**Department of Commerce FYs 2024/2025 Financial Statements Guidance**

**Management Representation Letters, Legal Letters, and Unasserted Claims**

#### I. Purpose

This attachment establishes instructions and guidance to reporting entities (hereinafter referred to as bureaus), regarding written representations that our independent auditors obtain from management as part of the bureau’s financial statements audit, which is performed in accordance with U.S. Generally Accepted Government Auditing Standards (GAGAS) and OMB [Bulletin](https://www.whitehouse.gov/omb/information-for-agencies/bulletins/) No. 24-02, *Audit Requirements for Federal Financial Statements* (July 31, 2024)*.*

#### II. Management Representation Letters

The OMB Bulletin 24-02, Section 8, *Written Representations from Management,* requires that the auditor obtain written representation from management as part of the audit engagement. The American Institute of Certified Public Accountants (AICPA) professional standards AU-CSection 580*,* of the *Codification of Statements on Auditing Standards* indicates that the management letter is necessary to: (1) confirm representations explicitly or implicitly given to the auditor, (2) indicate and document the continuing appropriateness of such representations, and (3) reduce the possibility of misunderstanding concerning the matters that are the subject of the representations. In addition to the standard representations included in AU-C §580, OMB Bulletin 24-01 requires additional representations that are unique to the Federal Government.

The auditor obtains written representations from management to complement other auditing procedures.

Members of management, who are responsible for and have knowledge, directly or through others, of the matters in the letter, should sign the representation letter. The letter should be dated as of the end of fieldwork. If there is a significant delay between the end of audit fieldwork and the issuance of the report, an update may be required. All bureaus are required to submit a management representation letter to the Deputy Chief Financial Officer by the established deadline. The Office of Financial Management (OFM) will rely on the respective bureau representation letters to prepare the consolidated management representation letter for the financial statement audit of the Department of Commerce (Department). **Exhibit 1** of this Attachment mirrors the FY 2023 bureau Management Representation Letter. The updated letter and specific guidance for the FY 2024 audit will be provided by OFM near the end of the audit. Since some representations vary by bureau, if a representation is not applicable to your specific Bureau, please denote it as *N/A*.

What should be included for Unasserted Claims?

AICPA AU-C section 580 requires a statement from management that it has disclosed all material unasserted claims which your legal counsel has advised are probable of assertion and must be disclosed. Federal entities need to make these disclosures in accordance with Statement of Federal Financial Accounting Standards (SFFAS) No. 5, *Accounting for Liabilities of the Federal Government*, as amended by SFFAS No. 12, *Recognition of Contingent Liabilities Arising From Litigation*. It is management's responsibility to bring unasserted claims to the attention of legal counsel. For unasserted claims listed on the management representation letter, management should report the likelihood of the outcome with either an estimate of the amount of the loss or a statement that an estimate cannot be determined.

Your administrative, finance, and program management officials should be working with the appropriate counsel on possible claims as they arise during the year. However, management has the final responsibility to determine and present unasserted claims in its representation letter. If there are no items to report, your letter should clearly state this.

What should be included for Uncorrected Financial Statement Misstatements?

As required by AICPA AU-C section 580, paragraph A12, the management letter should include a representation regarding the materiality of uncorrected financial statement misstatements aggregated by the auditor(s). If there are no uncorrected misstatements, your letter should report that information.

#### III. Legal Representation Letters

The Department is responsible for issuing three separate inquiry letters to ensure that all information on legal claims or contingencies against the Department is received, recorded, and disclosed for the consolidated financial statements. The letters are issued to the Department’s Office of General Counsel (OGC), the Department’s Office of Civil Rights (OCR), and the U.S. Patent and Trademark Office (USPTO). The requested information is limited to claims or contingencies that exceed the Department’s materiality threshold as determined during the audit.

In addition to OGC and OCR, the Department issues a separate letter directly to USPTO because their Solicitor’s Office and Office of Equal Employment Opportunity and Diversity (part of the Civil Rights Office) administers all cases separately from the Department. As always, bureau management should be in contact with their internal and/or the Department’s OGC on legal issues as they arise.

This request for Department-level contingency information is a requirement of the Office of Management and Budget (OMB) Bulletin No. 24-02, *Audit Requirements for Federal Financial Statements*. The timing of legal letter requests, responses, and related management’s schedules shall be coordinated between OGC, Department management, and the bureau. Unless the Department has internal due dates, all due dates shall be in accordance with the due dates listed in the current Year-end Closing Bulletin, which is part of TFM Volume I and issued each fiscal year, usually after the end of the second quarter.

For the first, second, and third quarters, OGC, OCR, and USPTO are required to submit an update to the prior year-end response, eight days (adjusted for weekends) after each quarter end. The updated responses need to only include new information and/or changes from the prior response.

