



WHITE PAPER

CHANGE IS HERE: FINALIZATION OF THE SUPER CIRCULAR

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SUMMARY

On December 26, 2013, the Office of Management and Budget (OMB) issued its final guidance entitled the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (78 Federal Regulation 78589)” for grants and other Federal non-procurement awards. The new guidance is often referred to as the “Super Circular” or “Omni Circular”.

The Super Circular was created in the hope of reducing administrative burdens through innovative and effective uses of resources, implementing a stronger internal control environment, and above all else, reducing fraud, waste, and abuse. The purpose of the Super Circular is to streamline federal grant management regulations and reduce and eliminate redundancies found in previous guidance. The Super Circular supersedes and consolidates eight previous OMB Circulars:

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

The Super Circular addresses changes in three major areas:

- ✓ **ADMINISTRATIVE REQUIREMENTS**
- ✓ **COST PRINCIPLES**
- ✓ **AUDIT REQUIREMENTS**

Given the magnitude and sweeping changes associated with the Super Circular, it is helpful to have a basic understanding of the key objectives, dates and major reforms addressed before beginning a comprehensive review of the guidance.

SUPER CIRCULAR KEY OBJECTIVES

Below are the key objectives of the Super Circular and related examples:

- **Eliminating Duplicative and Conflicting Guidance**
Eliminates approximately 80 pages of overlapping duplicative and conflicting provisions of guidance
- **Focusing on Performance over Compliance for Accountability**
Expands options for fixed amount awards based on meeting performance milestones
- **Encouraging Efficient Use of Information Technology and Shared Services**
Encourages non-Federal entities to, when practical, abide by the May 9, 2013 Executive Order on Making Open and Machine Readable the New Default for Government Information
- **Providing For Consistent and Transparent Treatment of Costs**
Updates policies on indirect cost to reduce administrative burden by providing more consistent and transparent treatment government wide
- **Limiting Allowable Costs to Make Best Use of Federal Resources**
Language has been strengthened in certain areas to appropriately limit allowable cost under Federal awards
- **Setting Standard Business Processes Using Data Definitions**
Updates provision to set the stage for Federal agencies to manage Federal awards via standardized business processes and use of consistently defined data elements
- **Encouraging Non-Federal Entities to Have Family-Friendly Policies**
Includes provisions that provide flexibility to better allow employees to balance personal and professional responsibilities
- **Strengthening Oversight**
Language has been included that requires Federal agencies and pass-through entities to review the risk associated with a potential recipient prior to making an award
- **Targeting Audit Requirements on Risk of Waste, Fraud, and Abuse**
Guidance focuses audits where there is the greatest risk of waste, fraud and abuse of taxpayer dollars

KEY DATES AND REQUIREMENTS

DATE	REQUIREMENTS	APPLICABILITY
December 26, 2013	Implementation	Guidance is applicable to Federal agencies
June 26, 2014	Implementation	Federal agencies must submit a draft of their implementing regulations to the OMB
December 26, 2014	Implementation	Effective date for non-profits, colleges and universities, and state and local governments
December 26, 2014	Administrative & Cost Principles	Effective date for non-profits, colleges and universities, and state and local governments and applies to new awards and to additional funding to existing awards made after December 26, 2014
December 26, 2014	Audit	Applies to non-Federal entities with fiscal years beginning after December 26, 2014

KEY REFORMS

Administrative Requirements

Major changes to administrative requirements are noted below. These new streamlined changes were previously included in Circulars: A-89, A-102, and A-110.

Internal Controls

Strengthening and implementation of an effective internal control system is explicitly communicated throughout the new guidance. This requirement strengthens non-Federal entities internal control and provides a greater assurance that compliance requirements are met. Additionally, the guidance allows for more flexibility in communicating this information by lessening specific reporting requirements while still communicating required data. The result becomes more effective and transparent communications while ensuring safeguards around sensitive and electronic information.

