

## I. PROCUREMENT AND SUSPENSION AND DEBARMENT

### Compliance Requirements

#### *Procurement*

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

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

Institutions of higher education, hospitals, and other non-profit organizations shall use procurement procedures that conform to applicable Federal law and regulations and standards identified in OMB Circular A-110.

All non-Federal entities shall follow Federal laws and implementing regulations applicable to procurements, as noted in Federal agency implementation of the A-102 Common Rule and OMB Circular A-110.

**In addition to those statutes listed in the A-102 Common Rule and OMB Circular A-110, Section 1605 of ARRA prohibits the use of ARRA funds for a project for the construction, alteration, maintenance, or repair of a public building or work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. ARRA provides for waiver of these requirements under specified circumstances. An award term is required in all awards for construction, alteration, maintenance, or repair of a public building or public work (2 CFR section 176.140). Further information about this requirement, including applicable definitions, is found in 2 CFR part 176, Subpart B.**

#### Source of Governing Requirements - Procurement

The requirements for procurement are contained in the A-102 Common Rule (§\_\_\_\_.36), OMB Circular A-110 (2 CFR sections 215.40 through 215.48), program legislation, **Section 1605 of ARRA, 2 CFR part 176**, Federal awarding agency regulations, and the terms and conditions of the award (**including that required by ARRA**). The specific references for the A-102 Common Rule and OMB Circular A-110, respectively, are given for each suggested audit procedure indicated below. (The first number listed refers to the A-102 Common Rule and the second refers to A-110.)

#### *Suspension and Debarment*

Governmentwide requirements for nonprocurement suspension and debarment are contained in the OMB guidance in 2 CFR part 180, which implements Executive Orders 12549 and 12689, Debarment and Suspension. The OMB guidance, which superseded the suspension and debarment common rule published November 26, 2003, is substantially the same as that rule.

Non-Federal entities are prohibited from contracting with or making subawards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. "Covered transactions" include those procurement contracts for goods and services awarded under a nonprocurement transaction (e.g., grant or cooperative agreement) that are expected to equal or exceed \$25,000 or meet certain other specified criteria. 2 CFR section 180.220 of the governmentwide nonprocurement debarment and suspension guidance contains those additional limited circumstances. All nonprocurement transactions (i.e., subawards to subrecipients), irrespective of award amount, are considered covered transactions.

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 is not suspended or debarred or otherwise excluded. This verification may be accomplished by checking the *Excluded Parties List System (EPLS)* maintained by the General Services Administration (GSA), collecting a certification from the entity, or adding a clause or condition to the covered transaction with that entity (2 CFR section 180.300). The information contained in the EPLS is available in printed and electronic formats. The printed version is published monthly. Copies may be obtained by purchasing a yearly subscription from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or by calling the Government Printing Office Inquiry and Order Desk at (202) 783-3238. The electronic version can be accessed on the Internet (<http://epls.arnet.gov>).

### **Source of Governing Requirements – Suspension and Debarment**

The requirements for suspension and debarment are contained OMB guidance in 2 CFR part 180, which implements Executive Orders 12549 and 12689, Debarment and Suspension; Federal agency regulations in 2 CFR implementing the OMB guidance; the A-102 Common Rule (§\_\_\_\_.36); OMB Circular A-110 (2 CFR section 215.13); program legislation; Federal awarding agency regulations; and the terms and conditions of the award. Most of the Federal agencies have adopted this guidance and relocated their associated agency rules in Title 2 of the CFR as final rules. For any agency that has not completed its adoption of 2 CFR part 180, pending completion of that adoption, agency implementations of the common rule remain in effect. Appendix II includes the current CFR citations for all agencies. In either case, the applicable requirements are specified in the terms and conditions of award.

### **Audit Objectives**

1. Obtain an understanding of internal control, assess risk, and test internal control as required by OMB Circular A-133 §\_\_\_\_.500(c).
2. Determine whether procurements were made in compliance with the provisions of the A-102 Common Rule, OMB Circular A-110, and other procurement requirements specific to an award.
3. **Determine whether an award using ARRA funding includes a Buy-American award term and, if so, whether the recipient is complying with the Buy-American provisions of ARRA or if any waivers have been granted.**

- 4 For covered transactions determine whether the non-Federal entity verified that entities are not suspended or debarred or otherwise excluded.

