

**UNIFORM GRANT GUIDANCE  
ACCEPTED PRACTICES  
MINERAL COUNTY SCHOOL DISTRICT**



Kathy Trujillo, Grants Manager  
Mineral County School District  
[trujillo.kathy@nvmcsd.org](mailto:trujillo.kathy@nvmcsd.org)

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## **FEDERAL FISCAL COMPLIANCE 1. Authority 2 CFR Part 200**

The Board shall ensure federal funds received by the district are administered in accordance with federal requirements, including but not limited to the federal Uniform Grant Guidance. The Board shall review and approve all applications for federal funds submitted by the district unless the board designates the Superintendent to act on their behalf. This is an accepted practice in Mineral County and is an action item on a regularly scheduled Board meeting agenda in December/January of each year or when there is a change in leadership.

The Finance Manager shall establish and maintain a sound financial management system to include internal controls and federal grant management standards covering the receipt of both direct and state-administered federal grants, and to track costs and expenditures of funds associated with grant awards.

The district's financial management system shall be designed with strong internal controls, a high level of transparency and accountability, and documented procedures to ensure that all financial management system requirements are met.

Financial management standards and procedures shall assure that the following responsibilities are fulfilled:

1. **Identification** – the district must identify, in its accounts, all federal awards received and expended, and the federal programs under which they were received.
2. **Financial Reporting** – Accurate, current, and complete disclosure of the financial results of each federal award or program must be made in accordance with the financial reporting requirements of the Education Department General Administrative Regulations (EDGAR).
3. **Accounting Records** – the district must maintain records which adequately identify the source and application of funds provided for federally-assisted activities.
4. **Internal Controls** – Effective control and accountability must be maintained for all funds, real and personal property and other assets. The district must adequately safeguard all such property and must assure that it is used solely for authorized purposes.
5. **Budget Control** – Actual expenditures or outlays must be compared with budgeted amounts for each federal award. Procedures shall be developed to establish determination for allowability of costs for federal funds.
6. **Cash Management** – The district shall maintain written procedures to implement the cash management requirements found in EDGAR.
7. **Allowability of Costs** – The district shall ensure that allowability of all costs charged to each federal award is accurately determined and documented.

**Standards of Conduct**

The district shall maintain standards of conduct covering conflicts of interest and the actions of employees and school officials engaged in the selection, award and administration of contracts.

All employees shall be informed of conduct that is required for federal fiscal compliance and the disciplinary actions that may be applied for violation of Board policies, administrative regulations, rules and procedures.

**Time and Effort Reporting**

All district employees paid with federal funds shall document the time they expend in work performed in support of each federal program, in accordance with law. Time and effort reporting requirements do not apply to contracted individuals.

District employees shall be reimbursed for travel costs incurred in the course of performing services related to official business as a federal grant recipient. The district shall establish and maintain employee policies on hiring, benefits and leave and outside activities, as approved by the Board.

**Record Keeping**

The district shall develop and maintain a Records Management Plan and related Board policy and administrative regulations for the retention, retrieval and disposition of manual and electronic records, including emails.

The district shall ensure the proper maintenance of federal fiscal records documenting:

1. Amount of federal funds.
2. How funds are used.
3. Total cost of each project.
4. Share of total cost of each project provided from other sources.
5. Other records to facilitate an effective audit.
6. Other records to show compliance with federal program requirements.
7. Significant project experiences and results.

All records must be retrievable and available for programmatic or financial audit. The district uses ePage for grant applications and related documents at the state and federal level. Grants.gov is also required for USED applications.

The district shall provide the federal awarding agency, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives, the right of access to any documents, papers, or other district records which are pertinent to the federal award. The district shall also permit timely and reasonable access to the district's personnel for the purpose of interview and discussion related to such documents.

Records shall be retained for a minimum of five (5) years from the date on which the final Financial Status Report is submitted, or as otherwise specified in the requirements of the federal award, unless a written extension is provided by the awarding agency, cognizant agency for audit, oversight agency for audit or cognizant agency for indirect costs.

