

Calendar No. 401

104TH CONGRESS
2^D Session

S. 1579

[Report No. 104-266]

A BILL

To streamline and improve the effectiveness of chapter 75 of title 31, United States Code (commonly referred to as the “Single Audit Act”).

MAY 13, 1996

Reported with amendments

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To streamline and improve the effectiveness of chapter 75 of title 31, United States Code (commonly referred to as the “Single Audit Act”).

IN THE SENATE OF THE UNITED STATES

FEBRUARY 27 (legislative day, FEBRUARY 23), 1996

Mr. GLENN (for himself, Mr. STEVENS, Mr. LEVIN, Mr. COCHRAN, Mr. PRYOR, Mr. COHEN, Mr. LIEBERMAN, Mr. BROWN, and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

MAY 13, 1996

Reported by Mr. STEVENS, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To streamline and improve the effectiveness of chapter 75 of title 31, United States Code (commonly referred to as the “Single Audit Act”).

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; PURPOSES.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Single Audit Act Amendments of 1996”.

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

5 (1) promote sound financial management, in-
6 cluding effective internal controls, with respect to
7 Federal awards administered by non-Federal enti-
8 ties;

9 (2) establish uniform requirements for audits of
10 Federal awards administered by non-Federal enti-
11 ties;

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

14 (4) reduce burdens on State and local govern-
15 ments, Indian tribes, and nonprofit organizations;
16 and

17 (5) ensure that Federal departments and agen-
18 cies, to the maximum extent practicable, rely upon
19 and use audit work done pursuant to chapter 75 of
20 title 31, United States Code (as amended by this
21 Act).

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

23 Chapter 75 of title 31, United States Code, is amend-
24 ed to read as follows:

1 **“CHAPTER 75—REQUIREMENTS FOR**
 2 **SINGLE AUDITS**

“Sec.

“7501. Definitions.

“7502. Audit requirements; exemptions.

“7503. Relation to other audit requirements.

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

“7505. Regulations.

“7506. Monitoring responsibilities of the Comptroller General.

“7507. Effective date.

3 **“§ 7501. Definitions**

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

5 “(1) ‘Comptroller General’ means the Comptrol-
 6 ler General of the United States;

7 “(2) ‘Director’ means the Director of the Office
 8 of Management and Budget;

9 “(3) ‘Federal agency’ has the same meaning as
 10 the term ‘agency’ in section 551(1) of title 5;

11 “(4) ‘Federal awards’ means Federal financial
 12 assistance and Federal cost-reimbursement contracts
 13 that non-Federal entities receive directly from Fed-
 14 eral awarding agencies or indirectly from pass-
 15 through entities;

16 “(5) ‘Federal financial assistance’ means assist-
 17 ance that non-Federal entities receive or administer
 18 in the form of grants, loans, loan guarantees, prop-
 19 erty, cooperative agreements, interest subsidies, in-
 20 surance, ~~donated surplus property~~, food commod-
 21 ities, direct appropriations, or other assistance, but

1 does not include amounts received as reimbursement
2 for services rendered to individuals in accordance
3 with guidance issued by the Director;

4 “(6) ‘Federal program’ means all Federal
5 awards to a non-Federal entity assigned a single
6 number in the Catalog of Federal Domestic Assist-
7 ance or encompassed in a group of numbers or other
8 category as defined by the Director;

9 “(7) ‘generally accepted government auditing
10 standards’ means the government auditing stand-
11 ards issued by the Comptroller General;

12 “(8) ‘independent auditor’ means—

13 “(A) an external State or local government
14 auditor who meets the independence standards
15 included in generally accepted government au-
16 diting standards; or

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

19 “(9) ‘Indian tribe’ means any Indian tribe,
20 band, nation, or other organized group or commu-
21 nity, including any Alaskan Native village or re-
22 gional or village corporation (as defined in, or estab-
23 lished under, the Alaskan Native Claims Settlement
24 Act) that is recognized by the United States as eligi-
25 ble for the special programs and services provided by

1 the United States to Indians because of their status
2 as Indians;

3 “(10) ‘internal controls’ means a process, ef-
4 fected by an entity’s management and other person-
5 nel, designed to provide reasonable assurance re-
6 garding the achievement of objectives in the follow-
7 ing categories:

8 “(A) Effectiveness and efficiency of oper-
9 ations.

