

FLORIDA ASSOCIATION FOR COMMUNITY ACTION  
2014 ANNUAL TRAINING CONFERENCE

## THE NEW OMB SUPER CIRCULAR

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## ABOUT THE PRESENTER

R. Brian Tipton, Esq., is a practicing attorney with more than a decade's experience working with nonprofits and grant-funded organizations across the United States. Brian is a summa cum laude graduate of the Louisiana State University and the Cumberland School of Law of Samford University. He regularly represents grant-funded entities (including Community Action Agencies and Head Start programs) in the areas of regulatory compliance, audits, funding source disputes, administrative appeals, and litigation. Brian also consults with organizations on governance, human resources, programmatic, and corporate matters, and develops and presents training programs for nonprofits.

## AGENDA

- BACKGROUND
  - PURPOSE OF CIRCULARS
  - THE EXISTING CIRCULARS
  - GRANTS REFORM INITIATIVE
- THE OMB SUPER CIRCULAR
  - ADMINISTRATIVE REQUIREMENTS
  - COST PRINCIPLES
  - AUDIT REQUIREMENTS
- IMPLEMENTATION AND DEADLINES
- QUESTION AND ANSWER PERIOD

## BACKGROUND

- OMB CIRCULARS PROVIDE BASIC ROAD MAP FOR MANAGING FEDERAL GRANTS
  - GRANTS ADMINISTRATION
  - COST PRINCIPLES
  - AUDITS
- PROVIDE GUIDANCE FOR FEDERAL FUNDING SOURCES, GRANTEES (RECIPIENTS), SUBGRANTEES (SUBRECIPIENTS), AND AUDITORS
- CIRCULARS ARE NOT BINDING REGULATIONS THEMSELVES (ALTHOUGH NOW CODIFIED IN C.F.R.)
  - TEMPLATE FOR REGULATIONS
  - ADOPTED BY INDIVIDUAL GRANT FUNDING AGENCIES

## BACKGROUND

- KEY PURPOSE OF OMB CIRCULARS IS TO PROMOTE UNIFORMITY
  - SOME VARIATIONS AMONG FUNDING SOURCES BUT TYPICALLY MINOR
  - PERMISSION FOR SIGNIFICANT DEVIATIONS
- ESTABLISH A CEILING FOR FEDERAL GRANT FUNDING AGENCIES
- ESTABLISH A FLOOR FOR FEDERAL GRANTEES

## BACKGROUND

- 2 SETS OF ADMINISTRATIVE REQUIREMENTS
  - OMB CIRCULAR A-102 (THE "COMMON RULE")
  - OMB CIRCULAR A-110 (2 C.F.R. PT. 215)
- APPLY TO DIFFERENT TYPES OF GRANTEES
  - A-102 = STATE, LOCAL & TRIBAL GOVERNMENTS
  - A-110 = HIGHER EDUCATION, HOSPITALS & NONPROFITS

## BACKGROUND

- 4 MAJOR SETS OF COST PRINCIPLES
  - OMB CIRCULAR A-21 (2 C.F.R. PT. 220)
  - OMB CIRCULAR A-87 (2 C.F.R. PT. 225)
  - OMB CIRCULAR A-122 (2 C.F.R. PT. 230)
  - 45 C.F.R. PT. 74, APP. E (HOSPITALS)
- LIKE ADMINISTRATIVE REQUIREMENTS COVERAGE, APPLICABILITY DEPENDS ON TYPE OF ENTITY IN QUESTION (BUT DIFFERENT DIVISION)
  - A-21 = EDUCATIONAL INSTITUTIONS
  - A-87 = STATE, LOCAL & TRIBAL GOVERNMENT
  - A-122 = NONPROFIT ORGANIZATIONS
  - ALSO SOME AGENCY OR PROGRAM SPECIFIC PRINCIPLES

## BACKGROUND

- INCORPORATED BY REFERENCE INTO THE ADMINISTRATIVE REQUIREMENTS
- PURPOSES
  - PURPOSE OF COST PRINCIPLES IS TO PROVIDE BASIS FOR DETERMINING ALLOWABLE COSTS THAT CAN BE CHARGED TO FEDERAL AWARDS
  - UNDERLYING PURPOSE IS TO ENSURE THAT FEDERAL GOVERNMENT PAYS ONLY FOR ITS FAIR SHARE OF COSTS RELATED TO FEDERAL AWARDS
- BASIC REQUIREMENTS ARE SIMILAR BUT COST PRINCIPLES NOT IDENTICAL

## BACKGROUND

- OMB CIRCULAR A-133
  - IMPLEMENTS REQUIREMENTS OF SINGLE AUDIT ACT
  - CURRENT THRESHOLD = \$500,000
- ANNUAL COMPLIANCE SUPPLEMENT FOR A-133 AUDITS
- OMB CIRCULAR A-50 AUDIT FOLLOW-UP