#### **Suggested Audit Procedures – Internal Control**

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

#### **Suggested Audit Procedures – Compliance**

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

1. Obtain entity's procurement policies. Verify that the policies comply with applicable Federal requirements (§ \_\_\_\_.36(b)(1), 2 CFR section 215.43, and **Section 1605 of ARRA**).
2. Ascertain if the entity has a policy to use statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals. If yes, verify that these limitations were not applied to federally funded procurements except where applicable Federal statutes expressly mandate or encourage geographic preference (§ \_\_\_\_.36(c)(2) and 2 CFR section 215.43).
3. Examine procurement policies and procedures and verify the following:
  - a. Written selection procedures require that solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured, identify all requirements that the offerors must fulfill, and include all other factors to be used in evaluating bids or proposals (§ \_\_\_\_.36(c)(3) and 2 CFR section 215.44(a)(3)).
  - b. There is a written policy pertaining to ethical conduct (§ \_\_\_\_.36(b)(3) and 2 CFR section 215.42).
4. Select a sample of procurements and perform the following:

- a. Examine contract files and verify that they document the significant history of the procurement, including the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis of contract price (§\_\_\_\_.36(b)(9) and 2 CFR section 215.46).
- b. Verify that procurements provide full and open competition (§\_\_\_\_.36(c)(1) and 2 CFR section 215.43).
- c. Examine documentation in support of the rationale to limit competition in those cases where competition was limited and ascertain if the limitation was justified (§\_\_\_\_.36(b)(1) and (d)(4); and 2 CFR sections 215.43 and 215.44(e)).
- d. Verify that contract files exist and ascertain if appropriate cost or price analysis was performed in connection with procurement actions, including contract modifications and that this analysis supported the procurement action (§\_\_\_\_.36(f) and 2 CFR section 215.45).
- e. Verify that the Federal awarding agency approved procurements exceeding \$100,000 when such approval was required. Procurements (1) awarded by noncompetitive negotiation, (2) awarded when only a single bid or offer was received, (3) awarded to other than the apparent low bidder, or (4) specifying a “brand name” product (§\_\_\_\_.36(g)(1) and 2 CFR 215.44(e)) may require prior Federal awarding agency approval.
- f. Verify compliance with other procurement requirements specific to an award.

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

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

*(Procedure 6 applies to all non-Federal entities)*

6. Select a sample of procurements and subawards and—
  - a. Test whether the non-Federal entities performed a verification check for covered transactions, by checking the EPLS, collecting a certification from the entity, or adding a clause or condition to the covered transaction with the entity; and
  - b. Test the sample of procurements and subawards against the EPLS, and ascertain if covered transactions were awarded to suspended or debarred parties.

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

- 7. Select a sample of ARRA-funded procurements, if any, for activities subject to Section 1605 of ARRA and—**
- a. Test whether the non-Federal entities requested and received any exceptions to Buy-American requirements; and**
  - b. Test the sample of procurements to ascertain if entities are otherwise in compliance with the ARRA requirements.**

## L. REPORTING

### Compliance Requirements

#### *Financial Reporting*

Recipients should use the standard financial reporting forms or such other forms as may be authorized by OMB (approval is indicated by an OMB paperwork control number on the form). 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 the prescribed formats.

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 the following requirements for recipients.

The standard financial reporting forms are as follows:

1. *Financial Status Report (FSR) (SF-269 (OMB No. 0348-0039) or SF-269A (OMB No. 0348-0038))*. Recipients use the FSR to report the status of funds for all non-construction projects and for construction projects when the FSR is required in lieu of the SF-271. See below for information concerning the transition to the Federal Financial Report (*SF-425/425 A (OMB No. 0348-0061)*).
2. *Request for Advance or Reimbursement (SF-270 (OMB No. 0348-0004))*. Recipients use the SF-270 to request Treasury advance payments and reimbursements under non-construction programs.
3. *Outlay Report and Request for Reimbursement for Construction Programs (SF-271 (OMB No. 0348-0002))*. Recipients use the SF-271 to request funds for construction projects unless advances or the SF-270 is used.
4. *Federal Cash Transactions Report (SF-272 (OMB No. 0348-0003) or SF-272-A (OMB No. 0348-0003))*. Recipients use the SF-272 when payment is by advances or reimbursements. The Federal awarding agency may waive the requirement for an SF-272 when electronic payment mechanisms provide adequate data. See below for information concerning the transition to the Federal Financial Report (*SF-425/425 A (OMB No. 0348-0061)*).