#### IV. Unasserted Claims

An unasserted claim is any claim that management may be aware of, but that has not been formalized with the OGC, OCR or USPTO.

Each quarter, bureaus will canvas their components for all unasserted claims from the beginning of the fiscal year through the quarter-ended date. The dates bureaus should use to canvas their components are listed in Attachment I of this Guidance.

Each quarter, the Department will send to the bureaus an inquiry via e-mail, regarding unasserted claims regardless of threshold. The due dates for the responses from bureau management are listed in Attachment I of this Guidance. If the bureau has no unasserted claims, it should provide a negative response.

#### V. Due Dates for Submissions

See FY 2024/2025 Financial Statements Guidance Attachment I, *Due Date Calendar,* for due dates.

OFM will monitor bureaus’ submissions against the due dates. A deadline may be considered not met if the data is incomplete or inaccurate.

#### VI. OFM Contacts

Questions related to Attachment F may be directed to:

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| --- | --- | --- |
| Sean Smith - OFMTel: (202) 482-0785Fax: (202) 482-1992 Email: SSmith@doc.gov | and | Kristin Salzer - OFMTel: (202) 482-2715Fax: (202) 482-1992 E-mail:  KSalzer@doc.gov |

#### VII. Exhibit 1

<Bureau’s Letterhead and Date stamp>

Stephen Kunze

Deputy Chief Financial Officer

 and Director of Financial Management

Department of Commerce

1401 Constitution Avenue, N.W.

Suite D200

Washington, D.C. 20230

Dear Mr. Kunze,

We are providing this letter in connection with the audits of the consolidated balance sheets of U.S. Department of Commerce (Department) as of September 30, 2024 and 2023; the related consolidated statements of net cost and changes in net position; the combined statements of budgetary resources for each of the years then ended; and the related notes to the financial statements (hereinafter referred to collectively as “consolidated financial statements”), for the purpose of expressing an opinion as to whether these consolidated financial statements present fairly, in all material respects, the financial position, net costs, changes in net position, and budgetary resources of the Department in accordance with U.S. generally accepted accounting principles (U.S. GAAP).

Certain representations in this letter are described as being limited to matters that are material. Items are considered material, regardless of size, if they involve an omission or misstatement of accounting information that, in the light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement.

Except where otherwise stated below, immaterial matters less than $5.0 million collectively are not considered to be exceptions that require disclosure for the purpose of the following representations. This amount is not necessarily indicative of amounts that would require adjustment to or disclosure in the consolidated financial statements. Materiality limitations do not apply to representations not directly related to amounts included in the financial statements. This includes, but is not limited to, management’s acknowledgement of its responsibility for the fair presentation in the financial statements of financial position, net costs, changes in net position, and budgetary resources in conformity with U.S. GAAP; completeness of information; representations related to fraud and management’s responsibility for the design, implementation, and maintenance of internal control to prevent and detect fraud; compliance with laws and regulations, contracts and grant agreements; and illegal acts.

We confirm, to the best of our knowledge and belief, having made such inquiries as we considered necessary for the purpose of appropriately informing ourselves, as of November xx, xxxx, the following representations made to you during your audits. These representations pertain to both years’ financial statements and update the representations we provided in the prior year.

SAMPLE Representations

**[Bureau]** confirms that, to the best of our knowledge as of November XX, 20XX the following representations made to you during your audits:

1. Our bureau has fulfilled its responsibilities, as set out in the terms of the audit engagement letter dated Mmm dd, 20XX, for the preparation and fair presentation of the consolidated financial statements in accordance with U.S. GAAP.
2. Our bureau has disclosed all accounting policies and practices adopted that, if applied to significant items or transactions, would not be in accordance with U.S. GAAP and has evaluated the impact of the application of each such policy and practice, both individually and in the aggregate, on the Department’s current period consolidated financial statements and our assessment of internal control over financial reporting, and the expected impact of each such policy and practice on future periods’ financial reporting. We believe the effect of these policies and practices on the consolidated financial statements and our assessment of internal control over financial reporting is not material and do not deem the impact of the application of these policies and practices to be material to the consolidated financial statements in future periods.
3. Our bureau has properly recorded or disclosed in the consolidated financial statements the changes in accounting principle that affect the consistency of the consolidated financial statements between the periods presented.
4. **[Bureau]** has made available:
5. All records, documentation, and information that is relevant to the preparation and fair presentation of the consolidated financial statements;
6. All additional information that has been requested for the purpose of the audits,
7. Unrestricted access and the full cooperation of personnel within the bureau to obtain audit evidence; and
8. All reports from this bureau’s service and subservice organizations.
9. Except as disclosed to you in writing, there have been no:
10. Circumstances that have resulted in communications from our bureau, in general, or from legal counsel reporting evidence of a material violation of law or breach of fiduciary duty, or similar violations by our bureau or any agent thereof.
11. Communications from regulatory/oversight agencies, such as U.S Office of Management and Budget (OMB) and U.S Government Accountability Office (GAO); other governmental entities or agencies; governmental representatives or employees; or others concerning investigations or allegations of noncompliance with laws or regulations, deficiencies in financial reporting practices, or other matters that could have a material adverse effect on the consolidated financial statements and Required Supplementary Information (RSI).
12. Our bureau has identified, disclosed, and accepts compliance responsibility for all applicable laws, regulations, contracts, and grant agreements, with the acknowledgment that noncompliance could have a material effect on the consolidated financial statements.
13. Our bureau is responsible for implementing and maintaining financial management systems that comply substantially with Federal financial management systems requirements, Federal accounting standards (U.S. GAAP), and application of the U.S. Government Standard General Ledger at the transaction level.
14. **[Bureau]** has assessed its financial management systems, using guidance issued by OMB, and have found them to comply substantially with Federal financial management systems requirements, applicable Federal accounting standards, and the U.S. Government Standard General Ledger at the transaction level as of September 30, 2023.
15. Our bureau has disclosed to you, in writing, all known instances of non-compliance or suspected non‑compliance with laws, regulations, contracts and agreements, whose effects should be considered when preparing consolidated financial statements.
16. Our bureau has communicated to you all violations or potential violations of the Anti-deficiency Act through the date of this letter and have determined that such violations do not have a material effect on the financial statements for the years ended September 30, 2023 and 2022.
17. All material transactions have been recorded in the accounting records and are reflected in the consolidated financial statements.
18. Our bureau has satisfactory title to all owned assets, including stewardship land and heritage assets. Furthermore, there are no liens or encumbrances on these assets and no assets have been pledged.
19. **[Bureau]** has no plans or intentions that may materially affect the recognition, measurement, presentation, disclosure, or classification of assets and liabilities.
20. There are no guarantees under which our bureauis contingently liable that require reporting or disclosure in the financial statements.
21. All events subsequent to the date of the consolidated financial statements and through the date of this letter for which U.S. GAAP requires adjustment or disclosure have been adjusted or disclosed.
22. The effects of all known actual or possible litigation and claims, including those related to treaties and other international agreements, have been accounted for and disclosed in accordance with Federal Accounting Standards Advisory Board (FASAB) Statement of Federal Financial Accounting Standards (SFFAS) 5, *Accounting for Liabilities of the Federal Government*, as amended.
23. Our bureau has disclosed to you all known actual or possible litigation, claims, and assessments, including those related to treaties and other international agreements, whose effects should be considered when preparing the consolidated financial statements.
24. Our bureau has disclosed in the consolidated financial statements all material dedicated collections as defined by SFFAS 43, *Funds from Dedicated Collections: Amending Statement of Federal Financial Accounting Standards 27, Identifying and Reporting Earmarked Funds*, and all other material restricted funds.
25. The effects of uncorrected financial statement misstatements are immaterial, both individually and in the aggregate, to the consolidated financial statements taken as a whole.