If any litigation, claim or audit is started before the expiration of the standard record retention period, the records shall be retained until all litigation, claims or audits have been resolved and final action taken.

As part of the Records Management Plan, the district shall develop and maintain a records retention schedule, which shall delineate the record retention format, retention period and method of disposal. The Records Management Plan shall include identification of staff authorized to access records, appropriate training, and preservation measures to protect the integrity of records and data.

The district shall ensure that all personally identifiable data protected by law or regulations is handled in accordance with the requirements of applicable law, regulations, Board policy and administrative regulations.

### **Subrecipient Monitoring**

In the event that the district awards subgrants, the district shall establish procedures to:

1. Assess the risk of noncompliance.
2. Monitor grant subrecipients to ensure compliance with federal, state, and local laws and Board policy and procedures.
3. Ensure the district's record retention schedule addresses document retention on assessment and monitoring.

### **Compliance Violations**

Employees and contractors involved in federally funded programs and subrecipients shall be made aware that failure to comply with federal law, regulations or terms and conditions of a federal award may result in the federal awarding agency or passthrough entity imposing additional conditions or terminating the award in whole or in part.

References: Uniform Administrative Requirements for Federal Awards, Title 2, Code of Federal Regulations – 2 CFR Part 200 Department of Education Direct Grant and State-Administered Programs, Title 34, Code of Federal Regulations – 34 CFR Part 75, Part 76 Board Policy – 113.4, 216, 304, 317, 319, 324, 336, 337, 331, 610, 611, 612, 613, 624, 625, 626.1, 800, 813, 827

## **TRAVEL REIMBURSEMENT – FEDERAL PROGRAMS**

The Board shall reimburse administrative, professional and support employees, and school officials, for travel costs incurred in the course of performing services related to official business as a federal grant recipient.

For purposes of this policy, travel costs shall mean the expenses for transportation, lodging, subsistence, and related items incurred by employees and school officials who are in travel status on official business as a federal grant recipient.

School officials and district employees shall comply with applicable Board policies and administrative regulations established for reimbursement of travel and other expenses. Mineral County School District adopts and adheres to the GSA rates, policies and practices for all federal grants.

The validity of payments for travel costs for all district employees and school officials shall be determined by the Grants Manager/Finance Manager/Superintendent.

Travel costs shall be reimbursed on a mileage basis for travel using an employee's personal vehicle and on an actual cost basis for meals, lodging and other allowable expenses (or approved GSA rates), consistent with those normally allowed in like circumstances in the district's non-federally funded activities, and in accordance with the district's travel reimbursement policies and administrative regulations.

Mileage reimbursements shall be at the rate approved by the Board for other district travel reimbursements. Actual costs for meals, lodging and other allowable expenses shall be reimbursed only to the extent they are reasonable and do not exceed or adhere to the the per diem limits established by the federal General Services Administration for federal employees for locale where incurred.

All travel costs must be presented with an itemized, verified statement prior to reimbursement. In addition, if these costs are charged directly to the federal award, documentation must be maintained that justifies that:

1. Participation of the individual is necessary to the federal award.
2. The costs are reasonable and consistent with the district's established policy

### **Allowability of Costs – Federal Programs**

Expenditures must be aligned with approved budgeted items. Any changes or variations from the state-approved budget and grant application need prior approval from the state.

## **Delegation of Responsibility**

When determining how the school district will spend its grant funds, the Grants Manager and Finance Manager will review the proposed cost to determine whether it is an allowable use of federal grant funds before obligating and spending those funds on the proposed good or service.

## **Allowability Determinations**

All costs supported by federal education funds must meet the standards outlined in EDGAR, 2 CFR Part 3474 and 2 CFR Part 200, Subpart E, which are listed below. The Grants Manager and Finance Manager must consider these factors when making an allowability determination.

