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## **Part 4 After-the-Grant**

### **Section 01 Audits**

#### **A. Principles**

1. Purpose. This Grants Policy Directive (GPD) outlines Department of Health and Human Services (HHS) policies for securing and using audit reports in the award and administration of grants. This includes both grantee-initiated audits under Office of Management and Budget (OMB) Circular A-133 and Operating Division (OPDIV)-commissioned audits of a grant or grantee carried out by or on behalf of the Office of the Inspector General (OIG).

The Office of Audit Resolution and Cost Policy (OARCP) (in the Office of the Assistant Secretary for Resources and Technology) provides leadership in the department-wide policy and procedures affecting audit resolution and cost policy responsibilities on grants, contracts, and cooperative agreements. The audit resolution manual is located in Appendix A to this GPD.

This GPD also clarifies the annual audit requirements for those organizations not directly subject to the requirements of OMB Circular A-133 (e.g., foreign entities, commercial entities).

2. Scope. This GPD applies to all HHS grant programs and awards.

#### **B. General Policy Requirements**

1. The audit required by OMB Circular A-133 (A-133 audit) (as implemented for HHS programs in 45 CFR parts 74 and 92) constitutes a valuable source of information for HHS grants management staff.
2. Entities that do not meet the OMB Circular A-133 annual expenditures of Federal funds threshold are not required to arrange for an A-133 audit (single, organization-wide audit or program-specific audit); however, an OPDIV may request that the OIG conduct an audit, during the project period or within a reasonable time after the end of the project period, if the OPDIV believes an audit is justified or warranted.

3. Commercial organizations and foreign entities are not directly subject to the requirements of OMB Circular A-133 and have the option of conducting an A-133 audit or a grant-specific audit as provided in 45 CFR 74.26<sup>1</sup>.
4. Grants management staff must ensure that the terms and conditions of award specify audit requirements and the consequences of not submitting required audit reports in a timely manner.
5. OPDIVs must work closely with other HHS offices that have responsibilities related to audit. These offices include the:
  - a. OIG and, for A-133 audits, its National External Audit Review Center (NEARC);
  - b. OARCP, which is responsible for resolving crosscutting audit findings and initial follow-up on delinquent audits;
  - c. Division of Cost Allocation, Program Support Center (PSC), HHS, which is responsible for resolving audit findings related to indirect (facilities and administrative) costs, cost allocation plans, and other special rates it negotiates;
  - d. Division of Financial Advisory Services, National Institutes of Health, which is responsible for resolving audit findings related to indirect cost rates for commercial organizations; and
  - e. Division of Payment Management, PSC, HHS, which is responsible for resolving audit findings related to cash management and payment.
6. Audit findings under A-133 or equivalent audits must be resolved within 6 months of transmission (issuance) of the audit report by the HHS OIG; however, corrective action and collection of any monetary disallowances, which are debts subject to the HHS claims collection regulation at 45 CFR part 30, may be completed over an agreed-on period that goes beyond this 6-month period.
7. Determinations of cost allowability and deficiencies in management systems resulting from audit findings must be based on the applicable statute(s), regulations, cost principles, and other terms and conditions of the award. Process deficiencies, e.g., the grantee did not obtain required

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<sup>1</sup> Although 45 CFR 74.26 does not specifically address audit requirements for foreign entities, by HHS policy, the standards in that section may be applied to foreign entities.

prior approval for an otherwise allowable expenditure, should not be the sole basis for disallowing a cost (see GPD 3.05). The basis for the determination of a cost disallowance must be adequately documented in the event that a grantee appeals.

8. If audit resolution results in a need to modify a grant award(s), that action must be taken by an individual with Grants Management Officer (GMO) authority.
9. OARCP, OMB, and the OPDIV will jointly determine whether to include a program-specific supplement in the *OMB Circular A-133 Compliance Supplement* (Compliance Supplement). After an agreement to include a program in the Compliance Supplement, the program-specific supplement must be prepared in accordance with OMB guidelines and must be updated annually on the schedule specified by OARCP.

