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SINGLE AUDIT ACT AMENDMENTS OF 1996

JUNE 6, 1996.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CLINGER, from the Committee on Government Reform and Oversight, submitted the following

R E P O R T

[To accompany H.R. 3184]

[Including cost estimate of the Congressional Budget Office]

The Committee on Government Reform and Oversight, to whom was referred the bill (H.R. 3184) to streamline and improve the effectiveness of chapter 75 of title 31, United States Code (commonly referred to as the "Single Audit Act"), having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; PURPOSES.

(a) SHORT TITLE.—This Act may be cited as the "Single Audit Act Amendments of 1996".

(b) PURPOSES.—The purposes of this Act are to—

(1) promote sound financial management, including effective internal controls, with respect to Federal awards administered by non-Federal entities;

(2) establish uniform requirements for audits of Federal awards administered by non-Federal entities;

(3) promote the efficient and effective use of audit resources;

(4) reduce burdens on State and local governments, Indian tribes, and nonprofit organizations; and

(5) ensure that Federal departments and agencies, to the maximum extent practicable, rely upon and use audit work done pursuant to chapter 75 of title 31, United States Code (as amended by this Act).

SEC. 2. AMENDMENT TO TITLE 31, UNITED STATES CODE.

Chapter 75 of title 31, United States Code, is amended to read as follows:

"CHAPTER 75—REQUIREMENTS FOR SINGLE AUDITS

"§ 7501. Definitions

"(a) As used in this chapter, the term—

"(1) 'Comptroller General' means the Comptroller General of the United States;

"(2) 'Director' means the Director of the Office of Management and Budget;

"(3) 'Federal agency' has the same meaning as the term 'agency' in section 551(1) of title 5;

"(4) 'Federal awards' means Federal financial assistance and Federal cost-reimbursement contracts that non-Federal entities receive directly from Federal awarding agencies or indirectly from pass-through entities;

"(5) 'Federal financial assistance' means assistance that non-Federal entities receive or administer in the form of grants, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, or other assistance, but does not include amounts received as reimbursement for services rendered to individuals in accordance with guidance issued by the Director;

"(6) 'Federal program' means all Federal awards to a non-Federal entity assigned a single number in the Catalog of Federal Domestic Assistance or encompassed in a group of numbers or other category as defined by the Director;

"(7) 'generally accepted government auditing standards' means the government auditing standards issued by the Comptroller General;

"(8) 'independent auditor' means—

"(A) an external State or local government auditor who meets the independence standards included in generally accepted government auditing standards; or

"(B) a public accountant who meets such independence standards;

"(9) 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

"(10) 'internal controls' means a process, effected by an entity's management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

"(A) Effectiveness and efficiency of operations.

"(B) Reliability of financial reporting.

"(C) Compliance with applicable laws and regulations;

"(11) 'local government' means any unit of local government within a State, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, any other instrumentality of local government and, in accordance with guidelines issued by the Director, a group of local governments;

"(12) 'major program' means a Federal program identified in accordance with risk-based criteria prescribed by the Director under this chapter, subject to the limitations described under subsection (b);

"(13) 'non-Federal entity' means a State, local government, or nonprofit organization;

"(14) 'nonprofit organization' means any corporation, trust, association, cooperative, or other organization that—

"(A) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

"(B) is not organized primarily for profit; and

"(C) uses net proceeds to maintain, improve, or expand the operations of the organization;

"(15) 'pass-through entity' means a non-Federal entity that provides Federal awards to a subrecipient to carry out a Federal program;

"(16) 'program-specific audit' means an audit of one Federal program;

"(17) 'recipient' means a non-Federal entity that receives awards directly from a Federal agency to carry out a Federal program;

"(18) 'single audit' means an audit, as described under section 7502(d), of a non-Federal entity that includes the entity's financial statements and Federal awards;

"(19) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian tribe; and

"(20) 'subrecipient' means a non-Federal entity that receives Federal awards through another non-Federal entity to carry out a Federal program, but does not include an individual who receives financial assistance through such awards.

"(b) In prescribing risk-based program selection criteria for major programs, the Director shall not require more programs to be identified as major for a particular non-Federal entity, except as prescribed under subsection (c) or as provided under subsection (d), than would be identified if the major programs were defined as any program for which total expenditures of Federal awards by the non-Federal entity during the applicable year exceed—

"(1) the larger of $30,000,000 or 0.15 percent of the non-Federal entity's total Federal expenditures, in the case of a non-Federal entity for which such total expenditures for all programs exceed $10,000,000,000;

"(2) the larger of $3,000,000, or 0.30 percent of the non-Federal entity's total Federal expenditures, in the case of a non-Federal entity for which such total expenditures for all programs exceed $100,000,000 but are less than or equal to $10,000,000,000; or

"(3) the larger of $300,000, or 3 percent of such total Federal expenditures for all programs, in the case of a non-Federal entity for which such total expenditures for all programs equal or exceed $300,000 but are less than or equal to $100,000,000.

"(c) When the total expenditures of a non-Federal entity's major programs are less than 50 percent of the non-Federal entity's total expenditures of all Federal awards (or such lower percentage as specified by the Director), the auditor shall select and test additional programs as major programs as necessary to achieve audit coverage of at least 50 percent of Federal expenditures by the non-Federal entity (or such lower percentage as specified by the Director), in accordance with guidance issued by the Director.

"(d) Loan or loan guarantee programs, as specified by the Director, shall not be subject to the application of subsection (b).

"§ 7502. Audit requirements; exemptions

"(a)(1)(A) Each non-Federal entity that expends a total amount of Federal awards equal to or in excess of $300,000 or such other amount specified by the Director under subsection (a)(3) in any fiscal year of such non-Federal entity shall have either a single audit or a program-specific audit made for such fiscal year in accordance with the requirements of this chapter.

"(B) Each such non-Federal entity that expends Federal awards under more than one Federal program shall undergo a single audit in accordance with the requirements of subsections (b) through (i) of this section and guidance issued by the Director under section 7505.

"(C) Each such non-Federal entity that expends awards under only one Federal program and is not subject to laws, regulations, or Federal award agreements that require a financial statement audit of the non-Federal entity, may elect to have a program-specific audit conducted in accordance with applicable provisions of this section and guidance issued by the Director under section 7505.

"(2)(A) Each non-Federal entity that expends a total amount of Federal awards of less than $300,000 or such other amount specified by the Director under subsection (a)(3) in any fiscal year of such entity, shall be exempt for such fiscal year from compliance with—

"(i) the audit requirements of this chapter; and

"(ii) any applicable requirements concerning financial audits contained in Federal statutes and regulations governing programs under which such Federal awards are provided to that non-Federal entity.

"(B) The provisions of subparagraph (A)(ii) of this paragraph shall not exempt a non-Federal entity from compliance with any provision of a Federal statute or regulation that requires such non-Federal entity to maintain records concerning Federal awards provided to such non-Federal entity or that permits a Federal agency, pass-through entity, or the Comptroller General access to such records.

"(3) Every 2 years, the Director shall review the amount for requiring audits prescribed under paragraph (1)(A) and may adjust such dollar amount consistent with the purposes of this chapter, provided the Director does not make such adjustments below $300,000.

"(b)(1) Except as provided in paragraphs (2) and (3), audits conducted pursuant to this chapter shall be conducted annually.

"(2) A State or local government that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits less frequently than annually, is permitted to undergo its audits pursuant to this chapter biennially. Audits conducted biennially under the provisions of this paragraph shall cover both years within the biennial period.

"(3) Any nonprofit organization that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, is permitted to undergo its audits pursuant to this chapter biennially. Audits conducted biennially under the provisions of this paragraph shall cover both years within the biennial period.

"(c) Each audit conducted pursuant to subsection (a) shall be conducted by an independent auditor in accordance with generally accepted government auditing standards, except that, for the purposes of this chapter, performance audits shall not be required except as authorized by the Director.

"(d) Each single audit conducted pursuant to subsection (a) for any fiscal year shall—

"(1) cover the operations of the entire non-Federal entity; or

"(2) at the option of such non-Federal entity such audit shall include a series of audits that cover departments, agencies, and other organizational units which expended or otherwise administered Federal awards during such fiscal year provided that each such audit shall encompass the financial statements and schedule of expenditures of Federal awards for each such department, agency, and organizational unit, which shall be considered to be a non-Federal entity.

"(e) The auditor shall—

"(1) determine whether the financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles;

"(2) determine whether the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the financial statements taken as a whole;

"(3) with respect to internal controls pertaining to the compliance requirements for each major program—

"(A) obtain an understanding of such internal controls;

"(B) assess control risk; and

"(C) perform tests of controls unless the controls are deemed to be ineffective; and

"(4) determine whether the non-Federal entity has complied with the provisions of laws, regulations, and contracts or grants pertaining to Federal awards that have a direct and material effect on each major program.

"(f)(1) Each Federal agency which provides Federal awards to a recipient shall—

"(A) provide such recipient the program names (and any identifying numbers) from which such awards are derived, and the Federal requirements which govern the use of such awards and the requirements of this chapter; and

"(B) review the audit of a recipient as necessary to determine whether prompt and appropriate corrective action has been taken with respect to audit findings, as defined by the Director, pertaining to Federal awards provided to the recipient by the Federal agency.

"(2) Each pass-through entity shall—

"(A) provide such subrecipient the program names (and any identifying numbers) from which such assistance is derived, and the Federal requirements which govern the use of such awards and the requirements of this chapter;

"(B) monitor the subrecipient's use of Federal awards through site visits, limited scope audits, or other means;

"(C) review the audit of a subrecipient as necessary to determine whether prompt and appropriate corrective action has been taken with respect to audit findings, as defined by the Director, pertaining to Federal awards provided to the subrecipient by the pass-through entity; and

"(D) require each of its subrecipients of Federal awards to permit, as a condition of receiving Federal awards, the independent auditor of the pass-through entity to have such access to the subrecipient's records and financial statements as may be necessary for the pass-through entity to comply with this chapter.

"(g)(1) The auditor shall report on the results of any audit conducted pursuant to this section, in accordance with guidance issued by the Director.

"(2) When reporting on any single audit, the auditor shall include a summary of the auditor's results regarding the non-Federal entity's financial statements, internal controls, and compliance with laws and regulations.

"(h) The non-Federal entity shall transmit the reporting package, which shall include the non-Federal entity's financial statements, schedule of expenditures of Federal awards, corrective action plan defined under subsection (i), and auditor's reports developed pursuant to this section, to a Federal clearinghouse designated by the Director, and make it available for public inspection within the earlier of—

"(1) 30 days after receipt of the auditor's report; or

"(2)(A) for a transition period of at least 2 years after the effective date of the Single Audit Act Amendments of 1996, as established by the Director, 13 months after the end of the period audited; or

"(B) for fiscal years beginning after the period specified in subparagraph (A), 9 months after the end of the period audited, or within a longer timeframe authorized by the Federal agency, determined under criteria issued under section 7504, when the 9-month timeframe would place an undue burden on the non-Federal entity.

"(i) If an audit conducted pursuant to this section discloses any audit findings, as defined by the Director, including material noncompliance with individual compliance requirements for a major program by, or reportable conditions in the internal controls of, the non-Federal entity with respect to the matters described in subsection (e), the non-Federal entity shall submit to Federal officials designated by the Director, a plan for corrective action to eliminate such audit findings or reportable conditions or a statement describing the reasons that corrective action is not necessary. Such plan shall be consistent with the audit resolution standard promulgated by the Comptroller General (as part of the standards for internal controls in the Federal Government) pursuant to section 3512(c).

"(j) The Director may authorize pilot projects to test alternative methods of achieving the purposes of this chapter. Such pilot projects may begin only after consultation with the Chair and Ranking Minority Member of the Committee on Governmental Affairs of the Senate and the Chair and Ranking Minority Member of the Committee on Government Reform and Oversight of the House of Representatives.

"§ 7503. Relation to other audit requirements

"(a) An audit conducted in accordance with this chapter shall be in lieu of any financial audit of Federal awards which a non-Federal entity is required to undergo under any other Federal law or regulation. To the extent that such audit provides a Federal agency with the information it requires to carry out its responsibilities under Federal law or regulation, a Federal agency shall rely upon and use that information.

"(b) Notwithstanding subsection (a), a Federal agency may conduct or arrange for additional audits which are necessary to carry out its responsibilities under Federal law or regulation. The provisions of this chapter do not authorize any non-Federal entity (or subrecipient thereof) to constrain, in any manner, such agency from carrying out or arranging for such additional audits, except that the Federal agency shall plan such audits to not be duplicative of other audits of Federal awards.

"(c) The provisions of this chapter do not limit the authority of Federal agencies to conduct, or arrange for the conduct of, audits and evaluations of Federal awards, nor limit the authority of any Federal agency Inspector General or other Federal official.