Part 200 sets forth general cost guidelines that must be considered, as well as rules for specific types of items, both of which must be considered when determining whether a cost is an allowable expenditure of federal funds. The expenditure must also be allowable under the applicable program statute (e.g., Title I of the Elementary and Secondary Education Act (ESEA), or the Carl D. Perkins Career and Technical Education Act (Perkins), along with accompanying program regulations, nonregulatory guidance and grant award notifications.

Restrictions in state and local rules or policy also must be considered. For example, travel and other job-related expenses incurred by employees are not allowable unless they also are in compliance with Board Policy 331 (Job Related Expenses) and related administrative regulations. Whichever allowability requirements are stricter will govern whether a cost is allowable. General allowability determination factors include the following:

*Be Necessary and Reasonable for the performance of the federal award.*

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision to incur the cost was made. For example, reasonable means that sound business practices were followed, and purchases were comparable to market prices. When determining reasonableness of a cost, consideration must be given to:

1. Whether the cost is a type generally recognized as ordinary and necessary for the operation of the district or the proper and efficient performance of the federal award.
2. The restraints or requirements imposed by factors, such as: sound business practices; arm's-length bargaining; federal, state and other laws and regulations; and terms and conditions of the federal award.
3. Market prices for comparable goods or services for the geographic area.

4. Whether the individual incurring the cost acted with prudence in the circumstances considering responsibilities to the district, its employees, its students, the public at large, and the federal government.

5. Whether the district significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the federal award's cost. (2 CFR Sec. 200.404)

*Whether a cost is necessary will be determined based on the needs of the program.*

Specifically, the expenditure must be necessary to achieve an important program objective. A key aspect in determining whether a cost is necessary is whether the district can demonstrate that the cost addresses an existing need, and can prove it. For example, the school entity may deem a language skills software program necessary for a limited English proficiency program.

When determining whether a cost is necessary, consideration may be given to:

- Whether the cost is needed for the proper and efficient performance of the federal award program.
- Whether the cost is identified in the approved budget or application.
- Whether there is an educational benefit associated with the cost.
- Whether the cost aligns with identified needs based on results and findings from a needs assessment.
- Whether the cost addresses program goals and objectives and is based on program data.

*Allocable to the federal award.*

A cost is allocable to the federal award if the goods or services involved are chargeable or assignable to the federal award in accordance with the relative benefit received. This means that the federal grant program derived a benefit in proportion to the funds charged to the program. (2 CFR Sec. 200.405) For example, if fifty percent (50%) of a teacher's salary is paid with grant funds, then that teacher must spend at least fifty percent (50%) of his/her time on the grant program.

Consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the school entity.

Conform to any limitations or exclusions set forth as cost principles in Part 200 or in the terms and conditions of the federal award.



Consistent treatment. A cost cannot be assigned to a federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been assigned as an indirect cost under another award.

Adequately documented. All expenditures must be properly documented. Be calculated in accordance with generally accepted accounting principles (GAAP), unless provided otherwise in Part 200.

Not included as a match or cost-share, unless the specific federal program authorizes federal costs to be treated as such. Some federal program statutes require the nonfederal entity to contribute a certain amount of nonfederal resources to be eligible for the federal program.

Be the net of all applicable credits. The term “applicable credits” refers to those receipts or reduction of expenditures that operate to offset or reduce expense items allocable to the federal award. Typical examples of such transactions are: purchase discounts; rebates or allowances; recoveries or indemnities on losses; and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to or received by the state relate to the federal award, they shall be credited to the federal award, either as a cost reduction or a cash refund, as appropriate. (2 CFR Sec. 200.406)

### *Selected Items of Cost*

Subpart E of Part 200 sets forth principles to be applied in establishing the allowability of fifty-five (55) specific cost items (commonly referred to as Selected Items of Cost), at 2 CFR Sec. 200.420-200.475. These specific cost items are listed in the chart below along with the citation to the section of Subpart E addressing the allowability of that item. These principles are in addition to the other general allowability standards, and apply whether or not a particular item of cost is properly treated as direct cost or indirect (F&A) cost.

