are necessary to carry out its responsibilities under Federal law and regulation. Any additional Federal audit effort shall be planned and carried out in such a way as to avoid duplication. The DOE Contracting Officer will be the DOE official responsible for determining the need for any additional Federal financial and compliance audit after review of the evaluation of the audit report by the cognizant Federal audit organization and review of the audit report.

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

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

(d) If DOE makes or contracts for audits in addition to the audits made by recipients pursuant to this subpart, DOE shall, consistent with other applicable laws and regulations, arrange for funding the cost of such additional audits. Such additional audits include economy and efficiency audits, program results audits, and program evaluations.

§600.408 Cognizant agency responsibilities.

(a) The Single Audit Act provides for cognizant Federal agencies to oversee the implementation of this subpart by recipients.

(b) The Office of Management and Budget will assign cognizant agencies for States and their subdivisions and larger local governments and their subdivisions. (Cognizance assignments/responsibilities for other types of recipients are not governed by the Single Audit Act or by this subpart.) Other Federal agencies may participate with an assigned cognizant agency, in order to fulfill the cognizance responsibilities. Smaller governments not assigned a cognizant agency will be under the general oversight of the Federal agency that provides them the most funds whether directly or indirectly.

(c) When DOE is the cognizant agency, the DOE Office of Inspector General (DOE - OIG) shall:

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

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

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

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

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

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

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

§600.409 Illegal acts or irregularities.

If the auditor becomes aware of illegal acts or other irregularities, prompt notice shall be given to recipient management officials above the level of involvement. (See also paragraph 600.310(b)(3) below for the auditor's reporting responsibilities). The recipient, in turn, shall promptly notify the cognizant agency of the illegal acts or irregularities and of proposed and actual actions, if any. Illegal acts and irregularities include such matters as conflicts of interest, falsification of records or reports, and misappropriations of funds or other assets.

§600.410 Audit reports.

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

(b) The audit report shall state that the audit was made in accordance with the provisions of this subpart. The report shall be made up of at least:

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

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

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

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

(ii) Negative assurance on those items not tested;

(iii) A summary of all instances of noncompliance; and

(iv) An identification of total amounts questioned, if any, for each Federal assistance award, as a result of noncompliance.

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

(d) All fraud, abuse, or illegal acts or indications of such acts, including all questioned costs found as the result of these acts, that auditors become aware of, should normally be covered in a separate written report submitted in accordance with paragraph 600.310(g).

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

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

(g) In accordance with generally accepted government audit standards, reports shall be submitted by the auditor to the organization audited and to those requiring or arranging for the audit. In addition, the recipient shall submit copies of the reports to each Federal department or agency that provided Federal assistance funds to the recipient. Copies of audit reports to be submitted to DOE shall be submitted to the appropriate DOE - OIG as indicated in appendix B of this part. Subrecipients shall submit copies to recipients that provided them Federal assistance funds. The reports shall be sent within 30 days after the completion of the audit, but no later than one year after the end of the audit period unless a longer period is agreed to with the cognizant agency.

(h) Recipients of more than \$100,000 in Federal funds shall submit one copy of the audit report within 30 days after issuance to the Bureau of Census, Data Preparation Division, 1201 E. 10th Street, Jeffersonville, Indiana 47132, Attn: Single Audit Clearinghouse. The clearinghouse will keep completed audits on file and follow up with State and local governments that have not submitted required audit reports.

(i) Recipients shall keep audit reports on file for three years from their issuance.

§600.411 Audit resolution.

(a) As provided in §600.308, the cognizant agency shall be responsible for monitoring the resolution of audit findings pertaining to DOE recipients that affect the programs of DOE and one or other more Federal agency(ies). If DOE is cognizant, a cognizant DOE Contracting Officer, as determined by the dollar value of awards with the recipient, will assume this responsibility for the Department. Resolution of findings that relate to the programs of DOE only will be the responsibility of the recipient and DOE. Alternate arrangements may be made on a case-by-case basis by agreement among the agencies concerned.

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

§600.412 Audit workpapers and reports.

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

§600.413 Audit costs.

(a) The cost of audits made in accordance with the provisions of this subpart are allowable charges to DOE and other Federal assistance programs. The charges may be considered a direct cost or an allocated indirect cost, determined in accordance with the provisions of Circular A - 87, "Cost principles for State and local governments," as appropriate.

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

§600.414 Sanctions.

(a) The Single Audit Act provides that no cost may be charged to Federal assistance programs for audits required by the Act that are not made in accordance with this subpart.

(b) In cases of continued inability or unwillingness to have a proper audit, DOE shall consider appropriate sanctions, including those specified in §§600.162 and 600.243 of this part and the following:

(1) Withholding a percentage of assistance payments until the audit is completed satisfactorily,

- (2) Withholding or disallowing overhead costs, and
- (3) Suspending the Federal assistance agreement until the audit is made.

§600.415 Auditor selection.

In arranging for audit services State and local governments shall follow the procurement standards prescribed by §600.236 of subpart C. The standards provide that while recipients are encouraged to enter into intergovernmental agreements for audit and other services, analysis should be made to determine whether it would be more economical to purchase the services from private firms. In instances where use of such intergovernmental agreements are required by State statutes (e.g., audit services) these statutes will take precedence.

§600.416 Small and minority audit firms.

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

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

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

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

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

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

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

§600.417 Reporting.

The Office of the Inspector General, DOE, will report to the Director of OMB on or before March 1, 1987, and annually thereafter on the effectiveness of State and local governments in carrying out the provisions of this subpart. The report will identify each State or local government or Indian tribe that, in the opinion of the agency, is failing to comply with this subpart.