**Federal Award Compliance and Control Record**

**Audit Guidance and Testing**

|  |  |
| --- | --- |
| **Name of Client:** |  |
| **Year Ended:** | 2024 |

|  |  |
| --- | --- |
| **Federal Award Name:** | Capitalization Grants for Drinking Water State Revolving Funds |
| **AL#:** | 66.468 |

# Important Information

*The projects selected in the “SEFA Completeness Guidance” document are the minimum reporting requirements for entities. If a selected entity chooses to report all their federal projects, we will not require any adjustments or citations.*

*These programs are federal grants, not loan programs.*

**In addition to completing the control and suggested audit procedures, yellow-highlighted text indicates items that must be addressed or updated by auditors and should be deleted after the required information is added.**

*Blue italicized text indicates guidance from CFAE.*

This FACCR has been tailored for local governments and Not-For-Profits. It does not include all required references and testing for Institutes of Higher Learning or State organizations.

If the program had COVID funding expenditures, please refer to the terms and conditions of the grant to determine if any additional requirements were imposed. Also see guidance in [Appendix VII](OMB_Appendix_VII.pdf) of the Compliance Supplement.

If additional material requirements are identified, auditors will need to create procedures to test those requirements. If you have questions, AOS Auditors please open a Spiceworks ticket for assistance (IPAs email [AOSFederal@ohioauditor.gov](mailto:AOSFederal@ohioauditor.gov)).

**Navigation Pane**

Click on the “View” tab on the top ribbon and check the box that says “Navigation Pane” to bring up the headings on the left side of the screen. Click on the various sections within the navigation pane to go directly to that section.

**Table of Contents**

On the table of contents page, users can also click on listed sections to go directly to that section. As information is added into the FACCR, page numbering will change and the Table of Contents may need to be updated to reflect revised numbering. To update the Table of Contents, click on the word “Contents” directly above the line starting with Important Information, which brings up the icon “Update Table.” Clicking OK in the box that appears will update the page numbers on the Table of Contents to reflect any changes in the document.

**Guidance Links**

Links to guidance referenced throughout this document are included below:

* [Part 6](OMB_Part_6.pdf) (Internal Control) of the OMB Compliance Supplement
* [2013 COSO](https://www.coso.org/_files/ugd/3059fc_61ea5985b03c4293960642fdce408eaa.pdf)
* [GAO’s 2014 Green Book](https://www.gao.gov/assets/gao-14-704g.pdf)
* [2 CFR Part 200](2_CFR_Part_200.pdf) – Once opened, click on the appropriate section(s)

# 2024 Uniform Guidance Updates

*This FACCR was written for programs/clusters administered under the Uniform Guidance* ***prior to*** *the 2024 revisions from OMB. Auditors must read the guidance and complete the table below to determine whether revised Uniform Guidance requirements need to be considered when testing the major program/cluster.*

OMB recently updated its Guidance for Federal Financial Assistance contained in 2 CFR, including 2 CFR part 200. See 89 FR 30046 (Apr. 22, 2024). Although the government-wide effective date for the 2024 revisions is not until October 1, 2024, Federal agencies may elect to implement the revisions as early as June 21, 2024 to new awards and through amendments to existing awards. Because Federal agencies are not required to implement the revisions prior to October 1, 2024, there is likely to be some variation on when Federal agencies begin to make the 2024 revisions apply to Federal awards. For example, a non-Federal entity with a fiscal year beginning on January 1, 2024 may receive an award on June 21, 2024 made subject to the 2024 revisions by the Federal agency. Consequently, the auditor should perform reasonable procedures to ensure that compliance requirements identified as subject to the audit are current and determine whether there are any additional or modified provisions of Federal awards based on the 2024 revisions. Auditors must not, however, apply compliance requirements from the 2024 revisions in circumstances in which the Federal agency has not yet applied the 2024 revisions to the Federal award subject to audit.

*(Source: 2024 OMB Compliance Supplement, Part 1)*

*Auditors must read the grant agreement(s) and inquire with management to determine whether the program, or a portion thereof, is subject to the revised Uniform Guidance Requirements.*

|  |  |
| --- | --- |
| ***Respond to the Following Questions Regarding the Major Program/Cluster Tested in this FACCR:*** | |
| *(1) Is the program/cluster (or a portion thereof) subject to the revised Uniform Guidance?* | *[****Yes/No****]* |
| *(2) If the response to question 1 is yes, document the dollar amount of program/cluster expenditures subject to the revised Uniform Guidance.* | ***$xxx*** |
| *(3) Document total program/cluster expenditures per the SEFA.* | ***$xxx*** |
| *(4) Percentage of total program/cluster expenditures subject to the revised Uniform Guidance.* | ***xx%*** |

*Sources Reviewed:* **Auditors must document sources reviewed to make the determinations above.**

*If the program is subject to the revised Uniform Guidance (i.e. the response to question 1 above is “Yes”):*

* *AOS auditors must contact CFAE via the FACCR Specialty in Spiceworks.*
* *IPAs must ensure compliance requirements subject to audit are appropriately tailored to incorporate revised Uniform Guidance requirements.*

# Agency Adoption of the UG and Example Citations

[*Appendix II*](OMB_Appendix_II.pdf) *to the OMB Compliance Supplement provides the codified section reference of the agency adoption of the Uniform Guidance (UG) (2 CFR Part 200) and nonprocurement suspension and debarment requirements in 2 CFR Part 180, including the 2020 revisions.*

*While some Federal agencies gave regulatory effect to the Uniform Guidance as a whole, others made changes to the UG language within the agency codified sections by either adding specific requirements/exceptions or editing/modifying existing language. OMB does not maintain a complete listing of agency exceptions to the UG, but the most recent compilation of agency additions and exceptions (updated through December 2014) is provided on the* [*CFO website*](https://www.cfo.gov/wp-content/uploads/2014/12/Agency-Exceptions.pdf)*. AOS auditors should review the UG Exception Evaluation by Federal Agency spreadsheet* [*on the Intranet*](https://ohauditor.sharepoint.com/:f:/r/sites/Intranet/Shared%20Documents/Audit_Resources/Federal/Other%20Federal%20Resources?csf=1&web=1&e=RtVw5R) *(Documents > Audit Resources > Federal > Other Federal Resources).*

*Auditors must review the Federal agency adoption of the Uniform Guidance (2 CFR Part 200) and nonprocurement suspension and debarment requirements (2 CFR Part 180) prior to issuing noncompliance citations to verify the Federal agency requirements.*

*Auditors should also review this* [*link*](Agency_Adoption_of_the_UG_and_Example_Citations.pdf) *for a discussion on how to cite non-compliance exceptions based on agency adoption of the UG.*

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# Compliance Requirement Matrix

*Footnotes 1-7 below the matrix provide further explanation; review note 6 which discusses tailoring the matrix assessments.*

|  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  |  |  | **(1)** | **(2)** | **(6)** | **(6)** | **(3)** | **(4)** | **(5)** | **(5)** | **(7)** |
| **Compliance Requirement** | | | **Applicable per Compliance Supplement**  *(Yes/No)* | **Direct & Material to Program / Entity**  *(Yes/No)* | **Monetary**  **or Nonmonetary**  *(Set by CFAE)*  *(M/N)* | **Population Subject to Requirement (if Monetary)**  *(in $)* | **Inherent Risk**  **(from IRAF)**  *(High/Low)* | **Final Control Risk**  *(High/Low)* | **Detection**  **Risk of Noncompl.**  *(High/Low)* | **Overall Audit Risk of Noncompl.**  *(High/Low)* | **Federal Materiality by Compliance Requirement**  *(usually 5%)* |
| **A** |  | **Activities Allowed or Unallowed** | Yes |  | M |  |  |  |  |  | 5% |
| **B** |  | **Allowable Costs/Cost Principles** | Yes |  | M |  |  |  |  |  | 5% |
| **C** |  | **Cash Management** | Yes |  | N |  |  |  |  |  | 5% |
| **D** |  | ***Reserved – Not Used*** |  |  |  |  |  |  |  |  |  |
| **E** |  | **Eligibility** | No |  |  |  |  |  |  |  |  |
| **F** |  | **Equipment & Real Property Mgmt** | No |  |  |  |  |  |  |  |  |
| **G** |  | **Matching, Level of Effort, Earmarking** | Yes | No – See Note in Section G |  |  |  |  |  |  |  |
| **H** |  | **Period of Performance** | Yes |  | M |  |  |  |  |  | 5% |
| **I** |  | **Procurement & Sus. & Debarment** | Yes |  | N |  |  |  |  |  | 5% |
| **J** |  | **Program Income** | No |  |  |  |  |  |  |  |  |
| **K** |  | ***Reserved – Not Used*** |  |  |  |  |  |  |  |  |  |
| **L** |  | **Reporting** | No |  |  |  |  |  |  |  |  |
| **M** |  | **Subrecipient Monitoring** | No |  |  |  |  |  |  |  |  |
| **N** |  | **Special Tests & Provisions**  **(Provide an assessment for each)** | No |  |  |  |  |  |  |  |  |

**(1)** *From Part 2, Matrix of Compliance Requirements, for the applicable program in the* [*OMB Compliance Supplement*](https://www.whitehouse.gov/omb/office-federal-financial-management/)*. For programs not included in Part 2, all compliance requirements should be marked as applicable.*

**(2)** *If the Compliance Supplement notes a compliance requirement as being applicable to the program in the first column, it still may not apply at a particular entity either because that entity does not have activity subject to that type of compliance requirement, or the activity could not have a material effect on a major program. If the Compliance Supplement indicates that a type of compliance requirement is applicable and the auditor determines it also is direct and material to the program at the specific entity being audited, the auditor should answer this question “Yes,” and then complete the remainder of the line. Alternatively, if the auditor determines that a particular type of compliance requirement that normally would be applicable to a program (as per part 2 of the Compliance Supplement) is not direct and material to the program at the specific entity being audited, the auditor should answer this question “No.” Along with that response, the auditor should document the basis for the determination in the working papers or this FACCR. When making that determination all parts of that compliance requirement must be considered. For example, Equipment and Real Property Management contains procedures regarding Acquisitions, Dispositions (Disposals), and Inventory Management. The documentation on why the compliance requirement is not applicable to the program/entity must address all parts of that compliance requirement.*

***(3)*** *Refer to the AICPA Single Audit Guide, chapter 10, Compliance Auditing Applicable to Major Programs, for considerations relating to assessing inherent risk of noncompliance for each direct and material type of compliance requirement. For AOS auditors, the auditor documents the inherent risk assessment for each direct and material compliance requirement on the Inherent Risk Assessment Form (IRAF). The assessments in this column should directly tie to the final inherent risk assessment on the IRAF.*

**(4)** *See guidance on the following page for considerations relating to assessing control risk of noncompliance for each direct and material type of compliance requirement.* ***Planned control risk must be assessed at low per 2 CFR § 200.514; therefore, only final control risk is shown in the matrix.*** *Additionally, auditors must document final control risk in each compliance requirement section’s Audit Implications Summary in this FACCR. See AICPA Single Audit Guide, Chapter 9, Consideration of Internal Control over Compliance for Major Programs.*

**(5)** *Audit risk of noncompliance is defined in AU-C 935 as the risk that the auditor expresses an inappropriate opinion on the entity’s compliance when material noncompliance exists. Audit risk of noncompliance is a function of the risks of material noncompliance and detection risk of noncompliance. A “Low” assessment of detection risk in this matrix means that the risk has been reduced to an acceptable level.*

***(6)*** *The AICPA Single Audit Guide 10.55 states the auditor’s tests of compliance with compliance requirements may disclose instances of noncompliance. The Uniform Guidance refers to these instances of noncompliance, among other matters, as “audit findings.” Such findings may be of a monetary nature and involve questioned costs or may be nonmonetary and not result in questioned costs. CFAE included the monetary vs. nonmonetary determinations for each compliance requirement in this program. If AOS auditors believe the determination of monetary vs. nonmonetary should be updated for a particular section, other than sections E and N, they must consult with CFAE via the FACCR specialty in Spiceworks. The Eligibility and Special Tests & Provisions determinations reflect M/N as the determination of whether the compliance requirement is monetary or non-monetary is contingent upon the specific requirements of the program being tested as well as requirements contained within the grant agreement. For sections E and N, auditors should tailor the assessment as appropriate based on the facts and circumstances of their entity’s operations, update the Compliance Requirement Matrix for the appropriate designation (N or M), and document the research and reasoning behind the determination.*

***(7)*** *AU-C 935.13 & .A7 require auditors to establish and document two materiality levels: (1) a materiality level for the program as a whole, and (2) a second materiality level for the each of the applicable 12 compliance requirement listed in Appendix XI to Part 200. This column documents quantitative materiality at the compliance requirement level for each major program.*

*Note: If the compliance requirement is (1) of a monetary nature, and (2) the requirement applies to the* ***total*** *population of program expenditures, then the compliance materiality amount for the program also equals materiality for the requirement as shown in the last column of the matrix. For example, the population for allowable costs and cost principles will usually equal the total Federal expenditures for the major program as a whole. Conversely, the population for some monetary compliance requirements may be less than the total Federal expenditures. Auditors must carefully determine the population subject to the compliance requirement to properly assess Federal materiality. Auditors should also consider the qualitative aspects of materiality. For example, in some cases, noncompliance and internal control deficiencies that might otherwise be immaterial could be significant to the major program because they involve fraud, abuse, or illegal acts. The program level materiality, typically 5%, is documented in the Record of Single Audit Risk (RSAR).*

**Performing Tests to Evaluate the Effectiveness of Controls**

*Control Risk Assessment:*

*Auditors must:*

* *Document the five internal control components (control environment, risk assessment, control activities, information and communication, and monitoring) for each direct and material compliance requirement and*
* *Perform procedures to obtain an understanding of internal control over compliance for federal programs that is sufficient to plan the audit to support a low assessed level of control risk.*

*If internal control over compliance for a compliance requirement is likely to be ineffective in preventing or detecting noncompliance, the auditor is not required to plan and perform tests of internal control over compliance. Rather, the auditor must assess control risk at maximum, determine whether additional compliance tests are required, and report a significant deficiency (or material weakness) as part of the audit findings.*

*AICPA Single Audit Guide’s paragraph 9.08 states that Uniform Guidance provides that the auditors must perform tests of internal controls over compliance as planned. (Paragraphs 9.40-9.42 of the* *AICPA Single Audit Guide discuss an exception related to ineffective internal control over compliance.) In addition, AU-C 330.08 states the auditor should design and perform tests of controls to obtain sufficient appropriate audit evidence about the operating effectiveness of controls. Further, AU-C 330.09 states in designing and performing tests of controls, the auditor should obtain more persuasive audit evidence the greater the reliance the auditor places on the effectiveness of a control.*

*AU-C 330.10 and 330.A28 address testing of the operating effectiveness of controls ordinarily includes procedures such as*

1. *inquiries of appropriate entity personnel, including grant and contract managers;*
2. *the inspection of documents, reports, or electronic files indicating performance of the control;*
3. *the observation of the application of the specific controls; and*
4. *reperformance of the application of the control by the auditor.*

*The auditor should perform such procedures regardless of whether he or she would otherwise choose to obtain evidence to support an assessment of control risk below the maximum level.*

*Paragraph .A24 of AU-C section 330 provides guidance related to the testing of controls. When responding to the risk assessment, the auditor may design a test of controls to be performed concurrently with a test of details on the same transactions. Although the purpose of a test of controls is different from the purpose of a test of details, both may be accomplished concurrently by performing a test of controls and a test of details on the same transaction (a dual-purpose test). For example, the auditor may examine an invoice to determine whether it has been approved and whether it provides substantive evidence of a transaction. A dual-purpose test is designed and evaluated by considering each purpose of the test separately.*

*Also, when performing the tests, the auditor should consider how the outcome of the test of controls may affect the auditor’s determination about the extent of substantive procedures to be performed. See chapter 11 of the AICPA Single Audit Guide for a discussion of the use of dual-purpose samples in a compliance audit.*

*Before a dual-purpose test is performed, AOS auditors must read AOSAM 30500 and 35900 for guidance.*

[Part 6](OMB_Part_6.pdf) of the 2024 OMB Compliance Supplement provides detailed guidance on assessing internal controls over the compliance requirements.

