

## §910.503

(a) *Loan and loan guarantees (loans).* Loan and loan guarantees issued by the DOE Loan Program Office corresponding to Title XVII of the Energy Policy Act of 2005, as amended, 42 U.S.C. 16511–16516 (“Title XVII”) are exempt from these provisions.

(1) Not applicable.

(2) Not applicable.

(3) Not applicable.

(b) Not applicable.

(c) Not applicable.

(d) *Endowment funds.* The cumulative balance of DOE awards for endowment funds that are federally restricted are considered DOE awards expended in each audit period in which the funds are still restricted.

(e) *Free rent.* Free rent received by itself is not considered a DOE award expended under this Part. However, free rent received as part of a DOE award to carry out a DOE program must be included in determining DOE awards expended and subject to audit under this Part.

(f) *Valuing non-cash assistance.* DOE non-cash assistance, such as free rent, food commodities, donated property, or donated surplus property, must be valued at fair market value at the time of receipt or the assessed value provided by DOE.

(g) Not applicable.

(h) Not applicable.

(i) Not applicable.

[79 FR 76024, Dec. 19, 2014, as amended at 80 FR 57512, Sept. 24, 2015]

### §910.503 Relation to other audit requirements.

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

(b) Notwithstanding paragraph (a) of this section, DOE, Inspectors General, or GAO may conduct or arrange for additional audits which are necessary to carry out its responsibilities under Federal statute or regulation. The provisions of this Part do not authorize

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any for-profit entity to constrain, in any manner, DOE from carrying out or arranging for such additional audits, except that DOE must plan such audits to not be duplicative of other audits of DOE. Any additional audits must be planned and performed in such a way as to build upon work performed, including the audit documentation, sampling, and testing already performed, by other auditors.

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

(d) DOE to pay for additional audits. If DOE conducts or arranges for additional audits it must, consistent with other applicable Federal statutes and regulations, arrange for funding the full cost of such additional audits.

(e) Not applicable.

### §910.504 Frequency of audits.

Audits required by this Part must be performed annually.

(a) Not applicable.

(b) Not applicable.

### §910.505 Sanctions.

In cases of continued inability or unwillingness to have an audit conducted in accordance with this Part, DOE and pass-through entities must take appropriate action as provided in 2 CFR 200.338 Remedies for noncompliance.

### §910.506 Audit costs.

See 2 CFR 200.425 Audit services.

### §910.507 Compliance audits.

(a) *Program-specific audit guide available.* In many cases, a program-specific audit guide will be available to provide specific guidance to the auditor with respect to internal controls, compliance requirements, suggested audit procedures, and audit reporting requirements. A listing of current program-specific audit guides can be found in the compliance supplement beginning with the 2014 supplement including Federal awarding agency contact information and a Web site where a copy of the guide can be obtained. When a current program-specific audit

guide is available, the auditor must follow GAGAS and the guide when performing a compliance audit.

(1) *Program-specific audit guide not available.* When a program-specific audit guide is not available, the auditee and auditor must conduct the compliance audit in accordance with GAAS and GAGAS.

(2) If audited financial statements are available, for-profit recipients should submit audited financial statements to DOE as a part of the compliance audit. (If the recipient is a subsidiary for which separate financial statements are not available, the recipient may submit the financial statements of the consolidated group.)

(3) The auditor must:

(i) Not applicable.

(ii) Obtain an understanding of internal controls and perform tests of internal controls over the DOE program consistent with the requirements of § 910.514 Scope of audit.,

(iii) Perform procedures to determine whether the auditee has complied with Federal statutes, regulations, and the terms and conditions of DOE awards that could have a direct and material effect on the DOE program consistent with the requirements of § 910.514 Scope of audit.

(iv) Follow up on prior audit findings, perform procedures to assess the reasonableness of the summary schedule of prior audit findings prepared by the auditee in accordance with the requirements of § 910.511 Audit findings follow-up, and report, as a current year audit finding, when the auditor concludes that the summary schedule of prior audit findings materially misrepresents the status of any prior audit finding; and

(v) Report any audit findings consistent with the requirements of § 910.516 Audit findings.