Meeting the specific criteria for a listed item does not by itself mean the cost is allowable, as it may be unallowable under other standards or for other reasons, such as restrictions contained in the terms and conditions of a particular grant or restrictions established by the state or in Board policy. If an item is unallowable for any of these reasons, federal funds cannot be used to purchase it.

School district personnel responsible for spending federal grant funds and for determining allowability must be familiar with and refer to the Part 200 selected items of cost section. These rules must be followed when charging these specific expenditures to a federal grant. When applicable, employees must check costs against the selected items of cost requirements to ensure the cost is allowable, and also check state, district and program-specific rules.

*Helpful Questions for Determining Whether Costs are Allowable*

In addition to applying the cost principles and standards described above, district staff involved in expending federal funds should ask the following questions when assessing the allowability of a particular cost:

1. Is the proposed cost allowable under the relevant program?
2. Is the proposed cost consistent with an approved program plan and budget?
3. Is the proposed cost consistent with program specific fiscal rules? For example, the school entity may be required to use federal funds only to supplement the amount of funds available from nonfederal (and possibly other federal) sources, or only as a match for funds from nonfederal sources.
4. Is the proposed cost consistent with EDGAR?
5. Is the proposed cost consistent with specific conditions imposed on the grant (if applicable)?
6. Is the proposed cost consistent with the underlying needs of the program? For example, program funds must benefit the appropriate population of students for which they are allocated. This means that, for instance, funds allocated under Title III of the Elementary and Sample Policies/Procedures.Revised 14 Secondary Education Act (ESEA) governing language instruction programs for Limited English Proficient (LEP) students must only be spent on LEP students and cannot be used to benefit non-LEP students.
7. Will the cost be targeted at addressing specific areas of weakness that are the focus of the program, as indicated by available data? Any questions related to specific costs should be forwarded to the Grants Manager and/or Finance Manager who shall consult with the school solicitor for clarification as appropriate

### **Cash Management – Federal Programs**

Generally, the school district receives payment from the Nevada Department of Education (NDE) on a reimbursement basis. In some circumstances, the district may receive an advance of federal grant funds. This section addresses responsibilities of the district and district staff under those alternative payment methods. In either case, the district shall maintain accounting methods and internal controls and procedures that assure those responsibilities are met.

#### Payment Methods

**Reimbursements –**

The Grants Manager/Finance Manager/Superintendent will request reimbursement for actual expenditures incurred under the federal grants monthly or quarterly. Such requests shall be submitted with appropriate documentation and signed by the requestor. Requests for reimbursements will be approved by the Grants Manager/Finance Manager/Superintendent.

Reimbursement will be submitted on the appropriate form to the NDE ePage portal. All reimbursements are based on actual disbursements, not on obligations. NDE will process reimbursement requests within the timeframes required for disbursement.

Consistent with state and federal requirements, the school district will maintain source documentation supporting the federal expenditures (invoices, time sheets, payroll stubs, etc.) and will make such documentation available for NDE to review upon request.

*Reimbursements of actual expenditures do not involve interest calculations.*

**Advances**

When the district receives advance payments of federal grant funds, it must minimize the time elapsing between the transfer of funds to the district and the expenditure of those funds on allowable costs of the applicable federal program. (2 CFR Sec. 200.305(b)) The district shall attempt to expend all advances of federal funds within seventy-two (72) hours of receipt.

When applicable, the district shall use existing resources available within a program before requesting additional advances. Such resources include program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds. (2 CFR Sec. 305(b)(5))

The district shall hold federal advance payments in insured, interest-bearing accounts.

Pursuant to federal guidelines, interest earnings shall be calculated from the date that the federal funds are drawn down from the G5 system until the date on which those funds are disbursed by the district. Consistent with state guidelines, interest accruing on total federal grant cash balances shall be calculated on cash balances per grant and applying the actual or average interest rate earned.