*(Source: 2024 OMB Compliance Supplement)*

**Improper Payments**

Under OMB guidance, Public Law (Pub. L.) No. 116-117, Payments Integrity Information Act of 2019, and Executive Order 13520 on reducing improper payments, federal agencies are required to take actions to prevent improper payments, review federal awards for such payments, and, as applicable, recover improper payments. Improper payments include the following:

1. Any payment that should not have been made or that was made in an incorrect amount, including an overpayment or underpayment, under a statutory, contractual, administrative, or other legally applicable requirement; and includes -- (i) any payment to an ineligible recipient;(ii) any payment for an ineligible good or service; (iii) any duplicate payment; (iv) any payment for a good or service not received, except for those payments where authorized by law; and (v) any payment that does not account for credit for applicable discounts.
2. For purposes of producing an estimate, when the agency cannot determine, due to lacking or insufficient documentation, whether a payment is proper or not, the payment must be treated as an improper payment.

Auditors must be alert to improper payments, particularly when testing the following parts of section III. – A, “Activities Allowed or Unallowed;” B, “Allowable Costs/Cost Principles;” E, “Eligibility;” and, in some cases, N, “Special Tests and Provisions.”

*(Source: 2024 OMB Compliance Supplement Part 3)*

# Part I – OMB Compliance Supplement Information

### I. Program Objectives

Capitalization grants are awarded to states to create and maintain Drinking Water State Revolving Funds (DWSRF) programs. States can use capitalization grant funds to establish a revolving loan fund to assist public water systems finance the costs of infrastructure needed to achieve or maintain compliance with Safe Drinking Water Act (SDWA) requirements and protect the public health objectives of the Act.

*(Source: 2024 OMB Compliance Supplement, Part 4, EPA, #66.468 Capitalization Grants for Drinking Water State Revolving Funds)*

### II. Program Procedures

The DWSRF program is established in each state by capitalization grants from the Environmental Protection Agency (EPA) and state match equaling 20 percent of the EPA capitalization grants. For DWSRF Infrastructure Investment, and Jobs Act (IIJA) Grants, state match varies by grant and year. For the DWSRF, there is an annual appropriation and 3 IIJA appropriations for each state. A full listing of the state match requirements for DWSRF IIJA grants can be found in attachment 1 (page 9 of 56) at <https://www.epa.gov/system/files/documents/2022-03/combined_srf-implementation-memo_final_03.2022.pdf>.

EPA implements the DWSRF program in a manner that preserves flexibility for states in operating their program in accordance with their unique needs and circumstances. States have the flexibility to set aside some of their capitalization grants for other related activities. States may also transfer an amount up to 33 percent of its DWSRF capitalization grant to the Clean Water State Revolving Fund (CWSRF) (Assistance Listing 66.458) or an equivalent amount from the CWSRF to the DWSRF program. A state may transfer capitalization grant dollars, state match, investment earnings, or principal and interest repayments.

Capitalization grant agreements include (1) an application; (2) an Intended Use Plan (IUP), which describes how the state intends to use funds made available to it, including a list of proposed projects eligible for financing and a description of the financial status of the program; (3) a proposed payment schedule; (4) certain certifications and demonstrations which can be included in an optional operating agreement; and (5) workplans containing a least a general description of the use of set-aside funds.

The state must annually provide an IUP which describes how the state will use available DWSRF program funds for the year to meet the objectives of the SDWA and further the goal of protecting public health. The IUP explains how all of the funds available to the DWSRF program (including bond proceeds, interest earnings, loan repayments, federal capitalization grants, state match, etc.) will be expended.

The Disaster Relief Appropriations Act (Pub. L. No. 113-2) provided funds for awards to the states of New York and New Jersey for drinking water facilities impacted by Hurricane Sandy. EPA awarded these funds under Assistance Listing 66.483. Those funds are subject to all of the compliance requirements that apply to Assistance Listing 66.468 except as indicated in III, “Compliance Requirements,” in this program supplement.

On June 6, 2019, Pub. L. No. 116-20, the “Additional Supplemental Appropriations for Disaster Relief Act, 2019,” or ASADRA, was signed into law. The law provided funds to Alabama, Alaska, California, Georgia, Florida, North Carolina, and South Carolina DWSRF programs for drinking water facilities impacted by Hurricanes Florence and Michael, Typhoon Yutu, and calendar year 2018 wildfires and earthquakes. On November 15, 2022 the Bipartisan Infrastructure Law (BIL) (P.L. 117-58) was signed into law providing additional funding for the DWSRF with appropriations from 2022 through 2026. In addition to a new grant funding base program activities, the law added two additional grants with one focused on funding Per and Polyfluoroalkyl Substances (PFAS) and emerging contaminants and one focused on Lead Service Line removal.

*(Source: 2024 OMB Compliance Supplement, Part 4, EPA, #66.468 Capitalization Grants for Drinking Water State Revolving Funds)*

### III. Source of Governing Requirements

This program is authorized under Section 1452 of the Public Health Service Act (Title XIV), commonly known as the SDWA (42 USC 300j-12) and the Disaster Relief Appropriations Act, 2013 (Pub. L. No. 113-2) and the Bipartisan Infrastructure Law (BIL) (P.L. 117-58). . The implementing regulations for the program can be found at 40 CFR Part 35, Subpart L.

*(Source: 2024 OMB Compliance Supplement, Part 4, EPA, #66.468 Capitalization Grants for Drinking Water State Revolving Funds)*

### IV. Other Information

The audit focus is on a state’s DWSRF program rather than individual capitalization grants awarded to states by EPA.

*Subrecipient Reporting of DWSRF Loans*

DWSRF amounts are awarded by EPA to states as grants. The states then make subawards in the form of loans to their subrecipients. Therefore, in determining the amount of federal funds expended to be reported on the SEFA, subrecipients receiving DWSRF loans should include project expenditures incurred under these loans during the audit period as provided in 2 CFR section 200.502(a). These are subawards— not direct federal loans—and, therefore, neither 2 CFR sections 200.502(b) nor (d) apply when calculating the amount of federal funds expended.

It also is important to appropriately identify these DWSRF loans as subawards because of the impact on which federal agency is the cognizant or oversight agency.

*Equivalency Loans Reporting*

To achieve consistency in meeting program requirements and eliminate the possibility of over- reporting information under the Federal Funding Accountability and Transparency Act (FFATA), state DWSRF programs must use the same group of loans for the purpose of meeting federal cross-cutting, single audit, procurement, and Transparency Act reporting requirements (as per 40 CFR 35.3575). Equivalency projects/loans are funded with an amount equal to the capitalization grant. DWSRF set-aside activities are also considered federal expenditures.

Auditors should be mindful that set-aside spending will not always trigger FFATA reporting based on the thresholds for reporting under the law. In addition, for states using the loan authority under the set-aside funds, it is possible those expenditures are repayment dollars from previous loans and should not be considered federal funds. The state should make subawardees aware if this is the case. Auditors should consult with the state to make that determination.

While any of the sources of funds in the DWSRF may be used for equivalency projects/loans, it should be understood that these funds would be considered federal funds once they are deemed equivalency dollars and that all disbursements for equivalency projects/loans must be entered into the SEFA. The SEFA should reflect equivalency dollars rather than actual cash draws from the Treasury to the state. Additionally, the SEFA will differ from the SF-425 form.

**Availability of Other Program Information**

Other general information about the program is available on the EPA Drinking Water State Revolving Fund home page (<https://www.epa.gov/dwsrf>).

*(Source: 2024 OMB Compliance Supplement, Part 4, EPA, #66.468 Capitalization Grants for Drinking Water State Revolving Funds)*

# Part II – Pass through Agency and Grant Specific Information

### Program Overview

**Ohio EPA and OWDA Program Information**

**Section 1 – Program Description**

1.1 The Ohio Water Development Authority (OWDA) and the Ohio Environmental Protection Agency (OEPA) created the Drinking Water Assistance Fund (DWAF) to provide financial assistance for planning/design and/or construction of projects for drinking water system infrastructure to achieve and maintain compliance with the Safe Drinking Water Act.

1.2 Program is funded from OWDA revenue bonds, federal capitalization grants and surplus funds.

1.3 The program is administered by the OWDA and the OEPA.

*(Source:* [*OWDA DWAF Program Guidelines*](https://www.owda.org/docs/document_selector/upload/DWAF%202019%2002%2028.pdf)*)*

The State of Ohio has established financial and technical assistance programs under the DWAF to help Ohioans improve their drinking water systems. The DWAF follows provisions of Section 1452 of the SDWA, and ORC Section [6109.22](http://codes.ohio.gov/orc/6109.22).

The DWAF helps protect public health by providing financial assistance to eligible public water systems to attain and maintain compliance with the requirements of the SDWA and Ohio statutes and regulations. Its ranking system prioritizes helping communities correct public health issues in their systems, helping communities meet or maintain state and federal SDWA requirements and providing financing to economically disadvantaged communities.

Funding for the DWAF is provided through federal capitalization grants received annually from USEPA as well as leveraged funds from Ohio’s State Revolving Fund bond proceeds.

*(Source:* [*DWAF PY2024 Program Management Plan*](https://epa.ohio.gov/static/Portals/29/documents/ofa/DWAF-PMP-2024.pdf) *(7/1/23-6/30/24)* [*DWAF PY2025 Program Management Plan (07/1/2024-06/30/2025)*](https://dam.assets.ohio.gov/image/upload/epa.ohio.gov/Portals/29/documents/ofa/DWAF-PMP-2025.pdf)*)*

**Section 2 – Eligible Borrowers**

2.1 Eligible borrowers include cities, villages, counties, water districts, publicly owned nonprofit non‐community public water systems, and privately owned nonprofit non‐community drinking water systems that have a place on OEPA’s priority list, fundable status according to the current DWAF Program Management Plan, and plan approval from OEPA.

*(Source:* [*OWDA DWAF Program Guidelines*](https://www.owda.org/docs/document_selector/upload/DWAF%202019%2002%2028.pdf)*)*

Public water systems (PWS) are regulated by the Ohio Environmental Protection Agency, Division of Drinking and Ground Waters (Ohio EPA DDAGW). Public water systems use either a ground water source or a surface water source, including ground water under the direct influence of surface water source. In Ohio, around 4,800 public water systems serve approximately 11 million people daily.  Public water systems are required to monitor their water regularly for contaminants.  Currently, over 95% of community water systems meet all health-based standards.  When a system does not meet a standard, consumers are notified.

A public water system is defined as a system that provides water for human consumption to at least 15 service connections or serves an average of at least 25 people for at least 60 days each year. This includes water used for drinking, food preparation, bathing, showering, tooth brushing and dishwashing. Public water systems range in size from large municipalities to small churches and restaurants that rely on a single well. There are three types of public water systems:

* **Community water systems** serve at least 15 service connections used by year-round residents or regularly serve at least 25 year-round residents. Examples include cities, mobile home parks and nursing homes.
* **Non-transient non-community systems** serve at least 25 of the same persons over six months per year. Examples include schools, hospitals and factories.
* **Transient non-community systems** serve at least 25 different persons over 60 days per year. Examples include campgrounds, restaurants and gas stations. In addition, drinking water systems associated with agricultural migrant labor camps, as defined by the Ohio Department of Agriculture, are regulated even though they may not meet the minimum number of people or service connections.

*(Source:* [*OEPA Website*](https://epa.ohio.gov/divisions-and-offices/drinking-and-ground-waters/public-water-systems)*)*

### Testing Considerations

**Ohio EPA and OWDA Program Information**

**Structure of the Fund**

To accomplish its short and long-term goals, the DWAF will be composed of the following five accounts:

1. The Water Supply Revolving Loan Account (WSRLA) provides financial assistance for the planning, design, and construction of improvements to community water systems, and nonprofit non-community public water systems. The assistance is in the form of below‐market interest rates for compliance‐related improvements to public water systems.
2. The Drinking Water Assistance Administrative Account (DWAFAA) will be used to ensure the long-term administration of the program by funding Ohio EPA personnel including management of the DWAF and district office coordinators.
3. The Small Systems Technical Assistance Account funds technical and managerial assistance for public water systems serving 10,000 or fewer in population. Assistance from this fund will also be provided to WSRLA applicants for completing the documentation necessary to obtain financial assistance, and documents necessary for the Asset Management (formerly “Capability Assurance”) program. This assistance will be provided through a combination of outsourcing to qualified organizations and Ohio EPA staff support.
4. The Public Water Systems Supervision (PWSS) Account funds a variety of activities to help ensure Ohio’s public water systems provide adequate quantities of safe drinking water and on-going implementation of Ohio’s Source Water Protection and Asset Management (formerly “Capability Assurance”) Programs.
5. The Local Assistance and Other State Program Account Ohio EPA will take $1,250,000 (approximately 4.5%) of the local assistance and other state programs set-aside (Appendix I) authorized under Section 1452(k)(1)(B) of the SDWA from federal capitalization grants. Ohio EPA will be using this for further development of the asset management program.

Interest rates will be determined based on the term of the loan, population of the service area and the economic factors of the water system users. The DWAF offers the interest rates in Table 1 below (not including disadvantaged community rates – see Appendix C and Appendix E, respectively). Systems that may qualify for more than one of these interest rates will receive the lowest rate for which the system qualifies.