"(d) Subsection (a) shall apply to a non-Federal entity which undergoes an audit in accordance with this chapter even though it is not required by section 7502(a) to have such an audit.

"(e) A Federal agency that provides Federal awards and conducts or arranges for audits of non-Federal entities receiving such awards that are in addition to the audits of non-Federal entities conducted pursuant to this chapter shall, consistent with other applicable law, arrange for funding the full cost of such additional audits. Any such additional audits shall be coordinated with the Federal agency determined

under criteria issued under section 7504 to preclude duplication of the audits conducted pursuant to this chapter or other additional audits.

"(f) Upon request by a Federal agency or the Comptroller General, any independent auditor conducting an audit pursuant to this chapter shall make the auditor's working papers available to the Federal agency or the Comptroller General as part of a quality review, to resolve audit findings, or to carry out oversight responsibilities consistent with the purposes of this chapter. Such access to auditor's working papers shall include the right to obtain copies.

"§ 7504. Federal agency responsibilities and relations with non-Federal entities

"(a) Each Federal agency shall, in accordance with guidance issued by the Director under section 7505, with regard to Federal awards provided by the agency—

"(1) monitor non-Federal entity use of Federal awards, and

"(2) assess the quality of audits conducted under this chapter for audits of entities for which the agency is the single Federal agency determined under subsection (b).

"(b) Each non-Federal entity shall have a single Federal agency, determined in accordance with criteria established by the Director, to provide the non-Federal entity with technical assistance and assist with implementation of this chapter.

"(c) The Director shall designate a Federal clearinghouse to—

"(1) receive copies of all reporting packages developed in accordance with this chapter;

"(2) identify recipients that expend $300,000 or more in Federal awards or such other amount specified by the Director under section 7502(a)(3) during the recipient's fiscal year but did not undergo an audit in accordance with this chapter; and

"(3) perform analyses to assist the Director in carrying out responsibilities under this chapter.

"§ 7505. Regulations

"(a) The Director, after consultation with the Comptroller General, and appropriate officials from Federal, State, and local governments and nonprofit organizations shall prescribe guidance to implement this chapter. Each Federal agency shall promulgate such amendments to its regulations as may be necessary to conform such regulations to the requirements of this chapter and of such guidance.

"(b)(1) The guidance prescribed pursuant to subsection (a) shall include criteria for determining the appropriate charges to Federal awards for the cost of audits. Such criteria shall prohibit a non-Federal entity from charging to any Federal awards—

"(A) the cost of any audit which is—

"(i) not conducted in accordance with this chapter; or

"(ii) conducted in accordance with this chapter when expenditures of Federal awards are less than amounts cited in section 7502(a)(1)(A) or specified by the Director under section 7502(a)(3), except that the Director may allow the cost of limited scope audits to monitor subrecipients in accordance with section 7502(f)(2)(B); and

"(B) more than a reasonably proportionate share of the cost of any such audit that is conducted in accordance with this chapter.

"(2) The criteria prescribed pursuant to paragraph (1) shall not, in the absence of documentation demonstrating a higher actual cost, permit the percentage of the cost of audits performed pursuant to this chapter charged to Federal awards, to exceed the ratio of total Federal awards expended by such non-Federal entity during the applicable fiscal year or years, to such non-Federal entity's total expenditures during such fiscal year or years.

"(c) Such guidance shall include such provisions as may be necessary to ensure that small business concerns and business concerns owned and controlled by socially and economically disadvantaged individuals will have the opportunity to participate in the performance of contracts awarded to fulfill the audit requirements of this chapter.

"§ 7506. Monitoring responsibilities of the Comptroller General

"(a) The Comptroller General shall review provisions requiring financial audits of non-Federal entities that receive Federal awards that are contained in bills and resolutions reported by the committees of the Senate and the House of Representatives.

"(b) If the Comptroller General determines that a bill or resolution contains provisions that are inconsistent with the requirements of this chapter, the Comptroller General shall, at the earliest practicable date, notify in writing—

"(1) the committee that reported such bill or resolution; and

"(2)(A) the Committee on Governmental Affairs of the Senate (in the case of a bill or resolution reported by a committee of the Senate); or

"(B) the Committee on Government Reform and Oversight of the House of Representatives (in the case of a bill or resolution reported by a committee of the House of Representatives).

"§ 7507. Effective date

"This chapter shall apply to any non-Federal entity with respect to any of its fiscal years which begin after June 30, 1996.".

SEC. 3. TRANSITIONAL APPLICATION.

Subject to section 7507 of title 31, United States Code (as amended by section 2 of this Act), the provisions of chapter 75 of such title (before amendment by section 2 of this Act) shall continue to apply to any State or local government with respect to any of its fiscal years beginning before July 1, 1996.

SHORT SUMMARY OF LEGISLATION

This bill amends the Single Audit Act of 1984 (P.L. 98–502) to reduce the burden on State and local governments and nonprofit organizations and improve the effectiveness of oversight of Federal assistance.

The "Single Audit Act Amendments of 1996" (H.R. 3184) amends the Single Audit Act of 1984 (P.L. 98–502). The 1984 Act replaced multiple grant-by-grant audits of Federal assistance programs with an annual entity-wide audit process for State and local governments that receive Federal financial assistance. H.R. 3184 streamlines the Act, updates its requirements, and provides for more flexibility both in compliance and administration. The bill's major reforms would:

1. *Enhance Audit Coverage.*—The bill would enhance single audit coverage and simplify Federal rules by placing State and local governments and colleges and universities and other nonprofit grantees under the same single audit process.

2. *Reduce Burdens.*—The bill would raise the single audit threshold from $100,000 to $300,000. It would also eliminate the $25,000 threshold for requiring that entities either have the financial audits required by the laws governing Federal financial assistance or a single audit under the Act. These changes would reduce audit and paperwork burdens, while preserving audit coverage of the vast majority of Federal assistance.

3. *Increase Audit Effectiveness.*—The bill would establish a risk-based approach for selecting programs for detailed audit testing, rather than relying solely on dollar criteria.

4. *Improve Single Audit Reporting.*—The bill would improve the contents and timeliness of single audit reports to make them more useful.

5. *Increase Administrative Flexibility.*—The bill would provide more flexibility for the Office of Management and Budget (OMB) to revise specific requirements within the single audit statutory framework.

In sum, the legislation would improve accountability for hundreds of billions of dollars of Federal assistance, while at the same time reducing auditing and paperwork burdens on grant recipients.

I. Background and Need for the Legislation

A. Background

The Single Audit Act of 1984 (the Act) was designed to improve accountability over the Federal assistance provided annually to State and local governments, which was approximately $225 billion for fiscal year 1995. The Act established a structured approach of entity-wide audits to simplify overlapping audit requirements and improve grantee-organization administrative controls. This change eliminated serious gaps in audit coverage and reduced duplication of audit effort.

The Act also prompted improvements in State and local governments' financial management over Federal assistance. The Act did so by placing responsibilities on the audited entities and their auditors. For example, it requires entities to prepare financial statements, arrange for an audit, and develop corrective action plans to resolve audit findings. The Act requires auditors to expand a traditional financial statement audit to include additional testing of the entity's internal controls over Federal programs and the entity's compliance with requirements for those programs.

The Act is built on the premise that prevention, rather than detection, of problems is of utmost importance. Consequently, the auditor reporting on internal controls over Federal assistance and the entity developing corrective action plans to fix problems are particularly important features. Over time, such actions will lead to fewer problems involving the administration of Federal assistance and strengthened accountability over such assistance.

The Congress established a $100,000 threshold in the 1984 Act, based upon the amount of Federal assistance an entity received during a year either directly from the Federal Government or passed through another non-Federal entity, to determine whether an entity would be required to have a single audit. The threshold of $100,000 for requiring a single audit was based on the premise that 95 percent of direct Federal assistance to local governments would be subject to audit. An entity that receives $25,000 to $100,000 must arrange for either a financial audit or a financial and compliance audit in accordance with the laws and regulations governing the Federal programs under which it receives financial assistance, or a comprehensive single audit of the entire entity. Many entities that receive $25,000 to $100,000 opt for a single audit. Since the thresholds are established in the Act, they can only be changed by amending the Act.

Single audits are designed to give program managers and others reasonable assurance about an entity's management of Federal programs and, when necessary, to provide the foundation for other oversight activities, including program manager reviews, additional audits, or investigations. The Act specifically preserves Federal agencies' rights to build on the results of single audits, including the right to review and obtain copies of auditors' working papers for purposes consistent with the intent of the Act.

B. Legislative history

Prior to the passage of the Single Audit Act, multiple grant-by-grant audits had produced inefficiency and duplication of audit ef-

forts. There was a myriad of overlapping, inconsistent, and duplicative Federal requirements for audits of individual programs. The Single Audit Act eliminated this disparate approach, replacing it with a comprehensive, organization-wide approach to the audit (hence the term "single audit"). It also provides uniform requirements for the single audit.

The Single Audit Act of 1984 required the Director of the Office of Management and Budget (OMB) to prescribe policies, procedures, and guidelines to implement the Act. OMB Circular A–128, "Audits of State and Local Governments," (Circular A–128) provides this guidance. During Congressional consideration of the Single Audit Act, Congress agreed to exclude most colleges and universities from coverage under the Single Audit Act of 1984. In return, OMB agreed to develop an audit policy for colleges and universities, and at the request of the Inspectors General, agreed to extend these audit policies to other nonprofit organizations not covered by Circular A–128. In 1990 OMB issued Circular A–133, "Audits of Institutions of Higher Education and Other Non-Profit Organizations," (Circular A–133) which used the single audit approach and provided guidance for an organization-wide audit of these organizations.

OMB issued a revised Circular A–133 on April 19, 1996. The circular, effective for fiscal years ending on or after June 30, 1997, is consistent with the provisions of H.R. 3184 except that State and local governments are not included. If H.R. 3184 becomes law, OMB plans to revise the circular to provide uniform guidance for both State and local governments and nonprofit recipients of Federal assistance, effectively eliminating the need for Circular A–128.

On January 29, 1996 Mr. Anthony Verdecchia, President of the National State Auditors Association and Legislative Auditor of Maryland, submitted a letter to Representative Horn, Chairman of the Subcommittee on Government Management, Information, and Technology stating that ". . . the Association has voted unanimously to support the proposed bill to amend the Single Audit Act of 1984". Mr. Verdecchia's letter also stated that ". . . the proposed legislation is an excellent measure that deserves to be passed into law as soon as possible." On February 12, 1996, Mr. Ronald Jones, Chief Examiner of Public Accounts, State of Alabama, sent a letter to Representative Horn urging support of the proposed amendments. He stated that the proposed revisions would reduce burdens on State and local governments and nonprofit organizations and would promote the efficient and effective use of audit resources. The legislation was also endorsed by Valerie Lau, Audit Committee Chair of the President's Council on Integrity and Efficiency, which comprises Federal agency Inspectors General who are Presidentially appointed; Milton Goldberg, President of the Council on Governmental Relations; Carmen Delgado Votaw, Chair of the Human Services Forum on Governmental Relations (an affinity group of the National Assembly of National Voluntary Health and Welfare Organizations); Charles L. Lester, Auditor General of the State of Florida; and Barbara Hafer, Auditor General of the Commonwealth of Pennsylvania.

On March 28, 1996, Representative Horn introduced H.R. 3184, co-sponsored by Representatives Clinger, Davis, Maloney and Peterson of Minnesota.

C. Need for the legislation

Followingits enactment in 1984, some problems with the Single Audit Act emerged. The $100,000 threshold resulted in approximately 98 percent of Federal assistance being audited, instead of the 95 percent that it was intended to cover. Also, program managers were concerned because the single audits did not appear to provide much detailed coverage of their particular programs, especially if the dollar amount was such that the program was not considered to be a major program.

In 1990, the General Accounting Office began a study of the effectiveness of the Single Audit Act at the request of the Senate Committee on Governmental Affairs and issued a report entitled "Single Audit—Refinements Can Improve Usefulness" in June 1994. The purposes of the study were to illustrate the influence of the Act on the financial management practices of State and local governmental entities receiving Federal funds; identify issues that burden the current single audit process and limit the usefulness of the single audit reports; and develop workable solutions to improve the single audit process.

The standards subcommittee of the President's Council on Integrity and Efficiency (PCIE), released its "Study on Improving the Single Audit Process" in September 1993. Single audit participants (Federal, State and local program managers, State auditors, independent public accountants, and Inspectors General) had raised concerns about some aspects of single audit implementation, and in response, the PCIE sent out questionnaires and developed a report from the results. All groups agreed that the single audit had improved the approach to auditing Federal assistance.

