

Loeb & Troper's *e-Bulletin*

2010 A-133 Compliance Supplement

This bulletin is relevant to entities that are currently subject to, or in the future may become subject to, the federal award requirements under OMB Circular A-133.

Background

The Office of Management and Budget (OMB) annually issues its Circular A-133 Compliance Supplement (the Compliance Supplement) which is to be used by auditors and award recipients to better understand the compliance requirements associated with the awards received. The Compliance Supplement also provides a source of information to help understand federal program objectives, procedures, as well as audit objectives and suggested audit procedures for determining compliance with these requirements. OMB has recently released its 2010 edition of the Compliance Supplement. The Compliance Supplement is available along with other OMB guidance at www.whitehouse.gov/omb/circulars/a133_compliance_supplement_2010.

As an award recipient, federal regulations require that your organization establish and maintain internal controls that are designed to reasonably ensure compliance with laws, regulations, and compliance requirements for your federal programs. There are five elements of internal control: (1) the Control environment; (2) Risk assessment; (3) Control activities; (4) Information and communication; and (5) Monitoring. Part 6 of the Compliance Supplement provides guidance that is useful in the process of designing and evaluating effective and efficient internal controls over compliance of your programs.

Navigating the Compliance Supplement

While the 2010 Compliance Supplement is voluminous, it is organized into manageable components, which are indexed further in the table of contents:

Part 1	Background, Purpose and Applicability
Part 2	Matrix of Compliance Requirements — Provides a matrix summarizing required compliance requirements for certain programs
Part 3	Compliance Requirements — Provides general guidance regarding compliance requirements
Part 4	Agency Program Requirements — Details program specific guidance [this specific guidance is in addition to (and does not replace) the existing guidance in the Compliance Supplement's Part 3]
Part 5	Clusters of Programs — Provides guidance for Student Financial Aid (SFA) and Research & Development (R&D) clusters. This section also details Other Clusters.
Part 6	Internal Control — Discusses internal controls over compliance based on the five components of internal control
Part 7	Guidance for Auditing Programs Not Included In This Compliance Supplement — Provides guidance on programs not detailed in Part 4 of the Compliance Supplement
Appendices	<ul style="list-style-type: none">I Federal Programs Excluded from the A-102 Common RuleII Federal Agency Codification of Certain Government-wide Grants RequirementsIII Federal Agency Contacts for A-133 AuditsIV Internal Reference TablesV List of Changes for the 2010 Compliance SupplementVI Disaster Waivers and Special Provisions Affecting Single AuditsVII Other OMB Circular A-133 AdvisoriesVIII SAS 70 Examinations of EBT Service OrganizationsIX Compliance Supplement Core Team

Users should check for the matrix in Part 2 for the applicable requirements. Details regarding these requirements are described in Parts 3 and 4. Part 3 will provide general guidance regarding each of the 14 types of compliance requirements described in Circular A-133. Part 4 provides additional program-specific information.

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2010 Changes

The Compliance Supplement's Appendix V details changes implemented in the revised Compliance Supplement. Some of the significant changes are described below; see Appendix V for more complete and comprehensive discussion.

ARRA Related Changes

In 2009, with the advent of the American Recovery and Reinvestment Act of 2009 (ARRA), OMB issued Compliance Supplement Addendum #1 to the 2009 Compliance Supplement, detailing additional guidance associated with ARRA awards. Much of that Addendum is now incorporated within the 2010 Compliance Supplement. The changes affected many areas of the supplement. The following is an example of the types of changes in Part 3:

- ❖ Updated A, "Activities Allowed or Unallowed," to include limitations on activities funded with ARRA funds.
- ❖ Updated D, "Davis-Bacon Act," to include coverage under ARRA.
- ❖ Updated I, "Procurement and Suspension and Debarment," to add ARRA Buy American requirements.
- ❖ Updated N, "Special Tests and Provisions," to provide three special tests for ARRA-funded expenditures
- ❖ Updated C, "Cash Management," to provide an audit objective concerning reimbursement payments.
- ❖ Updated H, "Period of Availability of Federal Funds," to clarify that the requirement to liquidate all obligations within 90 days after the end of the funding period applies to all non-federal entities and added a reference to ARRA in the "Source of Governing Requirements" section.
- ❖ Updated L, "Reporting," to reflect the new SF-425, Federal Financial Report, add reporting under Section 1512 of ARRA, and add a new requirement regarding OMB Circular A-133 reporting.
- ❖ Updated M, "Subrecipient Monitoring," to reflect the requirement for use of Central Contractor Registration and responsibilities for subawards to for-profit entities.