10 “(B) Reliability of financial reporting.

11 “(C) Compliance with applicable laws and
12 regulations;

13 “(11) ‘local government’ means any unit of
14 local government within a State, including a county,
15 borough, municipality, city, town, township, parish,
16 local public authority, special district, school district,
17 intrastate district, council of governments, any other
18 instrumentality of local government and, in accord-
19 ance with guidelines issued by the Director, a group
20 of local governments;

21 “(12) ‘major program’ means a Federal pro-
22 gram identified in accordance with risk-based cri-
23 teria prescribed by the Director under this chapter,
24 subject to the limitations described under subsection
25 (b);

1 “(13) ‘non-Federal entity’ means a State, local
2 government, or nonprofit organization;

3 “(14) ‘nonprofit organization’ means any cor-
4 poration, trust, association, cooperative, or other or-
5 ganization that—

6 “(A) is operated primarily for scientific,
7 educational, service, charitable, or similar pur-
8 poses in the public interest;

9 “(B) is not organized primarily for profit;
10 and

11 “(C) uses net proceeds to maintain, im-
12 prove, or expand the operations of the organiza-
13 tion;

14 “(15) ‘pass-through entity’ means a non-Fed-
15 eral entity that provides Federal awards to a sub-
16 recipient to carry out a Federal program;

17 “(16) ‘program-specific audit’ means an audit
18 of one Federal program;

19 “(17) ‘recipient’ means a non-Federal entity
20 that receives awards directly from a Federal agency
21 to carry out a Federal program;

22 “(18) ‘single audit’ means an audit, as de-
23 scribed under section 7502(d), of a non-Federal en-
24 tity that includes the entity’s financial statements
25 and Federal awards;

1 “(19) ‘State’ means any State of the United
2 States, the District of Columbia, the Commonwealth
3 of Puerto Rico, the Virgin Islands, Guam, American
4 Samoa, the Commonwealth of the Northern Mariana
5 Islands, and the Trust Territory of the Pacific Is-
6 lands, any instrumentality thereof, any multi-State,
7 regional, or interstate entity which has governmental
8 functions, and any Indian tribe; and

9 “(20) ‘subrecipient’ means a non-Federal entity
10 that receives Federal awards through another non-
11 Federal entity to carry out a Federal program, but
12 does not include an individual who receives financial
13 assistance through such awards.

14 “(b) In prescribing risk-based program selection cri-
15 teria for major programs, the Director shall not require
16 more programs to be identified as major for a particular
17 non-Federal entity, except as prescribed under subsection
18 (c) or as provided under subsection (d), than would be
19 identified if the major programs were defined as any pro-
20 gram for which total expenditures of Federal awards by
21 the non-Federal entity during the applicable year exceed—

22 “(1) the larger of \$30,000,000 or 0.15 percent
23 of the non-Federal entity’s total Federal expendi-
24 tures, in the case of a non-Federal entity for which

1 such total expenditures for all programs exceed
2 \$10,000,000,000;

3 “(2) the larger of \$3,000,000, or 0.30 percent
4 of the non-Federal entity’s total Federal expendi-
5 tures, in the case of a non-Federal entity for which
6 such total expenditures for all programs exceed
7 \$100,000,000 but are less than or equal to
8 \$10,000,000,000; or

9 “(3) the larger of \$300,000, or 3 percent of
10 such total Federal expenditures for all programs, in
11 the case of a non-Federal entity for which such total
12 expenditures for all programs equal or exceed
13 \$300,000 but are less than or equal to
14 \$100,000,000.

15 “(c) When the total expenditures of a non-Federal
16 entity’s major programs are less than 50 percent of the
17 non-Federal entity’s total expenditures of all Federal
18 awards (or such lower percentage as specified by the Di-
19 rector), the auditor shall select and test additional pro-
20 grams as major programs as necessary to achieve audit
21 coverage of at least 50 percent of Federal expenditures
22 by the non-Federal entity (or such lower percentage as
23 specified by the Director), in accordance with guidance is-
24 sued by the Director.