The Federal Financial Report (SF-425/425A), which is intended to supersede the SF-269 and SF-272, has been approved by OMB under the Paperwork Reduction Act and is available to the Federal awarding agencies for inclusion in award requirements. For financial reports due to the Federal awarding agencies and, when different, the servicing payment office during the audit period covered by the 2009 Supplement, recipients may be submitting the Financial Status

Report/Federal Cash Transactions Report (SF-269 or 269A)/SF-272) and/or the Federal Financial Report (SF-425/SF-425A), depending on the report due date and Federal awarding agency/program requirements. The Federal awarding agencies and paying offices must complete their transition to use of the Federal Financial Report by September 30, 2009. References in L.1, "Reporting - Financial Reporting" in Parts 4 and 5 of the Supplement will continue to show the SF 269/SF-272 as the standard financial reports until after the transition is complete. The award terms and conditions will specify the initial reporting period for which use of the SF-425 will be required. In addition, where a transition date has been determined for a program included in the Supplement, it will be shown in Part 4 or 5. Electronic versions of the existing and new standard forms are located on OMB's Internet home page ([http://www.whitehouse.gov/omb/grants/grants\\_forms.html](http://www.whitehouse.gov/omb/grants/grants_forms.html)).

#### *Reporting Under the Payment Management System*

Many recipients utilize the Payment Management System (PMS) operated by the Division of Payment Management (DPM) within the Department of Health and Human Services' Program Support Center. After a Federal agency awards a grant, DPM is responsible for processing payments to the recipient; receiving collections for unexpended funds, duplicate payments, and, when applicable, interest earned on Federal funds; accounting for disbursement information provided by the recipient; and reporting data equivalent to the SF-272, *Federal Cash Transactions Report* (as indicated above, this report also will be superseded by the SF 425/SF 425A), to the recipient and the Federal agency.

Federal awarding agencies enter authorization amounts in PMS to allow recipients to draw Federal funds. There are two methods by which recipients can request funds: (1) the PMS 270 request or (2) SMARTLINK II. SMARTLINK II enables recipients to request Federal funds through computer link with DPM. Once a quarter, using the authorization amounts provided by the Federal agency, payments requested by recipients, cash collection activity, and disbursement information provided by recipients, DPM generates PSC-272 reports.

The PSC 272 is a series of reports consisting of:

1. PSC 272, *Federal Cash Transactions Report, Status of Federal Cash* (OMB No. 0937-0200). This report provides the total availability of Federal cash received by the recipient at the account level. It is partially prepared by DPM based on data reported to DPM, and is completed and certified by the recipient.
2. PSC 272-A, *Federal Cash Transactions Report* (OMB No. 0937-0200). This report is a continuation of the PMS-272 and is used by the recipient to report cash disbursements at the grant level.
3. PSC 272-B, *Statement of Cash Accountability* (OMB No. 0937-0200). This report is furnished for the recipient's information and shows how the recipient's cash accountability was derived by DPM.

4. PSC 272-C, *Error Correction Document (OMB No. 0937-0200)*. This report can be used by the recipient to report data reconciliation problems for awards on the PSC 272-A or the Advances to Payee portion of the PSC 272-B.
5. PSC 272-E, *Major Program Statement (OMB No. 0937-0200)*. This report is furnished to all accounts that are sub-accounted and is for information only. This report lists individual payments during the quarter among the various programs, and provides a cash accountability for all advances received through PMS by major program. All information provided is pre-printed by DPM.
6. PSC 272-F, *Authorizations for Future Periods (OMB No. 0937-0200)*. This report is provided for information only and requires no action by the recipient. It represents all awards posted in the PMS database that have effective dates in future reporting periods.
7. PSC 272-G, *Inactive Documents Report (OMB No. 0937-0200)*. This report lists all awards posted in the PMS database that have become inactive or fully disbursed during the current period or a previous period. In the event that disbursement adjustments are required, they should be reported via the PSC 272-A.

The reports (except for the PSC 272-C) are available to recipients electronically via the Internet using DPM's Electronic 272 System. Recipients should verify the reported amounts. The recipient uses the PSC 272-A to report the amount of disbursements made; then signs, dates, and returns the report to DPM. PSC 272 reporting requirements do not apply to block grant programs; however, DPM does provide block grant recipients with a PSC 272-E, *Major Program Statement*, quarterly. This report is provided solely for information and no action is required by the recipient.

#### *Performance Reporting*

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

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

Note: The Federal agencies are moving toward the use of standard performance/progress reporting formats; however, there currently is no specified date for completion of the transition. Currently some agencies/programs are using the Performance Progress Report.