## BACKGROUND

- 2012: OFFICE OF MANAGEMENT AND BUDGET ANNOUNCED GRANTS REFORM INITIATIVE
  - COMBINE EXISTING [CIRCULARS A-21, A-87, A-50, A-89, A-102, A-110, A-122, & A-133]
  - CREATE "SUPER CIRCULAR" OR "OMNICIRCULAR"
- TIMELINE
  - ADVANCE NOTICE OF PROPOSED GUIDANCE [77 FED. REG. 1178 (FEBRUARY 28, 2012)]
  - PROPOSED GUIDANCE (FEBRUARY 1, 2013)
    - SUMMARY IN FEDERAL REGISTER (78 FED. REG. 7282)
    - FULL PROPOSAL PUBLISHED ON OMB WEBSITE
  - FINAL UNIFORM GUIDANCE
    - PUBLISHED DECEMBER 26, 2013
    - 78 FED. REG. 78589

## BACKGROUND

- REFORM INITIATIVE IS PART OF LARGER PUSH BY ADMINISTRATION
  - EXECUTIVE ORDER 13520 (IMPROPER PAYMENTS)
  - EXECUTIVE ORDER 13563 (REGULATORY IMPROVEMENT)
  - MEMORANDUM OF FEBRUARY 28, 2011 (ADMINISTRATIVE FLEXIBILITY)
- CONTINUATION OF PRIOR EFFORTS IN A SENSE
- CURRENT EFFORT SPEARHEADED BY COUNCIL ON FINANCIAL ASSISTANCE REFORM ("COFAR")

## THE SUPER CIRCULAR

- 2 MAIN GOALS
  - STREAMLINE GUIDANCE AND REDUCE ADMINISTRATIVE BURDENS
  - STRENGTHEN OVERSIGHT TO REDUCE WASTE, FRAUD & ABUSE
- SPECIFIC OBJECTIVES
  - ELIMINATE DUPLICATIVE AND CONFLICTING GUIDANCE
  - FOCUS ACCOUNTABILITY ON PERFORMANCE RATHER THAN COMPLIANCE
  - ENCOURAGE EFFICIENT USE OF INFORMATION
  - PROVIDE CONSISTENT TREATMENT OF COSTS
  - LIMIT ALLOWABLE COSTS TO BETTER USE FEDERAL RESOURCES
  - FACILITATING STANDARDIZATION OF PROCESSES AND DATA ELEMENTS
  - ENCOURAGING FAMILY FRIENDLY POLICIES
  - STRENGTHENING OVERSIGHT
  - BETTER FOCUS AUDITS ON RISKS OF WASTE, FRAUD, AND ABUSE

## THE SUPER CIRCULAR

- CODIFIED AT 2 C.F.R. PT. 200
- STRUCTURE
  - SUBPART A = ACRONYMS AND DEFINITIONS
  - SUBPART B = GENERAL PROVISIONS
  - SUBPART C = PRE-AWARD REQUIREMENTS AND CONTENTS OF FEDERAL AWARDS
  - SUBPART D = POST AWARD REQUIREMENTS
  - SUBPART E = COST PRINCIPLES
  - SUBPART F = AUDIT REQUIREMENTS
  - FOLLOWED BY 11 APPENDICES

## THE SUPER CIRCULAR

- APPENDICES TO PART 200
  - APPENDIX I = TEXT OF NOTICE OF FUNDING OPPORTUNITY
  - APPENDIX II = CONTRACT PROVISIONS
  - APPENDIX III = INDIRECT COST RATE IDENTIFICATION AND ASSIGNMENT FOR INSTITUTIONS OF HIGHER EDUCATION
  - APPENDIX IV = INDIRECT COST RATE IDENTIFICATION AND ASSIGNMENT FOR NONPROFIT ORGANIZATIONS
  - APPENDIX V = STATE/LOCAL GOVERNMENT AND INDIAN TRIBE-WIDE CENTRAL SERVICE COST ALLOCATION PLANS
  - APPENDIX VI = PUBLIC ASSISTANCE COST ALLOCATION PLANS
  - APPENDIX VII = STATE AND LOCAL GOVERNMENT AND INDIAN TRIBE INDIRECT COST PROPOSALS
  - APPENDIX VIII = NONPROFIT ORGANIZATIONS EXEMPTED FROM COST PRINCIPLES
  - APPENDIX IX = HOSPITAL COST PRINCIPLES (45 C.F.R. PT. 74, APP. E)
  - APPENDIX X = DATA COLLECTION FORM
  - APPENDIX XI = COMPLIANCE SUPPLEMENT
- NOTE: INDIRECT COSTS AND AUDIT COMPLIANCE SUPPLEMENT COVERED IN APPENDICES

## ADMINISTRATIVE REQUIREMENTS

- FEBRUARY 2012 "ADVANCE NOTICE" OFFERED 5 "IDEAS" THAT WOULD AFFECT ADMINISTRATIVE REQUIREMENTS
  - CREATING CONSOLIDATED, UNIFORM SET OF ADMINISTRATIVE REQUIREMENTS
  - PRE-AWARD CONSIDERATION OF EACH PROPOSAL'S MERITS & APPLICANT'S FINANCIAL RISK
  - MINIMUM NOTICE OF FUNDING OPPORTUNITIES
  - STANDARD FORMAT FOR FUNDING OPPORTUNITY ANNOUNCEMENTS
  - REITERATING REQUIREMENTS FOR PAPERWORK REDUCTION ACT APPROVAL AND ADHERENCE TO PWA