The National State Auditors Association (NSAA) also conducted a survey of its members in 1991, and used the results of that survey to develop a position paper, released in 1993. The survey found that NSAA members thought the Act was an effective piece of legislation that improves overall accountability and internal controls over Federal funds, and provides an effective mechanism to determine compliance with applicable Federal program laws and regulations. NSAA believed the Act provided information to Federal program managers in a cost effective manner and strengthened general fiscal accountability through all levels and units of government.

The results of these studies indicated that the Single Audit Act is working, and has caused improvements in financial management practices. However, the studies also indicated that a number of issues burden the single audit process, hinder the usefulness of the reports required by it, and limit its impact. They all agreed that changes could improve the implementation of the Act.

In December 1995, the Senate Committee on Governmental Affairs held a hearing at which witnesses testified regarding the need to improve the single audit process. On February 27, 1996, Senator Glenn introduced a bill, S. 1579, Single Audit Act Amendments of

1996, which takes into account the recommendations presented in the studies.

II. Legislative Hearings and Committee Actions

Representative Horn, Chairman of the House Subcommittee on Government Management, Information, and Technology, introduced H.R. 3184 on March 28, 1996. The Subcommittee held a legislative hearing on March 29, 1996.

The bill was marked up in the Subcommittee on Government Management, Information, and Technology on April 18, 1996. Two amendments were offered. One, offered by Subcommittee Chairman Horn, was a technical correction to correct an error in a section reference. The second, offered by Ranking Minority Member Maloney, was a technical amendment to strike duplicative wording related to the definition of property from the definitions section. Both amendments were considered and adopted by voice vote without objection. The legislation, as amended, passed the Subcommittee unanimously by voice vote.

The House Committee on Government Reform and Oversight met on April 24, 1996, to consider H.R. 3184. The bill was favorably reported to the House of Representatives unanimously by voice vote and without amendment by the full Committee.

III. Committee Hearings and Written Testimony

On March 29, 1996, the Subcommittee on Government Management, Information, and Technology of the Committee on Government Reform and Oversight, met pursuant to notice. The purpose of the hearing was to solicit comments from interested parties on H.R. 3184, the "Single Audit Act Amendments of 1996." Witnesses testified concerning what the Single Audit Act of 1984 had achieved; the benefits of the Act; the reasons changes were needed; what the Single Audit Act Amendments of 1996 would do, and the anticipated benefits of the amendments. In addition, several witnesses mentioned that the amendments would aid compliance with the government-wide audit requirements of the Government Management Reform Act of 1994 (P.L. 103–356).

Subcommittee Chairman Horn stated at the opening of the hearing that the bill provided administrative flexibility to current statutory requirements and allowed a more efficient and cost-effective audit approach. The passage of the legislation would reduce unnecessary audit burdens on recipients of Federal assistance while ensuring that accountability for the use of Federal funds is maintained. Representative Maloney expressed her support for the legislation. Representative Peterson, stated that the Single Audit Act had served a good purpose and noted that it needed to be updated. He cited a concern with the provision in the bill that allowed Federal agencies or the Comptroller General the right to obtain copies of working papers in order to build upon the work done under the Single Audit Act.

All of the witnesses testifying at the hearing agreed that the amendments would maintain accountability for Federal assistance, and supported the enhanced flexibility provided in the amendments.

Mr. Edward DeSeve, Controller, Office of Federal Financial Management, Office of Management and Budget (OMB), emphasized the importance to the Federal Government of having assurance that programs are being carried out in accordance with statutory requirements, and that they are being managed economically and efficiently by grantees. Mr. DeSeve supported the addition of nonprofit organizations and shortening the time frame for submission of reports. He suggested that increasing the threshold and providing the Director of OMB with authority to reassess the threshold periodically and increase it if necessary would be an improvement.

Mr. Gene Dodaro, Assistant Comptroller General, General Accounting Office, emphasized that, even with the threshold being raised, entities that are not required to have an audit will still be required to maintain accurate records and reports and could be subject to regular monitoring. He noted that the amendments enjoy wide support among the Federal and State audit community and many other interested parties. He stated that reducing the deadline for completing audits from thirteen months to nine months took into account current conditions, while allowing those organizations that could complete the audits sooner to do so. Mr. Dodaro suggested that the requirement to have a report summary would eliminate the need for program managers to have to wade through multiple reports and try to ferret out the significant findings. He added that this would enhance the usefulness of the reports.

The GAO strongly supported the amendments that would allow auditors to build upon the audits already completed by allowing access to working papers and the right to obtain copies of those working papers. Mr. Dodaro, during questioning, explained that such requests should be part of a targeted approach to build upon prior audit work, to eliminate the need for duplication of effort, and enhance efficiency in audits. He noted that this was the intent of the 1984 Act. This access was not intended to allow auditors to make blanket requests for copies of all working papers. The Committee notes that there have been some problems in the past with Federal audit reviewers not being able to obtain copies of the working papers they needed.

Mr. Randy Main, Vice President and Chief Financial Officer of the Fred Hutchinson Cancer Research Institute and representing the Association of Independent Research Institutes, stated that the amendments would further reduce unnecessary duplication of effort. He noted that H.R. 3184 would give greater flexibility to grantees when monitoring subrecipients, that is, organizations that receive "pass-through" Federal funds from the original grantee. Mr. Main hoped that OMB and nonprofit organizations could work together to develop reasonable audit standards for the monitoring of subrecipients. The Committee is aware that the subrecipient monitoring described in the proposed legislation could present problems for smaller organizations that pass through Federal funds to other organizations. OMB should in promulgating the legislation take into consideration various methods of accomplishing the objective of subrecipient monitoring.

Mr. Anthony Verdecchia, Legislative Auditor of Maryland, testified that the National State Auditors Association, of which he is president, unanimously supports the proposed legislation to amend

the Single Audit Act of 1984. He stated in his oral testimony that, "The proposed legislation is nothing less than good government legislation developed by consensus." The NSAA provided input through its study issued in 1993 and, through its single audit committee, by working with the drafters of this legislation. He cited the amendments as an excellent example of what a cooperative Federal-State partnership can accomplish.

Mr. Kurt Sjoberg, California State Auditor and Chairman, Single Audit Committee, National State Auditors Association cited the threshold increase, the change in definition of a major grant, the risk-based auditing option, and the option to conduct performance audits as major benefits of the proposed legislation. California has been doing performance audits since 1969 and has four pilot departments that use performance-based budgeting. He cited California's own experience in which nine dollars had been returned to the State for every dollar invested in a performance audit.

In response to a question from Representative Maloney about possible waivers to the nine month audit completion deadline, Mr. Sjoberg explained that, while some States would require immense and very expensive effort to comply with the nine month requirement, all were committed to working towards that goal. In fact, several witnesses embraced an eventual goal of six months. They noted that several years were necessary to reach the goal of more timely audits, and Mr. Verdecchia pointed out that there was a two year phase-in period for the nine month requirement.

In response to questioning from Mr. Horn, Mr. Sjoberg explained that the concept of a build-upon audit, a concept on which the Single Audit is based, could not work if the follow-on auditor could not review and obtain copies of the working papers.

Mr. Ted Sheridan, President, Sheridan Management Corp., representing the Financial Executives Institute, was of the opinion that since the private sector gets its audit reports completed in six months or less, that consideration should be given to shortening the time for submission of the single audit reports. He acknowledged that this may have to be done over time. Regarding access to working papers and obtaining copies of working papers, in his experience, when auditors ask for copies, they generally receive them. There may be situations, however, when pages describing proprietary computer programs may be requested, and in those situations the auditor should respect the fact that these descriptions are proprietary. He added that there ought to be a legitimate reason for the auditor to want copies of the working papers requested. He suggested that the clearinghouse referred to in H.R. 3184 which receives the single audit reports should consider entering them into a database and allowing access to the reports electronically.

The Subcommittee also received written testimony from the President's Council on Integrity and Efficiency (PCIE), and the Council on Governmental Relations (the Council), an organization of research universities. The PCIE expressed its support for the inclusion of nonprofits under the Act, the risk-based approach, the report timing, the additional flexibilities provided to OMB, and the clarification of working paper access. The Council welcomed the bill because it reduces duplication of effort and overlapping requirements for both Federal agencies and recipients of Federal awards.

Two provisions of H.R. 3184 which the Council found especially welcome were the flexibility provided to OMB to streamline the audit process, and the designation of a Federal agency which will assist and advise the grantee rather than act as a "cognizant" agency. A "cognizant agency" means a Federal agency which is assigned by the Director of OMB with the responsibility for implementing the requirements of chapter 75 of title 31 U.S.C. with respect to a particular State or local government. H.R. 3184 eliminates the definition of a cognizant agency and the responsibilities that the cognizant agency had, and instead requires that each non-Federal entity be matched with a Federal agency which can provide it with technical assistance and assist with implementations of chapter 75. There had been confusion concerning the correct designation of and responsibilities of cognizant agencies, and the amendment provides better clarification of a Federal agency's responsibility to a grantee.

IV. Explanation of the Bill

A. OVERVIEW

The Single Audit Act Amendments of 1996 would change the Act in five important ways. It would: (1) enhance audit coverage of Federal assistance; (2) reduce Federal audit burdens on State and local governments and universities and other nonprofit grantee organizations; (3) increase audit effectiveness through a risk-based approach for audit testing; (4) improve the content, timeliness, and utility of single audit reporting; and (5) increase administrative flexibility to modify single audit requirements as conditions change.

1. Enhance audit coverage

The bill would enhance audit coverage of Federal assistance by including in the single audit process all State and local governments and nonprofit organizations that receive Federal assistance. Currently, the Act only applies to State and local governments. Nonprofit organizations are subject administratively to single audits under OMB Circular A–133.

The provisions of Circular A–133 differ in several respects from the Act. For example, different dollar criteria are used to determine which programs must be tested. For entities that expend between $100,000 and $100,000,000 in Federal financial assistance, a major program under the Act is one for which program expenditures exceed the greater of $300,000 or three percent of the entity's expenditures. A major program under Circular A-133 is one for which the nonprofit organization expends the greater of $100,000 or three percent of the organization's Federal program expenditures. Furthermore, there are differences between Circular A–133 and the Act with respect to the definition of a single program and the election of a program-specific audit rather than a single audit if the organization administers only one program.

Including nonprofit organizations under the Act would result in there being only one set of audit requirements if Federal assistance is involved. Thus, Federal assistance would be subject to the same audit provisions regardless of whether it is administered by a State or local government or a nonprofit organization. Consequently,

auditors would no longer be faced with different provisions for conducting single audits depending simply on the type of organization that is audited.

2. Reduce Federal burden

The bill would simultaneously reduce the Federal burden on thousands of State and local governments and nonprofit organizations and their auditors, yet ensure audit coverage over the vast majority of Federal assistance provided to those organizations. It would do so by raising the dollar threshold for requiring a single audit from $100,000 to $300,000. The NSAA raising the dollar threshold for requiring a single audit from $100,000 to $300,000. The NSAA noted that the higher threshold would relieve many State and local governments of Federal audit mandates. Nonetheless, GAO estimated that a $300,000 threshold would cover 95 percent of direct Federal assistance to local governments. The 95 percent coverage is commensurate with the coverage planned at the $100,000 threshold when the Act was passed in 1984. Thus, exempting thousands of entities from single audits would reduce audit and paperwork burdens, but not significantly diminish the percentage of Federal assistance covered by single audits. Entities whose Federal expenditures are less than the $300,000 audit threshold are exempt from Federally mandated financial audit coverage but they still must comply with Federal requirements to maintain records and permit access to records.

The bill would eliminate the $25,000 threshold which requires entities to have a financial audit or a financial and compliance audit in accordance with the laws governing each Federal financial assistance program the entity administers. Thus, the Act would be simplified by having only one audit threshold. Further, entities that expend more than $300,000 in Federal financial assistance would be allowed to arrange for a program-specific audit if the expenditures are under only one Federal program.

3. Increase audit effectiveness

The bill would increase audit effectiveness by directing audit resources to the areas of greatest risk. The National State Auditors Association (NSAA), the President's Council on Integrity and Efficiency and the General Accounting Office all support adoption of a risk-based program selection approach. Currently, auditors must perform audit testing on the largest—but not necessarily the riskiest—programs that an entity administers. The bill would require auditors to assess the risk of an organization's programs and select the riskiest programs for testing. As Anthony Verdecchia, president of NSAA, stated, "It makes good economic sense to concentrate audits where increased corrective action and recoveries are likely to result."