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

4 **“§ 7502. Audit requirements; exemptions**

5 “(a)(1)(A) Each non-Federal entity that expends a
 6 total amount of Federal awards equal to or in excess of
 7 \$300,000 or such other amount specified by the Director
 8 under subsection (a)(3) in any fiscal year of such non-
 9 Federal entity shall have either a single audit or a pro-
 10 gram-specific audit made for such fiscal year in accord-
 11 ance with the requirements of this chapter.

12 “(B) Each such non-Federal entity that expends Fed-
 13 eral awards under more than one Federal program shall
 14 undergo a single audit in accordance with the require-
 15 ments of subsections (b) through (i) of this section and
 16 guidance issued by the Director under section 7505.

17 “(C) Each such non-Federal entity that expends
 18 awards under only one Federal program and is not subject
 19 to laws, regulations, or Federal award agreements that re-
 20 quire a financial statement audit of the non-Federal en-
 21 tity, may elect to have a program-specific audit conducted
 22 in accordance with applicable provisions of this section and
 23 guidance issued by the Director under section 7505.

24 “(2)(A) Each non-Federal entity that expends a total
 25 amount of Federal awards of less than \$300,000 or such

1 other amount specified by the Director under subsection
2 (a)(3) in any fiscal year of such entity, shall be exempt
3 for such fiscal year from compliance with—

4 “(i) the audit requirements of this chapter; and

5 “(ii) any applicable requirements concerning fi-
6 nancial audits contained in Federal statutes and reg-
7 ulations governing programs under which such Fed-
8 eral awards are provided to that non-Federal entity.

9 “(B) The provisions of subparagraph (A)(ii) of this
10 paragraph shall not exempt a non-Federal entity from
11 compliance with any provision of a Federal statute or reg-
12 ulation that requires such non-Federal entity to maintain
13 records concerning Federal awards provided to such non-
14 Federal entity or that permits a Federal agency, pass-
15 through entity, or the Comptroller General access to such
16 records.

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

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

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

8 “(3) Any nonprofit organization that had biennial au-
9 dits for all biennial periods ending between July 1, 1992,
10 and January 1, 1995, is permitted to undergo its audits
11 pursuant to this chapter biennially. Audits conducted bien-
12 nially under the provisions of this paragraph shall cover
13 both years within the biennial period.

14 “(c) Each audit conducted pursuant to subsection (a)
15 shall be conducted by an independent auditor in accord-
16 ance with generally accepted government auditing stand-
17 ards, except that, for the purposes of this chapter, per-
18 formance audits shall not be required except as authorized
19 by the Director.

20 “(d) Each single audit conducted pursuant to sub-
21 section (a) for any fiscal year shall—

22 “(1) cover the operations of the entire non-Fed-
23 eral entity; or

24 “(2) at the option of such non-Federal entity
25 such audit shall include a series of audits that cover

1 departments, agencies, and other organizational
2 units which expended or otherwise administered
3 Federal awards during such fiscal year provided that
4 each such audit shall encompass the financial state-
5 ments and schedule of expenditures of Federal
6 awards for each such department, agency, and orga-
7 nizational unit, which shall be considered to be a
8 non-Federal entity.

9 “(e) The auditor shall—

10 “(1) determine whether the financial statements
11 are presented fairly in all material respects in con-
12 formity with generally accepted accounting prin-
13 ciples;

14 “(2) determine whether the schedule of expendi-
15 tures of Federal awards is presented fairly in all ma-
16 terial respects in relation to the financial statements
17 taken as a whole;

18 “(3) with respect to internal controls pertaining
19 to the compliance requirements for each major pro-
20 gram—

21 “(A) obtain an understanding of such in-
22 ternal controls;

23 “(B) assess control risk; and

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

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

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

8 “(A) provide such recipient the program names
9 (and any identifying numbers) from which such
10 awards are derived, and the Federal requirements
11 which govern the use of such awards and the re-
12 quirements of this chapter; and

13 “(B) review the audit of a recipient as nec-
14 essary to determine whether prompt and appropriate
15 corrective action has been taken with respect to
16 audit findings, as defined by the Director, pertaining
17 to Federal awards provided to the recipient by the
18 Federal agency.