## ADMINISTRATIVE REQUIREMENTS

- IDEA FOR CONSOLIDATED ADMINISTRATIVE REQUIREMENTS ADOPTED IN FINAL GUIDANCE
- SUPER CIRCULAR CONTAINS ADMINISTRATIVE REQUIREMENTS IN SUBPARTS B THROUGH D
- REPLACES EXISTING CIRCULARS A-102 AND A-110
  - NOT NECESSARILY NEW REQUIREMENTS
  - DRAWS ON REQUIREMENTS FROM EXISTING CIRCULARS
    - GENERALLY FOLLOWS LANGUAGE FROM EXISTING CIRCULAR A-110
    - MAJOR EXCEPTION: PROCUREMENT REQUIREMENTS DRAW ON COMMON RULE



## ADMINISTRATIVE REQUIREMENTS

- GENERAL PROVISIONS OF SUPER CIRCULAR FOUND IN SUBPART B (THE 100'S)
- GENERAL PROVISIONS INCLUDE APPLICABILITY (§ 101) AND EXCEPTIONS (§ 102)
- OMB MAY GRANT EXCEPTIONS BUT NOT TO AUDIT REQUIREMENTS (§ 102)
- SUPER CIRCULAR CONTAINS REQUIREMENTS FOR ESTABLISHMENT BY FEDERAL AGENCIES OF CONFLICT OF INTEREST POLICIES AND DISCLOSURES OF POTENTIAL CONFLICTS BY NON-FEDERAL ENTITIES (§ 112)
- SUPER CIRCULAR ALSO REQUIRES DISCLOSURES OF CRIMINAL VIOLATIONS AFFECTING AWARDS (§ 113)

## ADMINISTRATIVE REQUIREMENTS

- THE SUPER CIRCULAR LOCATES PRE-AWARD REQUIREMENTS IN SUBPART C (THE 200'S)
- SUPER CIRCULAR PROVIDES FOR CLASS OF "FIXED AMOUNT AWARDS" (§ 201)
  - DEFINITION: "A TYPE OF GRANT AGREEMENT UNDER WHICH THE FEDERAL AWARDING AGENCY OR PASS-THROUGH ENTITY PROVIDES A SPECIFIC LEVEL OF SUPPORT WITHOUT REGARD TO ACTUAL COSTS INCURRED UNDER THE FEDERAL AWARD. THIS TYPE OF FEDERAL AWARD REDUCES SOME OF THE ADMINISTRATIVE BURDEN AND RECORDKEEPING REQUIREMENTS FOR BOTH THE NON-FEDERAL ENTITY AND FEDERAL AWARDING AGENCY OR PASS-THROUGH ENTITY. ACCOUNTABILITY IS BASED PRIMARILY ON PERFORMANCE AND RESULTS."
  - EXAMPLE OF PERFORMANCE OVER COMPLIANCE

## ADMINISTRATIVE REQUIREMENTS

- OTHER PRE-AWARD REQUIREMENTS
  - REQUIREMENT FOR PUBLIC NOTICES OF FUNDING OPPORTUNITIES (§ 203)
    - APPLICATION PERIOD (NORMALLY) AT LEAST 60 DAYS
    - REQUIRED INFORMATION IN FULL TEXT OF OPPORTUNITY (APPENDIX I)
  - FEDERAL AWARDING AGENCY REVIEW OF PROPOSAL MERITS (§ 204)
  - FEDERAL AWARDING AGENCY EVALUATION OF APPLICANT'S RISK BEFORE MAKING AWARD (§ 205)
  - STANDARD REQUIREMENTS FOR INFORMATION TO BE CONTAINED IN THE AWARD, INCLUDING PERFORMANCE GOALS (§ 210)

## ADMINISTRATIVE REQUIREMENTS

- SUBPART D (THE 300'S) OF THE SUPER CIRCULAR GENERALLY CORRESPOND TO THE POST-AWARD AND AFTER-THE-AWARD REQUIREMENTS OF EXISTING CIRCULARS AND GO TO THE HEART OF PERFORMANCE
- PERFORMANCE MEASUREMENT PROVISION (§ 301)
  - AWARDING AGENCIES MUST REQUIRE RECIPIENTS RELATE FINANCIAL DATA TO PERFORMANCE ACCOMPLISHMENTS
  - INTENDED THAT PERFORMANCE SHOULD BE MEASURED IN WAYS TO "HELP IMPROVE PROGRAM OUTCOMES, SHARE LESSONS LEARNED, AND SPREAD THE ADOPTION OF PROMISING PRACTICES."
  - SHOULD BE TIED TO PERFORMANCE GOALS IN AWARD NOTICE (§ 210)

