



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
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THE CONTROLLER

March 12, 2013

**M-13-07**

**MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES**

**FROM: Danny Werfel**  
**Controller**

**SUBJECT: Accountability for Funds Provided by the Disaster Relief Appropriations Act**

*Overview*

On January 29, 2013, the President signed into law the Disaster Relief Appropriations Act (Public Law 113-2) (Disaster Relief Act), which provides \$50.5 billion in aid for Hurricane Sandy (Sandy) disaster victims and their communities. Because relief funding of this magnitude often carries additional risk, Federal departments and agencies (“agencies”) must ensure that the funds appropriated under the Act are used for their intended purposes.

To that end, this memorandum provides an overview of the internal control planning and reporting requirements for all programs funded under the Disaster Relief Act, with a focus on the following elements:

- Additional internal controls;
- Improper payments protocol; and
- Recapture of unexpended grant funds 24 months after agency obligation.

This memorandum also provides information on the role of the Hurricane Sandy Task Force to support the recovery priorities and integrity of Federal funds provided for disaster relief efforts.

The Disaster Relief Act requires Federal agencies supporting Sandy recovery and other disaster-related activities to implement additional internal controls to prevent waste, fraud, and abuse of these funds. By March 31, 2013, each Federal agency is required to submit an internal control plan to OMB, the Government Accountability Office (GAO), and the agency’s Inspector General. Each agency shall provide its draft plan to OMB on March 18, 2013, and OMB will work closely with agencies in reviewing the draft plans and will provide comments by March 25, 2013. By June 30, 2013, GAO will review the agency internal control plans. Beginning on

September 30, 2013, each agency head shall make an annual certification<sup>1</sup> that the appropriate policies and controls are in place and that any corrective actions have been taken to mitigate the risk of fraud and inappropriate spending practices regarding activities and expenses related to Hurricane Sandy.

### *Additional Internal Controls for Sandy-related Activities*

As required by OMB Circular A-123, *Management's Responsibility for Internal Control*,<sup>2</sup> agencies must have established internal control plans to prevent waste, fraud, and abuse of Federal program funds. The Act requires agencies to augment their existing internal controls to address any additional risks associated with Federal programs administering Sandy recovery-related funding. At a minimum, agency internal control plans for Sandy recovery-related program funding shall reflect consideration of the following elements:

- **Conducting Additional Levels of Review:** Agencies shall adopt more expansive review procedures, as appropriate, to scrutinize award decisions, payment transactions, and other critical process elements that impact the use of the Disaster Relief Act's funds. To ensure a higher degree of accountability, each agency shall include senior level officials (e.g., including the Deputy Secretary as well as other officials) in these reviews, as appropriate (e.g., areas of high risk).
- **Increasing Monitoring and Oversight of Grant Recipients:** To the extent appropriate to mitigate risk and possible under budgetary constraints, agencies shall increase the frequency and specificity of grantee reporting, conduct additional site visits, and provide additional technical assistance and training to recipients of Federal funding.
- **Continuing Collaboration with the Inspector General Community:** To identify and mitigate potential risk, agencies shall continue early and frequent engagement with Inspectors General to discuss issues affecting the Disaster Relief Act's disaster-related programs and activities.
- **Expediting Review and Resolution of Audit Findings:** Agencies shall resolve all audit findings (GAO, IG, single audit) within six months after completion of the audit to the extent practicable. Moreover, agencies should avoid granting extension requests for audit report submissions and should explore the feasibility of conducting additional audit activities to review internal control procedures (either within agency headquarters or in the field) *prior to* funding the activity.
- **Adopting Improper Payments Management Protocol:** Agencies shall manage all Sandy-related funding with the same discipline and rigor as programs that are traditionally designated as high-risk for improper payments, as described in the section below.

### *Improper Payments*

Section 904(b) of the Disaster Relief Act provides that all programs and activities receiving funds under that Act shall be deemed to be "susceptible to significant improper

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<sup>1</sup> The annual certification can be included as part of the annual assurance statement as provided by the Federal Managers Financial Integrity Act (Public Law 97-255).