19 “(2) Each pass-through entity shall—

20 “(A) provide such subrecipient the program
21 names (and any identifying numbers) from which
22 such assistance is derived, and the Federal require-
23 ments which govern the use of such awards and the
24 requirements of this chapter;

1 “(B) monitor the subrecipient’s use of Federal
2 awards through site visits, limited scope audits, or
3 other means;

4 “(C) review the audit of a subrecipient as nec-
5 essary to determine whether prompt and appropriate
6 corrective action has been taken with respect to
7 audit findings, as defined by the Director, pertaining
8 to Federal awards provided to the subrecipient by
9 the pass-through entity; and

10 “(D) require each of its subrecipients of Fed-
11 eral awards to permit, as a condition of receiving
12 Federal awards, the independent auditor of the pass-
13 through entity to have such access to the subrecipi-
14 ent’s records and financial statements as may be
15 necessary for the pass-through entity to comply with
16 this chapter.

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

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

24 “(h) The non-Federal entity shall transmit the re-
25 porting package, which shall include the non-Federal enti-

1 ty's financial statements, schedule of expenditures of Fed-
 2 eral awards, corrective action plan defined under sub-
 3 section (i), and auditor's reports developed pursuant to
 4 this section, to a Federal clearinghouse designated by the
 5 Director, and make it available for public inspection within
 6 the earlier of—

7 “(1) 30 days after receipt of the auditor's re-
 8 port; or

9 “(2)(A) for a transition period of at least 2
 10 years after the effective date of the Single Audit Act
 11 Amendments of 1996, as established by the Direc-
 12 tor, 13 months after the end of the period audited;
 13 or

14 “(B) for fiscal years beginning after the period
 15 specified in subparagraph (A), 9 months after the
 16 end of the period audited, or within a longer time-
 17 frame authorized by the Federal agency, determined
 18 under criteria issued under section ~~7505~~ 7504, when
 19 the 9-month timeframe would place an undue bur-
 20 den on the non-Federal entity.

21 “(i) If an audit conducted pursuant to this section
 22 discloses any audit findings, as defined by the Director,
 23 including material noncompliance with individual compli-
 24 ance requirements for a major program by, or reportable
 25 conditions in the internal controls of, the non-Federal en-

1 tity with respect to the matters described in subsection
 2 (e), the non-Federal entity shall submit to Federal officials
 3 designated by the Director, a plan for corrective action
 4 to eliminate such audit findings or reportable conditions
 5 or a statement describing the reasons that corrective ac-
 6 tion is not necessary. Such plan shall be consistent with
 7 the audit resolution standard promulgated by the Comp-
 8 troller General (as part of the standards for internal con-
 9 trols in the Federal Government) pursuant to section
 10 3512(c).

11 “(j) The Director may authorize pilot projects to test
 12 alternative methods of achieving the purposes of this chap-
 13 ter. Such pilot projects may begin only after consultation
 14 with the Chair and Ranking Minority Member of the Com-
 15 mittee on Governmental Affairs of the Senate and the
 16 Chair and Ranking Minority Member of the Committee
 17 on Government Reform and Oversight of the House of
 18 Representatives.

19 **“§ 7503. Relation to other audit requirements**

20 “(a) An audit conducted in accordance with this
 21 chapter shall be in lieu of any financial audit of Federal
 22 awards which a non-Federal entity is required to undergo
 23 under any other Federal law or regulation. To the extent
 24 that such audit provides a Federal agency with the infor-
 25 mation it requires to carry out its responsibilities under

1 Federal law or regulation, a Federal agency shall rely
2 upon and use that information.

3 “(b) Notwithstanding subsection (a), a Federal agen-
4 cy may conduct or arrange for additional audits which are
5 necessary to carry out its responsibilities under Federal
6 law or regulation. The provisions of this chapter do not
7 authorize any non-Federal entity (or subrecipient thereof)
8 to constrain, in any manner, such agency from carrying
9 out or arranging for such additional audits, except that
10 the Federal agency shall plan such audits to not be dupli-
11 cative of other audits of Federal awards.

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

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

21 “(e) A Federal agency that provides Federal awards
22 and conducts or arranges for audits of non-Federal enti-
23 ties receiving such awards that are in addition to the au-
24 dits of non-Federal entities conducted pursuant to this
25 chapter shall, consistent with other applicable law, arrange

1 for funding the full cost of such additional audits. Any
 2 such additional audits shall be coordinated with the Fed-
 3 eral agency determined under criteria issued under section
 4 7504 to preclude duplication of the audits conducted pur-
 5 suant to this chapter or other additional audits.