Table

Description automatically generated

*(Source:* [*DWAF PY2024 Program Management Plan*](https://epa.ohio.gov/static/Portals/29/documents/ofa/DWAF-PMP-2024.pdf) *(7/1/23-6/30/24)* [*DWAF PY2025 Program Management Plan (07/1/2024-06/30/2025)*](https://dam.assets.ohio.gov/image/upload/epa.ohio.gov/Portals/29/documents/ofa/DWAF-PMP-2025.pdf)*)*

**Loan Application and Disbursement Procedures:**

To apply for a loan the Borrower must:

1. Fill out and submit nomination form with supporting documents.

For Loan Agreement approval the Borrower must:

1. Receive OEPA approval of plans and other program materials per ORC 6109.22.
2. Receive bids and tentatively approve contract awards.
3. Pass legislation authorizing signing the Loan Agreement.
4. Complete any necessary assessment, tap-in and/or rate legislation.
5. Prepare a Projection schedule of revenues, debt service obligations, and operation and maintenance costs, over the contract term of years repayments are to be made to OWDA.
6. Have OEPA and OWDA staff review of all paperwork
7. Receive OEPA and OWDA Board approval of the loan

For Disbursement of loan funds the Borrower must:

1. Have paid Loan Application fee
2. Submit Fund Payment Request form with
   1. Supporting technical services invoices,
   2. Contractor’s Estimate Form and supporting contractors’ documentation.

*Additional Guidance*

OWDA Home Page containing links to program guidelines: <http://www.owda.org/>

OWDA “Your Loan” – a Listing by Borrower of all Loan Activity for each project: <http://loans.owda.org/>

Ohio EPA Office of Financial Assistance website: <https://epa.ohio.gov/divisions-and-offices/environmental-financial-assistance/financial-assistance>

*(Source: Kathleen Courtright, OEPA, 10/25/2024)*

### Reporting

*Example SEFA and Footnote shells, the “2024 SEFA Completeness Guide” and additional resources are available for AOS Staff on the Intranet and for IPAs on the* [*IPA Resource Internet Page*](http://www.ohioauditor.gov/references/practiceaids.html)*.*

# Part III – Applicable Compliance Requirements

## A. ACTIVITIES ALLOWED OR UNALLOWED

### OMB Compliance Requirements

*For a cost to be allowable, it must (1) be for a purpose the specific award permits (tested in FACCR Section A)**and (2) fall within 2 CFR Part 200, Subpart E Cost Principles (tested in FACCR Section B). These two criteria are roughly analogous to classifying a cost by both program/function and object. That is, the grant award generally prescribes the allowable program/function while 2 CFR Part 200, Subpart E prescribes allowable object cost categories and restrictions that may apply to certain object codes of expenditures.*

*For example, could a government use an imaginary Homeland Security grant to pay OP&F pension costs for its police force? To determine this, the client (and auditors) would look to the grant agreement to see if police activities (security of persons and property function cost classification) met the program objectives. Then, the auditor would look to Subpart E (provisions for selected items of cost § 200.420-200.476) to determine if pension costs (an object cost classification) are permissible. (200.431(g) states they are allowable, with certain provisions, so we would need to determine if the auditee met the provisions.) Both the client and the auditor should look at 2 CFR Part 200, Subpart E even if the grant agreement includes a budget by object code approved by the grantor agency. Also, keep in mind that granting agencies have codified 2 CFR Part 200 and some agencies have been granted exceptions to provisions within 2 CFR Part 200.*

The specific requirements for activities allowed or unallowed are unique to each Federal program and are found in the federal statutes, regulations, and the terms and conditions of the Federal award pertaining to the program.

*(Source: 2024 OMB Compliance Supplement Part 3)*

**Source of Governing Requirements**

The requirements for activities allowed or unallowed are contained in program legislation, federal awarding agency regulations, and the terms and conditions of the award.

*(Source: 2024 OMB Compliance Supplement Part 3)*

**Part 4 OMB Program Specific Requirements**

*1. Activities Allowed*

a. A state DWSRF program may provide the following financial assistance to publicly or privately owned community water systems and nonprofit non-community water systems for eligible drinking water infrastructure projects (40 CFR sections 35.3520 and 35.3525):

(1) Making loans for eligible projects (40 CFR section 35.3520(b).

(2) Purchasing or refinancing existing debt obligations of municipal, intermunicipal and interstate agencies entered into on or after July 1, 1993. Purchase of local debt would have the expectation that the seller would repay the debt at the agreed upon terms.

(3) Guarantee of or purchasing insurance for local debt obligations.

(4) Providing a source of revenue or security for DWSRF debt obligations, provided that the net proceeds of the sale of such debt obligations are deposited in the DWSRF.

(5) Funds awarded (all manner of assistance, both a loan or grant to a local entity) under Assistance Listing 66.483 may be used only for projects to reduce flood damage risk and vulnerability or to enhance resiliency to rapid hydrologic change or a natural disaster (Pub. L. No. 113-2, Division A, Title X, 127 Stat. 31).

(6) For DWSRF IIJA Emerging contaminant grants, assistance is limited to addressing contaminants on the contaminant candidate list and PFAs. For the DWSRF IIJA Lead Service Line grants, assistance is limited to activities directly connected to the identification, planning, design, and replacement of lead service lines. This can be found on page 19 of 56 of <https://www.epa.gov/system/files/documents/2022-03/combined_srf-implementation-memo_final_03.2022.pdf>.

b. A state may set aside DWSRF funds for the following designated activities (40 CFR section 35.3535):

(1) Administrative expenses (including technical assistance).

(2) Technical assistance to small water systems that regularly serve 10,000 or fewer persons (40 CFR section 35.3505).

(3) State program management.

(4) Local assistance and other state programs.

*2. Activities Unallowed*

As per 40 CFR 35.3520(d) through (f), a state DWSRF program may not provide assistance for:

a. Dams or reservoirs, water rights, laboratory fees for monitoring, system operation and maintenance, or projects that are primarily fire protection. Water rights are listed as ineligible in DWSRF regulations, but a class deviation for water rights was signed in November of 2019. “Deviation from 40 CFR section 35.3520(e)(2)” [DWSRF Class Deviation for Water Rights--Dec 2019 (epa.gov)](https://www.epa.gov/sites/production/files/2020-01/documents/dwsrf_class_deviation_for_water_rights_2019.pdf#%3A%7E%3Atext%3DWater%20Rights%20Class%20Deviation%20Criteria%20This%20class%20deviation%2Cas%20the%20latter%20is%20an%20ineligible%20DWSRF%20expense). This allows the use of DWSRF funds for Water rights if it addresses a public health objective of the Safe Drinking Water Act. EPA has the authority to allow deviations from EPA regulations that are not disallowed by law. In this case the Safe Drinking Water Act.

b. Expansion projects pursued solely in anticipation of future growth.

*(Source: 2024 OMB Compliance Supplement, Part 4, EPA, #66.468 Capitalization Grants for Drinking Water State Revolving Funds)*

### Additional Program Specific Information

**Add program specific requirements from:**

* **The individual grant application, agreement, and policies, and**
* **Federal agency guidance not included in the compliance supplement (such as federal agency grant manuals, references to CFR, etc.)**

**Be sure to indicate the source of your information. If no additional requirements are noted, indicate as such.**

**USEPA Program Specific Guidance**

DWSRF programs are required to verify all loan payments and construction reimbursements are for eligible program costs only. The general process for approving an SRF loan disbursement at the state-level requires an initial review of all invoices and accompanying documentation. After the State program officials check to ensure the disbursement request is for an active borrower, an active project, and that the borrower is not in significant noncompliance, the program staff must verify the funds requested are within the limits set according to the loan agreement. If the level of detail contained within an individual disbursement request is insufficient to allow state staff to verify the release of SRF funds, programs may request the applicant to submit additional documentation.

*(Source:* [*USEPA Program Operation Manual*](https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1007ZKN.txt) *- Section 3.13.3)*

**OEPA and OWDA Program Specific Guidance**

Ohio EPA and OWDA jointly administer this program and oversee program disbursements.

**Allowable Costs**

Ohio EPA will accept as allowable only costs for facilities and components necessary to the proper function and/or capital costs directly resulting in improved operation and maintenance of the water system. This determination will be made during the review of general and detailed plans and specifications.

**Unallowable Costs** *(Appendix F)*

Ineligible Projects

1. Construction or rehabilitation of dams;

2. Purchase of water rights, unless 1) the water rights are owned by a system that is being purchased through consolidation as a part of a capacity assurance strategy; or, 2) it is necessary to acquire land or a conservation easement from a willing seller or grantor, if the purpose of the acquisition is to protect the source water of the system from contamination and to ensure compliance with National Primary Drinking Water Regulations (Section 1452(k) of SDWA);

3. Construction or rehabilitation of reservoirs, except for finished water reservoirs and those reservoirs that are part of the treatment process and are located on the property where the water treatment facility is located;

4. Projects needed primarily for fire protection;

5. Projects needed primarily to serve future population growth;

6. Projects for systems in significant noncompliance (U.S. EPA Enforcement Tracking Tool (ETT) score greater than or equal to 11), where funding will not enable the system to return to compliance and the system will not maintain adequate technical, managerial and financial capacity to maintain compliance (refer to capacity assurance plan);

7. Projects for systems that lack technical, managerial, and financial capability, unless assistance will ensure compliance (refer to capacity assurance plan);

8. Projects that do not minimize costs by implementing the most cost-effective alternative through conducting a cost-effective analysis of all viable options; cost effectiveness considers both monetary and non‐monetary costs;

9. Projects that have completed construction; and

10. Projects that have secured their entire funding outside of WSRLA funds, Ohio Water Development Authority loans, a private short‐term loan or the entity’s own funds.

Ineligible Costs

1. Laboratory fees for monitoring;

2. Operation and maintenance expenses;

3. Equipment, materials, supplies, and spare parts in excess of that shown to be reasonable, necessary, and applicable to the project;

4. Street restoration beyond that necessary for installing facilities directly related to constructing the drinking water system;

5. Ordinary governmental or personal operating expenses of the community or individual requesting the WSRLA assistance (e.g., administrative facilities or vehicles, salaries of elected officials, travel, costs of establishing departments or units of government, fines, and penalties levied by regulatory agencies, etc.);

6. Personal injury compensation or damages;

7. Permit costs, including water discharge permit (NPDES permit) and renewal discharge permit fees, and application fees, (excluding the origination fees associated with the project for which state revolving loan monies are requested)

*(Source:* [*DWAF Program Year 2024 Program Management Plan (7/1/23-6/30/2*](https://epa.ohio.gov/static/Portals/29/documents/ofa/DWAF-PMP-2024.pdf)*4)* [*DWAF PY2025 Program Management Plan (07/1/2024-06/30/2025)*](https://dam.assets.ohio.gov/image/upload/epa.ohio.gov/Portals/29/documents/ofa/DWAF-PMP-2025.pdf)

### Audit Objectives and Control Testing

**Audit Objectives**

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR section 200.514(c).
2. Determine whether Federal awards were expended only for allowable activities.

*(Source: 2024 OMB Compliance Supplement Part 3)*

**Control Documentation and Testing**

|  |
| --- |
| *Auditors should clearly document what control procedures address the compliance requirement. Reference or link to documentation or where testing was performed.*  **Basis for the control** *(Ex. reports, resources, etc. providing information needed to understand requirements and prevent or identify and correct errors):*  **Control Procedure** *(Description of how auditee uses the “Basis” to prevent, or identify and correct errors):*  **Person(s) responsible for performing the control procedure** *(Title):*  **Description of evidence documenting the control was applied** *(i.e. sampling unit):* |

### Suggested Substantive Audit Procedures – Compliance

|  |
| --- |
| Consider the results of control testing above 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.  *(Source: 2024 OMB Compliance Supplement Part 3)*  ***AOS Auditors:*** *Steps marked with an asterisk (\*) are addressed via the attributes in the payroll and non-payroll Federal Testing Templates available on the Intranet.*  1. Identify the types of activities which are either specifically allowed or prohibited by federal statutes, regulations, and the terms and conditions of the federal award pertaining to the program.  *Auditors should be able to identify these activities using Part 4 requirements as well as tailoring the “Additional Program Specific Information” section above.*  2. When allowability is determined based upon summary level data, perform procedures to verify that:  a. Activities were allowable.  b. Individual transactions were properly classified and accumulated into the activity total.  \*3. When allowability is determined based upon individual transactions, select a sample of transactions and perform procedures to verify that the transaction was for an allowable activity.  4. The auditor should be alert for large transfers of funds from program accounts which may have been used to fund unallowable activities. |

### Audit Implications Summary

|  |
| --- |
| *Consider the adequacy of the system and controls, and the effect on sample size, significant deficiencies/material weaknesses, material non-compliance and management letter comments.*  *Auditors should review this* [*link*](Agency_Adoption_of_the_UG_and_Example_Citations.pdf) *for a discussion on how to cite non-compliance exceptions based on agency adoption of the UG.*   1. **Results of Test of Controls:** *(including material weaknesses, significant deficiencies, and management letter items)* 2. **Assessment of Control Risk:** 3. **Effect on the Nature, Timing, and Extent of Compliance (Substantive) Test including Sample Size:** 4. **Results of Compliance (Substantive) Tests:** 5. **Questioned Costs: Actual \_\_\_\_\_\_\_\_\_\_ Projected \_\_\_\_\_\_\_\_\_\_** |

## B. ALLOWABLE COSTS/COST PRINCIPLES

**Introduction**

The 2 CFR Part 200, Subpart E and appendices III-VII establish principles and standards for determining allowable direct and indirect costs for Federal awards. This section is organized into the following areas of allowable costs: states and local government and Indian Tribe costs (direct and indirect); state/local government central service costs; and state public assistance agency costs.