**Administration of Federal Funds – Type of Costs, Obligations and Property Management**

The district establishes and maintains Board policies, administrative regulations and procedures on administration of federal funds in federal programs as required by the Uniform Grant Guidance and other federal, state and local laws, regulations and requirements. The district's financial management system includes internal controls and grant management standards in the following areas.

## **Direct and Indirect Costs**

**Direct costs** – costs that can be identified specifically with a particular final cost objective, such as a federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy.

**Indirect costs** – costs incurred for a common or joint purpose benefiting more than one (1) cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved.

Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect costs. (2 CFR Sec. 200.405, 200.413) Identification with the federal award rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect costs.

Direct and indirect costs shall be determined in accordance with law, regulations, the terms and conditions of the federal award, and the district's negotiated indirect cost rate.

The district shall develop an indirect cost rate proposal and cost allocation plan in accordance with law, regulations and the terms and conditions of the federal award.

### **Timely Obligation of Funds**

**Obligations** – orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the district during the same or a future period.

All obligations must occur between the beginning and ending dates of the federal award project, which is known as the period of performance. The period of performance is dictated by law and regulations and will be indicated in the federal award. Specific requirements for carryover funds may be specified in the federal award and must be adhered to by the district. (2 CFR Sec. 200.77, 200.309)

The district will handle obligations and carry over of state-administered and direct grants in accordance with state and federal law and regulations, and the terms and conditions of the federal award. Carryover will be calculated and documented by the Grants Manager and Finance Manager.

The district may exercise an extension of the period of performance under a direct grant in accordance with law, regulations and the terms and conditions of the federal award when written notice is provided to the federal awarding agency at least ten (10) calendar days prior to the end of the period of performance. (2 CFR Sec. 200.308(d)(2)) The Grants Manager and Finance Manager will decide when an extension of the period of performance is necessary and will recommend that the Superintendent approve this process.

The Grants Manager will develop the required written notice, including the reasons for the extension and revised period of performance; the notice will be issued no later than ten (10) calendar days prior to the end of the currently documented period of performance in the federal award.

The district must seek approval from the federal awarding agency for an extension of the period of performance when the extension is not contrary to federal law or regulations, and the following conditions apply:

1. The terms and conditions of the federal award prohibit the extension;
2. The extension requires additional federal funds; or
3. The extension involves any change in the approved objectives or scope of the project.  
(2 CFR Sec. §200.308)

The Grants Manager will determine when an extension must be requested for approval by the federal awarding agency, draft the written request and notify the Finance Manager of the requested extension.

### **Management of Property Acquired With Federal Funds**

#### **Contract and Purchasing Administration –**

The district maintains internal controls, administrative regulations and procedures to ensure that contractors deliver goods and services in accordance with the terms, conditions and specifications of the designated contract, purchase order or requisition.

#### **Property Classifications –**

Property shall be classified as equipment, supplies, computing devices and capital assets as defined and specified in accordance with law, regulations and Board policy. (Pol. 622)

#### **Inventory Control/Management –**

All property purchased with federal funds, regardless of cost, will be inventoried as a safeguard.

Inventory will be received by the department or program requesting the item; designated staff will inspect the property, compare it to the applicable purchase order or requisition, and ensure it is appropriately logged and tagged in the district's property management system.

Items acquired will be physically labeled by source of funding and acquisition date.

Inventory records of equipment and computing devices must be current and available for review and audit, and include the following information:

1. Description of the item, including any manufacturer's model number.
2. Manufacturer's serial number or other identification number.
3. Identification of funding source.
4. Acquisition date and unit cost.
5. Source of items, such as company name.
6. Percentage of federal funds used in the purchase.
7. Present location, use, condition of item, and date information was reported.
8. Pertinent information on the ultimate transfer, replacement or disposition of the item and sale price of the property.

Inventory will be updated as items are sold, lost or stolen, or cannot be repaired, and new items are purchased.