The Act's original program selection criteria was highly effective in ensuring that significant proportions of Federal assistance were subjected to audit testing. The criteria addressed only dollar amounts. Typically, a few programs account for most of the Federal assistance funding. However, using a dollar-based criterion means that the same large programs are likely to be tested each year, and the great majority of programs, which individually are not large in

dollar terms, are unlikely ever to be tested. In 1994, GAO reported that in a sample of single audit reports, only 17 percent of the 526 Federal programs operated by 210 State and local governments met the program selection criteria. But those programs contributed over 90 percent of the $15 billion of Federal expenditures for those governments. Adoption of a risk-based program selection approach would allow auditors to use their professional judgment and target audit resources at the areas presenting the greatest risk to the Federal Government. Over time, a greater proportion of programs will be selected for testing.

The risk-based program selection approach is subject to a limitation on the number of programs that must be tested during an audit. The limitation is designed to preclude a significant increase in the number of programs tested due to the adoption of a risk-based program selection approach. As described above, only a small percentage of programs qualify for testing under the current dollar-driven program selection approach. For a large entity, such as a State Government, hundreds of Federal programs may have received little or no auditor faced with the prospect of having to test many more programs than would have been tested under the dollar-driven approach.

The limitation on the number of programs to be tested is based on the amount of the non-Federal entity's total Federal expenditures and the dollar size of the program. The auditor must determine the number of programs that would meet the dollar criteria specified in H.R. 3184, which then represents the maximum number of programs to be tested. However, the auditor is not required to test the specific programs that make up this number. The auditor can substitute programs selected under the risk-based approach. For example, if an entity operated 60 Federal programs and 20 of those programs met the dollar criterion, then the auditor would have to test a maximum of 20 programs. However, the determination of which programs to test would be based upon risks as discussed above.

H.R. 3184 allows the Director of the Office of Management and Budget to establish criteria under which a group of related programs, such as research and development, student financial aid, or school breakfast and lunch programs, could be considered a single program for audit purposes. Such combinations of similar programs would produce efficiencies in the audit testing of Federal assistance.

Auditors are required to test the internal controls and compliance with laws and regulations that the entity has established for the programs that provide at least 50 percent of the entity's Federal expenditures, or a lesser amount established by the OMB Director. Internal controls are intended to help prevent problems from occurring. Compliance testing includes determining whether the entity complied with specific program requirements, such as participant eligibility and allowability of costs. The results of such tests provide important insights about the entity's management of the programs.

Single audits are intended to facilitate—not inhibit—other oversight activities, including program reviews, additional audits, and investigations of suspect grantees. Single audits will not answer all

questions about an entity's stewardship of Federal programs. Rather, when the audits identify problems with the entity's internal controls, compliance with laws or regulations, or its financial management activities, they can provide leads which prompt follow-on oversight.

Program managers can benefit from single audit reports even if their programs are not tested during the audit. The results of testing of other Federal programs can provide insights into the entity's stewardship over Federal assistance, and the findings can directly result in other audits. For example, the Office of Inspector General of the Department of Health and Human Service conducted audits based upon leads in single audit reports. Those additional audits identified $360 million in cost containment recommendations.

Effective use of single audits is largely dependent upon the ability of Federal agencies to have access to the auditors' working papers which describe the scope of the work and document the results of the work, including any problems found. H.R. 3184 reinforces the Federal Government's right to review and obtain copies of working papers. Such access is necessary for the efficient planning of additional build-upon audit work, to assess the quality of the auditors' work, and to resolve audit findings. The ability to gain access to the working papers and to make copies is important to help Federal agencies use the single audit results in carrying out oversight of Federal programs in the most efficient and effective manner and to assess the quality of the work conducted by non-Federal auditors.

During the April 24th consideration of the bill by the Committee on Government Reform and Oversight, Representative Peterson voiced concerns about the provision allowing Federal reviewers to obtain copies of working papers. He stated that although the provision is appropriate as it relates to Federal programs and to the Act, the provision could be interpreted to require auditors to make available working papers that apply to activities not subject to the Act. These activities could include commercial transactions. His concern was that, in some circumstances, these working papers might contain information which the auditee considered proprietary. He hoped that Federal audit reviewers would be sensitive to this situation.

In response, Subcommittee Chairman Horn noted his agreement that Federal reviewers should be sensitive to an auditor's request for confidentiality when asked to provide copies of working papers, unless they had reason to believe it was covering up some malfeasance.

It is the Committee's intent that Federal agencies be judicious in the exercise of the authority for reviewing and obtaining copies of non-Federal auditor working papers and that release of the working papers should not compromise the confidentiality of proprietary information. It is also the Committee's intent that Federal agencies recognize that working papers may contain trade secrets and confidential commercial and financial information. Any such information obtained from the working papers should be treated as confidential under the Freedom of Information Act.

4. Improve single audit reporting

The bill would greatly improve the usefulness of single audit reports by requiring auditors to provide a summary of audit results which would explain results and findings in clear English. The NSAA position paper on the Single Audit Act, described in § I.C. of this committee report, stated that ". . . the complexity of the reports makes it difficult for the average reader to understand what has been audited and reported." Interpretations of current rules lead auditors to include seven or more separate reports in each single audit report. Such a large number of separate reports tends to confuse rather than to inform users. A summary of the audit results would highlight important information and thus enable users to quickly discern the overall results of an audit. The summary information would supplement rather than supplant the detailed supporting information in the auditors' reports that would be needed to resolve audit findings. Federal managers surveyed by GAO for the 1994 GAO report on the effectiveness of the Single Audit Act, described in § I.C. of this committee report, overwhelmingly supported the summary reporting. They said that summary reporting would save them time and enable them to quickly focus on any problems the auditors found.

The reports would also be due sooner—nine months after the completion of the fiscal year rather than thirteen months as currently required. The timing of the single audit reports was the subject of debate. Federal managers that GAO surveyed strongly supported a shorter time frame of six months. State auditors, who conduct thousands of single audits each year, expressed concern about their ability to complete the audits in the originally proposed time frame but agreed to that the nine-month time frame would allow for thorough examinations.

H.R. 3184 contains two provisions to ameliorate the impact on the auditors of shortening the reporting time frame. First, it requires OMB to establish a transition period of not less than two years for entities to comply with the new reporting time frame. Second, it authorizes Federal agencies to grant waivers to the shortened time frame, if they conclude that such a request is reasonable.

The Committee notes that Comptroller General Bowsher, in his December 14, 1995 testimony before the Senate Committee on Governmental Affairs, stated that ". . . oversight of the hundreds of billions of Federal dollars covered by the single audit process is degraded by reports that are issued more than a year after the end of the period audited. Over time, I hope that it will be the rule, rather than the exception, for the audit reports to be submitted in less than 9 months."

5. Increase administrative flexibility

H.R. 3184 would enable the single audit process to evolve with changing circumstances. For example, rather than lock specific dollar amount audit thresholds into law, OMB would have the authority to revise the audit threshold every two years. However, the threshold cannot be lower than the $300,000 established in this legislation.

The OMB Director could revise criteria for selecting programs for audit testing. The risk-based program selection criteria that OMB would be required to develop under the legislation may need to be changed if Federal programs and funding approaches change. For example, changes in Federal programs to establish standards based on results and outcomes rather than on process and compliance with regulations may necessitate new selection criteria.

The OMB Director would also be authorized to permit pilot projects to test alternative ways of achieving the goals of the single audit process. For example, OMB could permit a State auditor to employ different criteria in using a risk-based approach to select programs for testing, such as selecting a program under a Federal/State performance partnership agreement. The pilot projects would not be OMB-mandated. Rather, it is anticipated that non-Federal entities and their auditors would propose projects. Additionally, the OMB Director would be required to establish criteria for findings that must be reported in single audit reports. Auditors and program managers welcome such a change. Currently, auditors must report all findings—regardless of the significance of the issue or amount of questioned costs that may be involved. For example, documenting and resolving an inconsequential finding, such as a $25 questioned cost or the filing of a Federal report one day after it is due, is expensive and of limited utility in the management of Federal programs.

The bill would delete the requirement that the OMB Director specifically designate the Federal agencies that were to act as "cognizant agencies" for non-Federal grantees. Rather than make specific designations of agencies to provide technical assistance, the OMB Director would be required to prescribe criteria for determining such agencies. The revised approach would enable Federal agencies, non-Federal entities and their auditors to determine the appropriate Federal agency without having to rely on the OMB Director to make specific assignments.

H.R. 3184 authorizes the OMB Director to designate a clearinghouse to accept copies of audit reports prepared in accordance with the Act, to identify those grantees that are subject to the Act but that have not submitted the required single audit reports, and to conduct studies to assist the Director. The Director should share information on grantees that have not complied with the audit provisions of the Act with Federal funding agencies. The Federal funding agencies should take appropriate steps to require the non-Federal entities to comply with the audit provisions. The Director should consider developing guidance that would enforce the requirement that Federal funding agencies follow up on those entities that are subject to the Single Audit Act requirements but are not submitting reports to the clearinghouse.

By giving OMB authority to revise specific requirements within the statutory single audit framework to reflect changing circumstances that affect accountability for Federal assistance, the single audit process can maintain its effectiveness.

H.R. 3184 relieves the OMB Director of submitting an annual report to the Congress on implementation of the Single Audit Act. However, the Director would still be expected to apprise the Congress with respect to problems that arise in implementing the Act's

provisions, such as listing entities that habitually fail to comply with the requirements of the Act and which ignore reminders from the clearinghouse or the Federal funding agency. Such notification could be accomplished under other OMB reporting to the Congress, such as the "Federal Financial Management Status Report and Five-Year Plan" report which is required by the Chief Financial Officers Act.

6. Good Government reform

The Committee believes that the Single Audit Act of 1984 has provided a solid foundation for ensuring accountability for the more than $200 billion provided State and local governments each year by the Federal government. The Act has prompted financial management improvements by those entities. Studies by the GAO, the PCIE, and the NSAA have confirmed this judgment. These studies, however, have also identified areas where the single audit process can be strengthened while reducing the Federal burden on State and local governments and nonprofit organizations.

H.R. 3184 reflects a consensus among various stakeholders, such as the GAO, OMB, and the Federal and state auditor community as to specific changes to improve the 1984 Act. Accordingly, the legislation expands the Act's scope, raises the single audit threshold, establishes a risk-based approach to audit testing, improves the usefulness of reporting, increases administrative flexibility, and otherwise updates and streamlines the Act.

B. SECTION-BY-SECTION ANALYSIS

Section 1. Short title; purposes

Section 1 states the purposes of the Single Audit Act Amendments of 1996: to promote sound financial management, including effective internal controls, with respect to Federal awards administered by non-Federal entities; establish uniform requirements for audits of Federal awards administered by non-Federal entities; promote the efficient and effective use of audit resources; reduce burdens on State and local governments, Indian tribes, and nonprofit organizations; and ensure that Federal departments and agencies, to the maximum extent practicable, rely upon and use audit work done pursuant to chapter 75 of title 31, United States Code (as amended by the Act).

Section 2. Amendment to title 31, United States Code

This section replaces chapter 75 of title 31, United States Code, which was established under the Single Audit Act of 1984. As a result of the substantive changes to chapter 75 made by the Single Audit Act Amendments of 1996, some reorganization and technical changes also were necessary. The substantive changes are discussed below.

Section 7501. Definitions

Amendments to section 7501 reflect the new terms used in the Act as well as some technical changes to terms retained in the Act. Most of these changes are self-explanatory. The definitions now contained in subsection (a) are discussed below.

Paragraph (1) 'Comptroller General;' is unchanged from current law.

Paragraph (2) 'Director;' is unchanged from current law.

Paragraph (3) modifies the definition of 'Federal agency' to delete a citation to the United States Code.

Paragraph (4) defines 'Federal awards' to reflect the decision for the Single Audit Act to cover certain nonprofit organizations. The use of the term 'Federal awards' and its definition here to include cost-reimbursement contracts as well as Federal financial assistance is in response to the fact that nonprofit organizations often receive much of their funding through cost-reimbursement contracts for research and development activities.

Paragraph (5) modifies the definition of 'Federal financial assistance' to change the focus from the Federal agency that provides the assistance to the non-Federal entity that receives the assistance. As amended, 'Federal financial assistance' also includes food commodities and other assistance and excludes amounts received as reimbursement for services rendered to individuals in accordance with guidance issued by the Director of the Office of Management and Budget (OMB). The Director has the authority to prescribe methods of valuation of property provided to non-Federal entities that are fair, realistic and practical. The Director also has the discretion to determine whether the indefinite loan of property qualifies as Federal financial assistance under the Act.

One issue that has been of interest to the Committee is that of valuation of Federal assistance in the form of property either donated or loaned. Federal surplus property under the General Services Administration's surplus property donation program is distributed on a nationwide basis through individual State agencies for surplus property. Recipients are local governments and non-profit tax-exempt educational and public health organizations. Under other programs, an agency may acquire property that has been determined excess by the original owning agency so the acquiring agency may lend it to certain local public bodies. In those cases, the property does not become surplus and so is not available for the donation program. In the case of such a loan, possession of the property is given to the recipient without charge, usually on a permanent basis. Also, some statutory programs that operate apart from the General Services Administration authorize an agency to transfer by gift to certain local entities unneeded personal property that is not formally excess.