*(Source: 2024 OMB Compliance Supplement Part 3)*

*FACCR Section B includes five distinct testing sections, the first of which is always applicable.*

1. *Cost Principles for States, Local Governments, and Indian Tribes – testing guidance and steps included in FACCR, not separate testing document.*

*Auditors* ***must*** *evaluate if additional section(s) are applicable to their Entity, including sources reviewed to verify applicability. For applicable sections, auditors must pull the testing section(s) into their working papers and test accordingly.*

*Additional testing sections are located* [***here***](https://ohauditor.sharepoint.com/sites/Intranet/Shared%20Documents/Forms/AllItems.aspx?FolderCTID=0x0120002FFBFB1F4A3C3F47AE37C7A44E1C1EDE&id=%2Fsites%2FIntranet%2FShared%20Documents%2FAudit%5FResources%2FFederal%2FFACCRs%20and%20IRAFs&viewid=68cb3ab2%2D567e%2D456a%2D975c%2Da88f3e9c3727)*for AOS auditors and* [***here***](https://ohioauditor.gov/references/practiceaids/faccrs.html) *for IPA auditors.*

1. *De Minimis Indirect Cost Rate*
   1. *This section must be tested if the Entity utilizes the de minimis indirect cost rate to charge indirect costs to the grant, whether as a recipient or subrecipient.*
   2. *Applicability Determination:* **Auditors must specify here if this section is applicable to the Entity and identify which sources were reviewed to make the determination.**
   3. *If applicable, testing documents:* **Link to testing documents**
2. *Allowable Costs – State/Local Government-wide Central Service Costs*
   1. *This section must be tested if the Entity allocated costs to the grant using central service cost allocation plans (CAPs).*
   2. *Applicability Determination:* **Auditors must specify here if this section is applicable to the Entity and identify which sources were reviewed to make the determination.**
   3. *If applicable, testing documents:* **Link to testing documents**
3. *Allowable Costs – State Public Assistance Agency Costs*
   1. *This section must be tested if the Entity charged state public assistance agency costs to the grant.* 
      1. *State public assistance agency costs are defined as (1) all costs allocated or incurred by the State agency except expenditures for financial assistance, medical vendor payments, and payments for service and goods provided directly to program recipients and (2) normally charged to Federal awards by implementing the public assistance cost allocation plan (CAP).*
      2. *This may be applicable at the local level if local entities perform procedures to support the State compliance (for example, this may occur with JFS programs)*
   2. *Applicability Determination:* **Auditors must specify here if this section is applicable to the Entity and identify which sources were reviewed to make the determination.**
   3. *If applicable, testing documents:* **Link to testing documents**
4. *Cost Principles for Nonprofit Organizations* 
   1. *This section must be tested if the Entity is a nonprofit organization.*
   2. *Applicability Determination:* **Auditors must specify here if this section is applicable to the Entity and identify which sources were reviewed to make the determination.**
   3. *If applicable, testing documents:* **Link to testing documents**

### Applicability of Cost Principles

*For a cost to be allowable, it must (1) be for a purpose the specific award permits (tested in FACCR Section A) and (2) fall within 2 CFR Part 200, Subpart E Cost Principles (tested in FACCR Section B). These two criteria are roughly analogous to classifying a cost by both program/function and object. That is, the grant award generally prescribes the allowable program/function while 2 CFR 200, Subpart E prescribes allowable object cost categories and restrictions that may apply to certain object codes of expenditures.*

*For example, could a government use an imaginary Homeland Security grant to pay OP&F pension costs for its police force? To determine this, the client (and we) would look to the grant agreement to see if police activities (security of persons and property function cost classification) met the program objectives. Then, the auditor would look to Subpart E (provisions for selected items of cost § 200.420-200.476) to determine if pension costs (an object cost classification) are permissible. (200.431(g) states they are allowable, with certain provisions, so we would need to determine if the auditee met the provisions.) Both the client and the auditor should look at 2 CFR Part 200, Subpart E even if the grant agreement includes a budget by object code approved by the grantor agency. Also, keep in mind that granting agencies have codified 2 CFR Part 200 and some agencies have been granted exceptions to provisions within 2 CFR Part 200.*

*The specific requirements for activities allowed or unallowed are unique to each Federal program and are found in the laws, regulations, and the provisions of the Federal award contracts or grant agreements pertaining to the program.*

The cost principles in 2 CFR Part 200, Subpart E (Cost Principles), prescribe the cost accounting requirements associated with the administration of Federal awards by:

1. States, local governments and Indian tribes
2. Institutions of higher education (IHEs)
3. Nonprofit organizations

As provided in 2 CFR 200.101, the cost principles requirements apply to grant agreements and cooperative agreements with the exception of those providing food commodities. The cost principles do not apply to grant agreements and cooperative agreements providing food commodities; agreements for loans, loan guarantees, interest subsidies, and insurance; and programs listed in 2 CFR 200.101(e) (see Appendix I of the 2024 OMB Compliance Supplement). Federal awards administered by publicly owned hospitals and other providers of medical care are exempt from 2 CFR Part 200, Subpart E, but are subject to the requirements [45 CFR Part 75, Appendix IX](45_CFR_Part_75.pdf), the Department of Health and Human Services (HHS) implementation of 2 CFR Part 200.

The cost principles applicable to a non-Federal entity apply to all Federal awards received by the entity, regardless of whether the awards are received directly from the Federal awarding agency or indirectly through a pass-through entity. For this purpose, Federal awards include cost-reimbursement contacts under the Federal Acquisition Regulation (FAR). The cost principles do not apply to Federal awards under which a non-Federal entity is not required to account to the Federal awarding agency or pass-through entity for actual costs incurred.

*(Source: 2024 OMB Compliance Supplement Part 3)*

**Source of Governing Requirements**

The requirements for allowable costs and cost principles are contained in 2 CFR Part 200, Subpart E, program legislation, Federal awarding agency regulations, and the terms and conditions of the award.

The requirements for the development and submission of indirect (facilities and administration (F&A)) cost rate proposals and cost allocation plans (CAPs) are contained in 2 CFR Part 200, Appendices III-VII as follows:

* Appendix III to Part 200—Indirect (F&A) Const Identification and Assignment and Rate Determination for Institutions of Higher Education (IHEs)
* Appendix IV to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations
* Appendix V to Part 200—State/Local Government-Wide Central Service Cost Allocation Plans
* Appendix VI to Part 200—Public Assistance Cost Allocation Plans
* Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals

Except for the requirements identified below under “Basic Guidelines,” which are applicable to all types of non-Federal entities, this compliance requirement is divided into sections based on the type of non-Federal entity. The differences that exist are necessary because of the nature of the non-Federal entity organizational structures, programs administered, and breadth of services offered by some non-Federal entities and not others.

*(Source: 2024 OMB Compliance Supplement Part 3)*

**Basic Guidelines**

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards;

1. Be necessary and reasonable for the performance of the Federal award and be allocable thereto under the principles in 2 CFR Part 200, Subpart E.

2. Conform to any limitations or exclusions set forth in 2 CFR Part 200, Subpart E or in the Federal award as to types or amount of cost items.

3. Be consistent with policies and procedures that apply uniformly to both federally financed and other activities of the non-Federal entity.

4. Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.

5. Be determined in accordance with generally accepted accounting principles (GAAP), except, for State and local governments and Indian tribes only, as otherwise provided for in 2 CFR Part 200.

6. Not be included as a cost or used to meet cost-sharing or matching requirements of any other federally financed program in either the current or a prior period.

7. Be adequately documented.

*(Source: 2024 OMB Compliance Supplement Part 3)*

**Selected Items of Cost**

2 CFR 200.420 - 200.476 provide the principles to be applied in establishing the allowability of certain items of cost, in addition to the basic considerations identified above. These principles apply whether or not a particular item of cost is treated as a direct cost or indirect (F&A) cost. Failure to mention a particular item of cost is not intended to imply that it is either allowable or unallowable; rather, determination of allowability in each case should be based on the treatment provided for similar or related items of cost and the principles described in 2 CFR 200.402 - 200.411.

[List of Selected Items of Cost Contained in 2 CFR Part 200](Selected_Items_of_Cost_Part_3_ComplianceSupplement.pdf)

*(Source: 2024 OMB Compliance Supplement Part 3)*

**Part 4 OMB Program Specific Requirements**

The cost principles of 2 CFR 200 Subpart E are applicable as appropriate, to this award. If the state does not have a previously established indirect cost rate, the state will prepare and submit its indirect cost rate proposal in accordance with 2 CFR 200 Appendix VII.

For DWSRF programmatic eligibilities, state DWSRF programs are required to follow 40 CFR 35.3520 for assistance eligibilities from the loan fund and 40 CFR 35.3535 for DWSRF set-aside eligibilities.

*(Source: 2024 OMB Compliance Supplement, Part 4, EPA, #66.468 Capitalization Grants for Drinking Water State Revolving Funds)*

***Written Procedure Requirements:***

*2 CFR 200.302(b)(7) requires written procedures for determining the allowability of costs in accordance with Subpart E-Cost Principles of this part and the terms and conditions of the Federal award.*

*2 CFR 200.430 states that costs of compensation are allowable to the extent that they satisfy the specific requirements of this part, and that the total compensation for individual employees: (1) Is reasonable for the services rendered and conforms to the established written policy of the non-Federal entity consistently applied to both Federal and non-Federal activities; (2) Follows an appointment made in accordance with a non-Federal entity's laws and/or rules or written policies and meets the requirements of Federal statute, where applicable; and (3) Is determined and supported as provided in paragraph (i) of this section, Standards for Documentation of Personnel Expenses, when applicable.*

*2 CFR 200.431 requires established written leave policies if the entity intends to pay fringe benefits.*

*2 CFR 200.464(a)(2) requires reimbursement of relocation costs to employees be in accordance with an established written policy must be consistently followed by the employer.*

*2 CFR 200.475 requires reimbursement and/or charges to be consistent with those normally allowed in like circumstances in the non-Federal entity's non-federally funded activities and in accordance with non-Federal entity's written travel reimbursement policies.*

### Additional Program Specific Information

**Add program specific requirements from:**

* **The individual grant application, agreement, and policies, and**
* **Federal agency guidance not included in the compliance supplement (such as federal agency grant manuals, references to CFR, etc.)**

**Be sure to indicate the source of your information. If no additional requirements are noted, indicate as such.**

Within the DWAF is Ohio’s State Revolving Fund, known as the Water Supply Revolving Loan Account (WSRLA), is a revolving account designed to operate in perpetuity providing low interest rate loans and other forms of assistance for drinking water protection and infrastructure improvement projects. In addition, specialized services, including principal forgiveness, are provided for qualifying systems.

A wide variety of projects can be financed through the WSRLA including, but not limited to, water treatment plant construction or improvements, waterline replacements, lead service line replacements, emerging contaminant projects, interconnections, waterline extensions and water meter replacements. Planning, design and updates to Asset Management Plans may also be financed.

*(Source: Kathleen Courtright, OEPA, 10/25/2024)*

### Cost Principles for States, Local Governments and Indian Tribes

### OMB Compliance Requirements

**Direct Costs**

1. Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a federal award or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy.
2. Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect costs.

*(Source: 2024 OMB Compliance Supplement Part 3)*

**Indirect Costs**

* 1. *Allocation of Indirect Costs and Determination of Indirect Cost Rates*

1. The specific methods for allocating indirect costs and computing indirect cost rates are as follows:
   1. *Simplified Method* – This method is applicable where a governmental unit’s department or agency has only one major function, or where all its major functions benefit from the indirect cost to approximately the same degree. The allocation of indirect costs and the computation of an indirect cost rate may be accomplished through simplified allocation procedures described in 2 CFR Part 200, Appendix VII, paragraph C.2.
   2. *Multiple Allocation Base Method* – This method is applicable where a governmental unit’s department or agency has several major functions that benefit from its indirect costs in varying degrees. The allocation of indirect costs may require the accumulation of such costs into separate groupings which are then allocated individually to benefiting functions by means of a base which best measures the relative degree of benefit. (For detailed information, refer to 2 CFR Part 200, Appendix VII, paragraph C.3.)
   3. *Special Indirect Cost Rates* – In some instances, a single indirect cost rate for all activities of a department or agency may not be appropriate. Different factors may substantially affect the indirect costs applicable to a particular program or group of programs (e.g., the physical location of the work, the nature of the facilities, or level of administrative support required). (For the requirements for a separate indirect cost rate, refer to 2 CFR Part 200, Appendix VII, paragraph C.4.)
   4. *Cost Allocation Plans* – In certain cases, the cognizant agency for indirect costs may require a state or local government o unit’s department or agency to prepare a CAP instead of an ICRP. These are infrequently occurring cases in which the nature of the department or agency’s federal awards makes impracticable the use of a rate to recover indirect costs. A CAP required in such cases consists of narrative descriptions of the methods the department or agency uses to allocate indirect costs to programs, awards, or other cost objectives. Like an ICRP, the CAP either must be submitted to the cognizant agency for indirect cost for review, negotiation, and approval, or retained on file for inspection during audits.
   5. *Submission Requirements*
2. Submission requirements are identified in 2 CFR Part 200, Appendix VII, paragraph D.1. All departments or agencies of a governmental unit claiming indirect costs under federal awards must prepare an ICRP and related documentation to support those costs.
3. A state/local department or agency or Indian tribe that receives more than $35 million in direct federal funding must submit its ICRP to its cognizant agency for indirect costs. Other state/local government departments or agencies that are not required to submit a proposal to the cognizant agency for indirect costs must develop an ICRP in accordance with the requirements of 2 CFR Part 200 and maintain the proposal and related supporting documentation for audit.
4. Where a government receives funds as a subrecipient only, the pass-through entity will be responsible for the indirect cost rate used (2 CFR section 200.331(a)(4)).
5. Each Indian tribe desiring reimbursement of indirect costs must submit its ICRP to the DOI (its cognizant agency for indirect costs).
6. ICRPs must be developed (and, when required, submitted) within 6 months after the close of the governmental unit’s fiscal year, unless an exception is approved by the cognizant agency for indirect costs.
   1. *Documentation and Certification Requirements*

The documentation and certification requirements for ICRPs are included in 2 CFR Part 200, Appendix VII, paragraphs D.2 and 3, respectively. The proposal and related documentation must be retained for audit in accordance with the record retention requirements contained in 2 CFR section 200.334(f).

*(Source: 2024 OMB Compliance Supplement Part 3)*

**Cognizant Agency for Indirect Costs**

2 CFR Part 200, Appendix V, paragraph F, provides the guidelines to use when determining the Federal agency that will serve as the cognizant agency for indirect costs for States, local governments, and Indian tribes. References to the “cognizant agency for indirect costs” are not equivalent to the cognizant agency for audit responsibilities, which is defined in 2 CFR 200.1.

For indirect cost rates and departmental indirect cost allocation plans, the cognizant agency is generally the Federal agency with the largest value of direct Federal awards (excluding pass-through awards) with a governmental unit or component, as appropriate. In general, unless different arrangements are agreed to by the concerned Federal agencies or described in 2 CFR Part 200, Appendix V, paragraph F, the cognizant agency for central service cost allocation plans is the Federal agency with the largest dollar value of total Federal awards (including pass-through awards) with a governmental unit.

Once designated as the cognizant agency for indirect costs, the Federal agency remains so for a period of 5 years. In addition, 2 CFR Part 200, Appendix V, paragraph F, lists the cognizant agencies for certain specific types of plans and the cognizant agencies for indirect costs for certain types of governmental entities. For example, HHS is cognizant for all public assistance and State-wide cost allocation plans for all States (including the District of Columbia and Puerto Rico), State and local hospitals, libraries, and health districts and the Department of the Interior (DOI) is cognizant for all Indian tribal governments, territorial governments, and State and local park and recreational districts.

*(Source: 2024 OMB Compliance Supplement Part 3)*

#### Audit Objectives and Control Tests: Allowable Costs –– Direct and Indirect Costs

The individual State/local government/Indian tribe departments or agencies (also known as “operating agencies”) are responsible for the performance or administration of Federal awards. In order to receive cost reimbursement under Federal awards, the department or agency usually submits claims asserting that allowable and eligible costs (direct and indirect) have been incurred in accordance with 2 CFR Part 200, Subpart E.

The indirect cost rate proposal (ICRP) provides the documentation prepared by a State/local government/Indian tribe department or agency to substantiate its request for the establishment of an indirect cost rate. The indirect costs include (1) costs originating in the department or agency of the governmental unit carrying out Federal awards, and (2) for States and local governments, costs of central governmental services distributed through the State/local government-wide central service CAP that are not otherwise treated as direct costs. The ICRPs are based on the most current financial data and are used to either establish predetermined, fixed, or provisional indirect cost rates or to finalize provisional rates (for rate definitions refer to 2 CFR Part 200, Appendix VII, paragraph B).

*(Source: 2024 OMB Compliance Supplement Part 3)*

**Audit Objectives**

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR section 200.514(c).

