

SARBANES-OXLEY ACT/OMB CIRCULAR A-123?

What are they and why should property managers know about them?

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If I had noticed that the sign at my table had said “Sarbanes-Oxley Act/OMB Circular A-123,” during the Council of Fellows (COF) breakfast at the 2005 NPMA National Educational Seminar, I wouldn’t have sat there. I didn’t know anything about either the Sarbanes-Oxley Act or OMB Circular A-123. However, after our 20 minute discussion, I learned more about them and why it is important that property managers become familiar with

them. So I decided to research them further and write this article to assist all members in learning why we should become more familiar with these subjects.

The Sarbanes-Oxley Act was passed by Congress in July 2002 because a number of large corporations (e.g., Enron, WorldCom) failed to accurately report their financial status to the Securities and Exchange Commission (SEC), their shareholders, and the public. The law was intended to bolster

public confidence in our nation’s capital markets and imposes new duties and significant penalties for non compliance on public companies and their executives, directors, auditors, attorneys, and securities analysts.ⁱ

One of the key requirements of the law is that it instructs the SEC to promulgate rules requiring the CEO and CFO to certify the following in financial reports:ⁱⁱ

- The report does not contain untrue statements or material omissions.
- The financial statements fairly present, in all material respects, the financial conditions and results of operations.
- Such officers are responsible for internal controls designed to ensure that they receive material information regarding the issuer and consolidated subsidiaries.

The law provides property managers of all public companies with an opportunity to provide support to their CEO and CFO by establishing internal controls to ensure that their asset inventories are accurate and auditable. This should enhance the status and standing of these property managers within their organizational hierarchy.

Similar requirements are defined for federal agencies in the Federal Office of Management and Budget (OMB) Circular A-123 titled "Management Accountability and Control."ⁱⁱⁱ It was issued under the authority of the Federal Manager's Financial Integrity Act of 1982 as codified in 31 U.S.C. 3512.^{iv}

The circular provides guidance to federal managers on improving the accountability and effectiveness of federal programs and operations by establishing, assessing, correcting, and reporting on management controls.^v

It defines management controls as "the organization, policies, and procedures used to reasonably ensure that (i) programs achieve their intended results, (ii) resources are used consistent with agency mission, (iii) programs and resources are protected from waste, fraud, and mismanagement, (iv) laws and regulations are followed, and (v) reliable and timely information is obtained, maintained, reported, and used for decision making."^{vi}

Management controls include the plan of organization, methods and procedures adopted by management to ensure that its goals are met. They include processes for planning, organizing, directing, and controlling program operations. A subset of management controls are *the internal controls used to assure that there is prevention or timely detection of unauthorized acquisition, use, or disposition of the entities assets* (emphasis added).^{vii}

The circular requires agency managers



...find out more about
how the law and circular
impact your organization.

to implement management controls consistent with the following standards that were extracted from the "Standards for Internal Control in the Federal Government" issued by the General Accounting Office (GAO). Two specific management control standards included in the circular are:

- **Access to and Accountability for Resources.** Access to resources and records should be limited to authorized individuals, and accountability for the custody and use of resources should be assigned and maintained.
- **Recording and Documentation.** Transactions should be promptly recorded, properly classified and accounted for in order to prepare timely accounts and reliable financial and other reports. The documentation for transactions, management controls, and other significant events must be clear and readily available for examination.^{viii}

Agency managers are encouraged in the circular to continuously monitor and improve the management controls associated with their programs. They and their employees are also to identify deficiencies in management controls and to report a deficiency if it is or should be a matter of interest to the next level of management. Managers are responsible for making timely and effective action to correct deficiencies identified in management controls.^{ix}

The circular requires agency heads to submit two annual reports to the President and the Congress by December 31. They are:

- A statement on whether there is reasonable assurance that the agency's controls are achieving their intended goals and a report on material weaknesses in the agency's controls.
- A statement on whether the agency's financial management systems conform with government-wide requirements.^x

These requirements for government agencies to maintain management controls, particularly the ones for controlling resources, provide opportunities for property managers to make significant contributions and to enhance their status and standing in their organizations.

This article was written to acquaint you with the Sarbanes-Oxley Act and OMB Circular A-123. It provides enough information to stimulate you to find out more about how the law and circular impact your organization. It may also help you to identify friends in other industries who may benefit from becoming a member of the NPMA. There are many NPMA members who are familiar with these references and can provide advice and assistance to public companies and government agencies regarding their implementation.

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Sandia is a multiprogram laboratory operated by Sandia Corporation, a Lockheed Martin Company, for the United States Department of Energy's National Nuclear Security Administration under contract DE-AC04-94AL85000. □

i Executive Summary of the Sarbanes-Oxley Act of 2002 P.L. 107-204, Conference of State Bank Supervisors web site, http://csbs.org/government/legislative/misc/2002_sarbanes-oxley_summary/htm.

ii *ibid*

iii Office of Management and Budget, Circular No. A-123, Management Accountability and Control, revised June 21, 1995.

iv *ibid*

v *ibid*

vi *ibid*

vii *ibid*

viii *ibid*

ix *ibid*

x *ibid*