1. **[Bureau]** acknowledges and has fulfilled our responsibility for the design, implementation, and maintenance of programs and controls to prevent, deter, and detect fraud; for adopting sound accounting policies; and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of the consolidated financial statements and to provide reasonable assurance against the possibility of misstatements that are material to the consolidated financial statements, whether due to error or fraud. We understand that the term “fraud” is defined as an intentional act by one or more individuals among management, those charged with governance, employees, or third parties, involving the use of deception that results in a misstatement in financial statements that are the subject of an audit.
2. Our bureau is responsible for and has assessed the effectiveness of its internal control over financial reporting as of September 30, 2023, using the control criteria framework of GAO’s *Standards for Internal Control in the Federal Government*.
3. Our bureau has disclosed all deficiencies in the design or operation of internal control over financial reporting of which we are aware, which could adversely affect our ability to initiate, authorize, record, process, or report financial data. We have separately disclosed: (a) all such deficiencies that we believe to be significant deficiencies or material weaknesses in internal control over financial reporting, as those terms are defined in AU-C Section 265.07, *Communicating Internal Control Related Matters Identified in an Audit* and (b) whether prior years’ significant deficiencies and material weaknesses, as applicable, have been resolved as of September 30, 2023.
4. There have been no changes to internal control over financial reporting subsequent to September 30, 2023, or other conditions that might significantly affect internal control over financial reporting.
5. Our bureau has disclosed to you the results of our assessment of the risk that the consolidated financial statements may be materially misstated as a result of fraud.
6. **[Bureau]** has disclosed to you all information that we are aware of about fraud affecting our bureau or Department involving:
7. Management,
8. Employees who have significant roles in internal control, or
9. Others where the fraud could have a material effect on the consolidated financial statements.
10. Our bureau has no knowledge of any fraud or suspected fraud that resulted in a material misstatement to our consolidated financial statements or RSI.
11. Our bureau has no knowledge of any allegations of fraud or suspected fraud that affects the bureau’sor the Department’s consolidated financial statements, which has been communicated by employees, former employees, regulators, or others.
12. Our bureau has no knowledge of any officer or senior manager, in our bureau or the Department as a whole, or any other person acting under the direction thereof, having taken any action to fraudulently influence, coerce, manipulate, or mislead you during your audits.
13. The methods, data, and significant assumptions used by us in making accounting estimates and their related disclosures are appropriate to achieve recognition, measurement, or disclosure that is reasonable in accordance with U.S. GAAP.
14. **[Bureau]** has disclosed the identity of all our disclosure entities, related parties, public-private partnerships, and all the relationships and transactions related to them.
15. Our bureau has properly accounted for and disclosed relationships and transactions with disclosure entities, related parties, and public-private partnerships in the consolidated financial statements, in accordance with U.S. GAAP.
16. Our Bureau has acknowledges and has fulfilled its responsibility for the presentation of the RSI in accordance with the prescribed guidelines and:
17. Believe the RSI is measured and presented in accordance with the prescribed guidelines, and is consistent with the consolidated financial statements and contains no material misstatement of fact;
18. The methods of measurement or presentation of the RSI have not changed from those used in the prior period; and
19. The significant assumptions or interpretations underlying the measurement or presentation of the RSI are reasonable and appropriate in the circumstances.
20. Our bureau has fulfilled its responsibility for the preparation and presentation of the Other Information (OI) included in the Department’s *Agency Financial Report* and auditors’ report and for ensuring the consistency of such information with the consolidated financial statements and RSI and:
21. The OI included in the document containing the consolidated financial statements and auditors’ report is consistent with the consolidated financial statements and RSI and contains no material misstatement of fact;
22. The methods of measurement or presentation of the OI have not changed from those used in the prior period; and
23. There are no significant assumptions or interpretations underlying the measurement or presentation of the OI.
24. In accordance with *Government Auditing Standards*, we have identified to you all previous audits, attestation engagements, and other studies that relate to the objectives of your audits, including whether related recommendations have been implemented.
25. **[Bureau]** has appropriately identified and eliminated intra-entity transactions and balances for financial reporting purposes. We have appropriately identified, recorded, and disclosed all intra-governmental transactions and balances in the consolidated financial statements. There are no material unresolved differences in intra-governmental transactions and balances with Federal entity trading partners, and we have made appropriate adjustments to address reconciling items.
26. Our bureau has reconciled the information presented on the Department’s statement of budgetary resources to the information submitted on the Department’s final *Reports on Budget Execution and Budgetary Resources* (SF-133) which will be used as input for the fiscal year 2023 actual column of the Program and Financing Schedules reported in the fiscal year 2025 *Budget of the United States Government*. Such information is supported by the financial records and related data.
27. Service and subservice organizations that we use have not reported to us, nor are we otherwise aware of, any:
28. Fraud;
29. Noncompliance with applicable laws, regulations, contracts or grant agreements;
30. Uncorrected misstatements affecting the consolidated financial statements that are attributable to such service or subservice organizations; or
31. Changes in the design, implementation, or operating effectiveness of internal controls at such service or subservice organizations subsequent to the effective dates of the service and subservice organizations’ reports provided to you that could (1) affect the risks of material misstatement of the consolidated financial statements, or (2) result in material misstatements of the financial statements arising from processing errors that would not be prevented, or detected and corrected, on a timely basis.
32. To the best of our knowledge and belief, we have provided a complete and accurate listing of our affiliates as defined by the AICPA Code of Professional Conduct interpretation ET 1.224.010 *Client Affiliates*.
33. **[Bureau]** believes that the actuarial assumptions and methods used to measure pension and other actuarial liabilities and costs related to the NOAA Corps benefit plans for financial accounting purposes are appropriate in the circumstances.
34. Our bureau believes the current year subsidy and annual re-estimate models used in calculating post-1991 (credit reform) amounts for direct loan and loan guarantee programs:
35. Employ a reasonable model structure that is mathematically accurate, by cohort;
36. Calculate cash flows in a reasonable and logical manner; and
37. Utilize reasonable cash flow assumptions that are based on historical experience.
38. Our bureau has submitted the fiscal year 2023 re-estimates for our credit reform programs based on the fiscal year 2023 models supporting the consolidated financial statements.

Sincerely,

**[Bureau]**

**[CFO’s Name]**

*Chief Financial Officer*

**[Finance Officer’s Name]**

*Finance Officer*