**Audit Objectives: Direct Costs**

1. Determine whether the organization complied with the provisions of 2 CFR Part 200 as follows:
2. Direct charges to federal awards were for allowable costs.
3. Unallowable costs determined to be direct costs were included in the allocation base for the purpose of computing an indirect cost rate.

**Audit Objectives: Indirect Costs**

1. Determine whether the governmental unit complied with the provisions of 2 CFR Part 200 as follows:
2. Charges to cost pools used in calculating indirect cost rates were for allowable costs.
3. The methods for allocating the costs are in accordance with the cost principles, and produce an equitable and consistent distribution of costs (e.g., all activities that benefit from the indirect cost, including unallowable activities, must receive an appropriate allocation of indirect costs).
4. Indirect cost rates were applied in accordance with negotiated indirect cost rate agreements (ICRA).
5. For State/local departments or agencies that do not have to submit an ICRP to the cognizant agency for indirect costs (those that receive less than $35 million in direct Federal awards), indirect cost rates were applied in accordance with the ICRP maintained on file.

*(Source: 2024 OMB Compliance Supplement Part 3)*

***Additional Control Test Objectives for Written Procedures***

*When documenting and identifying the key control(s) in place to address the compliance requirement, consider if the client has written procedures to document the control process.*

* *UG requires written policies for the requirements outlined in 2 CFR 200.302(b)(7), 2 CFR 200.430, 2 CFR 200.431, 2 CFR 200.464(a)(2), and 2 CFR 200.475.*
* *Document whether the non-federal entity established written procedures consistent with the following requirements:*
  + *2 CFR 200.302(b)(7) for determining the allowability of costs in accordance with Subpart E-Cost Principles.* 
    - *Reference to Written Policy:* **Auditors must include a reference here to the Entity’s written policy which addresses this requirement. If the Entity does not have a written policy, auditors must document a reaction/conclusion.**
  + *2 CFR 200.430 for allowability of compensation costs.* 
    - *Reference to Written Policy:* **Auditors must include a reference here to the Entity’s written policy which addresses this requirement. If the Entity does not have a written policy, auditors must document a reaction/conclusion.**
  + *2 CFR 200.431 for written leave policies.* 
    - *Reference to Written Policy:* **Auditors must include a reference here to the Entity’s written policy which addresses this requirement. If the Entity does not have a written policy, auditors must document a reaction/conclusion.**
  + *2 CFR 200.464(a)(2) for reimbursement of relocation costs.* 
    - *Reference to Written Policy:* **Auditors must include a reference here to the Entity’s written policy which addresses this requirement. If the Entity does not have a written policy, auditors must document a reaction/conclusion.**
  + *2 CFR 200.475 for travel reimbursements.* 
    - *Reference to Written Policy:* **Auditors must include a reference here to the Entity’s written policy which addresses this requirement. If the Entity does not have a written policy, auditors must document a reaction/conclusion.**
* *It is auditor judgment how to report instances where the entity either lacks having a written policy or their written policy is insufficient to meet the requirements of 2 CFR 200.302(b)(7), 2 CFR 200.430, 2 CFR 200.431, 2 CFR 200.464(a)(2), and 2 CFR 200.475.*
  + *While auditors would normally use a written policy as the basis for the compliance control, there could be other key controls in place to ensure program compliance.*
  + *The lack of a policy would be noncompliance, which could rise to the level of material noncompliance and even a control deficiency (SD / MW) if there were underlying internal control deficiencies.* 
    - *If there are key controls in place operating effectively, AOS auditors would report the lack of the required UG policy as a management letter citation. However, in subsequent audits, evaluate if the noncompliance should be elevated if not adopted. Written policies aid in consistency and adherence to requirements strengthening internal control processes.*

**Control Documentation and Testing**

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| *Auditors should clearly document what control procedures address the compliance requirement. Reference or link to documentation or where testing was performed.*  **Basis for the control** *(Ex. reports, resources, etc. providing information needed to understand requirements and prevent or identify and correct errors)*:  **Control Procedure** *(Description of how auditee uses the “Basis” to prevent, or identify and correct errors)*:  **Person(s) responsible for performing the control procedure** *(Title)*:  **Description of evidence documenting the control was applied** *(i.e. sampling unit)*: |

#### Suggested Substantive Audit Procedures – Compliance – Direct and Indirect Costs

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| Consider the results of control testing above 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.  *(Source: 2024 OMB Compliance Supplement Part 3)*  ***AOS Auditors:*** *Steps marked with an asterisk (\*) are addressed via the attributes in the payroll and non-payroll Federal Testing Templates available on the Intranet.*  ***Direct Costs***  \*Test a sample of transactions for conformance with the following criteria contained in 2 CFR Part 200, as applicable:   1. If the auditor identifies unallowable direct costs, the auditor should be aware that “directly associated costs” might have been charged. Directly associated costs are costs incurred solely as a result of incurring another cost, and would not have been incurred if the other cost had not been incurred. For example, fringe benefits are “directly associated” with payroll costs. When an unallowable cost is incurred, directly associated costs are also unallowable. 2. Costs were approved by the Federal awarding agency, if required (see the above table (Selected Items of Cost, Exhibit 1) or 2 CFR 200.407 for selected items of cost that require prior written approval). 3. Costs did not consist of improper payments, including (1) payments that should not have been made or that were made in incorrect amounts (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; (2) payments that do not account for credit for applicable discounts; (3) duplicate payments; (4) payments that were made to an ineligible party or for an ineligible good or service; and (5) payments for goods or services not received (except for such payments where authorized by law).   d. Costs were necessary and reasonable for the performance of the Federal award and allocable under the principles of 2 CFR Part 200, Subpart E.  e. Costs conformed to any limitations or exclusions set forth in 2 CFR Part 200, Subpart E, or in the Federal award as to types or amount of cost items.  *While several selected items of cost are included in Exhibit 1 , one item to note is* Compensation - Personnel Services*, (formally referred to as Time and Effort/Semi Annual Certification). See 2 CFR 200.430.*  *As a reminder, this is a policy-based requirement. If employees are partially paid from at least one federal grant, auditors should review the auditee’s policy for ensuring employee pay is allocated to federal programs based on actual time spent on each program and test accordingly.*  f. Costs were consistent with policies and procedures that apply uniformly to both federally financed and other activities of the State/local government/Indian tribe department or agency.  g. Costs were accorded consistent treatment. Costs were not assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances was allocated to the Federal award as an indirect cost.  h. Costs were not included as a cost of any other federally financed program in either the current or a prior period.  i. Costs were not used to meet the cost-sharing or matching requirements of another Federal program, except where authorized by Federal statute.  j. Costs were adequately documented.  ***Indirect Costs***  a. If the State/local department or agency is not required to submit an ICRP and related supporting documentation, the auditor should consider the risk of the reduced level of oversight in designing the nature, timing, and extent of compliance testing.  b. *General Audit Procedures* – The following procedures apply to charges to cost pools that are allocated wholly or partially to Federal awards or used in formulating indirect cost rates used for recovering indirect costs under Federal awards.  (1) Test a sample of transactions for conformance with:  (a) The criteria contained in the “Basic Considerations” section of 2 CFR 200.402 - 200.411.  (b) The principles to establish allowability or unallowability of certain items of cost (2 CFR 200.420 - 200.476).  *While several selected items of cost are included in Exhibit 1 , one item to note is* Compensation - Personnel Services*, (formally referred to as Time and Effort/Semi Annual Certification). See 2 CFR 200.430.*  *As a reminder, this is a policy-based requirement. If employees are partially paid from at least one federal grant, auditors should review the auditee’s policy for ensuring employee pay is allocated to federal programs based on actual time spent on each program and test accordingly.*  (2) If the auditor identifies unallowable costs, the auditor should be aware that directly associated costs might have been charged. Directly associated costs are costs incurred solely as a result of incurring another cost, and would have not been incurred if the other cost had not been incurred. When an unallowable cost is incurred, directly associated costs are also unallowable. For example, occupancy costs related to unallowable general costs of government are also unallowable.  c. *Special Audit Procedures for State, Local Government, and Indian Tribe ICRPs (see also the AOS discussion on* [*testing the ICRP*](Testing_the_ICRP_discussion.pdf)*)*  (1) Verify that the ICRP includes the required documentation in accordance with 2 CFR Part 200, Appendix VII, paragraph D.  (2) *Testing of the ICRP* – There may be a timing consideration when the audit is completed before the ICRP is completed. In this instance, the auditor should consider performing interim testing of the costs charged to the cost pools and the allocation bases (e.g., determine from management the cost pools that management expects to include in the ICRP and test the costs for compliance with 2 CFR Part 200). Should there be audit exceptions, corrective action may be taken earlier to minimize questioned costs. In the next year’s audit, the auditor should complete testing and verify management’s representations against the completed ICRP.  The following procedures are some acceptable options the auditor may use to obtain assurance that the costs collected in the cost pools and the allocation methods used are in compliance with 2 CFR Part 200, Subpart E:  (a) *Indirect Cost Pool* – Test the indirect cost pool to ascertain if it includes only allowable costs in accordance with 2 CFR Part 200.  (i) Test to ensure that unallowable costs are identified and eliminated from the indirect cost pool (e.g., capital expenditures, general costs of government).  (ii) Identify significant changes in expense categories between the prior ICRP and the current ICRP. Test a sample of transactions to verify the allowability of the costs.  (iii) Trace the central service costs that are included in the indirect cost pool to the approved State/local government or central service CAP or to plans on file when submission is not required.  (b) *Direct Cost Base* – Test the methods of allocating the costs to ascertain if they are in accordance with the applicable provisions of 2 CFR Part 200 and produce an equitable distribution of costs.  (i) Determine that the proposed base(s) includes all activities that benefit from the indirect costs being allocated.  (ii) If the direct cost base is not limited to direct salaries and wages, determine that distorting items are excluded from the base. Examples of distorting items include capital expenditures, flow-through funds (such as benefit payments), and subaward costs in excess of $25,000 per subaward.  (iii) Determine the appropriateness of the allocation base (e.g., salaries and wages, modified total direct costs).  (c) *Other Procedures*  (i) Examine the records for employee compensation to ascertain if they are accurate, and the costs are allowable and properly allocated to the various functional and programmatic activities to which salary and wage costs are charged. (Refer to 2 CFR 200.430 for additional information on support of salaries and wages.)  (ii) For an ICRP using the multiple allocation base method, test statistical data (e.g., square footage, audit hours, salaries and wages) to ascertain if the proposed allocation or rate bases are reasonable, updated as necessary, and do not contain any material omissions.  (3) *Testing of Charges Based Upon the ICRA* – Perform the following procedures to test the application of charges to Federal awards based upon an ICRA:  (a) Obtain and read the current ICRA and determine the terms in effect.  (b) Select a sample of claims for reimbursement and verify that the rates used are in accordance with the rate agreement, that rates were applied to the appropriate bases, and that the amounts claimed were the product of applying the rate to the applicable base. Verify that the costs included in the base(s) are consistent with the costs that were included in the base year (e.g., if the allocation base is total direct costs, verify that current-year direct costs do not include costs items that were treated as indirect costs in the base year).  (4) *Other Procedures* – No Negotiated ICRA  (a) If an indirect cost rate has not been negotiated by a cognizant agency for indirect costs, the auditor should determine whether documentation exists to support the costs. When the auditee has documentation, the suggested general audit procedures under paragraph 3.b above should be performed to determine the appropriateness of the indirect cost charges to awards.  (b) If an indirect cost rate has not been negotiated by a cognizant agency for indirect costs, and documentation to support the indirect costs does not exist, the auditor should question the costs based on a lack of supporting documentation. |

### Audit Implications Summary

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| *Consider the adequacy of the system and controls, and the effect on sample size, significant deficiencies/material weaknesses, material non-compliance and management letter comments.*  *Auditors should review this* [*link*](Agency_Adoption_of_the_UG_and_Example_Citations.pdf) *for a discussion on how to cite non-compliance exceptions based on agency adoption of the UG.*  ***This box should include results of applicable additional testing sections as determined at the beginning of Section B.***   1. **Results of Test of Controls:** *(including material weaknesses, significant deficiencies and management letter items)* 2. **Assessment of Control Risk:** 3. **Effect on the Nature, Timing, and Extent of Compliance (Substantive) Test including Sample Size:** 4. **Results of Compliance (Substantive) Tests:** 5. **Questioned Costs: Actual \_\_\_\_\_\_\_\_\_\_ Projected \_\_\_\_\_\_\_\_\_\_** |

## C. CASH MANAGEMENT

### OMB Compliance Requirements

**Grants and Cooperative Agreements**

***All Non-Federal Entities***

Non-Federal entities must establish written procedures to implement the requirements of 2 CFR 200.305 (2 CFR 200.302(b)(6)).

***Non-Federal Entities Other Than States***

Non-Federal entities must minimize the time elapsing between the transfer of funds from the U.S. Treasury or pass-through entity and disbursement by the non-Federal entity for direct program or project costs and the proportionate share of allowable indirect costs, whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means (2 CFR 200.305(b)).

What constitutes minimized elapsed time for funds transfer will depend on what payment system/method a non-federal entity uses. For example:

* The US Department of Health and Human Service (HHS) processes its financial transactions with non-federal entities through HHS’s Program Support Center (PCS), which uses the Payment Management System (PMS). Usually, payments from PMS process overnight and the funds would be available in a non-federal entity’s account the next business day. HHS also processes payments through same day wires (mostly state governments).
* Federal agencies, such as the US Department of Commerce, and US Department of the Interior, use the US Treasury’s Automated Standard Application for Payments (ASAP) system for grant and cooperative agreement payments. Non-federal entities can use the ASAP on-line process to request and receive same-day payment.

Under the advance payment method, federal awarding agency or pass-through entity payment is made to the non-federal entity before the non-federal entity disburses the funds for program purposes (2 CFR section 200.1). A non-federal entity must be paid in advance provided that it maintains, or demonstrates the willingness to maintain, both written procedures that minimize the time elapsing between the transfer of funds from the US Treasury and disbursement by the non-federal entity, as well as a financial management system that meets the specified standards for fund control and accountability (2 CFR section 200.305(b)(1)).

The reimbursement payment method is the preferred payment method if (a) the non-federal entity cannot the meet the requirements in 2 CFR section 200.305(b)(1) for advance payment, (b) the federal awarding agency sets a specific condition for use of the reimbursement or (c) if requested by the non-federal entity (2 CFR sections 200.305(b)(3) and 200.208). The reimbursement payment method also may be used on a federal award for construction or for other construction activity as specified in 2 CFR section 200.305(b)(3).

To the extent available, the non-Federal entity must disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional Federal cash draws (2 CFR 200.305(b)(5)).

Except for interest exempt under the Indian Self-Determination and Education Assistance Act (25 USC 5301 et seq.), interest earned by non-Federal entities other than States on advances of Federal funds is required to be remitted annually to the U. S. Department of Health and Human Services, Payment Management System, P.O. Box 6021, Rockville, MD 20852. Up to $500 per year may be kept for administrative expenses (2 CFR section 200.305(b)(9)).