## ADMINISTRATIVE REQUIREMENTS

- INTERNAL CONTROLS NOW INCLUDED IN ADMINISTRATIVE REQUIREMENTS IN SUBPART D (§ 303)
- MOVED FROM OMB CIRCULAR A-133
- BASIC REQUIREMENTS
  - ESTABLISH AND MAINTAIN EFFECTIVE INTERNAL CONTROLS
  - COMPLY WITH FEDERAL LAWS AND AWARD TERMS AND CONDITIONS
  - MONITOR COMPLIANCE WITH THE LAW AND AWARD TERMS AND CONDITIONS
  - TAKE PROMPT ACTION WHEN NONCOMPLIANCE IDENTIFIED
  - REASONABLY SAFEGUARD PROTECTED PERSONALLY IDENTIFIABLE INFORMATION AND OTHER SENSITIVE INFORMATION

## ADMINISTRATIVE REQUIREMENTS

- ALTHOUGH MANY PROVISIONS OF SUPER CIRCULAR BASED ON EXISTING OMB CIRCULAR A-110, PROCUREMENTS STANDARDS (§§ 317-326) BASED ON A-102 FOR GOVERNMENTAL ENTITIES
  - STATES FOLLOW POLICIES AND PROCEDURES USED FOR PROCUREMENT USING NON-FEDERAL FUNDS BUT WILL INCLUDE CONTRACT PROVISIONS REQUIRED UNDER § 326
  - OTHER ENTITIES MUST FOLLOW PROCUREMENT PROCEDURES THAT CONFORM TO REQUIREMENTS IN §§ 318-326
    - WRITTEN STANDARDS OF CONDUCT (§ 318) FOR CONFLICTS OF INTEREST BY EMPLOYEES AND ORGANIZATIONAL CONFLICTS
    - SHARED SERVICE AGREEMENT ENCOURAGED (§ 318)
    - NO STATE OR LOCAL GEOGRAPHIC PREFERENCES (§ 319)

## ADMINISTRATIVE REQUIREMENTS

- THE SUPER CIRCULAR OUTLINES 5 METHODS FOR PROCUREMENT (§ 320)
  - MICRO-PURCHASES (\$3,000 OR LESS)
  - SMALL PURCHASE PROCEDURES
    - UNDER THE SIMPLIFIED ACQUISITION THRESHOLD
    - THRESHOLD CURRENTLY \$150,000 BUT SUPER CIRCULAR NOW TIES TO FAR
  - SEALED BIDS
  - COMPETITIVE PROPOSALS
  - NONCOMPETITIVE PROPOSALS
- PROPOSED PROCUREMENT TRANSACTIONS SUBJECT TO REVIEW BY FEDERAL AWARDING AGENCY OR PASS-THROUGH IN CERTAIN CIRCUMSTANCES

## ADMINISTRATIVE REQUIREMENTS

- SUPER CIRCULAR ADDRESSES DISTINCTION BETWEEN "CONTRACTORS" AND SUBRECIPIENTS IN SUBPART D (§ 330)
  - USES TERM "CONTRACTOR" RATHER THAN VENDOR
  - TERMINOLOGY USED (CONTRACT OR SUBAWARD) NOT DETERMINATIVE OF RELATIONSHIP
- REQUIREMENTS FOR PASS-THROUGH ENTITIES DESCRIBED IN § 331
  - REMINISCENT OF REQUIREMENTS FOR FEDERAL AWARDING AGENCIES
  - REQUIRED INDIRECT COST RATE INFORMATION
    - SUBRECIPIENT'S RECOGNIZED NEGOTIATED FEDERAL COST RATE
    - RATE NEGOTIATED BETWEEN PASS-THROUGH ENTITY AND SUBRECIPIENT
    - FEDERAL DE MINIMIS INDIRECT COST RATE (§ 414)
- AUTHORITY MAKE FIXED AMOUNT SUBAWARDS UP TO SIMPLIFIED ACQUISITION THRESHOLD (§ 332)

## ADMINISTRATIVE REQUIREMENTS

- SUPER CIRCULAR ADDRESSES RECORDS RETENTION IN SUBPART D (§§ 333-337)
- SUPER CIRCULAR KEEPS GENERAL 3 YEAR RECORD RETENTION PERIOD (§ 333)
  - LITIGATION, CLAIM, OR AUDIT BEGUN BEFORE 3 YEAR PERIOD
  - AWARDING AGENCY NOTIFIES TO EXTEND PERIOD
  - PROGRAM INCOME TRANSACTIONS
- SUPER CIRCULAR EXPRESSES PREFERENCE FOR OPEN MACHINE-READABLE RECORDS (§ 335)
- SUPER CIRCULAR ALSO ADDRESSES PROTECTED PERSONALLY IDENTIFIABLE INFORMATION AND ALLOWS FOR RESTRICTIONS ON ACCESS (§ 337)

## ADMINISTRATIVE REQUIREMENTS

- SUPER CIRCULAR ADDRESSES REMEDIES FOR NONCOMPLIANCE IN SUBPART D (§§ 338-342)
- REMEDIES LARGELY SIMILAR TO EXISTING CIRCULARS
- EXPRESSLY ALLOWS (IN § 338) IMPOSING ADDITIONAL "SPECIFIC CONDITIONS" (FROM § 207) FROM PRE-AWARD SUBPART
- GROUNDS FOR TERMINATION BY AWARDING AGENCY OR PASS-THROUGH INCLUDE (§ 339):
  - FAILURE TO COMPLY WITH TERMS AND CONDITIONS OF AWARD
  - MUTUAL CONSENT OF GRANTEE OR SUBRECIPIENT
  - **"FOR CAUSE"**