Performance Measurement

Guidance was included in the new circular to strengthen and better measure performance attributes. The recipients must relate financial data to performance accomplishments and must provide cost information to demonstrate cost effective practices. The recipient's performance may then be measured to improve program outcomes, share lessons learned, and spread the adoption of promising practices. The Federal awarding agency in turn provides recipients with clear performance goals, indicators, and milestones. Performance evaluations build evidence for future decision making.

Public Notice

The Federal awarding agency must notify the public of Federal grant programs in the Catalog of Federal Domestic Assistance (CFDA). The required reporting elements include: the program's description, goals and measurement, purpose, statutory/regulatory requirements, identification of type of federal funds (discretionary or statute), anticipated source of funds, general eligibility requirements, and applicability of single audit requirements.

Notice of Funding Opportunities

Funding opportunities must stay open for a minimum of thirty days and must include announcements that provide a standard set of data elements. The required elements include: full program description, federal award information, eligibility information, application and submission information, application review information (review of risks posed by applicants), and federal award administration information. If applicable, the notice must specifically include transparent language and disclosure of cost sharing or matching.

Merit & Risk Evaluation

Each Federal awarding agency must design and execute a merit review process for applications which includes an evaluation of risk posed by applicants. Elements that may be used in this evaluation are: financial stability, quality of management systems, history of performance, audit findings, effective implementation of guidance, and test of debarment. Certain conditions and criteria will be applied based on risk assessed to mitigate potential risks of fraud, waste, and abuse before dollars are spent.

Fixed Amount Awards

Grant agreements, cooperative agreements, and contracts should include provisions for fixed amount awards that minimize compliance requirements in favor of accountability requirements to meet performance goals and milestones.

Required Disclosures

The guidance reiterates the requirement for non-Federal entities to disclose any instances where a conflict of interest may arise and violations of Federal criminal law exist.

Closeouts

Language was added to the guidance to limit the period after closeout for Federal agencies to disallow costs. Unallowable costs noted as a result of audits or other reviews performed subsequent to the three year record retention period may no longer be deemed disallowed. Additionally the period for closing out awards is extended from 180 days to one year subsequent to submission of final reports from the non-Federal entity. Language was also clarified by stating that non-Federal entities have 90 days from the end date of the period of performance to submit all final reports.

Cost Principles

Major changes to cost principles are noted below. These new streamlined changes were previously included in Circulars: A-21, A-87, and A-122.

Prior Written Approval

A detailed list of items that must have prior written approval in order to avoid disallowances or disputes based on arguments of reasonableness or non-allocable costs is now provided. Such items are considered special or unusual in nature and include: use of grants agreements, cost sharing or matching, revision of budget and program plans, direct costs, direct and fringe compensation, equipment, penalties, pre-award costs, and travel costs.

Direct Costs – Administrative Salaries

Clerical and administrative costs may be appropriate as direct costs if costs are specifically identified, are shown to be an integral part of the project, and prior written approval is obtained.

Indirect Costs

Non-federal entities that have never negotiated an indirect cost rate can now use an indirect cost rate of 10% of modified total direct cost (MTDC). This rate has no expiration. Indirect cost rates that have been previously negotiated are required to be accepted, unless an exception applies or approved by a Federal awarding agency head or delegate based on openly documented justification. Once rates have been approved, a one-time extension can now be permitted for a period of up to four years.

Pass-through entities are also now required to negotiate a rate or use the 10% MTDC rate before executing the Federal award. A negotiated rate between the Federal government and the subrecipient is also permissible.

Advertising & Public Relations

Language now includes allowable costs for advertising program outreach and other specific costs necessary to meet federal grant requirements.

Collection of Improper Payments

Direct and indirect costs expended to collect improper payment recoveries and associated costs are allowable reimbursable costs.

Compensation for Personal Services

Increasing the overarching reliance on internal controls allows for increased flexibility on reporting requirements mandatory for salaries and wages. This increased flexibility allows for Federal agencies to approve alternative methods of accounting for compensation based on achievement of performance outcomes and approved cases where multiple programs are blended to achieve a desired outcome.

Interest

On or after January 1, 2016, costs will be reimbursable for non-federal entities' financing costs pertaining to computer software and patents capitalized in accordance with GAAP. This requirement also includes software development projects, but only the portion attributable to the project costs capitalized in accordance with GAAP.