The Single Audit Act and OMB Circular A–128 are silent as to how such property should be valued. The revised OMB Circular A-133 does provide guidance, stating that the property should be valued at either fair market value at the time of receipt or the assessed value provided by the Federal agency. For most recipients, estimating fair market value is not practical. Using the agency-assessed value may become a disincentive for the recipient, because in some cases, such as with the General Services Administration's donation program, the value is set at a fixed percentage of the original acquisition cost of the item and therefore may be quite high in relation to its value to the recipient. The revised Circular A–133 also contains a duplicative reference to "donated surplus property" in the definition of Federal financial assistance.

It is the intent of the Committee that the Director of the Office of Management and Budget should provide fair and realistic guidance in the matter of valuation of property for purposes of the Single Audit Act and should amend the definition of Federal financial assistance to delete the reference to "donated surplus property" to conform to the definition in H.R. 3184.

Paragraph (6) defines 'Federal program' to mean all Federal awards to a non-Federal entity assigned a single number in the Catalog of Federal Domestic Assistance or encompassed in a group of numbers or other category of Federal awards as defined by the Director. The use of this term in the Act and its definition here is intended to give the Director the flexibility to facilitate more efficient audit testing by having related programs grouped as a single program.

Paragraph (7) modifies the definition of 'generally accepted government auditing standards' to reflect terminology in the 1994 version of Government Auditing Standards issued by the Comptroller General.

Paragraph (8) 'independent auditor;' is unchanged from current law.

Paragraph (9) 'Indian tribe;' is unchanged from current law.

Paragraph (10) changes the definition of 'internal controls' to reflect recent agreements in the financial management community on a common definition of internal controls, and to provide a standard against which non-Federal entities can assess and determine how to improve their controls. The definition is consistent with the definition of internal control contained in "Internal Control—Integrated Framework" issued in 1992 by the Committee of Sponsoring Organizations of the Treadway Commission and subsequently adopted by "Statement of Auditing Standards No. 78" issued in December 1995 by the Auditing Standards Board, American Institute of Certified Public Accountants. These sources should be consulted for a full description and discussion of internal controls.

Paragraph (11) reflects a modification in the definition of 'local government' that is intended to increase audit efficiency by allowing the Director to specify criteria for allowing the grouping of local governments for audit purposes.

Paragraph (12) reflects a change in the definition of a 'major program' from one based on size to one identified according to risk-based criteria prescribed by the Director. The determination of what Federal programs are "major" is important because the testing of major programs during single audits is required. In contrast to the current dollar-driven approach under which the same programs are likely to be tested year after year, the risk-based program selection approach will allow auditors to use their professional judgment and target audit resources at the areas presenting the greatest risk to the Federal government. Authorizing the Director to prescribe criteria will allow for changes as conditions warrant.

Paragraph (13) adds a definition of 'non-Federal entity' to address all the entities subject to the Act with one term. Under current law, State and local governments are subject to the Single Audit Act. Nonprofit organizations are administratively subject to the single audit process under OMB Circular A–133, "Audits of In-

stitutions of Higher Education and Other Nonprofit Organizations." Amending the Act to include nonprofit organizations as well as State and local governments will help to ensure uniformity of audits and reduce the burden on the auditing community by placing all non-Federal entities that receive Federal awards under the same single audit requirements.

Paragraph (14) adds a definition of 'nonprofit organization' to make clear which entities would be affected by expanding the Act to cover nonprofit organizations.

Paragraph (15) adds a definition of 'pass-through entity' to describe a non-Federal entity that receives a Federal award that it then provides to a subrecipient to carry out a Federal program.

Paragraph (16) defines 'program-specific audit' to mean an audit of one Federal program. The term is used elsewhere in the Act to describe audits that may be conducted under certain circumstances in lieu of a single audit.

Paragraph (17) defines 'recipient' to mean a non-Federal entity that receives awards directly from a Federal agency to carry out a Federal program. This term was used, but not defined, in Public Law 98–502.

Paragraph (18) defines 'single audit' to mean an audit of a non-Federal entity that includes both the entity's financial statements and Federal awards. This term was used, but not defined, in Public Law 98–502.

Paragraph (19) 'State' is unchanged from current law.

Paragraph (20) modifies the original definition of 'subrecipient' to include nonprofit organizations under the term "non-Federal entity."

The definition of 'cognizant agency' is omitted from section 7501. The term is no longer used in the Act and instead section 7504 requires the Director to prescribe criteria for determining which agencies would provide technical assistance and assist non-Federal entities in complying with the requirements of the single audit process. The definition of 'generally accepted accounting principles' is omitted because it is a widely understood term.

The definition of 'public accountants' is also omitted in favor of a definition of 'independent auditor.' The former definition of public accountants required that they meet the qualification standards included in generally accepted government auditing standards. That requirement is maintained because the Act states in section 7502(c) that audits conducted under the Act shall be conducted by an independent auditor in accordance with generally accepted government auditing standards which describe auditor qualification requirements.

Section 7501 also is amended by adding subsections (b)–(d), which establish parameters for the number of programs that will be identified as 'major' under the risk-based criteria and therefore subject to testing.

Under subsection (b), a non-Federal entity's expenditures for each Federal award is compared with a dollar threshold based on the entity's total expenditures for all Federal programs. The number of programs exceeding that threshold serves as a cap on the number of programs that may be required to be tested as major programs under the Director's risk-based selection criteria. This

provision is designed to ensure that a significant increase in the number of programs tested does not result from the change from a dollar-driven approach to a risk-based approach.

Subsection (c) sets forth a minimum testing requirement that when the total expenditures of a non-Federal entity's major programs are less than 50 percent of the non-Federal entity's total expenditures of all Federal awards, the auditor must select and test additional programs as major programs as necessary to achieve audit coverage of at least 50 percent of Federal expenditures by the non-Federal entity. This subsection also authorizes the Director to lower the percentage of Federal expenditures that major programs must provide, enabling the Director to reduce the audit burden on entities that have had good audit results.

Subsection (d) provides that in making the calculations required by section 7501(b), loan or loan guarantee programs as specified by the Director will be excluded. Because they can be so large, including loan or loan guarantee programs in the section 7501(b) calculation of total expenditures for all Federal programs would in some cases significantly increase the section 7501(b) threshold and reduce the number of programs for "cap" purposes. This could result in reducing the number of programs that would be classified as major for a particular non-Federal entity. Therefore, under subsection (d), the Director may provide for the exclusion of loan or loan guarantee programs in determining the section 7501(b) cap when their inclusion would cause a reduction in the number of programs identified as major.

Section 7502. Audit requirements; exemptions

Section 7502(a) will substitute a single dollar threshold of $300,000 for determining which entities must receive audits under the Act in place of the multiple, lower thresholds contained in current law. The basis of the threshold is also changed from receipts to expenditures, to ensure that the audit will be conducted for the fiscal period during which the non-Federal entity used the Federal awards.

Subsection (a)(1) requires non-Federal entities that expend $300,000 or more in Federal awards under more than one program to have a single audit. Non-Federal entities that expend $300,000 or more in Federal awards under only one program, and are not required to otherwise have a financial statement audit, may elect to have a program-specific audit consistent with guidance prescribed by the Director. Subsection (a)(2) exempts non-Federal entities expending a total amount of Federal awards less than $300,000 from complying with all Federal financial audit requirements. Subsection (a)(3) requires the Director to review the threshold every two years and allows the Director to adjust it as necessary, provided that the threshold may not be less than $300,000. This minimum threshold is a significant increase over the thresholds in current law.

Under current law, entities that receive $100,000 or more in Federal financial assistance in a year are required to have a single audit, even if they administer only one program, and entities receiving $25,000 to $100,000 in Federal financial assistance must have either a single audit or a financial audit in accordance with

the laws governing each Federal financial assistance program that the entity administers.

Subsection (b)(1) states the requirement for annual audits under the Act. However, subsection (b)(2) preserves State and local governments' rights established under the original Act to, under specified circumstances, have biennial rather than annual audits. Similarly, subsection (b)(3) preserves nonprofit organizations' rights established under OMB Circular A–133 to, under specified circumstances, have biennial rather than annual audits. However, subsection (b) prohibits other non-Federal entities from adopting biennial audits. Thus, this subsection preserves, but does not extend, the prerogative to have biennial audits.

Subsection (c) requires the audits to be conducted by an independent auditor and in accordance with generally accepted government auditing standards. It would also allow the Director to authorize audits of information on program performance, which are excluded by current law. This change reflects the increased attention to performance of Federal programs and is consistent with the objectives of the Government Performance Results Act of 1993 which is intended to, among other things, initiate program performance reform in part by setting program goals, measuring program performance against the goals, and reporting publicly on the progress. Auditors can play an important role in assessing the reliability of the reported performance information.

Several provisions contained in current law are ineffective or unnecessary, and are eliminated in H.R. 3184, the "Single Audit Act Amendments of 1996." For example, current section 7502(d)(3) has been ineffective because it requires that when transactions are selected as part of the single audit, not because they are from major programs but pursuant to other requirements of section 7502, the auditor must test the transactions for compliance with laws and regulations and report any noncompliance. This requirement could result in the auditor having to test a few transactions from a nonmajor program even when such testing would not provide useful information about how the program was being administered. Further, it was interpreted to require auditors to report all findings, regardless of materiality. As a result, single audit reports often contain numerous inconsequential findings that are costly to document and divert attention from more significant findings. Current section 7502(d)(4) is another example of an unnecessary provision; it requires auditors to use professional judgment in selecting and testing transactions. Generally accepted government auditing standards require auditors to exercise sound professional judgment in conducting audits.

Subsection (e) establishes the auditor's responsibilities. In addition to restatements or technical revisions of responsibilities already required by current law, including expressing an opinion on the financial statements, subsection (e) also codifies a requirement administratively imposed by the Director for the auditor to express an opinion on whether the schedule of expenditures of Federal awards is fairly presented in all material respects in relation to the financial statements. Subsection (e) also expressly states that the auditor must obtain an understanding of the internal controls over the compliance requirements for each major program, assess con-

trol risk, and test the controls unless the controls are deemed to be ineffective by the auditor.

Subsection (f) is designed to help ensure that non-Federal entities and their subrecipients understand and comply with requirements for the Federal awards they receive. Subsection (f)(1) requires Federal agencies to provide recipients with the source and identifying number of the Federal awards and the requirements governing the use of the awards and the requirements of the Act, and review recipients' audit reports to determine whether prompt and appropriate corrective actions to resolve audit findings pertaining to Federal awards have been taken. Subsection (f)(2) places similar responsibilities on pass-through entities with respect to their subrecipients. Subsection (f)(2) also requires that pass-through entities monitor each subrecipient's use of Federal awards through site visits, limited scope audits, or other means, and the subrecipients to permit the pass-through entity's auditor to have access to the subrecipient's records and financial statements as may be necessary for the pass-through entity to comply with the Act.

Subsection (g) is designed to provide more useful single audit reports by requiring auditors to include in single audit reports a summary of the results concerning the entities' financial statements, internal controls, and compliance with laws and regulations.

Subsection (h) describes the content, destination, and time frame of the reporting package that a non-Federal entity must submit. The reporting package is to include the non-Federal entity's financial statements, schedule of expenditures of Federal awards, corrective action plan to resolve auditor's findings, and the auditor's reports. The package is to be transmitted to a Federal clearinghouse, designated by the Director, for subsequent distribution. Use of the clearinghouse should reduce the administrative burden on non-Federal entities by shifting the burden of distributing single audit reports from non-Federal entities to the Federal government. To increase the usefulness of the reports, the reporting package's time frame is shortened from the previously allowed 13 months after the end of the entity's fiscal year or years audited to the earlier of 30 days after the entity receives the report from the auditor or 9 months after the end of the year or years audited. Subsection (h) also authorizes a Federal agency to authorize a longer reporting time frame when the 9-month time frame would place an undue burden on the non-Federal entity. In addition, the Director is required to establish a transition period of not less than 2 years for non-Federal entities to achieve the 9-month reporting time frame. Entities would continue to have 13 months to submit their reporting package during the transition period.

Subsection (i) reflects a modification to current law by requiring non-Federal entities to submit a plan for corrective actions if the auditor identifies audit findings, as defined by the Director, including material noncompliance with individual compliance requirements for a major program or a material weakness in the non-Federal entity's internal controls. Current law requires corrective action plans only if the auditor finds a material noncompliance or material weakness. By authorizing the Director to define the audit

findings for which corrective action plans will be required, subsection (i) will help to ensure that appropriate attention will be given to problems that are important, though not in a technical sense material.