<sup>2</sup> See [http://www.whitehouse.gov/sites/default/files/omb/assets/omb/circulars/a123/a123\\_rev.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/omb/circulars/a123/a123_rev.pdf).

payments” for the purposes of the Improper Payments Information Act of 2002 (IPIA; Public Law 107-300), notwithstanding IPIA section 2(a).<sup>3</sup> Simply put, all Federal programs or activities receiving funds under the Act are automatically considered susceptible to significant improper payments, regardless of any previous improper payment risk-assessment results, and are required to calculate and report an improper payment estimate.

As these programs and activities have been deemed susceptible to significant improper payments during the course of FY2013 (as a result of the Disaster Relief Act), each agency shall produce and report an improper payment estimate for the FY2014 reporting period, to the extent possible. Each agency shall develop a sampling methodology consistent with current IPIA testing requirements as listed in Circular A-123.<sup>4</sup> OMB approval is required before an agency may apply a new sampling methodology, or make significant changes to an existing OMB-approved methodology.

To implement improper payment measurements in the most cost-effective manner, agencies will have several options when conducting their improper payments testing for Sandy-related programs. For example, after consultation with OMB, an agency may group Sandy-related programs and activities in a reasonable and appropriate manner to decrease the number of required improper payment measurements. Whenever possible, agencies should leverage resources already devoted to improper payment related activities.

### ***Management of Unexpended Grants Funds***

Pursuant to Section 904(c) of the Disaster Relief Act, prior to obligation of funds, all awards made under the Act must require grantees to expend award funds within the 24-month period following the agency’s obligation of those funds. Agencies shall specify criteria for approval of grant applications or proposed plans for the use of funds provided under the Act. Further, each agency shall require grantees to return to the agency any funds not expended within the 24-month period following the agency’s obligation of funds for the grant.

To meet this statutory requirement, agencies shall ensure each proposed grant activity has clear timelines for execution and completion within the statutory period available for grantee expenditure. While OMB may waive or extend this period for certain expenditures, each agency must ensure that any such requests are limited to only those activities that are long-term by design, where it is impracticable to expend funds within the 24-month period and achieve program missions. OMB shall grant waivers only on a limited, case-by-case basis, where such requests are justified by compelling legal, policy, or operational challenges.

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<sup>3</sup> According to the IPIA, as amended, and OMB implementing guidance (Circular A-123, Appendix C, Parts I and II), agencies are required to risk assess and identify programs that are susceptible to significant improper payments (i.e., at high risk for errors). For programs that have been identified as susceptible, agencies are then required to obtain and report a statistically valid estimate of the annual amount of improper payments for those programs (as well as meet other requirements set forth in the IPIA and OMB guidance).

<sup>4</sup> See <http://www.whitehouse.gov/sites/default/files/omb/memoranda/2011/m11-16.pdf>.

### ***Hurricane Sandy Task Force***

On December 7, 2012, the President issued Executive Order 13632, which established the Hurricane Sandy Rebuilding Task Force (77 FR 74341; December 14, 2012).

The Task Force is responsible for identifying opportunities for Federal agencies to work together to support recovery from Hurricane Sandy and to promote strong accountability for the use of these funds. The Task Force is supported by a Program Management Office (PMO) that is working with agencies to ensure stakeholder engagement, establish performance metrics to gauge recovery efforts, and to monitor the execution of Sandy-related funding. The Task Force efforts will complement the role of OMB, Agency Inspectors General, and the Recovery Accountability and Transparency Board by promoting responsibility for internal control and taking any needed corrective actions to address audit recommendations.

### ***Recovery Accountability and Transparency Board***

Pursuant to Section 904(d), the Recovery Accountability and Transparency Board (“Recovery Board”) will leverage its existing infrastructure to support oversight of Sandy recovery-related funds. The Recovery Board uses information technology resources and oversight mechanisms to support agency and law enforcement fraud detection and prevention activities. Combining analytic tools with multiple data sources, the Recovery Board provides agencies and the law enforcement community with resources to accurately and efficiently target and interrupt program fraud based on risk.