#### **Physical Inventory –**

Physical inventory of property will be completed by designated district staff in accordance with applicable federal and state law and regulation and Board policy.

The physical inventory of items will be conducted annually, and the results will be reconciled with the inventory records and reported to the federal awarding agency.

**Maintenance** - The district establishes adequate maintenance procedures to ensure that property is maintained in good condition in accordance with law, regulation and Board policy.

#### **Safeguards –**

The district ensures that adequate safeguards are in place to prevent loss, damage or theft of property:

1. Any loss, damage or theft will be reported to the Superintendent and investigated and fully documented, and may be reported to local law enforcement.
2. If stolen items are not recovered, the district will submit copies of the investigative report and insurance claim to the federal awarding agency.
3. The district may be responsible for replacing or repairing lost, damaged, destroyed or stolen items.
4. Replaced equipment is property of the originally funded program and should be inventoried accordingly.
5. District property may only be loaned in accordance with Board policy and administrative regulations.

#### **Disposition of Property Acquired with Federal Funds –**

When the district determines that real property, including land, land improvements structures and accessories thereto, acquired under a federal award is no longer needed for the originally authorized purpose, the district must obtain disposition instructions from the federal awarding agency or pass-through entity administering the program, in accordance with applicable law and regulations. (2 CFR Sec. 200.311)

When the district determines that equipment or supplies acquired under a federal award are no longer needed for the original project or program or for other activities currently or previously supported by a

federal awarding agency, the Grants Manager will contact the federal awarding agency or pass-through entity administering the program to obtain disposition instructions, based on the fair market value of the equipment or supplies.

Generally, items with a fair market value of \$5,000 or less that are no longer effective may be retained, sold, purged, or transferred to the district. For items with a fair market value greater than \$5,000, the federal awarding agency is entitled to the federal share of the current market value or sales proceeds. If the district will be replacing the equipment or supplies, the district may use the existing equipment or supplies as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property. The Grants Manager will be responsible for contacting the federal awarding agency and determining the process for disposition of equipment or supplies.

The district may use the following methods in disposing of unnecessary equipment or supplies acquired with federal funds:

- Public auction and/or online sale – generally conducted by a licensed auctioneer. Salvage – scrap sold to local dealers.
- Negotiated sale – normally used when disposing of items of substantial value. Sealed bid – normally used for items of substantial value or unique qualities.
- Pre-priced sale – large quantities of obsolete or surplus equipment or supplies may be sold by this method.
- Donation to charitable organizations, for equipment or supplies with little to no value.
- Disposition to trash for equipment or supplies with no value.
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The Grants Manager will be responsible for maintaining records of obsolete and surplus property disposed of, and will report to the federal awarding agency when required.

### **Procurement – Federal Programs**

This document is intended to integrate standard district purchasing procedures with additional requirements applicable to procurements that are subject to the federal Uniform Grant Guidance regulations and/or U.S. Department of Agriculture (USDA) regulations governing school food service programs. The district maintains the following purchasing procedures, in accordance with federal and state laws, regulations and Board policy.

## **Responsibility for Purchasing**

The Board has outlined standard district purchasing responsibility, methods of purchasing, price quotations and bid requirements in Board policies and their accompanying administrative regulations.

## **Purchase Methods**

When a request for purchase of equipment, supplies or services has been submitted and approved as outlined below, the procurement method to be used will be determined based on the total cost of the purchase as further outlined below. This procedure outlines how the cost thresholds for determining when the quote or formal bidding procedures that are required by state law must be modified when making purchases for federally funded purposes to which the Uniform Grant Guidance or USDA regulations apply, so as to comply with both state and federal requirements. At each point where requirements for food service-related procurement under USDA regulations differ, a note will refer to the Food Service Program Notes at the end of this procedure. Final determination of which purchasing procedures are to be applied is delegated to the Finance Manager.

The district shall use purchase orders and requisitions for purchase requests in accordance with the applicable purchase method. The district shall use paper and electronic purchasing records, which are pre-numbered and are accessible to designated purchasing staff in the district office.