### *Special Reporting*

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

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

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

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

### *American Recovery and Reinvestment Act Reporting*

**Section 1512 of ARRA includes reporting requirements applicable to awards under ARRA Division A. On June 22, 2009, OMB issued "Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009." That guidance covers the reporting requirements of Section 1512 of ARRA and includes two supplements: (1) a list of programs subject to the ARRA reporting requirements, and (2) a Recipient Reporting Data Model.**

**This guidance may be accessed at the OMB website from links at:**

**[http://www.whitehouse.gov/omb/recovery\\_default/](http://www.whitehouse.gov/omb/recovery_default/)**

**As indicated in the June 22, 2009 guidance and in Appendix VII of the Supplement, the first reporting period for reports required by Section 1512 of ARRA will end on September 30, 2009 and the reports must be submitted by October 10, 2009. Therefore, coverage of such reports will not be applicable for audit periods with ending dates in June, July, or August 2009. However, other reporting requirements, as identified in this Supplement (or per Part 7) should be covered.**

**OMB plans to issue an addendum identifying compliance requirements, audit objectives, and suggested audit procedures relating to ARRA Section 1512 reporting requirements by September 30, 2009.**

### **Source of Governing Requirements**

Reporting requirements are contained in the following documents:

- a. A-102 Common Rule - Financial reporting, §\_\_\_\_.41; Performance reporting, §\_\_\_\_.40(b).

- b. OMB Circular A-110 - Financial reporting, 2 CFR section 215.52 (this section has not been updated to reference the new form); Performance reporting, 2 CFR section 215.51.
- c. Program legislation.
- d. Federal awarding agency regulations.
- e. The terms and conditions of the award.

### **Audit Objectives**

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

### **Suggested Audit Procedures – Internal Control**

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

### **Suggested Audit Procedures – Compliance**

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

1. Review applicable laws, regulations, and the provisions of contract or grant agreements pertaining to the program for reporting requirements. Determine the types and frequency of required reports. Obtain and review Federal awarding agency, or pass-through entity in the case of a subrecipient, instructions for completing the reports.
  - a. For financial reports, ascertain the accounting basis used in reporting the data (e.g., cash or accrual).
  - b. For performance and special reports, determine the criteria and methodology used in compiling and reporting the data.
2. Perform appropriate analytical procedures and ascertain the reason for any unexpected differences. Examples of analytical procedures include:
  - a. Comparing current period reports to prior period reports.
  - b. Comparing anticipated results to the data included in the reports.
  - c. Comparing information obtained during the audit of the financial statements to the reports.

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

3. Select a sample of each of the following report types:
  - a. Financial reports
    - (1) Ascertain if the financial reports were prepared in accordance with the required accounting basis.
    - (2) Trace the amounts reported to accounting records that support the audited financial statements and the Schedule of Expenditures of Federal Awards and verify agreement or perform alternative procedures to verify the accuracy and completeness of the reports and that they agree with the accounting records. If reports require information on an accrual basis and the entity does not prepare its accounting records on an accrual basis, determine whether the reported information is supported by available documentation.
    - (3) For any discrepancies noted in PSC-272 reports, review subsequent PSC-272 reports to ascertain if the discrepancies were appropriately resolved with the Department of Health and Human Services' Division of Payment Management.

- b. Performance and special reports
    - (1) Trace the 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. When intervening computations or calculations are required between the records and the reports, trace reported data elements to supporting worksheets or other documentation that link reports to the data.
  - d. Test mathematical accuracy of reports and supporting worksheets.
4. Test the selected reports for accuracy and completeness.
- a. For financial reports, review accounting records and ascertain if all applicable accounts were included in the sampled reports (e.g., program income, expenditure credits, loans, interest earned on Federal funds, and reserve funds).
  - b. For performance and special reports, review the supporting records and ascertain if all applicable data elements were included in the sampled reports.
  - c. For each type of report—
    - (1) When intervening computations or calculations are required between the records and the reports, trace reported data elements to supporting worksheets or other documentation that link reports to the data.
    - (2) Test mathematical accuracy of reports and supporting worksheets.
5. Obtain written representation from management that the reports provided to the auditor are true copies of the reports submitted or electronically transmitted to the Federal awarding agency, the Department of Health and Human Services' DPM for recipients using the Payment Management System, or pass-through entity in the case of a subrecipient.

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