(4) The auditor's report(s) may be in the form of either combined or separate reports and may be organized differently from the manner presented in this section. The auditor's report(s) must state that the audit was conducted in accordance with this Part and include the following:

(i) An opinion (or disclaimer of opinion) as to whether the financial statement(s) (if available) of the DOE pro-

gram is presented fairly in all material respects in accordance with the stated accounting policies;

(ii) A report on internal control related to the DOE program, which must describe the scope of testing of internal control and the results of the tests;

(iii) A report on compliance which includes an opinion (or disclaimer of opinion) as to whether the auditee complied with laws, regulations, and the terms and conditions of DOE awards which could have a direct and material effect on the DOE program; and

(iv) A schedule of findings and questioned costs for the DOE program that includes a summary of the auditor's results relative to the DOE program in a format consistent with § 910.515 Audit reporting, paragraph (d)(1) and findings and questioned costs consistent with the requirements of § 910.515 Audit reporting, paragraph (d)(3).

(5) *Report submission for program-specific audits.* The audit must be completed and the reporting required by paragraph (c)(2) or (c)(3) of this section submitted within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless a different period is specified in a program-specific audit guide. Unless restricted by Federal law or regulation, the auditee must make report copies available for public inspection. Auditees and auditors must ensure that their respective parts of the reporting package do not include protected personally identifiable information.

(6) When a program-specific audit guide is available, the compliance audits must be submitted (along with audited financial statements if audited financial statements are available), to the appropriate DOE Contracting Officer as well as to the DOE Office of the Chief Financial Officer.

(7) When a program-specific audit guide is not available, the reporting package for a program-specific audit must consist of, a summary schedule of prior audit findings, and a corrective action plan as described in paragraph (b)(2) of this section, and the auditor's report(s) described in paragraph (b)(4) of this section. The compliance audit

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must be submitted (along with audited financial statements if audited financial statements are available), to the appropriate DOE Contracting Officer as well as to the DOE Office of the Chief Financial Officer.

(b) Other sections of this Part may apply. Compliance audits are subject to:

- (1) 910.500 Purpose through 910.503 Relation to other audit requirements, paragraph (d);
- (2) 910.504 Frequency of audits through 910.506 Audit costs;
- (3) 910.508 Auditee responsibilities through 910.509 Auditor selection;
- (4) 910.511 Audit findings follow-up;
- (5) 910.512 Report submission, paragraphs (e) through (h);
- (6) 910.513 Responsibilities;
- (7) 910.516 Audit findings through 910.517 Audit documentation;
- (8) 910.521 Management decision, and
- (9) Other referenced provisions of this Part unless contrary to the provisions of this section, a program-specific audit guide, or program statutes and regulations.

[79 FR 76024, Dec. 19, 2014, as amended at 80 FR 57512, Sept. 24, 2015]

### AUDITEES

#### § 910.508 Auditee responsibilities.

The auditee must:

- (a) Procure or otherwise arrange for the audit required by this Part in accordance with § 910.509 Auditor selection, and ensure it is properly performed and submitted when due in accordance with § 910.512 Report submission.
- (b) Submit appropriate financial statements (if available).
- (c) Submit the schedule of expenditures of DOE awards in accordance with § 910.510 Financial statements.
- (d) Promptly follow up and take corrective action on audit findings, including preparation of a summary schedule of prior audit findings and a corrective action plan in accordance with § 910.511 Audit findings follow-up, paragraph (b) and § 910.511 Audit findings follow-up, paragraph (c), respectively.
- (e) Provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other

information as needed for the auditor to perform the audit required by this Part.

#### § 910.509 Auditor selection.

(a) *Auditor procurement.* When procuring audit services, the objective is to obtain high-quality audits. In requesting proposals for audit services, the objectives and scope of the audit must be made clear and the for-profit entity must request a copy of the audit organization's peer review report which the auditor is required to provide under GAGAS. Factors to be considered in evaluating each proposal for audit services include the responsiveness to the request for proposal, relevant experience, availability of staff with professional qualifications and technical abilities, the results of peer and external quality control reviews, and price. Whenever possible, the auditee must make positive efforts to utilize small businesses, minority-owned firms, and women's business enterprises, in procuring audit services as stated in 2 CFR 200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms, or the FAR (48 CFR part 42), as applicable.

(b) *Restriction on auditor preparing indirect cost proposals.* An auditor who prepares the indirect cost proposal or cost allocation plan may not also be selected to perform the audit required by this Part when the indirect costs recovered by the auditee during the prior year exceeded \$1 million. This restriction applies to the base year used in the preparation of the indirect cost proposal or cost allocation plan and any subsequent years in which the resulting indirect cost agreement or cost allocation plan is used to recover costs.

(c) *Use of Federal auditors.* Federal auditors may perform all or part of the work required under this Part if they comply fully with the requirements of this Part.

#### § 910.510 Financial statements.

(a) *Financial statements.* If available, the auditee must submit financial statements that reflect its financial position, results of operations or changes in net assets, and, where appropriate, cash flows for the fiscal year