## ADMINISTRATIVE REQUIREMENTS

- SUPER CIRCULAR ADDRESSES CLOSEOUT IN SUBPART D (§§ 343-345)
- CLOSEOUT PROVISIONS PROVIDE ADDITIONAL GUIDANCE AND SPECIFY GENERAL ONE YEAR TIMEFRAME FOR COMPLETING CLOSEOUT (§ 343)
- ADJUSTMENTS TO CLOSEOUTS ARE TO BE MADE WITHIN RECORD RETENTION PERIOD (§ 344)
- HOWEVER, COLLECTION EFFORTS ARE NOT RESTRICTED TO RECORD RETENTION PERIOD (§ 345)

## COST PRINCIPLES

- SUPER CIRCULAR LOCATES COST PRINCIPLES IN SUBPART E [THE 400'S (INCLUDING SPECIFIC ITEMS OF COST)] AND APPENDICES III - IX
- MAJOR GOAL IN REFORMING COST PRINCIPLES WAS ENSURE MORE CONSISTENT TREATMENT OF COSTS AND LIMIT DIFFERENCES BASED ON TYPE OF ENTITY
- CAN SEE PROBLEM WHEN LOOK AT CURRENT FOUR SETS OF COST PRINCIPLES
  - ITEMS COVERED
  - SPECIFIC TREATMENT OF COMMON ITEMS

## COST PRINCIPLES

- CURRENTLY COSTS GENERALLY ALLOWABLE IF:
  - NECESSARY, REASONABLE, AND ALLOCABLE TO THE PROGRAM
  - WITHIN LIMITS SET UNDER AWARD AND APPLICABLE LAWS AND REGULATIONS
  - ALLOCATED TO AWARD CONSISTENT WITH GRANTEE-WIDE POLICIES (TREATED IN SAME MANNER AS SIMILAR COSTS)
  - CONSISTENT TREATMENT
  - GENERALLY ACCEPTED ACCOUNTING PRINCIPLES FOLLOWED (SUBJECT TO ENTITY-BASED OR OTHER EXCEPTIONS)
  - SUFFICIENT DOCUMENTATION
  - NOT INCLUDED AS COST-SHARING OR MATCHING FOR OTHER AWARD UNLESS SPECIFICALLY ALLOWED UNDER APPLICABLE LAW OR REGULATION
- HOWEVER, SPECIFIC LANGUAGE & ITEMS OF COST DIFFER FROM EXISTING CIRCULAR TO CIRCULAR

## EXISTING COST PRINCIPLES

ACTIVITY	A-21	A-87	A-122	45 C.F.R. PT. 74
ADVERTISING	GENERALLY UNALLOWABLE	GENERALLY UNALLOWABLE	GENERALLY UNALLOWABLE	GENERALLY UNALLOWABLE (DIFFERENCES)
ADVISORY COUNCILS	ALLOWABLE	ALLOWABLE	ALLOWABLE	NOT INCLUDED
ALCOHOLIC BEVERAGES	UNALLOWABLE	UNALLOWABLE	UNALLOWABLE	NOT INCLUDED
ALUMNI ACTIVITIES	UNALLOWABLE	NOT INCLUDED	NOT INCLUDED	NOT INCLUDED
AUDITS	ALLOWABLE	ALLOWABLE	ALLOWABLE	NOT INCLUDED
BAD DEBTS	GENERALLY UNALLOWABLE	GENERALLY UNALLOWABLE	GENERALLY UNALLOWABLE	GENERALLY UNALLOWABLE (DIFFERENCES)
COMMENCEMENT	UNALLOWABLE	NOT INCLUDED	NOT INCLUDED	NOT INCLUDED
COMPENSATION	ALLOWABLE (DIFFERENCES)	ALLOWABLE (DIFFERENCES)	ALLOWABLE (DIFFERENCES)	ALLOWABLE (DIFFERENCES)

## EXISTING COST PRINCIPLES

ACTIVITY	A-21	A-87	A-122	45 C.F.R. PT. 74
DEFENSE & PROSECUTION OF CLAIMS & APPEALS	GENERALLY UNALLOWABLE	ALLOWABLE (SIGNIFICANT EXCEPTIONS)	GENERALLY UNALLOWABLE (DIFFERENCES)	GENERALLY UNALLOWABLE (DIFFERENCES)
DEPRECIATION & USE ALLOWANCE	ALLOWABLE	ALLOWABLE	ALLOWABLE	ALLOWABLE (DIFFERENCES)
EQUIPMENT & OTHER CAPITAL EXPENSES	ALLOWABLE AS DIRECT COSTS (MAY NEED PRIOR APPROVAL)	ALLOWABLE AS DIRECT COSTS (MAY NEED PRIOR APPROVAL)	ALLOWABLE AS DIRECT COSTS (MAY NEED PRIOR APPROVAL)	UNALLOWABLE (UNLESS IN AWARD)
GOVERNMENT EXPENSES	NOT INCLUDED	GENERALLY UNALLOWABLE	NOT INCLUDED	NOT INCLUDED
HOUSING & LIVING EXPENSE	UNALLOWABLE	NOT INCLUDED	GENERALLY UNALLOWABLE	NOT INCLUDED
INSURANCE	GENERALLY ALLOWABLE (EXCEPTIONS)	GENERALLY ALLOWABLE (EXCEPTIONS & DIFFERENCES)	GENERALLY ALLOWABLE (EXCEPTIONS & DIFFERENCES)	GENERALLY ALLOWABLE (EXCEPTIONS & DIFFERENCES)