Purchase requests by an employee must be submitted to the building administrator or immediate supervisor. Purchase of all budgeted items or items approved by an administrator or supervisor must be initiated by use of a purchase order or requisition submitted to the Grants Manager.

Purchase orders and requisitions shall contain information including, but not limited to:

1. Description of the services to be performed or goods to be delivered.
2. Location of where services will be performed or goods will be delivered.
3. Appropriate dates of service or delivery.

Documentation on purchase orders and requisitions shall be maintained in accordance with the district's Records Management Policy and records retention schedule.

Contracts shall be reviewed by Finance Manager prior to submission to the Board for approval.

Noncompetitive Proposals (Sole Sourcing) Procurement by noncompetitive proposals means procurement through solicitation of a proposal from only one (1) source and may be used only when one or more of the following circumstances apply:

1. The item is available only from a single source.
2. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation. An emergency exists whenever the time required for the



Board to act in accordance with regular procedures would endanger life or property or threaten continuance of existing school classes.

3. The federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the district.

4. After solicitation of a number of sources, the district determines the competition is inadequate.

In addition to standard procurement policy and procedures, the district will document the grounds for using the noncompetitive method in lieu of an otherwise required competitive method of procurement, which may include written confirmation from the contractor as the sole source of the item.

Documentation must be submitted to and maintained by the District Office.

All noncompetitive proposals will ultimately be approved by the Board. The district may utilize legal advice from the solicitor regarding noncompetitive proposals.. engineering (A/E) services, geographic location may be a selection criterion provided its application.

### **Debarment and Suspension**

The district awards contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

The district may not subcontract with or award subgrants to any person or company who is debarred or suspended. For all contracts over \$25,000 the district verifies that the contractor with whom the district intends to do business is not excluded or disqualified. (2 CFR Part 200, Appendix II, and 2 CFR Sec. 180.220 and 180.300)

All successful contractors must provide written certification that they have not been suspended or debarred from federal projects. The Grants Manager and/or Finance Manager will be responsible for verification. Such verification may include accessing the online federal System for Award Management (SAM) to determine whether any relevant party is subject to any suspension or debarment restrictions.

### **Maintenance of Procurement Records**

The district must maintain records sufficient to detail the history of all procurements. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, the basis for the contract price (including a cost or price analysis), and verification that the contractor is not suspended or debarred. Maintenance of records of procurement will be governed by Board policy and established administrative regulations.

## **Time and Materials Contracts**

The district may use a time and materials type contract only:

- (1) after a determination that no other contract is suitable; and
- (2) if the contract includes a ceiling price that the contractor exceeds at its own risk.

Time and materials type contract means a contract whose cost to the district is the sum of: the actual costs of materials, and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit. Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the district must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

## **Settlements of Issues Arising Out of Procurements**

The district alone is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the district of any contractual responsibilities under its contracts. Violations of law will be referred to the local, state, or federal authority having proper jurisdiction.

## **Protest Procedures to Resolve Dispute**

The district maintains protest procedures to handle and resolve disputes relating to procurements and, in all instances, discloses information regarding the protest to the awarding agency. Protest procedures will be acted on in accordance with current state law and regulations, established district administrative regulations and the advice of the solicitor.

## **Subrecipient Monitoring Procedures – Federal Programs**

In the event the district disperses federal funds received through a federal award to other entities and assigns responsibilities to the outside entity to conduct a portion of the work, the district shall be responsible for determining, on a case-by-case basis, whether the agreement with such entity places the outside entity in the role of a subrecipient receiving a subaward of federal funding, or the role of a contractor. If the district grants subawards of federal funding to other entities as subrecipients, the district shall be responsible for:

1. Evaluating the entity for risk of noncompliance to determine appropriate monitoring practices.

2. Monitoring the subrecipient entity’s implementation to ensure compliance with federal, state and local laws, conditions of the federal funding award, and Board policy and procedures.
3. Notifying the subrecipient entity of identified deficiencies found during the monitoring process and ensuring that identified deficiencies are corrected.
4. Documenting and retaining records on subrecipient identification, notification, evaluation, monitoring and corrective actions taken.