**C. Use of Audit Reports in the Grants Process**

1. OPDIVs should use the most current A-133 (or equivalent) audit report when making pre-award decisions and as part of post-award monitoring, particularly before making a non-competing continuation award. Based on review of the audit report, an OPDIV may decide not to make an award, make the award using special conditions after designating the organization as “high risk” (see GPD 2.01), and/or take other appropriate action, e.g., an enforcement action (see GPD 3.07).
  - a. The GMO should consult the Federal Audit Clearinghouse (FAC) website (<http://harvester.census.gov/sac/>) to determine if an A-133 audit report has been submitted and whether it has findings. The FAC, which is part of the Bureau of the Census, Department of Commerce, and is located in Jeffersonville, Indiana, is the designated receipt point in the Federal government for A-133 audit reports.
  - b. If an audit report is available at the FAC and there are findings on HHS grants, the GMO should contact NEARC to determine whether OARCP or another OPDIV or office has audit resolution responsibility. The OPDIV should contact the responsible OPDIV or office to determine whether any findings would adversely affect the OPDIV’s pending or ongoing award(s) and, if so, take appropriate action to protect the Federal government’s interests.
  - c. If an audit for the most recently completed grantee fiscal year (or prior years) for a governmental or non-profit organization is not available at the FAC, the OPDIV must determine, consistent with its knowledge of

the applicant/recipient, schedule for award, availability of other sources of information to make required judgments, and potential risk to the Federal government's financial and programmatic interests of not obtaining an audit report, those actions it should take to determine the status of the audit (e.g., whether one was required, whether it was submitted but returned, whether it was submitted and is lost) before making an award or recommending an enforcement action.

These actions may include using the Department's Tracking and Accountability in Government Grants System (TAGGS) to determine whether the entity has current HHS awards exceeding the A-133 audit threshold, consulting other OPDIVs and OARCP, and contacting the entity to determine whether the audit was submitted but was returned by the FAC, the entity is delinquent, or the entity is under the A-133 expenditure threshold.

- d. Entities not directly subject to OMB Circular A-133 audit requirements, i.e., foreign entities and commercial organizations, will not have audit reports available at the FAC. For these entities the GMO should check with NEARC—and/or consult with any OPDIV(s) for which TAGGS shows an active award(s) exceeding the audit threshold—to determine if the entity has submitted an audit report pursuant to A-133 or if an OPDIV(s) has commissioned any audit of the entity or its grants.
2. If an OPDIV makes an award without being able to determine before award whether an A-133 audit was required or a required audit report was submitted, the OPDIV should remind the recipient—at the time of award or within a reasonable period of time after award—of its audit responsibilities and potential consequences of non-compliance. Based on its own knowledge or following consultation with OARCP, if an OPDIV determines that a required audit report is delinquent, the OPDIV should consult with OARCP to determine who will be responsible for actions to obtain it.
  3. If an OPDIV is responsible for obtaining a delinquent audit report, it may use the range of enforcement actions available under GPD 3.07 and may take action at any time to designate a recipient as high risk pursuant to GPD 2.01.

**D. Audit Resolution and Follow-up (as covered in the attached Audit Resolution Manual [Reserved])**

1. Audit resolution means that a final decision on the amount of monetary recovery and/or required systemic or management corrections has been reached by the HHS official responsible for resolving the audit (“resolution official”).
  - a. The resolution official may vary depending on whether the findings pertain to one OPDIV or cut across HHS programs/activities and/or those of other Federal agencies.
  - b. Each OPDIV is required to have a resolution official to carryout its functions and responsibilities.
2. The OPDIV Executive Officer (or equivalent) is responsible for approving any proposed resolution of an audit exception exceeding \$100,000 that is less than 85 percent of the amount recommended by the auditor.

For audit resolution actions below this threshold, audit resolution authority may be delegated to an official one organizational level below the Executive Officer (generally the Chief Grants Management Officer (CGMO)/Head of the Contracting Activity), or, if the audit resolution involves non-monetary findings or monetary findings of \$2,000 or less, to an official two levels below. Regardless of the delegation permitted by this paragraph, in no case may an official who resolves an audit report’s findings also approve the resolution.

3. The letter advising the grantee of an audit disallowance or other findings requiring corrective action generally must be signed by the audit resolution official, or the CGMO or designee.
  - a. The letter constitutes the final decision of the OPDIV and may be appealed by the recipient under 45 CFR part 16 or other applicable appeals procedures. If the final decision includes an audit disallowance that requires repayment of funds, the letter also constitutes a written demand for payment under the Departmental claims collection regulation at 45 CFR part 30.
  - b. The letter should be coordinated with the cognizant debt collection office and, as appropriate, with the Office of the General Counsel. The debt collection process is addressed in GPD 4.02.

4. Following audit resolution, OPDIVs have continuing responsibility for follow-up activities to collect monies if monies are due the OPDIV (as provided in GPD 4.02) and, for management deficiencies, to ensure that recipients take appropriate corrective action on sustained audit findings. These actions may include placing the recipient on the Alert List (see GPD 2.01). This responsibility continues even if the audit report covers an award(s) that expired or was terminated prior to receipt of the audit or completion of corrective action.

**Appendix A (Reserved)**

**Audit Resolution Manual**