## EXISTING COST PRINCIPLES

ACTIVITY	A-21	A-87	A-122	45 C.F.R. PT. 74
INTEREST	ALLOWABLE (LIMITATIONS)	ALLOWABLE (LIMITATIONS & DIFFERENCES)	ALLOWABLE (LIMITATIONS & DIFFERENCES)	UNALLOWABLE
LABOR RELATIONS	ALLOWABLE	NOT INCLUDED	ALLOWABLE	ALLOWABLE
LOBBYING	UNALLOWABLE	UNALLOWABLE	UNALLOWABLE	NOT ADDRESSED
LOSSES	UNALLOWABLE	NOT INCLUDED	UNALLOWABLE	UNALLOWABLE
MEETINGS	ALLOWABLE	ALLOWABLE	ALLOWABLE	NOT INCLUDED
ORGANIZATIONAL COSTS	NOT INCLUDED	NOT INCLUDED	ALLOWABLE WITH PRIOR APPROVAL	UNALLOWABLE
PAGE CHARGES	NOT INCLUDED	NOT INCLUDED	ALLOWABLE	NOT INCLUDED
PARTICIPANT SUPPORT	NOT INCLUDED	NOT INCLUDED	ALLOWABLE WITH PRIOR APPROVAL	NOT INCLUDED
PUBLICATION & PRINTING	ALLOWABLE (INDIRECT)	ALLOWABLE (INDIRECT)	ALLOWABLE (INDIRECT)	NOT INCLUDED



## EXISTING COST PRINCIPLES

ACTIVITY	A-21	A-87	A-122	45 C.F.R. PT. 74
RECRUITING	ALLOWABLE (LIMITATIONS)	NOT INCLUDED	ALLOWABLE (LIMITATIONS & DIFFERENCES)	ALLOWABLE (LIMITATIONS)
RELOCATION	NOT INCLUDED	NOT INCLUDED	ALLOWABLE (LIMITATIONS)	NOT INCLUDED
SCHOLARSHIPS	ALLOWABLE (LIMITATIONS)	NOT INCLUDED	NOT INCLUDED	NOT INCLUDED
SPECIALIZED FACILITIES	ALLOWABLE AS DIRECT COST	NOT INCLUDED	ALLOWABLE AS DIRECT COST	ALLOWABLE AS DIRECT COST
STUDENT ACTIVITIES	ALLOWABLE	NOT INCLUDED	NOT INCLUDED	NOT INCLUDED
TERMINATION	GENERALLY ALLOWABLE	GENERALLY ALLOWABLE (DIFFERENCES)	GENERALLY ALLOWABLE (DIFFERENCES)	GENERALLY ALLOWABLE (DIFFERENCES)
TRAINING	ALLOWABLE	ALLOWABLE	GENERALLY ALLOWABLE (DIFFERENCES)	NOT INCLUDED
TRAVEL	ALLOWABLE	ALLOWABLE (DIFFERENCES)	ALLOWABLE	ALLOWABLE (DIFFERENCES)

## COST PRINCIPLES

- FINAL SUPER CIRCULAR REPLACES COST PRINCIPLES IN CIRCULARS A-21, A-87 & A-122
- SUPER CIRCULAR DOES NOT REPLACE COST PRINCIPLES FOR HOSPITALS
  - STILL 45 C.F.R. PT. 74, APP. E
  - SUPER CIRCULAR APPENDIX IX FOR HOSPITAL COST PRINCIPLES SIMPLY REFERENCES PART 74
- GENERAL ALLOWABILITY FACTORS (§ 403) SAME AS UNDER EXISTING CIRCULARS
- SPECIFIC ITEMS OF COST
  - STATED INTENT WAS NOT CHANGE GENERAL ALLOWABILITY OF ITEMS IN EXISTING CIRCULARS
  - HOWEVER, TREATMENT IN SOME INSTANCE MAY DIFFER
  - STILL SOME ENTITY-BASED DIFFERENCES

## COST PRINCIPLES

- SPECIFIC PROHIBITION AGAINST PROFIT (§ 400)
- SUPER CIRCULAR COST PRINCIPLES INCLUDES COMPREHENSIVE LIST OF PRIOR WRITTEN APPROVAL REQUIREMENTS (§ 407)
- SUPER CIRCULAR COST PRINCIPLES CLARIFY DIRECT CHARGING OF ADMINISTRATIVE COSTS (§ 413)
  - SERVICES ARE INTEGRAL TO ACTIVITY
  - INDIVIDUALS CAN BE SPECIFICALLY IDENTIFIED WITH PROJECT
  - COSTS SPECIFICALLY INCLUDED IN BUDGET OR PRIOR WRITTEN APPROVAL
  - NOT RECOVERED AS INDIRECT COSTS
- CHANGES TO INDIRECT COSTS (§ 414)

