

THE OMB SUPER CIRCULAR



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What is the Super Circular?



The U.S. Office of Management and Budget
Uniform Administrative Requirements, Cost
Principles, and Audit Requirements for Federal
Awards

Codified at 2 CFR 200

Supercedes and Consolidates 8 OMB Circulars:



- A-21 Cost Principles for Educational Institutions
- A-50 Audit Follow-Up
- A-87 Cost Principles for State, Local and Indian Tribal Governments
- A-89 Federal Domestic Assistance Program Information
- A-102 Grants and Cooperative Agreements with State and Local Governments
- A-110 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profits
- A-122 Cost Principles for Non-Profit Organizations
- A-133 Audits of States, Local Governments, and Non-Profit Organizations

The Super Circular is Divided Into Six Parts:



- Subpart A — Acronyms and Definitions
- Subpart B — General Provisions
- Subpart C — Pre-Federal Award Requirements and Contents of Federal Awards
- Subpart D — Post-Federal Award Requirements
- Subpart E — Cost Principles
- Subpart F — Audit Requirements

Why was the Super Circular Created?



The primary objectives of the Super Circular include:

- Streamlining requirements – reduced approximately 80 pages or 25% of existing regulations
- Federal government's desire to focus on promoting clarity and consistency amongst previous circulars
- Part of a larger Federal effort to improve accountability for expenditures of Federal money
- Placing a greater emphasis on performance over compliance for accountability

Effective Date



- Federal entities were required to adopt regulations implementing the Super Circular to be effective December 26, 2014
- The Super Circular's administrative requirements and cost principles will apply to new federal awards or funding increments to existing awards made on or after December 26, 2014
- The Super Circular's audit requirements will apply to audits of periods beginning on or after December 26, 2014

Key Administrative Requirement Changes



Conflict of Interest

- The Federal awarding agency must establish conflict of interest policies for Federal awards
- Non-federal entities must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity

Key Administrative Requirement Changes



Fraud, Bribery or Gratuity

- Non-federal entities must disclose in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving bribery, fraud or gratuity that could affect the federal award
- Failure to make required disclosures can result in any of the remedies described in § 200.338. Remedies for noncompliance, including suspension or debarment.

Key Administrative Requirement Changes



Emphasis on Results Rather than Compliance

- Federal agencies will now have to perform merit and risk reviews of all applicants
- Criteria include:
 - entity's financial stability
 - management system quality
 - performance history
 - audit reports and findings, amongst others
- Recipients will be required to relate financial data to performance accomplishments

Key Administrative Requirement Changes



Internal Controls

- “Standards for Internal Control in the Federal Government,” (also called the Green Book) issued by the Comptroller General of the U.S., and “Internal Control Integrated Framework,” issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO), should be followed in managing federal awards

Key Administrative Requirement Changes



Internal Controls

- Internal controls means a process, implemented by a non-Federal entity, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:
 - Effectiveness and efficiency of operation
 - Reliability of reporting for internal and external use
 - Compliance with applicable laws and regulations

Key Administrative Requirement Changes



Internal Controls

- Internal control over compliance requirements for Federal awards means a process implemented by a non-Federal entity designed to provide reasonable assurance regarding the achievement of the following objectives for Federal awards:
 - Transactions are properly recorded and accounted for, in order to:
 - ✦ Permit the preparation of reliable financial statements and reports
 - ✦ Maintain accountability over assets; and
 - ✦ Demonstrate compliance with Federal statutes, regulations, and the terms and conditions of the Federal award

Key Administrative Requirement Changes



Internal Controls

- Transactions are executed in compliance with:
 - ✦ Federal statutes, regulations, and the terms and conditions of the Federal award that could have a direct and material effect on a Federal program
 - ✦ Any other Federal statutes and regulations that are identified in the Compliance Supplement

- Funds, property, and other assets are safeguarded against loss from unauthorized use or disposition.