In addition to continuing to support its other oversight responsibilities, the Recovery Board will focus its efforts in the detection and remediation of fraud, waste, and abuse in the obligation and expenditure of funds appropriated for purposes related to the impact of Sandy. In furtherance of this effort, the Recovery Board will provide data analytics related to Sandy recovery programs to agency Inspectors General for appropriate action. The Recovery Board shall coordinate its activities with OMB, each Federal agency receiving appropriations related to the impact of Hurricane Sandy, the Inspector General of each such agency, and the Hurricane Sandy Taskforce. Further, in compliance with Section 904(d) of the Disaster Relief Act, the Recovery Board will submit quarterly reports to the Committees on Appropriations of the House of Representatives and the Senate detailing its Hurricane Sandy-related activities.

### ***Transparency and Accountability of Federal Spending***

Under the Federal Funding Accountability and Transparency Act (Public Law 109-282), agencies provide Federal spending information to USAspending.gov. In this one location, the public has access to information related to federal awards, including recipient and obligated amount. Further, in accordance with Section 904 of the Disaster Relief Act, agencies must be able to verify compliance of grantee expenditures within the required statutory timeframe.

To provide transparency in federal spending, agencies shall obtain and assign a Catalog of Federal Domestic Assistance (CFDA) number related to funds made available by the Disaster Relief Act. This requirement applies to financial assistance awards that are issued on or after the

date of this guidance. The CFDA program title must include the term “Disaster Relief Appropriations Act.” The program information must include a description of the statutory purposes for the funds under the Disaster Relief Act. CFDA information will be used by USAspending.gov to identify all financial assistance awards associated with this funding authority. Federal procurement actions will continue to use the National Interest Action value (NIA) established for Hurricane Sandy to identify procurements that use Disaster Relief Act funds.

### ***Internal Control Plan Submission***

Agencies shall submit to OMB their draft and final internal control plans by March 18 and March 31, 2013, respectively. Please upload these plans, using the attached template, to OMB’s MAX system.<sup>5</sup> The Hurricane Sandy Rebuilding Task Force PMO will work closely with OMB to examine and monitor the effectiveness of agency internal control plan implementation. Questions on this memo can be directed to Mike Wetklow in OMB’s Office of Federal Financial Management ([mwetklow@omb.eop.gov](mailto:mwetklow@omb.eop.gov)).

Attachment

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<sup>5</sup> <https://max.omb.gov/community/display/CrossAgency/OMB+-+Internal+Control+Plans>

**ATTACHMENT**  
**Sandy Relief Internal Control Plan**

**Date:**  
**Agency:**

Please submit one internal control plan for the agency as a whole with program details provided in the table below.

Using the table below, describe the incremental risks identified with each program administering Sandy recovery funding as well as the internal control strategy (specific policies and procedures enhancements) for mitigating each of these risks. Note that the risk assessment should reflect the agency strategy on reducing improper payments, promoting effective grants management, and ensuring the integrity of acquisitions. Further, the plans should address efforts to conduct additional levels of review, increase monitoring and oversight of grant recipients, enhance collaboration with the inspector general community, expedite review and resolution of audit findings, and adopt improper payments management protocol.

<b>Program Name</b>	<b>Funded Activities</b>	<b>Risks Associated with Funded Activities</b>	<b>Mitigation Strategy</b>
Program Name	Provide a brief description of the actions being taken by the program in response to Sandy.	Provide a description of incremental risks <sup>6</sup> associated with the actions being taken in response to Sandy.	Provide a description of actions being taken to address the increased risk identified, including governance structure, policies and procedures, communication strategies, and monitoring and oversight mechanisms.

<sup>6</sup> If incremental risks are not identified, management can also describe how risks are accepted and managed as part of ongoing monitoring activities.