*(Source: 2024 OMB Compliance Supplement Part 3)*

**Cost-Reimbursement Contracts under the Federal Acquisition Regulation**

For cost-reimbursement contracts under the FAR, reimbursement payment is the predominant method of funding. Advance payments under FAR-based contracts are rare. The FAR clause at 48 CFR section 52.216-7 applies to reimbursement payment. Paragraph (b)(1) of that clause requires that the non-federal entity request reimbursement for (a) only allocable, allowable, and reasonable contract costs that have already been paid, or (b) if the non-federal entity is not delinquent in paying costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid. As defined in 48 CFR section 52.216-7(b)(1), with relation to supplies and services purchased for use on the contract, “ordinary course of business” would be in accordance with the terms and conditions of a subcontract or invoice, and ordinarily within 30 days of the request to the federal government for reimbursement.

For cost-reimbursement contracts using advance payment, the requirements are contained in the FAR clause at 48 CFR section 52.232-12. The non-federal entity is required to account for interest earned on advances from the federal government in accordance with paragraph (f) of that clause.

***Loans, Loan Guarantees, Interest Subsidies, and Insurance***

Non-Federal entities must comply with applicable program requirements for payment under loans, loan guarantees, interest subsidies, and insurance.

***Pass-through Entities***

Pass-through entities must monitor cash drawdowns by their subrecipients to ensure that the time elapsing between the transfer of Federal funds to the subrecipient and their disbursement for program purposes is minimized as required by the applicable cash management requirements in the Federal award to the recipient (2 CFR 200.305(b)(1)).

*(Source: 2024 OMB Compliance Supplement Part 3)*

**Source of Governing Requirements**

The requirements for cash management are contained in 2 CFR 200.302(b)(6) and 200.305, [31 CFR Part 205](31_CFR_Part_205.pdf), [48 CFR 52.216-7(b)](48_CFR_Part_52.pdf) and [52.232-12](48_CFR_Part_52.pdf), program legislation, federal awarding agency regulations, and the terms and conditions of the federal award.

*(Source: 2024 OMB Compliance Supplement Part 3)*

**Availability of Other Information**

Treasury’s Fiscal Service maintains a Cash Management Improvement Act web page [Cash Management Improvement Act (treasury.gov)](https://fiscal.treasury.gov/cmia/). Information about the Department of Health and Human Services Payment Management System and the Department of the Treasury’ Automated Standard Application for Payments is available at [Payment Management | HHS.gov](https://www.hhs.gov/about/agencies/asa/psc/accounting/payment-management/index.html) and [Automated Standard Application for Payments (ASAP) (treasury.gov)](https://www.fiscal.treasury.gov/ASAP/), respectively.

*(Source: 2024 OMB Compliance Supplement Part 3)*

**Part 4 OMB Program Specific Requirements**

The state may draw cash through the Automated Standard Application for Payments (ASAP) system (40 CFR sections 35.3560 and 35.3565). States and Auditors should be aware of the November 18th, 2022 permanent regulatory exemption from 40 CFR 35.3560(f) and (g) and 40 CFR 35.3565(b). These regulations specify the rate at which states can draw federal funds in relation to state contribution. Further, the regulations slow the rate at which federal funds can be drawn for refinancing projects in the SRFs. In plain language, this regulatory exception:

• Eliminates the requirement for states to draw SRF disbursement requests at a proportional federal to state ratio.

• Eliminates the cap on federal funds that can be drawn for refinance projects in the first eight quarters after EPA awards a capitalization grant to the state.:

This exemption can be found at <https://www.epa.gov/system/files/documents/2022-12/Approval%20of%20Class%20Exception%20from%20the%20Clean%20Water%20and%20Drinking%20Water%20State%20Revolving%20Fund%20Cash%20Draw%20Rules.pdf>.

Types of assistance that can be provided include

1. *Loans* – when the DWSRF receives a request from a loan recipient, based on incurred costs, including pre-building and building costs.

2. *Refinance or Purchase of Municipal Debt* – generally, at a rate not greater than equal amounts over the maximum number of quarters that payments can be made, and up to the amount committed to the refinancing or purchase of the local debt. A state may immediately draw cash for up to the greater of $2 million or 5 percent of each fiscal year’s capitalization grant to refinance costs.

3. *Purchase of Insurance* – when insurance premiums are due.

4. *Guarantees and Security for Bonds* – immediately, in the event of imminent default in debt service payments on the guaranteed/secured debt; otherwise, up to the amount dedicated for the guarantee or security based on actual construction cost.

5. *Set-Asides* – generally, on an incurred cost basis after workplans have been approved by EPA (40 CFR section 35.3560(e)).

*(Source: 2024 OMB Compliance Supplement, Part 4, EPA, #66.468 Capitalization Grants for Drinking Water State Revolving Funds)*

***Written Procedure Requirements:***

*2 CFR 200.302(b)(6) requires written procedures to minimize the time elapsing between the transfer of funds from the Federal government or pass-through agency and the disbursement by the Entity.*

### Additional Program Specific Information

**Add program specific requirements from:**

* **The individual grant application, agreement, and policies, and**
* **Federal agency guidance not included in the compliance supplement (such as federal agency grant manuals, references to CFR, etc.)**

**Be sure to indicate the source of your information. If no additional requirements are noted, indicate as such.**

*OEPA and OWDA jointly administer the DWRLF program disbursements. As further described below, LGA’s must submit supporting documentation for project expenditures to OWDA and record the memo receipts/disbursements in their accounting system.*

*NOTE: Most LGA’s receive DWRLF assistance on a reimbursement basis. The State of Ohio administers most cash payments to vendors. Except for initial engineering and design costs, it is unlikely that a local government would receive advance-funding.*

**OEPA and OWDA Program Specific Guidance**

**PAYMENT INSTRUCTIONS**

Complete payment instructions must be received before funds can be disbursed from a loan account.

Separate payment instruction forms are required for each loan.

LGA Payment Instruction Forms are emailed to the LGA after OWDA receives a loan application.

Any change to any of the information on a Payment Instruction Form will require submission of a new Payment Instruction Form completed in its entirety.

All payment instruction forms should be submitted electronically to [Stephanie Galford](mailto:sgalford@owda.org).

**DISBURSEMENT PROCEDURES**

These procedures are applicable for all loans approved by the Ohio EPA and administered by OWDA.

One pdf of the payment request can be emailed to [disbursements@owda.org](mailto:disbursements@owda.org). Alternatively, one hard copy of the payment request can be mailed to:

OWDA 480 South High Street, Columbus, OH 43215

For contractor line item pay requests, the following must be completed and included:

1. OWDA Fund Payment Request form: completed online at <https://loans.owda.org/> , printed and signed by the Preparer and the Borrower’s Authorized Representative.
2. OWDA [Contractor's Estimate](https://www.owda.org/docs/document_selector/upload/Contractors_Estimate_Form.xls) form
3. Itemized schedule of values that clearly shows an overall contract value for Total Completed and Stored to Date

For Technical Service line item pay requests, the following must be completed and included:

1. OWDA Fund Payment Request form: completed online at <https://loans.owda.org/> , printed and signed by the Preparer and the Borrower’s Authorized Representative.
2. A copy of each invoice listed

Detailed instructions for completing the Fund Payment Request form can be found [HERE](https://www.owda.org/docs/document_selector/upload/Fund_Payment_Request_Instructions.docx).

The following documents should **not** be included with disbursement requests:

1. Cover letter: Additional information included on a cover letter submitted with a pay request is likely to be overlooked. Any items outside of the pay request should be submitted separately.
2. Copies of checks
3. Purchase orders
4. Statements of account
5. Quotes or estimates
6. Previous disbursement requests
7. Contractor affidavits

Reimbursement requests are processed in the order they are received. Payments are processed for weekly disbursements.

Questions relating to disbursements can be emailed to [Christine Okonak](https://www.owda.org/contact?id=6).

*(Source:* [*OWDA Disbursement Procedures*](http://www.owda.org/disbursement-forms) *included under “Loan Info” on the* [*OWDA website*](https://www.owda.org/default.aspx))

***Change Order Procedures***

For Drinking Water Assistance Fund (DWAF) loans:

* Change orders will be reviewed in numerical order. Submission of change orders out of order will result in delays to review and approval.
* A DWAF Change Order form must be used.
* Change orders may not be billed against until after DEFA approval.
* Once approved, DEFA will transmit approved change orders to OWDA for further processing.
* OWDA will return one copy of fully executed change orders to the LGA.
* For additional information, you may visit the DEFA Office of Financial Assistance website or contact your DEFA project engineer.

*(Source:* [*OWDA Disbursement Procedures*](http://www.owda.org/disbursement-forms) *included under “Loan Info” on the* [*OWDA website*](https://www.owda.org/default.aspx)*)*

***Release of Retainer Funds***

Once a contract has exceeded 50% completion, contractor retainage funds may be released to the LGA by completing and emailing a [Release of Retainer Funds](https://www.owda.org/docs/document_selector/upload/Release_of_Retainer_Funds.doc) form to [Christine Okonak](https://www.owda.org/contact?id=6).

*(Source:* [*OWDA Disbursement Procedures*](http://www.owda.org/disbursement-forms) *included under “Loan Info” on the* [*OWDA website*](https://www.owda.org/default.aspx)*)*

### Audit Objectives and Control Testing

**Audit Objectives**

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR section 200.514(c).

2. *Applicable to States Only, Not Included*

3. For grants and cooperative agreements to non-Federal entities other than States, determine whether payment methods minimized the time elapsing between transfer of Federal funds from the U. S. Treasury or the pass-through entity and the disbursement by the non-Federal entity and any interest earned on advances was properly remitted.

4. For grants and cooperative agreements to non-Federal entities that are funded on a reimbursement basis, determine that expenditures, as defined by 2 CFR 200.1, were incurred prior to the date of the reimbursement request.

5. Determine whether non-Federal entities that receive reimbursement payments under cost-reimbursement contracts under the FAR and cost-reimbursement subcontracts under these contracts requested payments in compliance with [48 CFR section 52.216-7(b)](48_CFR_Part_52.pdf).

6. Determine whether non-Federal entities complied with applicable program requirements for loans, loan guarantees, interest subsidies, and insurance.

7. Determine whether pass-through entities implemented procedures to ensure that payments to subrecipients minimized the time elapsing between transfer of Federal funds from the pass-through entity to the subrecipient and the disbursement of such funds for program purposes by the subrecipient, as required by applicable cash management requirements in the Federal award to the recipient.

*(Source: 2024 OMB Compliance Supplement Part 3)*

***Additional Control Test Objectives for Written Procedures***

*When documenting and identifying the key control(s) in place to address the compliance requirement, consider if the client has written procedures to document the control process.*

* *2 CFR 200.302(b)(6) requires written procedures to implement the requirements outlined in 2 CFR 200.305.*
* *Document whether the non-Federal entity established written procedures consistent with the requirements in 2 CFR 200.302(b)(6) to minimize the time elapsing between the transfer of funds from the Federal government or pass-through agency and the disbursement by the Entity.* 
  + - *Reference to Written Procedures:* **Auditors must include a reference here to the Entity’s written procedures which address this requirement. If the Entity does not have written procedures, auditors must document a reaction/conclusion.**
* *It is auditor judgment how to report instances where the entity either lacks having a written policy or their written policy is insufficient to meet the requirements of 2 CFR 200.302(b)(6).*
  + *While auditors would normally use a written policy as the basis for the compliance control, there could be other key controls in place to ensure program compliance.*
  + *The lack of a policy would be noncompliance, which could rise to the level of material noncompliance and even a control deficiency (SD / MW) if there were underlying internal control deficiencies.* 
    - *If there are key controls in place operating effectively, AOS auditors would report the lack of the required UG policy as a management letter citation. However, in subsequent audits, evaluate if the noncompliance should be elevated if not adopted. Written policies aid in consistency and adherence to requirements strengthening internal control processes.*

**Control Documentation and Testing**

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| *Auditors should clearly document what control procedures address the compliance requirement. Reference or link to documentation or where testing was performed.*  **Basis for the control** *(Ex. reports, resources, etc. providing information needed to understand requirements and prevent or identify and correct errors)*:  **Control Procedure** *(Description of how auditee uses the “Basis” to prevent, or identify and correct errors)*:  **Person(s) responsible for performing the control procedure** *(Title)*:  **Description of evidence documenting the control was applied** *(i.e. sampling unit)*: |

### Suggested Substantive Audit Procedures – Compliance

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| Consider the results of control testing above 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.  The following procedures are intended to be applied to each program determined to be major. However, due to the nature of cash management and the system of cash management in place in a particular entity, it may be appropriate and more efficient to perform these procedures for all programs collectively rather than separately for each program.  *(Source: 2024 OMB Compliance Supplement Part 3)*  *Steps 1-4 are omitted as they are applicable to only States.*  *Grants and cooperative agreements to non-Federal entities other than States*  5. Review trial balances related to Federal funds for unearned revenue. If unearned revenue balances are identified, consider if such balances are consistent with the requirement to minimize the time between drawing and disbursing Federal funds.  6. When non-federal entities are funded using advance payments, select a sample of cash drawdowns and verify that the non-Federal entity minimized the time elapsing between the transfer of funds from the U.S. Treasury or pass-through entity and disbursement by the non-Federal entity.  7. When non-Federal entities are funded under the reimbursement method, (a) select a sample of expenditures included in the cash drawdowns made during the period from the U.S. Treasury or pass-through entity and (b) trace to supporting documentation and ascertain if the expenditures were incurred prior to the date of the reimbursement request (2 CFR 200.305(b)(3)).  8. When a program receives program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, or interest earned on such funds; perform tests to ascertain if these funds were disbursed before requesting additional Federal cash draws (2 CFR 200.305(b)(5)).  9. Review records to determine if interest in excess of $500 per year was earned on Federal cash draws. If so, determine if it was remitted annually to the Department of Health and Human Services, Payment Management System (2 CFR 200.305(b)(9)).  *Cost-reimbursement contracts under the Federal Acquisition Regulation*   1. Perform tests to ascertain if the non-Federal entity requesting reimbursement (a) disbursed funds prior to the date of the request, or (b) meets the conditions allowing for the request for costs incurred, but not necessarily paid for, i.e., ordinarily within 30 days of the request ([48 CFR section 52.216-7(b)](48%20CFR%2052.216-7.pdf)).   *The Federal Acquisition Regulations (FAR) defines cost-reimbursement contracts in 48 CFR Subpart 16.3. Cost-reimbursement contracts are contracts which establish an estimate of total costs (or a ‘ceiling’) which a contractor may not exceed (except at its own risk) without the approval of a contracting officer. Cost-reimbursement contracts are only allowable when the circumstances described in 48 CFR 16.301-3 have been met.*  *Loans, Loan Guarantees, Interest Subsidies, and Insurance*  11. Perform tests to ascertain if the non-Federal entity complied with applicable program requirements.  *All Pass-Through Entities*  12. For those programs where a pass-through entity passes Federal funds through to subrecipients, select a representative sample of subrecipient payments and ascertain if the pass-through entity implemented procedures to ensure that the time elapsing between the transfer of Federal funds to the subrecipient and the disbursement of such funds for program purposes by the subrecipient was minimized (2 CFR 200.305(b)(1)). |