## COST PRINCIPLES

- IN GENERAL, ALL FEDERAL AGENCIES MUST ACCEPT ENTITY'S NEGOTIATED INDIRECT COST RATE
  - EXCEPTION WHEN STATUTE REQUIRES DIFFERENT RATE
  - EXCEPTION WHEN DIFFERENT RATE APPROVED BASED DOCUMENTED PROGRAM-RELATED JUSTIFICATION
- NEW DE MINIMIS INDIRECT COST RATE: 10%
- ONE TIME EXTENSION OF NEGOTIATED INDIRECT COST RATE
  - UP TO 4 YEARS
  - CAN BE LESS THAN 4 YEARS

## COST PRINCIPLES

- SUPER CIRCULAR COST PRINCIPLES CONTAIN CERTIFICATION REQUIREMENT (§ 415)
  - CERTIFICATION BY OFFICIAL AUTHORIZED TO LEGALLY BIND ENTITY
  - REFERENCE TO FALSE CLAIMS ACT
- REMINISCENT OF SARBANES-OXLEY OR FORM 990 CERTIFICATIONS

## COST PRINCIPLES

- SELECTED ITEMS OF COST
  - ADVERTISING AND PUBLIC RELATIONS (§ 421)
  - COLLECTION OF IMPROPER PAYMENTS (§ 428)
  - CONFERENCES (§ 432)
    - IDENTIFICATION OF LOCAL DEPENDENT CARE RESOURCES
    - COMPARE TEMPORARY DEPENDENT CARE COSTS UNDER TRAVEL COSTS (§ 474)
  - CONTINGENCY PROVISIONS (§ 433)
  - IDLE FACILITIES AND IDLE CAPACITY (§ 446)
  - SUPPLIES (§ 453)
    - INCLUDES COMPUTERS BELOW EQUIPMENT THRESHOLD (\$5,000)
    - SEE ALSO § 20 DEFINING "COMPUTING DEVICE"
  - PROPOSAL COSTS (§ 460)

## COST PRINCIPLES

- **COMPENSATION (§ 430)**
  - CHARGES MUST BE BASED ON RECORDS THAT ACCURATELY REFLECT WORK PERFORMED
    - SYSTEM OF INTERNAL CONTROLS PROVIDING REASONABLE ASSURANCE ACCURATE, ALLOWABLE & PROPERLY ALLOCATED CHARGES
    - INCORPORATED INTO ENTITY'S OFFICIAL RECORDS
    - REASONABLY REFLECTS TOTAL ACTIVITY FOR WHICH EMPLOYEE COMPENSATED
    - INCLUDES FEDERALLY ASSISTED AND NON-FEDERALLY COMPENSATED ACTIVITIES
    - COMPLIES WITH ENTITY'S ESTABLISHED ACCOUNTING POLICIES
    - SUPPORTS DISTRIBUTION OF EMPLOYEE'S ACTIVITIES OR COST OBJECTIVES
    - MAY USE BUDGET ESTIMATES IF REASONABLE APPROXIMATION AND AFTER-THE-FACT RECONCILIATION & ADJUSTMENT
  - GOVERNMENTS MAY USE APPROVED SUBSTITUTE SYSTEMS THAT INCLUDE SAMPLING
  - BLENDED FUNDING MAY USE PERFORMANCE-BASED METRICS IF APPROVED IN ADVANCE BY ALL AWARDING AGENCIES
  - DO NOT NEED TO USE PERSONNEL ACTIVITY REPORTS (BUT MAY BE REQUIRED IF SYSTEM DOES NOT MEET § 430 STANDARDS)

## COST PRINCIPLES

- **FRINGE BENEFITS (§ 431)**
  - REQUIRES GAAP FOR ACCRUAL COST METHOD
  - SPECIFICALLY MENTIONS FAMILY-RELATED LEAVE
- **EMPLOYEE HEALTH AND WELFARE COSTS (§ 437)**
  - NO "MORALE" PROVISION
  - HOWEVER, "COSTS INCURRED IN ACCORDANCE WITH THE NON-FEDERAL ENTITY'S DOCUMENTED POLICIES FOR THE IMPROVEMENT OF WORKING CONDITIONS, EMPLOYER-EMPLOYEE RELATIONS, EMPLOYEE HEALTH, AND EMPLOYEE PERFORMANCE ARE ALLOWABLE."
  - ELIMINATION OF "MORALE" SUPPOSED TO BE CONSISTENT WITH ENTERTAINMENT COSTS (§ 438)