6 “(f) Upon request by a Federal agency or the Comp-
 7 troller General, any independent auditor conducting an
 8 audit pursuant to this chapter shall make the auditor’s
 9 working papers available to the Federal agency or the
 10 Comptroller General as part of a quality review, to resolve
 11 audit findings, or to carry out oversight responsibilities
 12 consistent with the purposes of this chapter. Such access
 13 to auditor’s working papers shall include the right to ob-
 14 tain copies.

15 **“§ 7504. Federal agency responsibilities and relations**
 16 **with non-Federal entities**

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

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

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

1 “(b) Each non-Federal entity shall have a single Fed-
 2 eral agency, determined in accordance with criteria estab-
 3 lished by the Director, to provide the non-Federal entity
 4 with technical assistance and assist with implementation
 5 of this chapter.

6 “(c) The Director shall designate a Federal clearing-
 7 house to—

8 “(1) receive copies of all reporting packages de-
 9 veloped in accordance with this chapter;

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

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

17 **“§ 7505. Regulations**

18 “(a) The Director, after consultation with the Comp-
 19 troller General, and appropriate officials from Federal,
 20 State, and local governments and nonprofit organizations
 21 shall prescribe guidance to implement this chapter. Each
 22 Federal agency shall promulgate such amendments to its
 23 regulations as may be necessary to conform such regula-
 24 tions to the requirements of this chapter and of such guid-
 25 ance.

1 “(b)(1) The guidance prescribed pursuant to sub-
 2 section (a) shall include criteria for determining the appro-
 3 priate charges to Federal awards for the cost of audits.
 4 Such criteria shall prohibit a non-Federal entity from
 5 charging to any Federal awards—

6 “(A) the cost of any audit which is—

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

9 “(ii) conducted in accordance with this
 10 chapter when expenditures of Federal awards
 11 are less than amounts cited in section
 12 7502(a)(1)(A) or specified by the Director
 13 under section 7502(a)(3), except that the Direc-
 14 tor may allow the cost of limited scope audits
 15 to monitor subrecipients in accordance with sec-
 16 tion 7502(f)(2)(B); and

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

20 “(2) The criteria prescribed pursuant to paragraph
 21 (1) shall not, in the absence of documentation demonstrat-
 22 ing a higher actual cost, permit the percentage of the cost
 23 of audits performed pursuant to this chapter charged to
 24 Federal awards, to exceed the ratio of total Federal
 25 awards expended by such non-Federal entity during the

1 applicable fiscal year or years, to such non-Federal entity's
 2 total expenditures during such fiscal year or years.

3 “(c) Such guidance shall include such provisions as
 4 may be necessary to ensure that small business concerns
 5 *and business concerns* owned and controlled by socially and
 6 economically disadvantaged individuals will have the op-
 7 portunity to participate in the performance of contracts
 8 awarded to fulfill the audit requirements of this chapter.

9 **“§ 7506. Monitoring responsibilities of the Comptrol-**
 10 **ler General**

11 “(a) The Comptroller General shall review provisions
 12 requiring financial audits of non-Federal entities that re-
 13 ceive Federal awards that are contained in bills and reso-
 14 lutions reported by the committees of the Senate and the
 15 House of Representatives.

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

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

22 “(2)(A) the Committee on Governmental Af-
 23 fairs of the Senate (in the case of a bill or resolution
 24 reported by a committee of the Senate); or

1 “(B) the Committee on Government Reform
2 and Oversight of the House of Representatives (in
3 the case of a bill or resolution reported by a commit-
4 tee of the House of Representatives).

5 **“§ 7507. Effective date**

6 “‘This chapter shall apply to any non-Federal entity
7 with respect to any of its fiscal years which begin after
8 June 30, 1996.’”.

9 **SEC. 3. TRANSITIONAL APPLICATION.**

10 Subject to section 7507 of title 31, United States
11 Code (as amended by section 2 of this Act) the provisions
12 of chapter 75 of such title (before amendment by section
13 2 of this Act) shall continue to apply to any State or local
14 government with respect to any of its fiscal years begin-
15 ning before July 1, 1996.