### Audit Implications Summary

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| *Consider the adequacy of the system and controls, and the effect on sample size, significant deficiencies/material weaknesses, material non-compliance and management letter comments.*  *Auditors should review this* [*link*](Agency_Adoption_of_the_UG_and_Example_Citations.pdf) *for a discussion on how to cite non-compliance exceptions based on agency adoption of the UG.*   1. **Results of Test of Controls:** *(including material weaknesses, significant deficiencies and management letter items)* 2. **Assessment of Control Risk:** 3. **Effect on the Nature, Timing, and Extent of Compliance (Substantive) Test including Sample Size:** 4. **Results of Compliance (Substantive) Tests:** 5. **Questioned Costs: Actual \_\_\_\_\_\_\_\_\_\_ Projected \_\_\_\_\_\_\_\_\_\_**   ***Note:*** *Violations of cash management rules alone generally should not result in a questioned cost unless the entity spent the interest earnings related to the excess grant cash balances on hand throughout the year (these monies would be payable back to the pass-through/federal agency). Further, the interest earnings expended must exceed $25,000 in a single major program to be a questioned cost.* |

## G. MATCHING, LEVEL OF EFFORT, EARMARKING

*Level of Effort requirements are not applicable to the program, per 2024 OMB Compliance Supplement, Part 4, EPA, DWSRF Cluster.*

*Matching and Earmarking requirements apply to the State. However, it is possible that a local match or earmarking requirements may apply to a local government’s funded project.*

*Auditors should review the terms and conditions of their grant/loan awards to determine whether there are any local matching or earmarking requirements. If so, auditors should contact CFAE via the FACCR Specialty in Spiceworks (IPAs use the* [*AOS Federal Inbox*](mailto:AOSFederal@ohioauditor.gov)*) for this section, document those requirements, and test the procedures accordingly.*

## H. PERIOD OF PERFORMANCE

### OMB Compliance Requirements

A non-Federal entity may charge only allowable costs incurred during the approved budget period of a federal award’s period of performance and any costs incurred before the Federal awarding agency or pass-through entity made the Federal award that were authorized by the Federal awarding agency or pass-through entity sections 2 CFR 200.308, 200.309, and 200.403(h). A period of performance may contain one or more budget periods.

Unless the Federal awarding agency or pass-through entity authorizes an extension, a non-Federal entity must liquidate all financial obligations incurred under the Federal award not later than 120 calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award (2 CFR 200.344(b)). When used in connection with a non-Federal entity’s utilization of funds under a Federal award, “financial obligations” means orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non-Federal entity during the same or a future period (2 CFR 200.1).

Period of Performance requirements for cost reimbursement contracts subject to the FAR are contained in the terms and conditions of the contract.

**Source of Governing Requirements**

The requirements for the period of performance are contained in 2 CFR 200.1 (definitions for “budget period,” “financial obligations,” and “period of performance”), 2 CFR 200.308 (revisions of budget and program plans), 2 CFR 200.309 (modifications to period of performance), 2 CFR 200.344 (closeout), program legislation, Federal awarding agency regulations, and the terms and conditions of the award.

*(Source: 2024 OMB Compliance Supplement Part 3)*

**Part 4 OMB Program Specific Requirements**

1. Grant payments from a capitalization grant, which increase the ceiling of funds from which a state may draw cash for eligible costs, shall begin no earlier than the quarter in which the grant is awarded, and generally end no later than eight quarters after the grant is awarded, not to exceed twelve quarters from the date of allotment of grant funds to the states. States must enter into binding commitments for an amount equal to each capitalization grant payment and accompanying state match that is deposited into the Fund within one year after the receipt of each grant payment. This does not apply to funds drawn for set-aside activities. States disburse, or liquidate, grant funds for projects in accordance with construction schedules. Funds are disbursed for set-aside activities in accordance with costs being incurred under approved workplans (40 CFR sections 35.3550(e) and 35.3560).

2. Funds made available for disaster relief activities under Assistance Listing 66.483 are available until expended (Pub. L. No 113-2, Division A, Title X, 127 Stat. 31).

*(Source: 2024 OMB Compliance Supplement, Part 4, EPA, #66.468 Capitalization Grants for Drinking Water State Revolving Funds)*

### Additional Program Specific Information

**Add program specific requirements from:**

* **The individual grant application, agreement, and policies, and**
* **Federal agency guidance not included in the compliance supplement (such as federal agency grant manuals, references to CFR, etc.)**

**Be sure to indicate the source of your information. If no additional requirements are noted, indicate as such.**

### Audit Objectives and Control Testing

**Audit Objectives**

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR section 200.514(c).

2. Determine whether the Federal award was only charged for: (a) allowable costs incurred during the period of performance; or (b) costs incurred prior to the date the Federal award was made that were authorized by the Federal awarding agency or pass-through entity.

3. Determine whether financial obligations were liquidated within the required time period.

*(Source: 2024 OMB Compliance Supplement Part 3)*

**Control Documentation and Testing**

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| *Auditors should clearly document what control procedures address the compliance requirement. Reference or link to documentation or where testing was performed.*  **Basis for the control** *(Ex. reports, resources, etc. providing information needed to understand requirements and prevent or identify and correct errors)*:  **Control Procedure** *(Description of how auditee uses the “Basis” to prevent, or identify and correct errors)*:  **Person(s) responsible for performing the control procedure** *(Title)*:  **Description of evidence documenting the control was applied** *(i.e. sampling unit)*: |

### Suggested Substantive Audit Procedures – Compliance

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| Consider the results of control testing above 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.  *(Source: 2024 OMB Compliance Supplement Part 3)*  ***AOS Auditors:*** *Steps marked with an asterisk (\*) are addressed via the attributes in the payroll and non-payroll Federal Testing Templates available on the Intranet.*  1. Review the award documents and regulations pertaining to the program and determine any award-specific requirements related to the period of performance.  *This step should be addressed when auditors tailor the “Additional Program Specific Information.”*  \*2. For Federal awards with performance period beginning dates during the audit period, test transactions for costs recorded during the beginning of the period of performance and verify that the costs were not incurred prior to the start of the period of performance unless authorized by the Federal awarding agency or the pass-through entity.  \*3. For Federal awards with performance period ending dates during the audit period, test transactions for costs recorded during the latter part and after the period of performance and verify that the costs had been incurred within the period of performance.  \*4. For Federal awards with performance period ending dates during the audit period, test transactions for Federal award costs for which the obligation had not been liquidated (payment made) as of the end of the period of performance and verify that the liquidation occurred within the allowed time period.  5. Test adjustments (e.g., manual journal entries) for Federal award costs and verify that these adjustments were for transactions that occurred during the period of performance. |

### Audit Implications Summary

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| *Consider the adequacy of the system and controls, and the effect on sample size, significant deficiencies/material weaknesses, material non-compliance and management letter comments.*  *Auditors should review this* [*link*](Agency_Adoption_of_the_UG_and_Example_Citations.pdf) *for a discussion on how to cite non-compliance exceptions based on agency adoption of the UG.*   1. **Results of Test of Controls:** *(including material weaknesses, significant deficiencies and management letter items)* 2. **Assessment of Control Risk:** 3. **Effect on the Nature, Timing, and Extent of Compliance (Substantive) Test including Sample Size:** 4. **Results of Compliance (Substantive) Tests:** 5. **Questioned Costs: Actual \_\_\_\_\_\_\_\_\_\_ Projected \_\_\_\_\_\_\_\_\_\_** |

## I. PROCUREMENT AND SUSPENSION AND DEBARMENT

### OMB Compliance Requirements – Procurement

***Procurement—Grants and Cooperative Agreements***

*Non-Federal Entities Other than States*

Non-Federal entities other than States, including those operating Federal programs as subrecipients of States, must follow the procurement standards set out at 2 CFR 200.318 - 200.327. They must use their own documented procurement procedures, which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal statutes and the procurement requirements identified in 2 CFR Part 200. A non-Federal entity must:

1. Meet the general procurement standards in 2 CFR 200.318, which include oversight of contractors’ performance, maintaining written standards of conduct for employees involved in contracting, awarding contracts only to responsible contractors, and maintaining records to document history of procurements.

2. Conduct all procurement transactions in a manner providing full and open competition, in accordance with 2 CFR 200.319.

3. Use the micro-purchase and small purchase methods only for procurements that meet the applicable criteria under 2 CFR 200.320(a)(1) and (2). Under the micro-purchase method, the aggregate dollar amount does not exceed $10,000 ($2,000 in the case of acquisition for construction subject to the Wage Rate Requirements (Davis-Bacon Act)). Small purchase procedures are used for purchases that exceed the micro-purchase amount but do not exceed the simplified acquisition threshold ($250,000). Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable (2 CFR 200.320(a)). If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources (2 CFR 200.320(b)).

4. For acquisitions exceeding the simplified acquisition threshold, the non-Federal entity must use one of the following procurement methods: the sealed bid method if the acquisition meets the criteria in 2 CFR 200.320(b); the competitive proposals method under the conditions specified in 2 CFR 200.320(b)(2); or the noncompetitive proposals method (i.e., solicit a proposal from only one source) but only when one or more of four circumstances are met, in accordance with 2 CFR 200.320(c).

5. Perform a cost or price analysis in connection with every procurement action in excess of the simplified acquisition threshold, including contract modifications (2 CFR 200.324(a)). The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used (2 CFR 200.324(d)).

6. Ensure that every purchase order or other contract includes applicable provisions required by 2 CFR 200.326. These provisions are described in Appendix II to 2 CFR Part 200, “Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.”

*All Non-Federal Entities (including both states and other non-federal entities)*

Under section 70914 of the Build America, Buy America (BABA) ACT each covered Federal agency must ensure that “none of the funds made available for a federal financial assistance program for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States.”

Effective May 14, 2022, the non-Federal entity must comply with BABA requirements for all applicable federal awards subject to those requirements. For the definition of “infrastructure project” and further information on federal awards subject to BABA requirements, see [IIJA](IIJA_PublicLaw_117-58.pdf) section 70912(4)-(5) and 70914, [2 CFR 184](2_CFR_Part_184.pdf), and [OMB Memorandum M-24-02](M-24-02_Buy-America-Implementation-Guidance-Update.pdf). The non-federal entity must ensure that the following conditions are met for any funds (including Federal funds and non-Federal funds) used for an infrastructure project that receives a federal award subject to BABA requirements:

1. All iron and steel used in the project are produced in the United States;

2. All manufactured products used in the project are produced in the United States; and

3. All construction materials are manufactured in the United States.

The non-Federal entity must also incorporate these Buy America Preference requirements in all applicable subawards, contracts, and purchase orders for the work performed, or products supplied under a Federal award with an infrastructure project.

Important Notes:

• A non-federal entity must comply with the BABA requirements to the extent that the non-federal entity has been informed of these requirements, such as through the award terms and conditions.

• Several federal agencies, in consultation with OMB, issued “waivers” as an exception from or waiver of the Made in America laws. For a listing of waivers by agency see <https://www.madeinamerica.gov/waivers/financial-assistance>. For a listing of waivers by category see <https://www.madeinamerica.gov/waivers>. If additional information is needed, see the agency contact found in Appendix III.

***Procurement—Cost-Reimbursement Contracts under the Federal Acquisition Regulation***

When awarding subcontracts, non-Federal entities receiving cost-reimbursement contracts under the Federal Acquisition Regulation (FAR) must comply with the clauses at [48 CFR 52.244-2](48_CFR_Part_52.pdf) (consent to subcontract), 52.244-5 (competition), 52.203-13 (code of business ethics), 52.203-16 (conflicts of interest), and 52.215.12 (cost or pricing data); and the terms and conditions of the contract. The FAR defines “subcontracts” as a contract, i.e., a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

**Source of Governing Requirements – Procurement**

The requirements that apply to procurement under grants and cooperative agreements are contained in 2 CFR 200.317 - 200.327, program legislation, Federal awarding agency regulations, and the terms and conditions of the award. The requirements that apply to procurement under cost-reimbursement contracts under the FAR are contained in 48 CFR Parts [03](48_CFR_Part_3.pdf), [15](48_CFR_Part_15.pdf), and [44](48_CFR_Part_44.pdf) and the clauses at [48 CFR 52.244-2](48_CFR_Part_52.pdf), 52.244-5, 52.203-13, 52.203-16, and 52.215-12; agency FAR Supplements; and the terms and conditions of the contract.

Section 70914 of the Build America, Buy America (BABA) Act is the source of the Buy America preference for Federal awards where funds are appropriated or otherwise made available for infrastructure projects in the United States. See 2 CFR 184.4(a).

*(Source: 2024 OMB Compliance Supplement Part 3)*

### OMB Compliance Requirements – Suspension and Debarment

Non-Federal entities are prohibited from contracting with or making subawards under covered transactions to parties that are suspended or debarred. “Covered transactions” include contracts for goods and services awarded under a non-procurement transaction (e.g., grant or cooperative agreement) that are expected to equal or exceed $25,000 or meet certain other criteria as specified in [2 CFR 180.220](2_CFR_Part_180.pdf). All non-procurement transactions entered into by a pass-through entity (i.e., subawards to subrecipients), irrespective of award amount, are considered covered transactions, unless they are exempt as provided in [2 CFR 180.215](2_CFR_Part_180.pdf).

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, as defined in [2 CFR 180.995](2_CFR_Part_180.pdf) and agency adopting regulations, is not suspended or debarred or otherwise excluded from participating in the transaction. This verification may be accomplished by (1) checking the System for Award Management (SAM) Exclusions maintained by the General Services Administration (GSA) and available at [SAM.gov | Home](https://www.sam.gov/) (click on Search Record, then click on Advanced Search-Exclusions) (**Note:** The OMB guidance at 2 CFR part 180 and agency implementing regulations still refer to the SAM Exclusions as the Excluded Parties List System (EPLS)), (2) collecting a certification from the entity, or (3) adding a clause or condition to the covered transaction with that entity ([2 CFR 180.300](2_CFR_Part_180.pdf)).

Non-Federal entities receiving contracts from the Federal Government are required to comply with the contract clause at [48 CFR 52.209-6](48_CFR_Part_52.pdf) before entering into a subcontract that will exceed $30,000, other than a subcontract for a commercially available off-the-shelf item.

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

The requirements for nonprocurement suspension and debarment are contained in OMB guidance in [2 CFR Part 180](2_CFR_Part_180.pdf), which implements Executive Orders 12549 and 12689, “Debarment and Suspension;” Federal awarding agency regulations in Title 2 of the CFR adopting/implementing the OMB guidance in 2 CFR Part 180; program legislation; and the terms and conditions of the award.

Most of the Federal agencies have adopted or implemented 2 CFR Part 180, generally by relocating their associated agency rules in Title 2 of the CFR. [Appendix II](OMB_Appendix_II.pdf) to the Supplement includes the current CFR citations for all agencies adoption or implementation of the nonprocurement suspension and debarment guidance.