## COST PRINCIPLES

- DEFENSE AND PROSECUTION OF CRIMINAL AND CIVIL PROCEEDINGS, CLAIMS, APPEALS & PATENT INFRINGEMENT (§ 435)
  - GENERALLY NOT ALLOWABLE IF CONVICTION OR FINDING OF LIABILITY
  - MAY BE ALLOWABLE IF SETTLE WITH GOVERNMENT OR PREVAIL
- FINES, PENALTIES, DAMAGES & OTHER SETTLEMENTS (§ 442)
  - COSTS ARE UNALLOWABLE
  - SPECIFICALLY INCLUDES TRIBAL LAWS
  - INCLUDES "ALLEGATIONS" OF VIOLATIONS

## AUDITS

- SUPER CIRCULAR SUBPART F (THE 500'S) REPLACES CURRENT OMB CIRCULAR A-133 TO IMPLEMENT REQUIREMENTS OF SINGLE AUDIT ACT
- THREE KEY OBJECTIVES OR OUTCOMES WITH AUDIT GUIDANCE
  - STRENGTH OVERSIGHT AND FOCUS AUDITS ON AREAS OF GREATEST RISK OF WASTE, FRAUD, AND ABUSE
  - INCREASE ACCOUNTABILITY BY MAKING AUDITS PUBLICLY AVAILABLE ONLINE (TRANSPARENCY)
  - ENCOURAGE MORE COOPERATIVE APPROACH TO AUDIT RESOLUTION
- OBJECTIVES ECHO INITIAL ADVANCED NOTICE FROM 2012 ALTHOUGH SPECIFICS DIFFER

## AUDITS

- **SUPER CIRCULAR RAISES AUDIT THRESHOLD ( § 501)**
  - RAISES SINGLE AUDIT THRESHOLD FROM \$500,000 TO \$750,000
  - REJECTED ORIGINAL THREE-TIERED AUDIT STRUCTURE FROM 2012 ADVANCE NOTICE
- **EFFECT OF INCREASING THRESHOLD TO \$750,000**
  - RETAINS SINGLE AUDIT COVERAGE FOR OVER 99% OF FEDERAL FUNDING CURRENTLY SUBJECT TO ACT
  - RETAINS COVERAGE FOR APPROXIMATELY 87% OF ENTITIES CURRENTLY COVERED BY ACT
  - APPROXIMATELY 5,000 ENTITIES NO LONGER SUBJECT SINGLE AUDIT COVERAGE

## AUDITS

- **SUPER CIRCULAR ALSO CHANGES RULES FOR MAJOR PROGRAM DETERMINATIONS AND PERCENTAGE OF COVERAGE ( § 518)**
- **INCREASES TYPE A/B THRESHOLD TO \$750,000 (SAME AS AUDIT THRESHOLD)**
- **PERCENTAGE OF COVERAGE LOWER**
  - DECREASES TO 20% (FROM 25%) FOR LOW-RISK AUDITEE
  - DECREASES TO 40% (FROM 50%) FOR NON-LOW-RISK
- **REDUCES HIGH-RISK TYPE B PROGRAMS TESTED AS MAJOR PROGRAMS TO 25% OF LOW-RISK TYPE A PROGRAMS**
- **THRESHOLD FOR REPORTING FINDINGS FOR QUESTIONED COSTS INCREASES TO \$25,000 ( § 516)**

## AUDITS

- 2013 NOTICE OF PROPOSED GUIDANCE INCLUDED STREAMLINING NUMBER OF COMPLIANCE REQUIREMENTS IN COMPLIANCE SUPPLEMENT FROM 14 TO 7
  - ACTIVITIES ALLOWED OR UNALLOWED (COMBINED WITH ALLOWABLE COSTS/COST PRINCIPLES)
  - CASH MANAGEMENT
  - ELIGIBILITY
  - REPORTING
  - SUBRECIPIENT MONITORING
  - SPECIAL TESTS AND PROVISIONS
- FINAL GUIDANCE DID NOT MAKE CHANGES TO COMPLIANCE SUPPLEMENT

## IMPLEMENTATION AND TIMELINE

- THE FINAL UNIFORM GUIDANCE PUBLISHED IN FEDERAL REGISTER ON DECEMBER 26, 2013 (78 FED. REG. 78589)
- EFFECTIVE DATE
  - SUPER CIRCULAR CURRENTLY EFFECTIVE FOR FEDERAL AGENCIES (AS OF DECEMBER 26, 2013)
  - AGENCIES MUST PROMULGATE REGULATIONS TO APPLY THE SUPER CIRCULAR TO GRANTEEES
    - IN EFFECT BY **DECEMBER 26, 2014**, FOR **NEW AWARDS AND ADDITIONAL FUNDING FOR EXISTING AWARDS**
    - **AUDIT** REQUIREMENTS APPLY FOR **FISCAL YEARS BEGINNING ON OR AFTER DECEMBER 26, 2014**
- FEDERAL AWARDING AGENCIES WORKING WITH OMB THROUGH COFAR TO EXPEDITE PROMULGATION OF IMPLEMENTING REGULATIONS (ANTICIPATED 6 MONTH TIMETABLE)

## QUESTION & ANSWER PERIOD

- WHAT ARE YOUR QUESTIONS?



## CONTACT INFORMATION

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