Subsection (j) authorizes the Director, in consultation with the Chairman and Ranking Minority Member of the Committee on Governmental Affairs of the Senate and the Chairman and Ranking Minority Member of the Committee on Government Reform and Oversight of the House of Representatives, to approve pilot projects to test alternative methods of achieving the purposes of the Act. Such pilot projects, which would be voluntary undertakings by non-Federal entities, would provide a means of assessing new ways of testing and reporting on Federal awards.

Section 7503. Relation to other audit requirements

The Single Audit Act Amendments of 1996 essentially restate the current law contained in subsections (a) through (d) of section 7503.

Subsection (a) preserves the Act's policy that audits conducted under the Act would be in lieu of audits that a non-Federal entity would be required to have under other Federal law or regulation. It also states that Federal agencies should rely on and use the audits to the extent they provide information the agencies need to carry out their responsibilities.

Subsection (b) preserves Federal agencies' rights to conduct or arrange for additional audits which are necessary for the agency to carry out its responsibilities under Federal law or regulation and requires the agencies to plan the audits to avoid duplication of other audits of Federal awards. It proscribes non-Federal entities from constraining Federal agency efforts to carry out or arrange for additional audits.

Subsection (c) states that the Act does not limit inspectors general or other Federal agencies' authority to conduct or arrange for audits or evaluations of Federal awards.

Subsection (d) preserves the original Act's provision that exempts non-Federal entities from complying with provisions of other Federal laws or regulations that require the non-Federal entity to undergo a financial audit if the entity has an audit under the Act even though not required to have such an audit.

Subsection (e) is amended by adding a statement making clear that to prevent duplication, any Federal funding agency conducting or arranging for an audit of a non-Federal entity in addition to the audit under this Act must coordinate the audit with the single Federal agency determined in accordance with section 7504 to be responsible for assisting the non-Federal entity with implementation of chapter 75.

Subsection (f) is a new provision requiring auditors to make their working papers available to Federal agencies or the Comptroller General as part of a quality review program, to resolve audit findings or for other purposes consistent with the purposes of the Act. Subsection (f) makes clear that access to working papers includes the right to obtain copies, and is designed to help Federal agencies assess audit quality, resolve audit findings, and build upon the results of single audits.

Section 7504. Federal agency responsibilities and relations with non-Federal entities

Subsection (a) is amended to require Federal agencies to monitor the use of Federal awards that the agency provides to non-Federal entities. It further requires Federal agencies to assess the quality of audits conducted under the Act when an agency is the single Federal agency determined under criteria specified by the Director. The original Act assigned audit-related responsibilities, as well as the responsibility for coordinating additional audits that build upon the required audits, to cognizant agencies as determined by the Director. The deletion of existing provisions in section 7504 regarding the build upon nature of the additional audits conducted by cognizant agencies is in no way intended to suggest that agencies should eliminate or minimize the additional build upon work. The stated purposes of the bill make it clear that Federal agencies are to make efficient and effective use of the audits conducted under the Act and that the agencies should rely on and use the audits.

Subsection (b) is added to give the Director the authority to prescribe criteria for determining the single Federal agency that would be responsible for providing technical assistance to non-Federal entities and help them implement the Act. Under current law, the Director must make specific agency assignments.

Subsection (c) is added to require the Director to designate a Federal clearinghouse to receive copies of reporting packages developed in accordance with this Act. The clearinghouse would be expected to identify recipients that did not undergo an audit in accordance with the Act even though they were required to do so. The clearinghouse would also perform analyses to assist the Director in carrying out responsibilities under the Act.

Section 7505. Regulations

This section is restated essentially as it is in current law, except for references to amendments made in other sections.

Subsection (a) requires the Director to consult with groups involved with the single audit process, including the Comptroller General, other Federal, State, and local government officials as well as representatives of nonprofit organizations. It also requires each Federal agency to promulgate necessary amendments to conform its regulations with requirements of the Act and the Director's guidance.

Subsection (b) concerns when Federal awards may be used to pay a share of the cost of audits conducted under this chapter. Under subsection (b), the percentage of the audit cost charged to Federal awards generally cannot be greater than the ratio of the entity's Federal awards expended to its total expenditures. A greater percentage of the audit cost may be charged to Federal awards only if the entity can demonstrate that the cost of auditing the Federal awards was higher. Subsection (b) is modified to prohibit such use when an entity's expenditure of Federal awards is less than $300,000 (or such higher threshold specified by the Director under section 7502(a)). This provision is added to preclude charging to Federal awards the cost of comprehensive audits of entities that have comparatively small amounts of Federal expenditures. However, the Director may allow recipients to charge to their Federal

awards the cost of limited scope audits to monitor subrecipients in accordance with section 7502(f)(2).

Subsection (c) maintains a provision of the original Act which mandates that the Director's guidance shall include provisions to ensure that small businesses and business concerns owned and controlled by socially and economically disadvantaged individuals will have the opportunity to participate in contracts for the conduct of audits under the Act.

Section 7506. Monitoring responsibilities of the Comptroller General

This section maintains the Comptroller General's responsibility under current law to monitor legislation and identify inconsistencies with the Single Audit Act.

Subsection (a) preserves the Comptroller General's responsibility to monitor bills and resolutions introduced in Congress that contain provisions requiring audits of Federal awards. Subsection (b) requires the Comptroller General to notify in writing the committee that reported the bill or resolution as well as the Committee on Governmental Affairs of the Senate or the Committee on Government Reform and Oversight of the House of Representatives if the provisions are inconsistent with the provisions of this bill.

Section 7507. Effective date

The requirements of this Act shall apply to any non-Federal entity's fiscal year beginning after June 30, 1996.

Former subsection (b) requiring the Director to submit an annual report to the Congress on operations under the Act is deleted.

Section 3. Transitional application

This section makes clear that for fiscal years beginning before July 1, 1996, State and local governments shall continue following the requirements in current law without regard to the Single Audit Act Amendments of 1996.

V. Compliance With Rule XI

Pursuant to rule XI, clause 2(l)(3)(A), of the Rules of the House of Representatives, under the authority of rule X, clause 2(b)(1) and clause 3(f), the results and findings for those oversight activities are incorporated in the recommendations found in the bill and in this report.

VI. Budget Analysis and Projections

This Act provides for no new authorization or budget authority or tax expenditures. Consequently, the provisions of section 308(a)(1) of the Congressional Budget Act are not applicable.

VII. Cost Estimate of the Congressional Budget Office

The Committee was provided the following estimate of the cost of H.R. 3184, as prepared by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 1, 1996.

Hon. WILLIAM F. CLINGER, Jr.,
Chairman, Committee on Government Reform and Oversight, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3184, the Single Audit Act Amendments of 1996, as ordered reported by the House Committee on Government Reform and Oversight on April 24, 1996. CBO estimates that H.R. 3184 would not significantly affect spending by the federal government. Because the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply.

Bill Purpose—H.R. 3184 would:

increase from $100,000 in annual awards to $300,000 in annual expenditures the dollar threshold at which a nonfederal entity has to undergo an independent audit of its operations and use of federal funds;

substitute risk for program size in selecting major programs for auditing in addition to the comprehensive single audit;

extend the coverage of the Single Audit to include educational institutions and other nonprofit organizations—currently, audits of such organizations are required by OMB Circular A–133 but not by law;

shorten the amount of time between the end of an audit period and the submission of the audit report from 13 months to 9 months; and

require that the Director of the Office of Management and Budget designate a federal clearinghouse to receive copies of the audit reports, to identify entities that do not comply with the single audit requirement, and to provide analyses requested by the Director.

Federal Budgetary Impact—CBO estimates that H.R. 3184 would not significantly affect federal spending because the bill would primarily affect the need for and regulation of audits conducted by nonfederal entities. Any small increase in spending from designating a federal clearinghouse or from providing technical assistance and other information to nonfederal entities would be subject to the availability of appropriated funds.

Mandates Statement—Section 4 of Public Law 104–4 excludes from the application of that law provisions that require "compliance with accounting and auditing procedures with respect to grants or other money or property provided by the federal government." CBO has determined that all provisions of H.R. 3184 fit within that exclusion.

Previous Estimate—On April 26, 1996, CBO prepared a cost estimate for S. 1579, the Single Audit Act Amendments of 1996, as ordered reported by the Senate Committee on Governmental Affairs on April 18, 1996. The two bills are identical, as are the estimates.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is John R. Righter.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

VIII. INFLATIONARY IMPACT STATEMENT

In accordance with rule XI, clause 2(l)(4) of the Rules of the House of Representatives, this legislation is assessed to have no inflationary effect on prices and costs in the operation of the national economy.

IX. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 31, UNITED STATES CODE

* * * * * * *

[CHAPTER 75—REQUIREMENTS FOR SINGLE AUDITS

[§ 7501. Definitions

[As used in this chapter, the term—

[(1) "cognizant agency" means a Federal agency which is assigned by the Director with the responsibility for implementing the requirements of this chapter with respect to a particular State or local government.

[(2) "Comptroller General" means the Comptroller General of the United States.

[(3) "Director" means the Director of the Office of Management and Budget.

[(4) "Federal financial assistance" means assistance provided by a Federal agency in the form of grants, contracts, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance, or direct appropriations, but does not include direct Federal cash assistance to individuals.

[(5) "Federal agency" has the same meaning as the term "agency" in section 551(1) of title 5, United States Code.

[(6) "generally accepted accounting principles" has the meaning specified in the generally accepted government auditing standards.

[(7) "generally accepted government auditing standards" means the standards for audit of governmental organizations, programs, activities, and functions, issued by the Comptroller General.

[(8) "independent auditor" means—

[(A) an external State or local government auditor who meets the independence standards included in generally accepted government auditing standards, or

[(B) a public accountant who meets such independence standards.

[(9) "internal controls" means the plan of organization and methods and procedures adopted by management to ensure that—

[(A) resource use is consistent with laws, regulations, and policies;

[(B) resources are safeguarded against waste, loss, and misuse; and

[(C) reliable data are obtained, maintained, and fairly disclosed in reports.

[(10) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

[(11) "local government" means any unit of local government within a State, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, and any other instrumentality of local government.

[(12) "major Federal assistance program" means any program for which total expenditures of Federal financial assistance by the State or local government during the applicable year exceed—

[(A) $20,000,000 in the cause of a State or local government for which such total expenditures for all programs exceed $7,000,000,000;

[(B) $19,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $6,000,000,000 but are less than or equal to $7,000,000,000;

[(C) $16,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $5,000,000,000 but are less than or equal to $6,000,000,000;

[(D) $13,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $4,000,000,000 but are less than or equal to $5,000,000,000;

[(E) $10,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $3,000,000,000 but are less than or equal to $4,000,000,000;

[(F) $7,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $2,000,000,000 but are less than or equal to $3,000,000,000;

[(G) $4,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $1,000,000,000 but are less than or equal to $2,000,000,000;

[(H) $3,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $100,000,000 but are less than or equal to $1,000,000,000; and

[(I) the larger of (i) $300,000, or (ii) 3 percent of such total expenditures for all programs, in the case of a State or local government for which such total expenditures for all programs exceed $100,000 but are less than or equal to $100,000,000.

[(13) "public accountants" means those individuals who meet the qualification standards included in generally accepted government auditing standards for personnel performing government audits.

[(14) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian tribe.

[(15) "subrecipient" means any person or government department, agency, or establishment that receives Federal financial assistance through a State or local government, but does not include an individual that receives such assistance.

[§ 7502. Audit requirement; exemptions

[(a)(1)(A) Each State and local government which receives a total amount of Federal financial assistance equal to or in excess of $100,000 in any fiscal year of such government shall have an audit made for such fiscal year in accordance with the requirements of this chapter and the requirements of the regulations prescribed pursuant to section 7505 of this title.

[(B) Each State and local government that receives a total amount of Federal financial assistance which is equal to or in excess of $25,000 but less than $100,000 in any fiscal year of such government shall—

[(i) have an audit made for such fiscal year in accordance with the requirements of this chapter and the requirements of the regulations prescribed pursuant to section 7505 of this title; or

[(ii) comply with any applicable requirements concerning financial or financial and compliance audits contained in Federal statutes and regulations governing programs under which such Federal financial assistance is provided to that government.

[(C) Each State and local government that receives a total amount of Federal financial assistance which is less than $25,000 in any fiscal year of such government shall be exempt for such fiscal year from compliance with—

[(i) the audit requirements of this chapter; and

[(ii) any applicable requirements concerning financial or financial and compliance audits contained in Federal statutes and regulations governing programs under which such Federal financial assistance is provided to that government.

The provisions of clause (ii) of this subparagraph do not exempt a State or local government from compliance with any provision of a Federal statute or regulation that requires such government to maintain records concerning Federal financial assistance provided to such government or that permits a Federal agency or the Comptroller General access to such records.