Appendix VII of the Compliance Supplement (Other OMB Circular A-133 Advisories) contains additional guidance relating to ARRA in A-133 audits.

- ❖ Separately reporting ARRA on the Schedule of Expenditures of Federal Awards including instances where ARRA awards were provided with the same CFDA as non-ARRA awards
- ❖ Type A Programs/Clusters (other than SFA and R&D) containing even a de minimis ARRA component cannot be deemed low-risk unless four conditions are met:
 - > The Program/Cluster had ARRA expenditure in the prior period
 - > The Program/Cluster was audited as a major program in the prior period
 - > The ARRA component represent less than 20% of the program /cluster
 - > Auditor determined that existing requirements described in §___.520(c) and §___.525 of OMB Circular A-133 indicate that the program / cluster is otherwise low risk
- ❖ Type B Programs/Clusters (other than SFA and R&D) containing ARRA are deemed "higher risk." However, the auditor when applying §___.520(e)(2) is not precluded from selecting an especially risky Type B program that does not contain ARRA expenditures to audit as a major program in lieu of a Type B program or cluster with ARRA expenditures.

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Extensions Eliminated (2009–2011)

Due to the importance of single audits and the reliance of federal agencies on the audit results to monitor accountability for all federal programs, OMB has advised federal agencies that they should not grant any extension requests to grantees for fiscal years 2009 through 2011.

Clarification of Low-Risk Auditee Criteria

Award recipients which do not qualify for low-risk auditee status, generally require more extensive A-133 audits. In order to meet the criteria as a low-risk auditee (OMB Circular A-133 §____.530) in the current year, the prior two years audits must have met the requirements of OMB Circular A-133, including report submission to the Federal Audit Clearinghouse (FAC) by the due date (OMB Circular A-133 §____.320). For example, an auditee would not meet the criteria for a low-risk auditee for the fiscal year ended June 30, 2010, if the audits for either of the prior two years audits (fiscal years June 30, 2008 or 2009) were not filed with the FAC by the due date (March 31, 2009 and 2010, respectively, assuming no approved extensions). The FAC website indicates "Initial Date Received" and "FAC Accepted Date."

Effect of Loans and Loan Guarantees on Major Program Determination

Auditors determine the programs to be tested based on risk assessments according to the methodology described in Circular A-133. A key element in this methodology is the "Type A threshold," which represents the demarcation between larger programs (Type A) and smaller programs (Type B). This threshold begins at \$300,000 and increases once awards exceed \$10,000,000. The 2010 Compliance Supplement provides new guidance as to the inclusion or exclusion of loan awards in determining the Type A threshold.

Safe Harbor Calculation — Previously, as a safe harbor calculation, auditors subtracted all loans from the Schedule of Expenditures of Federal Awards when determining Type A threshold. The revised guidance indicates that the safe harbor calculation should only subtract large loans which are now defined as loans which exceed four times the largest non-loan program. Loan programs which are smaller than four times the largest non-loan program are not considered to be large and need not be deducted from the safe harbor calculation. A cluster of programs is treated as one program for purposes of this safe harbor calculation. Appendix VII, Section VI includes several examples of the application of this safe harbor.

Loeb & Troper Recommendations

- ❖ Understand the requirements outlined in the compliance supplement applicable to your federal awards.
- ❖ Develop internal controls to ensure compliance with federal requirements.
- ❖ Understand the complexities in preparing the Schedule of Federal Awards.
- ❖ Understand the risk associated with noncompliance.

If you have questions or would like further information, please contact:

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