Materials & Supplies

Computing devices are classified as supplies (if less than the established non-Federal entities capitalization level for financial statement purposes, or less than \$5,000). Computing devices include items to electronically store information and hardware associated with transmitting and printing.

Upon completion or termination of the project, non-federal entities with residual supplies exceeding \$5,000 in total aggregate must compensate the Federal government for unused supplies if supplies are not needed on additional Federal programs.

Audit Requirements

Major changes to audit requirements are noted below. These new streamlined changes were previously included in Circulars: A-20 and A-133.

Single Audit Threshold

The threshold requirement for a single audit is raised from \$500,000 in Federal award expenditures per year to \$750,000. This change will reduce the burden for over 5,000 of the 37,000 entities currently requiring a single audit and still allows for audit coverage of over 99% of federal dollars expended.

Major Program Determination

Auditors are required to use a risk-based approach when determining major Federal programs. The focus will also include audits of areas with internal control deficiencies that have been identified as material weaknesses. Future updates to the Compliance Supplement will also reflect this focus. The threshold for Type A programs was raised to \$750,000 for awards where the entity expends below \$25 million for the period to improve consistency between the thresholds of single audits and type A/B programs.

Audit Testing Change

If an entity being audited is considered low risk under the percentage of coverage rules, the level of testing decreases to 20% for total federal dollars expended. If the entity is not considered low risk, then testing of 40% coverage of total federal dollars expended is required

Questioned Costs

The threshold for questioned costs was raised from \$10,000 to \$25,000 and a description of how these costs are calculated is required to be noted.

Submission & Responsibilities

Non-federal audit reports are required to be published online and allows for the safeguarding of sensitive information. The guidance also requires auditees to initiate corrective action as speedily as possible. The Senior Accountable Official is now the required individual at the Federal awarding agency to oversee the Single Audit tool and follow-up. Requirements also include the use of cooperative audit resolution mechanisms, where appropriate, to lessen the burden of finding-by-finding resolutions. The audit resolution period has been shortened from six months to three months.

NEXT STEPS

State Agency Considerations

To best prepare for these changes, recipients and subrecipients should consider:

1. Assign a knowledge champion or team to review and understand the Super Circular content and how that content differs from previous guidance.
2. Develop an implementation plan to ensure that the landscape for change has been defined, is communicated to stakeholders and the agency has analyzed and assessed potential barriers to implementation and related solutions.
3. Consider the development and delivery of concise and direct communications to applicable subrecipients of federal funding to ensure transparency and to alert as many stakeholders as possible, as early as possible, of the pending changes. This time and resource commitment will pay for itself when considering potential non-compliance resulting from subrecipients simply “not knowing”. The best laid internal implementation plan can quickly be derailed unless additional steps are taken.
4. Ask questions! There will be questions and your entity will not be alone. Carefully constructed questions submitted to Federal oversight authorities can only benefit your cause.
5. Utilize all resources at your disposal. Oversight entities and public interest groups are providing interpretative guidance as we speak and will continue to do some as we fast approach required implementation and beyond. Be sure to stay abreast of these guidance resources and information.

General

These sweeping changes are coming and now it is the time to begin to understand how the Super Circular will affect you and your entity going forward. Change is powerful. With the right planning and implementation, your organization can position itself to best address these changes and navigate and leverage the regulatory reforms to promote:

- ✓ **IMPROVED PERFORMANCE**
- ✓ **IMPROVED OUTCOMES**
- ✓ **INCREASED ASSURANCE AROUND THE FINANCIAL INTEGRITY OF TAXPAYER DOLLARS**
- ✓ **FINANCIAL AND ORGANIZATION TRANSPARENCY**

REFERENCE RESOURCES

1. http://www.whitehouse.gov/omb/grants_docs
2. <https://www.federalregister.gov/articles/2013/12/26/2013-30465/uniform-administrative-requirements-cost-principles-and-audit-requirements-for-federal-awards>
3. <http://www.gfoa.org/>