[(2) For purposes of this section, a State or local government shall be considered to receive Federal financial assistance whether such assistance is received directly from a Federal agency or indirectly through another State or local government.

[(b)(1) Except as provided in paragraphs (2) and (3), audits conducted pursuant to this chapter shall be conducted annually.

[(2) If a State or local government is required—

[(A) by constitution or statute, as in effect on October 19, 1984, or

[(B) by administrative rules, regulations, guidelines, standards, or policies, as in effect on October 19, 1984.

to conduct its audits less frequently than annually, the cognizant agency for such government shall, upon request of such government, permit the government to conduct its audits pursuant to this chapter biennially, except as provided in paragraph (3). Such audits shall cover both years within the biennial period.

[(3) Any State or local government that is permitted, under clause (B) of paragraph (2), to conduct its audits pursuant to this chapter biennially by reason of the requirements of a rule, regulation, guideline, standard, or policy, shall, for any of its fiscal years beginning after December 31, 1986, conduct such audits annually unless such State or local government codifies a requirement for biennial audits in its constitution or statutes by January 1, 1987. Audits conducted biennially under the provisions of this paragraph such cover both years within the biennial period.

[(c) Each audit conducted pursuant to subsection (a) shall be conducted by an independent auditor in accordance with generally accepted government auditing standards, except that, for the purposes of this chapter, such standards shall not be construed to require economy and efficiency audits, program results audits, or program evaluations.

[(d)(1) Each audit conducted pursuant to subsection (a) for any fiscal year shall cover the entire State or local government's operations except that, at the option of such government—

[(A) such audit may, except as provided in paragraph (5), cover only each department, agency, or establishment which received, expended, or otherwise administered Federal financial assistance during such fiscal year; and

[(B) such audit may exclude public hospitals and public colleges and universities.

[(2) Each such audit shall encompass the entirety of the financial operations of such government or of such department, agency, or establishment, whichever is applicable, and shall determine and report whether—

[(A)(i) the financial statements of the government, department, agency, or establishment present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles; and

[(ii) the government, department, agency, or establishment has complied with laws and regulations that may have a material effect upon the financial statements;

[(B) the government, department, agency, or establishment has internal control systems to provide reasonable assurance that it is managing Federal financial assistance programs in compliance with applicable laws and regulations; and

[(C) the government, department, agency, or establishment has complied with laws and regulations that may have a material effect upon each major Federal assistance program.

In complying with the requirements of subparagraph (C), the independent auditor shall select and test a representative number of transactions from each major Federal assistance program.

[(3) Transactions selected from Federal assistance programs, other than major Federal assistance programs, pursuant to the requirements of paragraphs (2)(A) and (2)(B) shall be tested for compliance with Federal laws and regulations that apply to such transactions. Any noncompliance found in such transactions by the independent auditor in making determinations required by this paragraph shall be reported.

[(4) The number of transactions selected and tested under paragraphs (2) and (3), the selection and testing of such transactions, and the determinations required by such paragraphs shall be based on the professional judgment of the independent auditor.

[(5) A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered to be an audit for the purpose of this chapter.

[(e)(1) Each State and local government subject to the audit requirements of this chapter, which receives Federal financial assistance and provides $25,000 or more of such assistance in any fiscal year to a subrecipient, shall—

[(A) if the subrecipient conducts an audit in accordance with the requirements of this chapter, review such audit and ensure that prompt and appropriate corrective action is taken on instances of material noncompliance with applicable laws and regulations with respect to Federal financial assistance provided to the subrecipient by the State or local government; or

[(B) if the subrecipient does not conduct an audit in accordance with the requirements of this chapter—

[(i) determine whether the expenditures of Federal financial assistance provided to the subrecipient by the State or local government are in accordance with applicable laws and regulations; and

[(ii) ensure that prompt and appropriate corrective action is taken on instances of material noncompliance with applicable laws and regulations with respect to Federal financial assistance provided to the subrecipient by the State or local government.

[(2) Each such State and local government shall require each subrecipient of Federal assistance through such government to permit, as a condition of receiving funds from such assistance, the independent auditor of the State or local government to have such access to the subrecipient's records and financial statements as

may be necessary for the State or local government to comply with this chapter.

[(f) The report made on any audit conducted pursuant to this section shall, within thirty days after completion of such report, be transmitted to the appropriate Federal officials and made available by the State or local government for public inspection.

[(g) If an audit conducted pursuant to this section finds any material noncompliance with applicable laws and regulations by, or material weakness in the internal controls, of, the State or local government with respect to the matters described in subsection (d)(2), the State or local government shall submit to appropriate Federal officials a plan for corrective action to eliminate such material noncompliance or weakness or a statement describing the reasons that corrective action is not necessary. Such plan shall be consistent with the audit resolution standard promulgated by the Comptroller General (as part of the standards for internal controls in the Federal Government) pursuant to section 3512(c) of this title.

[§ 7503. Relation to other audit requirements

[(a) An audit conducted in accordance with this chapter shall be in lieu of any financial or financial and compliance audit of an individual Federal assistance program which a State or local government is required to conduct under any other Federal law or regulation. To the extent that such audit provides a Federal agency with the information it requires to carry out its responsibilities under Federal law or regulation, a Federal agency shall rely upon and use that information and plan and conduct its own audits accordingly in order to avoid a duplication of effort.

[(b) Notwithstanding subsection (a), a Federal agency shall conduct any additional audits which are necessary to carry out its responsibilities under Federal law or regulation. The provisions of this chapter do not authorize any State or local government (or subrecipient thereof) to constrain, in any manner, such agency from carrying out such additional audits.

[(c) The provisions of this chapter do not limit the authority of Federal agencies to conduct, or enter into contracts for the conduct of, audits and evaluations of Federal financial assistance programs, nor limit the authority of any Federal agency Inspector General or other Federal audit official.

[(d) Subsection (a) shall apply to a State or local government which conducts an audit in accordance with this chapter even though it is not required by section 7502(a) to conduct such audit.

[(e) A Federal agency that performs or contracts for audits in addition to the audits conducted by recipients pursuant to this chapter shall, consistent with other applicable law, arrange for funding the cost of such additional audits. Such additional audits include economy and efficiency audits, program results audits, and program evaluations.

[§ 7504. Cognizant agency responsibilities

[(a) The Director shall designate cognizant agencies for audits conducted pursuant to this chapter.

[(b) A cognizant agency shall—

[(1) ensure that audits are made in a timely manner and in accordance with the requirements of this chapter;

[(2) ensure that the audit reports and corrective action plans made pursuant to section 7502 of this title are transmitted to the appropriate Federal officials; and

[(3)(A) coordinate, to the extent practicable, audits done by or under contract with Federal agencies that are in addition to the audits conducted pursuant to this chapter; and (B) ensure that such additional audits build upon the audits conducted pursuant to this chapter.

[§ 7505. Regulations

[(a) The Director, after consultation with the Comptroller General and appropriate Federal, State, and local government officials, shall prescribe policies, procedures, and guidelines to implement this chapter. Each Federal agency shall promulgate such amendments to its regulations as may be necessary to conform such regulations to the requirements of this chapter and of such policies, procedures, and guidelines.

[(b)(1) The policies, procedures, and guidelines prescribed pursuant to subsection (a) shall include criteria for determining the appropriate charges to programs of Federal financial assistance for the cost of audits. Such criteria shall prohibit a State or local government which is required to conduct an audit pursuant to this chapter from charging to any such program (A) the cost of any financial or financial and compliance audit which is not conducted in accordance with this chapter, and (B) more than a reasonably proportionate share of the cost of any such audit that is conducted in accordance with this chapter.

[(2) The criteria prescribed pursuant to paragraph (1) shall not, in the absence of documentation demonstrating a higher actual cost, permit (A) the ratio of (i) the total charges by a government to Federal financial assistance programs for the cost of audits performed pursuant to this chapter, to (ii) the total cost of such audits, to exceed (B) the ratio of (i) total Federal financial assistance expended by such government during the applicable fiscal year or years, to (ii) such government's total expenditures during such fiscal year or years.

[(c) Such policies, procedures, and guidelines shall include such provisions as may be necessary to ensure that shall business concerns and business concerns owned and controlled by socially and economically disadvantaged individuals will have the opportunity to participate in the performance of contracts awarded to fulfill the audit requirements of this chapter.

[§ 7506. Monitoring responsibilities of the Comptroller General

[The Comptroller General shall review provisions requiring financial or financial and compliance audits of recipients of Federal assistance that are contained in bills and resolutions reported by the committees of the Senate and the House of Representatives. If the Comptroller General determines that a bill or resolution contains provisions that are inconsistent with the requirements of this

chapter, the Comptroller General shall, at the earliest practicable date, notify in writing—

[(1) the committee that reported such bill or resolution; and

[(2)(A) the Committee on Governmental Affairs of the Senate (in the case of a bill or resolution reported by a committee of the Senate); or

[(B) the Committee on Government Operations of the House of Representatives (in the case of a bill or resolution reported by a committee of the House of Representatives).

[§ 7507. Effective date; report

[(a) This chapter shall apply to any State or local government with respect to any of its fiscal years which begin after December 31, 1984.

[(b) The Director, on or before May 1, 1987, and annually thereafter, shall submit to each House of Congress a report on operations under this chapter. Each such report shall specifically identify each Federal agency or State or local government which is failing to comply with this chapter.]

CHAPTER 75—REQUIREMENTS FOR SINGLE AUDITS

§ 7501. Definitions

(a) As used in this chapter, the term—

(1) "Comptroller General" means the Comptroller General of the United States;

(2) "Director" means the Director of the Office of Management and Budget;

(3) "Federal agency" has the same meaning as the term "agency" in section 551(1) of title 5;

(4) "Federal awards" means Federal financial assistance and Federal cost-reimbursement contracts that non-Federal entities receive directly from Federal awarding agencies or indirectly from pass-through entities;

(5) "Federal financial assistance" means assistance that non-Federal entities receive or administer in the form of grants, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, or other assistance, but does not include amounts received as reimbursement for services rendered to individuals in accordance with guidance issued by the Director;

(6) "Federal program" means all Federal awards to a non-Federal entity assigned a single number in the Catalog of Federal Domestic Assistance or encompassed in a group of numbers or other category as defined by the Director;

(7) "generally accepted government auditing standards" means the government auditing standards issued by the Comptroller General;

(8) "independent auditor" means—

(A) an external State or local government auditor who meets the independence standards included in generally accepted government auditing standards; or

(B) a public accountant who meets such independence standards;

(9) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(10) "internal controls" means a process, effected by an entity's management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

(A) Effectiveness and efficiency of operations.

(B) Reliability of financial reporting.

(C) Compliance with applicable laws and regulations;

(11) "local government" means any unit of local government within a State, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, any other instrumentality of local government and, in accordance with guidelines issued by the Director, a group of local governments;

(12) "major program" means a Federal program identified in accordance with risk-based criteria prescribed by the Director under this chapter, subject to the limitations described under subsection (b);

(13) "non-Federal entity" means a State, local government, or nonprofit organization;

(14) "nonprofit organization" means any corporation, trust, association, cooperative, or other organization that—

(A) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

(B) is not organized primarily for profit; and

(C) uses net proceeds to maintain, improve, or expand the operations of the organization;

(15) "pass-through entity" means a non-Federal entity that provides Federal awards to a subrecipient to carry out a Federal program;

(16) "program-specific audit" means an audit of one Federal program;

(17) "recipient" means a non-Federal entity that receives awards directly from a Federal agency to carry out a Federal program;

(18) "single audit" means an audit, as described under section 7502(d), of a non-Federal entity that includes the entity's financial statements and Federal awards;

(19) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian tribe; and

(20) "subrecipient" means a non-Federal entity that receives Federal awards through another non-Federal entity to carry out a Federal program, but does not include an individual who receives financial assistance through such awards.

(b) In prescribing risk-based program selection criteria for major programs, the Director shall not require more programs to be identified as major for a particular non-Federal entity, except as prescribed under subsection (c) or as provided under subsection (d), than would be identified if the major programs were defined as any program for which total expenditures of Federal awards by the non-Federal entity during the applicable year exceed—

(1) the larger of $30,000,000 or 0.15 percent of the non-Federal entity's total Federal expenditures, in the case of a non-Federal entity for which such total expenditures for all programs exceed $10,000,000,000;

(2) the larger of $3,000,000, or 0.30 percent of the non-Federal entity's total Federal expenditures, in the case of a non-Federal entity for which such total expenditures for all programs exceed $100,000,000 but are less than or equal to $10,000,000,000; or

(3) the larger of $300,000, or 3 percent of such total Federal expenditures for all programs, in the case of a non-Federal entity for which such total expenditures for all programs equal or exceed $300,000 but are less than or equal to $100,000,000.