Government-wide requirements related to suspension and debarment and doing business with suspended or debarred subcontractors under cost reimbursement contracts under the FAR are contained in [48 CFR 9.405-2(b)](48_CFR_9.405-2.pdf) and the clause at [48 CFR 52.209-6](48_CFR_Part_52.pdf).

*(Source: 2024 OMB Compliance Supplement Part 3)*

**Part 4 OMB Program Specific Requirements**

No Part 4 OMB Program Specific Requirements.

*(Source: 2024 OMB Compliance Supplement, Part 4, EPA, #66.468 Capitalization Grants for Drinking Water State Revolving Funds)*

***Written Procedure Requirements:***

*2 CFR 200.318(c)(1) requires non-Federal entities maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.*

*2 CFR 200.318(c)(2) requires non-Federal entities maintain written standards of conduct covering organizational conflicts of interest when the non-federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe.*

*2 CFR 200.320(b)(2) requires non-federal entities to have a written method for conducting technical evaluations of the competitive proposals received and for selecting contract recipients.*

*2 CFR 200.319(d) requires non-federal entities to have written procedures for procurement transactions to ensure all solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured and identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.*

### Additional Program Specific Information

**Add program specific requirements from:**

* **The individual grant application, agreement, and policies, and**
* **Federal agency guidance not included in the compliance supplement (such as federal agency grant manuals, references to CFR, etc.)**

**Be sure to indicate the source of your information. If no additional requirements are noted, indicate as such.**

The SRF programs (Clean Water and Drinking Water) have several programmatic requirements that must be met during the bidding process. To that end, the Office of Financial Assistance has compiled a Construction Contract Requirements Document that details the required process and necessary forms/documentation for the bidding and post bid process. The document is available on our website: <https://epa.ohio.gov/static/Portals/29/documents/ofa/Construction-Contract-Guidance.pdf> One of the documents in the guidance is the contract checklist which assists applicants and their engineer in preparing of bidding packages and completion of necessary program forms/documents:

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*(Source:* [*Construction Guidance Checklist*](https://epa.ohio.gov/static/Portals/29/documents/ofa/Construction-Contract-Checklist.pdf)*)*

### Audit Objectives and Control Testing

**Audit Objectives**

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR section 200.514(c).

2. Determine whether procurements under federal awards were made in compliance with applicable federal regulations and other procurement requirements specific to an award or subaward.

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

*(Source: 2024 OMB Compliance Supplement Part 3)*

***Additional Control Test Objectives for Written Procedures:***

*When documenting and identifying the key control(s) in place to address the compliance requirement, consider if the client has written procedures to document the control process.*

* *UG requires a written policy for the requirements outlined in 2 CFR 200.318(c)(1), 2 CFR 200.318(c)(2), 2 CFR 200.320(b)(2), and 2 CFR 200.319(d).*
* *Document whether the non-Federal entity established written procedures consistent with the following requirements:*
  + *2 CFR 200.318(c)(1) for employee conflicts of interest.* 
    - *Reference to Written Policy:* **Auditors must include a reference here to the Entity’s written policy which addresses this requirement. If the Entity does not have a written policy, auditors must document a reaction/conclusion.**
  + *2 CFR 200.318(c)(2) for organizational conflicts of interest.* 
    - *Reference to Written Policy:* **Auditors must include a reference here to the Entity’s written policy which addresses this requirement. If the Entity does not have a written policy, auditors must document a reaction/conclusion.**
  + *2 CFR 200.320(b)(2) for selection and awarding of contracts for competitive proposals.* 
    - *Reference to Written Policy:* **Auditors must include a reference here to the Entity’s written policy which addresses this requirement. If the Entity does not have a written policy, auditors must document a reaction/conclusion.**
  + *2 CFR 200.319(d) for minimum evaluation criteria for bids and proposals.* 
    - *Reference to Written Policy:* **Auditors must include a reference here to the Entity’s written policy which addresses this requirement. If the Entity does not have a written policy, auditors must document a reaction/conclusion.**
* *It is auditor judgment how to report instances where the entity either lacks having a written policy or their written policy is insufficient to meet the requirements of 2 CFR 200.318(c)(1), 2 CFR 200.318(c)(2), 2 CFR 200.320(b)(2), and 2 CFR 200.319(d).*
  + *While auditors would normally use a written policy as the basis for the compliance control, there could be other key controls in place to ensure program compliance.*
  + *The lack of a policy would be noncompliance, which could rise to the level of material noncompliance and even a control deficiency (SD / MW) if there were underlying internal control deficiencies.* 
    - *If there are key controls in place operating effectively, AOS auditors would report the lack of the required UG policy as a management letter citation. However, in subsequent audits, evaluate if the noncompliance should be elevated if not adopted. Written policies aid in consistency and adherence to requirements strengthening internal control processes.*

**Control Documentation and Testing**

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| *Auditors should clearly document what control procedures address the compliance requirement. Reference or link to documentation or where testing was performed.*  **Basis for the control** *(Ex. reports, resources, etc. providing information needed to understand requirements and prevent or identify and correct errors)*:  **Control Procedure** *(Description of how auditee uses the “Basis” to prevent, or identify and correct errors)*:  **Person(s) responsible for performing the control procedure** *(Title)*:  **Description of evidence documenting the control was applied** *(i.e. sampling unit)*: |

### Suggested Substantive Audit Procedures – Compliance

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| Consider the results of control testing above 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.  *(Source: 2024 OMB Compliance Supplement Part 3)*  ***The local government is required to be in compliance with applicable state and local procurement requirements regardless of whether the local government procures item(s) itself or relies upon an intergovernmental arrangement with co-op or another entity to procure on its behalf. Auditors need to test procurement files whether they're from the local government, the co-op, or another entity.***  ***AOS Auditors:*** *Steps marked with an asterisk (\*) are addressed via the attributes in the Procurement Federal Testing Template available on the Intranet.*  *Procedure 1 is omitted as it is only applicable to States.*  *(Procedures 2 – 5 apply to non-Federal entities other than States.)*  2. Obtain the entity’s procurement policies and verify that the policies comply with the compliance requirements highlighted above.  3. Verify that the entity has written standards of conduct that cover conflicts of interest and govern the performance of its employees engaged in the selection, award, and administration of contracts (2 CFR 200.318(c) and [48 CFR 52.203-13](48_CFR_Part_52.pdf) and [52.203-16](48_CFR_Part_52.pdf)).  4. 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 (2 CFR 200.319(c)).  5. Select a sample of procurements and perform the following procedures:  **\***a. Examine contract files and verify that they document the history of the procurement, including the rationale for the method of procurement, selection of contract type, basis for contractor selection, and the basis for the contract price (2 CFR 200.318(i) and [48 CFR Part 44](48_CFR_Part_44.pdf) and [52.244-2](48_CFR_Part_52.pdf)).  **\***b. For grants and cooperative agreements, verify that the procurement method used was appropriate based on the dollar amount and conditions specified in 2 CFR 200.320. Current micro-purchase and simplified acquisition thresholds can be found in the FAR (48 CFR Subpart 2.1, “Definitions”)  \*c. Verify that procurements provide full and open competition (2 CFR 200.319 and [48 CFR 52.244-5](48_CFR_Part_52.pdf)).  d. Examine documentation in support of the rationale to limit competition in those cases where competition was limited and ascertain if the limitation was justified (2 CFR 200.319 and 200.320(f) and [48 CFR 52.244-5](48_CFR_Part_52.pdf)).  **\***e. Ascertain if cost or price analysis was performed in connection with all procurement actions exceeding the simplified acquisition threshold, including contract modifications, and that this analysis supported the procurement action (2 CFR 200.323 and [48 CFR 15.404-3](48_CFR_Part_15.pdf)).  Note: A cost or price analysis is required for each procurement action, including each contract modification, when the total amount of the contract and related modifications is greater than the simplified acquisition threshold.  f. Verify consent to subcontract was obtained when required by the terms and conditions of a cost reimbursement contract under the FAR ([48 CFR 52.244-2](48_CFR_Part_52.pdf)).  Note: If the non-Federal entity has an approved purchasing system, consent to subcontract may not be required unless specifically identified by contract terms or conditions. The auditor should verify that the approval of the purchasing system is effective for the audit period being reviewed.  *The Federal Acquisition Regulations (FAR) defines cost-reimbursement contracts in 48 CFR Subpart 16.3. Cost-reimbursement contracts are contracts which establish an estimate of total costs (or a ‘ceiling’) which a contractor may not exceed (except at its own risk) without the approval of a contracting officer. Cost-reimbursement contracts are only allowable when the circumstances described in 48 CFR 16.301-3 have been met.*  *(Procedures 6 - 8 apply to all non-Federal entities)*  6. Review the non-Federal entity’s procedures for verifying that an entity with which it plans to enter into a covered transaction is not debarred, suspended, or otherwise excluded (2 CFR 200.213 and 200.318(h); [2 CFR 180.300](2_CFR_Part_180.pdf); [48 CFR 52.209-6](48_CFR_Part_52.pdf)).  **\***7. Select a sample of procurements and subawards and test whether the non-Federal entity followed its procedures before entering into a covered transaction.  *If an internal control deficiency or noncompliance is noted with Suspension and Debarment requirements, AoS auditors must consult with Legal for an evaluation. IPAs should review the Federal agency adoption of the Suspension and Debarment requirements as well as the specific terms and conditions in the grant agreement to ensure the comment is accurate.*  8. Select a sample of procurement agreements for infrastructure projects subject to BABA and test whether the non-federal entity included the Buy America domestic preference provisions in each agreement, or obtained a BABA waiver.  a. For each agreement selected where a waiver was not applicable, review the non- federal entity’s documentation supporting that it monitored the contractor’s compliance with the BABA domestic preference provisions in the agreement (2 CFR 200.318(b)). |

### Audit Implications Summary

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| *Consider the adequacy of the system and controls, and the effect on sample size, significant deficiencies/material weaknesses, material non-compliance and management letter comments.*  *Auditors must review the Federal agency adoption of the Uniform Guidance (2 CFR Part 200) and nonprocurement suspension and debarment requirements (2 CFR Part 180) prior to issuing noncompliance citations to verify the Federal agency requirements. Auditors should also review this* [*link*](Agency_Adoption_of_the_UG_and_Example_Citations.pdf) *for a discussion on how to cite non-compliance exceptions based on agency adoption of the UG.*   1. **Results of Test of Controls:** *(including material weaknesses, significant deficiencies and management letter items)* 2. **Assessment of Control Risk:** 3. **Effect on the Nature, Timing, and Extent of Compliance (Substantive) Test including Sample Size:** 4. **Results of Compliance (Substantive) Tests:** 5. **Questioned Costs: Actual \_\_\_\_\_\_\_\_\_\_ Projected \_\_\_\_\_\_\_\_\_\_** |

## Program Testing Conclusion

We have performed procedures sufficient to provide reasonable assurance for federal award program compliance requirements (to support our opinions). The procedures performed, relevant evidence obtained, and our conclusions are adequately documented. (If you are unable to conclude, prepare a memo documenting your reason and the implications for the engagement, including the audit reports.)

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| **Conclusion** | | |
| **The opinion on this major program should be:** | |  |
| **Unmodified:** |  | |
| **Qualified (describe):** |  | |
| **Adverse (describe):** |  | |
| **Disclaimer (describe):** |  | |

Per paragraph 13.39 of the AICPA *Single Audit* Guide**[Permalink to here](https://checkpoint.riag.com/app/view/docPermaLink?DocID=iAICPAIGS:767.2440&docTid=T0AICPAIGS:767.2440-1&feature=ttoc&lastCpReqId=97899&tlltype=AICPAIGS:767.2668)**, the following are required to be reportedas audit findings in the federal awards section of the schedule of findings and questioned costs(2 CFR 200.516)**:**

1. Significant deficiencies and material weaknesses in internal control over major programs.
2. Material noncompliance with the federal statues, regulations, or the terms and conditions of federal awards related to a major program.
3. Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program. The auditor also must report (in the schedule of findings and questioned costs) known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program.
4. Known questioned costs that are greater than $25,000 for programs that are not audited as major.
5. Known or likely fraud affecting a federal award, unless such fraud is otherwise reported as an audit finding in the schedule of findings and questioned costs.
6. Significant instances of abuse relating to major programs.
7. The circumstances concerning why the opinion in the auditor's report on compliance for major programs is other than an unmodified opinion, unless such circumstances are otherwise reported as audit findings in the schedule of findings and questioned costs (for example, a scope limitation that is not otherwise reported as a finding).
8. Instances in which the results of audit follow-up procedures disclosed that the summary schedule of prior audit findings prepared by the auditee in accordance with 2 CFR 200.511(b) of the Uniform Guidance, materially misrepresents the status of any prior audit finding.

[Appendix I](2_CFR_Part_200.pdf) lists block grants and other programs excluded from the requirements of specified portions of 2 CFR Part 200.

*Auditors must review the Federal agency adoption of the Uniform Guidance (2 CFR Part 200) and nonprocurement suspension and debarment requirements (2 CFR Part 180) prior to issuing noncompliance citations to verify the Federal agency requirements. Auditors should also review this* [*link*](Agency_Adoption_of_the_UG_and_Example_Citations.pdf) *for a discussion on how to cite non-compliance exceptions based on agency adoption of the UG.*

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| **Cross-reference to internal control matters (significant deficiencies or material weaknesses), if any, documented in the FACCR:** |
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| **Cross-reference to questioned costs and matter of noncompliance, if any, documented in this FACCR:** |
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Per paragraph 13.50 of the AICPA *Single Audit* Guide, the schedule of findings and questioned costs must include all audit findings required to be reported under the Uniform Guidance. A separate written communication (such as a communication sometimes referred to as a management letter) may not be used to communicate such matters to the auditee in lieu of reporting them as audit findings in accordance with the Uniform Guidance. See the discussion beginning at paragraph 13.34 for information on Uniform Guidance requirements for the schedule of findings and questioned costs. If there are other matters that do not meet the Uniform Guidance requirements for reporting but, in the auditor's judgment, warrant the attention those charged with governance, they should be communicated in writing or verbally. If such a communication is provided in writing to the auditee, there is no requirement for that communication to be referenced in the Uniform Guidance compliance report. Per table 13-2 a matter must meet the following in order to be communicated in the management letter:

* Other deficiencies in internal control over compliance that are not significant deficiencies or material weaknesses required to be reported but, in the auditor's judgment, are of sufficient importance to be communicated to management.
* Noncompliance with federal statutes, regulations or terms and conditions of federal awards related to a major program that does not meet the criteria for reporting under the Uniform Guidance but, in the auditor's judgment, is of sufficient importance to communicate to management or those charged with governance.
* Other findings or issues arising from the compliance audit that are not otherwise required to be reported but are, in the auditor's professional judgment, significant and relevant to those charged with governance.

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| **Cross-reference to any Management Letter items and explain why not included in the Single Audit Compliance Report:** |
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