

the Secretary of Defense may promulgate from time to time. The Secretaries of the Military Departments are authorized to make successive redelegations in writing of this power and authority to any officer, employee, board or agent of their respective departments.

(c) Funds appropriated for military assistance pursuant to the Mutual Security Act of 1954, as amended, which have been made available to a Military Department may be used to settle claims under section 506 of the Mutual Security Act of 1954, as amended (22 U.S.C. 1758). In addition, in those cases where the provisions of 10 U.S.C. 2386 are applicable, funds appropriated for a Military Department available for making or procuring supplies may be used to settle such claims.

## PART 266—AUDITS OF STATE AND LOCAL GOVERNMENTS, INSTITUTIONS OF HIGHER EDUCATION, AND OTHER NONPROFIT INSTITUTIONS

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AUTHORITY: 10 U.S.C. 140.

SOURCE: 56 FR 36003, July 30, 1991, unless otherwise noted.

### § 266.1 Purpose.

This part:

(a) Updates policy, responsibilities, and procedures.

(b) Implements Public Law 98-502 (31 U.S.C. 7501-7507 and 3512) and Office of Management and Budget (OMB) Circulars A-128<sup>1</sup> and A-133<sup>2</sup> to establish audit requirements for State and local governments, institutions of higher education, and other nonprofit institutions that receive Federal financial assistance.

<sup>1</sup>Forward written requests to: Office of Management and Budget Publications, 725 17th Street, NW, New Executive Office Building, Washington, DC 20503.

<sup>2</sup>See footnote 1 to § 266.1(b).

(c) Assigns responsibilities within the Department of Defense for monitoring compliance with those requirements.

### § 266.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Unified and Specified Commands, the Inspector General of the Department of Defense (IG, DoD), the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as “the DoD Components”) that provide Federal financial assistance to State and local governments, institutions of higher education, and other nonprofit institutions.

### § 266.3 Definitions.

Terms used in this part are defined in OMB Circulars A-128 and A-133 with the following deviation. Funds paid by the National Guard Bureau to States under facilities’ operation and maintenance agreements do not constitute “Federal financial assistance” for purposes of Public Law 98-502 and OMB Circular A-128.

### § 266.4 Policy.

The DoD Components shall rely on and use financial and performance audits performed by non-Federal auditors under OMB Circular A-128 and independent auditors under OMB Circular A-133 in the oversight of Federal financial assistance provided to State and local governments, institutions of higher education, and other nonprofit institutions. Public Law 98-502 provides that a non-Federal audit of the operations of a State or local government performed under OMB Circular A-128 may exclude public colleges and universities, in which case an audit of the public college or university shall be made in accordance with OMB Circular A-133. The DoD Components, however, may request additional audits of such assistance when required by regulation or to ensure effective use of such assistance as deemed necessary. Any additional audit effort shall be planned and carried out in such a way as to avoid duplication and shall be separately funded.