(c) When the total expenditures of a non-Federal entity's major programs are less than 50 percent of the non-Federal entity's total expenditures of all Federal awards (or such lower percentage as specified by the Director), the auditor shall select and test additional programs as major programs as necessary to achieve audit coverage of at least 50 percent of Federal expenditures by the non-Federal entity (or such lower percentage as specified by the Director), in accordance with guidance issued by the Director.

(d) Loan or loan guarantee programs, as specified by the Director, shall not be subject to the application of subsection (b).

§ 7502. Audit requirements; exemptions

(a)(1)(A) Each non-Federal entity that expends a total amount of Federal awards equal to or in excess of $300,000 or such other amount specified by the Director under subsection (a)(3) in any fiscal year of such non-Federal entity shall have either a single audit or a program-specific audit made for such fiscal year in accordance with the requirements of this chapter.

(B) Each such non-Federal entity that expends Federal awards under more than one Federal program shall undergo a single audit in accordance with the requirements of subsections (b) through (i) of this section and guidance issued by the Director under section 7505.

(C) Each such non-Federal entity that expends awards under only one Federal program and is not subject to laws, regulations, or Federal award agreements that require a financial statement audit of the non-Federal entity, may elect to have a program-specific audit conducted in accordance with applicable provisions of this section and guidance issued by the Director under section 7505.

(2)(A) Each non-Federal entity that expends a total amount of Federal awards of less than $300,000 or such other amount specified by the Director under subsection (a)(3) in any fiscal year of such entity, shall be exempt for such fiscal year from compliance with—

(i) the audit requirements of this chapter; and

(ii) any applicable requirements concerning financial audits contained in Federal statutes and regulations governing programs under which such Federal awards are provided to that non-Federal entity.

(B) The provisions of subparagraph (A)(ii) of this paragraph shall not exempt a non-Federal entity from compliance with any provision of a Federal statute or regulation that requires such non-Federal entity to maintain records concerning Federal awards provided to such non-Federal entity or that permits a Federal agency, pass-through entity, or the Comptroller General access to such records.

(3) Every 2 years, the Director shall review the amount for requiring audits prescribed under paragraph (1)(A) and may adjust such dollar amount consistent with the purposes of this chapter, provided the Director does not make such adjustments below $300,000.

(b)(1) Except as provided in paragraphs (2) and (3), audits conducted pursuant to this chapter shall be conducted annually.

(2) A State or local government that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits less frequently than annually, is permitted to undergo its audits pursuant to this chapter biennially. Audits conducted biennially under the provisions of this paragraph shall cover both years within the biennial period.

(3) Any nonprofit organization that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, is permitted to undergo its audits pursuant to this chapter biennially. Audits conducted biennially under the provisions of this paragraph shall cover both years within the biennial period.

(c) Each audit conducted pursuant to subsection (a) shall be conducted by an independent auditor in accordance with generally accepted government auditing standards, except that, for the purposes of this chapter, performance audits shall not be required except as authorized by the Director.

(d) Each single audit conducted pursuant to subsection (a) for any fiscal year shall—

(1) cover the operations of the entire non-Federal entity; or

(2) at the option of such non-Federal entity such audit shall include a series of audits that cover departments, agencies, and other organizational units which expended or otherwise administered Federal awards during such fiscal year provided that each such audit shall encompass the financial statements and schedule of expenditures of Federal awards for each such department, agency, and organizational unit, which shall be considered to be a non-Federal entity.

(e) The auditor shall—

(1) determine whether the financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles;

(2) determine whether the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the financial statements taken as a whole;

(3) with respect to internal controls pertaining to the compliance requirements for each major program—

(A) obtain an understanding of such internal controls;

(B) assess control risk; and

(C) perform tests of controls unless the controls are deemed to be ineffective; and

(4) determine whether the non-Federal entity has complied with the provisions of laws, regulations, and contracts or grants pertaining to Federal awards that have a direct and material effect on each major program.

(f)(1) Each Federal agency which provides Federal awards to a recipient shall—

(A) provide such recipient the program names (and any identifying numbers) from which such awards are derived, and the Federal requirements which govern the use of such awards and the requirements of this chapter; and

(B) review the audit of a recipient as necessary to determine whether prompt and appropriate corrective action has been taken with respect to audit findings, as defined by the Director, pertaining to Federal awards provided to the recipient by the Federal agency.

(2) Each pass-through entity shall—

(A) provide such subrecipient the program names (and any identifying numbers) from which such assistance is derived, and the Federal requirements which govern the use of such awards and the requirements of this chapter;

(B) monitor the subrecipient's use of Federal awards through site visits, limited scope audits, or other means;

(C) review the audit of a subrecipient as necessary to determine whether prompt and appropriate corrective action has been taken with respect to audit findings, as defined by the Director, pertaining to Federal awards provided to the subrecipient by the pass-through entity; and

(D) require each of its subrecipients of Federal awards to permit, as a condition of receiving Federal awards, the independent auditor of the pass-through entity to have such access to the subrecipient's records and financial statements as may be necessary for the pass-through entity to comply with this chapter.

(g)(1) The auditor shall report on the results of any audit conducted pursuant to this section, in accordance with guidance issued by the Director.

(2) When reporting on any single audit, the auditor shall include a summary of the auditor's results regarding the non-Federal entity's financial statements, internal controls, and compliance with laws and regulations.

(h) The non-Federal entity shall transmit the reporting package, which shall include the non-Federal entity's financial statements,

schedule of expenditures of Federal awards, corrective action plan defined under subsection (i), and auditor's reports developed pursuant to this section, to a Federal clearinghouse designated by the Director, and make it available for public inspection within the earlier of—

(1) 30 days after receipt of the auditor's report; or

(2)(A) for a transition period of at least 2 years after the effective date of the Single Audit Act Amendments of 1996, as established by the Director, 13 months after the end of the period audited; or

(B) for fiscal years beginning after the period specified in subparagraph (A), 9 months after the end of the period audited, or within a longer timeframe authorized by the Federal agency, determined under criteria issued under section 7504, when the 9-month timeframe would place an undue burden on the non-Federal entity.

(i) If an audit conducted pursuant to this section discloses any audit findings, as defined by the Director, including material non-compliance with individual compliance requirements for a major program by, or reportable conditions in the internal controls of, the non-Federal entity with respect to the matters described in subsection (e), the non-Federal entity shall submit to Federal officials designated by the Director, a plan for corrective action to eliminate such audit findings or reportable conditions or a statement describing the reasons that corrective action is not necessary. Such plan shall be consistent with the audit resolution standard promulgated by the Comptroller General (as part of the standards for internal controls in the Federal Government) pursuant to section 3512(c).

(j) The Director may authorize pilot projects to test alternative methods of achieving the purposes of this chapter. Such pilot projects may begin only after consultation with the Chair and Ranking Minority Member of the Committee on Governmental Affairs of the Senate and the Chair and Ranking Minority Member of the Committee on Government Reform and Oversight of the House of Representatives.

§ 7503. Relation to other audit requirements

(a) An audit conducted in accordance with this chapter shall be in lieu of any financial audit of Federal awards which a non-Federal entity is required to undergo under any other Federal law or regulation. To the extent that such audit provides a Federal agency with the information it requires to carry out its responsibilities under Federal law or regulation, a Federal agency shall rely upon and use that information.

(b) Notwithstanding subsection (a), a Federal agency may conduct or arrange for additional audits which are necessary to carry out its responsibilities under Federal law or regulation. The provisions of this chapter do not authorize any non-Federal entity (or subrecipient thereof) to constrain, in any manner, such agency from carrying out or arranging for such additional audits, except that the Federal agency shall plan such audits to not be duplicative of other audits of Federal awards.

(c) The provisions of this chapter do not limit the authority of Federal agencies to conduct, or arrange for the conduct of, audits

and evaluations of Federal awards, nor limit the authority of any Federal agency Inspector General or other Federal official.

(d) Subsection (a) shall apply to a non-Federal entity which undergoes an audit in accordance with this chapter even though it is not required by section 7502(a) to have such an audit.

(e) A Federal agency that provides Federal awards and conducts or arranges for audits of non-Federal entities receiving such awards that are in addition to the audits of non-Federal entities conducted pursuant to this chapter shall, consistent with other applicable law, arrange for funding the full cost of such additional audits. Any such additional audits shall be coordinated with the Federal agency determined under criteria issued under section 7504 to preclude duplication of the audits conducted pursuant to this chapter or other additional audits.

(f) Upon request by a Federal agency or the Comptroller General, any independent auditor conducting an audit pursuant to this chapter shall make the auditor's working papers available to the Federal agency or the Comptroller General as part of a quality review, to resolve audit findings, or to carry out oversight responsibilities consistent with the purposes of this chapter. Such access to auditor's working papers shall include the right to obtain copies.

§ 7504. Federal agency responsibilities and relations with non-Federal entities

(a) Each Federal agency shall, in accordance with guidance issued by the Director under section 7505, with regard to Federal awards provided by the agency—

(1) monitor non-Federal entity use of Federal awards, and

(2) assess the quality of audits conducted under this chapter for audits of entities for which the agency is the single Federal agency determined under subsection (b).

(b) Each non-Federal entity shall have a single Federal agency, determined in accordance with criteria established by the Director, to provide the non-Federal entity with technical assistance and assist with implementation of this chapter.

(c) The Director shall designate a Federal clearinghouse to—

(1) receive copies of all reporting packages developed in accordance with this chapter;

(2) identify recipients that expend $300,000 or more in Federal awards or such other amount specified by the Director under section 7502(a)(3) during the recipient's fiscal year but did not undergo an audit in accordance with this chapter; and

(3) perform analyses to assist the Director in carrying out responsibilities under this chapter.

§ 7505. Regulations

(a) The Director, after consultation with the Comptroller General, and appropriate officials from Federal, State, and local governments and nonprofit organizations shall prescribe guidance to implement this chapter. Each Federal agency shall promulgate such amendments to its regulations as may be necessary to conform such regulations to the requirements of this chapter and of such guidance.

(b)(1) The guidance prescribed pursuant to subsection (a) shall include criteria for determining the appropriate charges to Federal awards for the cost of audits. Such criteria shall prohibit a non-Federal entity from charging to any Federal awards—

(A) the cost of any audit which is—

(i) not conducted in accordance with this chapter; or

(ii) conducted in accordance with this chapter when expenditures of Federal awards are less than amounts cited in section 7502(a)(1)(A) or specified by the Director under section 7502(a)(3), except that the Director may allow the cost of limited scope audits to monitor subrecipients in accordance with section 7502(f)(2)(B); and

(B) more than a reasonably proportionate share of the cost of any such audit that is conducted in accordance with this chapter.

(2) The criteria prescribed pursuant to paragraph (1) shall not, in the absence of documentation demonstrating a higher actual cost, permit the percentage of the cost of audits performed pursuant to this chapter charged to Federal awards, to exceed the ratio of total Federal awards expended by such non-Federal entity during the applicable fiscal year or years, to such non-Federal entity's total expenditures during such fiscal year or years.

(c) Such guidance shall include such provisions as may be necessary to ensure that small business concerns and business concerns owned and controlled by socially and economically disadvantaged individuals will have the opportunity to participate in the performance of contracts awarded to fulfill the audit requirements of this chapter.

§ 7506. Monitoring responsibilities of the Comptroller General

(a) The Comptroller General shall review provisions requiring financial audits of non-Federal entities that receive Federal awards that are contained in bills and resolutions reported by the committees of the Senate and the House of Representatives.

(b) If the Comptroller General determines that a bill or resolution contains provisions that are inconsistent with the requirements of this chapter, the Comptroller General shall, at the earliest practicable date, notify in writing—

(1) the committee that reported such bill or resolution; and

(2)(A) the Committee on Governmental Affairs of the Senate (in the case of a bill or resolution reported by a committee of the Senate); or

(B) the Committee on Government Reform and Oversight of the House of Representatives (in the case of a bill or resolution reported by a committee of the House of Representatives).

§ 7507. Effective date

This chapter shall apply to any non-Federal entity with respect to any of its fiscal years which begin after June 30, 1996.

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X. Committee Recommendation

On April 24, 1996, a quorum being present, the Committee ordered the bill, as amended, favorably reported.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT—104TH CONGRESS ROLLCALL

Date: April 24, 1996.
Final Passage of H.R. 3184.
Offered By: Mr. Horn.
Voice Vote: Ayes.

XI. Congressional Accountability Act; Public Law 104–1; Section 102(B)(3)

This provision applies to the legislative branch in that the Comptroller General is required to review laws and regulations to determine that they do not conflict the provisions of this bill. It does not relate to any terms or conditions of employment or access to public services or accommodations.

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