Key Administrative Requirement Changes



Contractor vs Subrecipient Determination

- Seeks to clarify the distinction
 - Eliminates the use of term “vendor”
 - Replaces with “contractor”
 - A pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor

Key Administrative Requirement Changes



Subrecipient

- *Subaward 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.*
- Subawards do not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program
- Subawards create a Federal assistance relationship with the subrecipient

Key Administrative Requirement Changes



- Characteristics which support the classification of the non-Federal entity as a *subrecipient* include when the non-Federal entity:
 - Determines who is eligible to receive what Federal assistance
 - Has its performance measured in relation to whether objectives of a Federal program were met
 - Has responsibility for programmatic decision making
 - Is responsible for adherence to applicable Federal program requirements specified in the Federal award
 - In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity

Key Administrative Requirement Changes



Contractors

- A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor
- A contract relationship does not pass on the administrative, cost principles, and audit requirements to the contractor

Key Administrative Requirement Changes



Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the non-Federal entity receiving the Federal funds:

- Provides the goods and services within normal business operations
- Provides similar goods or services to many different purchasers
- Normally operates in a competitive environment
- Provides goods or services that are ancillary to the operation of the Federal program
- Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

Significant Cost Principle Changes



Indirect Cost Rates

Any non-federal entity that has never received a negotiated indirect cost rate may elect a de minimis rate of 10% of modified total direct costs which may be used indefinitely

- Costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both.
- If chosen, this methodology once elected must be used consistently for all Federal awards until such time as a non-Federal entity chooses to negotiate for a rate, which the non-Federal entity may apply to do at anytime.

Significant Cost Principle Changes



Indirect Cost Rates

- **Modified Total Direct Costs include:**
 - Direct salaries and wages
 - Applicable fringe benefits
 - Materials and supplies
 - Services
 - Travel
 - Up to the first \$25,000 of each subaward

Significant Cost Principle Changes



Indirect Cost Rates

- **Modified Total Direct Costs exclude:**
 - Equipment and capital expenditures
 - Charges for patient care
 - Rental costs
 - Tuition remission
 - Scholarships and fellowships
 - Participant support costs
 - The portion of each subaward in excess of \$25,000

Significant Cost Principle Changes



Indirect Cost Rates

Any non-federal entity that has a federally negotiated indirect cost rate can apply for a one-time extension of the current rate for a period of up to 4 years

- This extension will be subject to the review and approval of the cognizant agency for indirect costs
- If an extension is granted the non-Federal entity may not request a rate review until the extension period ends
- At the end of the 4-year extension, the non-Federal entity must re-apply to negotiate a rate.

Significant Cost Principle Changes



Capitalization of Capital Assets

- Computing devices with a cost less than the organization's capitalization threshold or \$5,000, whichever is less may be expensed as a supply regardless of its useful life
- Avoids more restrictive classification of equipment
 - Depreciation
 - Restricted use
 - Safeguarding and disposition

Significant Cost Principle Changes



Micro-Purchases

Purchases of supplies or services less than \$3,000 may be awarded without soliciting competitive quotations

- To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers
- Micropurchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable

Important Audit Requirement Changes



Single Audit Threshold

Increases from \$500,000 to \$750,000

- According to the GAO, approximately 5,000 nonfederal entities will be relieved of the single-audit requirement as a result of the higher threshold
- May increase pass-through entities' responsibilities on small organizations no longer required to have a single audit

Important Audit Requirement Changes



Questioned Costs

Threshold increases from \$10,000 to \$25,000

- *Questioned cost* means a cost that is questioned by the auditor because of an audit finding:
 - Which resulted from a violation or possible violation of a statute, regulation, or the terms and conditions of a Federal award, including for funds used to match Federal funds
 - Where the costs, at the time of the audit, are not supported by adequate documentation
 - Where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances

Important Audit Requirement Changes



Schedule of Expenditures of Federal Awards (SEFA)

- The SEFA must include the total amount paid to subrecipients for each Federal program

Important Audit Requirement Changes



Federal Audit Clearinghouse Reporting

- Both the auditor and auditee must sign a statement and ensure that the single audit reports available on the Federal Audit Clearinghouse do not include protected personally identifiable information (PPII)
- In an effort to provide more transparency, this section requires the Federal Audit Clearinghouse to make the reporting package (which includes audited financial statements) and the Data Collection Form publicly available online

Summary



- The Federal government continues to look for ways to strengthen internal controls over administering federal awards as a way to mitigate risks of waste, fraud and abuse. This will be even more important, given the increase in the threshold for the single-audit requirement

Summary



- Federal grant administration will continue to evolve toward stronger program outcomes, transparency of reporting, avoidance of waste, fraud and abuse by mandating strong internal controls and audit efforts focused on larger, high-risk programs