**Definitions**

For purposes of policies and procedures related to federal programs, the following definitions shall apply:

Contract – a legal instrument by which a non-federal entity purchases property or services needed to carry out the project or program under a federal award. The term as used here does not include a legal instrument, even if the entity considers it a contract, when the substance of the transaction meets the definition of a federal program award or subaward. (2 CFR 200.22)

Contractor – an entity that receives a contract, as defined in law and regulations, by which a non-federal entity purchases property or services needed to carry out the project or program under a federal award. (2 CFR 200.23)

Pass-through entity – a non-federal entity that provides a subaward to a subrecipient to carry out part of a federal program. The district serves as the pass-through entity in cases where it awards federal funding to a subrecipient as defined in this procedure. (2 CFR 200.74)

Subaward – an award provided by a pass-through entity to a subrecipient in order to carry out part of a federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program. A subaward may be provided through any form of legal agreement, including an agreement that the passthrough entity considers a contract.

Subrecipient – a non-federal entity that receives a subaward to carry out part of a federal program; but does not include an individual that is a beneficiary of such program. (A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.) (2 CFR 200.93)

**Subrecipient Versus Contractor**

The district must determine, on a case-by-case basis, whether an entity receiving funds from the district as part of a federal funding program serves in a role of subrecipient or contractor. (2 CFR 200.330)

**CONFLICT OF INTEREST**

The district shall affirm standards of conduct established to ensure that Board members and employees avoid potential and actual conflicts of interest, as well as the perception of a conflict of interest.

Confidential information shall mean information not obtainable from reviewing a public document or from making inquiry to a publicly available source of information.

Conflict or Conflict of interest shall mean use by a Board member or district employee of the authority of his/her office or employment, or any confidential information received through his/her holding public office or employment, for the private pecuniary benefit of him/herself, a member of his/her immediate family or a business with which s/he or a member of his/her immediate family is associated. The term does not include an action having a de minimis economic impact, or which affects to the same degree a class consisting of the general public or a subclass consisting of an industry, occupation or other group which includes the Board member or district employee, a member of his/her immediate family or a business with which s/he or a member of his/her immediate family is associated. De minimis economic impact shall mean an economic consequence which has an insignificant effect. Financial interest shall mean any financial interest in a legal entity engaged in business for profit which comprises more than five percent (5%) of the equity of the business or more than five percent (5%) of the assets of the economic interest in indebtedness.

Honorarium shall mean payment made in recognition of published works, appearances, speeches and presentations, and which is not intended as consideration for the value of such services which are nonpublic occupational or professional in nature. The term does not include tokens presented or provided which are of de minimis economic impact.

Immediate family shall mean a parent, parent-in-law, spouse, child, spouse of a child, brother, brother-in-law, sister, sister-in-law, or the domestic partner of a parent, child, brother or sister.

Business partner shall mean a person who, along with another person, plays a significant role in owning, managing, or creating a company in which both individuals have a financial interest in the company.

Each employee and Board member shall be responsible to maintain standards of conduct that avoid conflicts of interest. The Board prohibits members of the Board and district employees from engaging in conduct that constitutes a conflict of interest as outlined in this policy. All Board members and employees shall be provided with a copy of the district's policy and acknowledge in writing that they have been made aware of it. Additional training shall be provided to designated individuals.

### **Disclosure of Financial Interests**

No Board member shall be allowed to take the oath of office or enter or continue upon his/her duties, nor shall s/he receive compensation from public funds, unless s/he has filed a statement of financial interests as required law. Designated district employees shall file a statement of financial interests as required by law and regulations.

## Standards of Conduct

The district maintains the following standards of conduct covering conflicts of interest and governing the actions of its employees and Board members engaged in the selection, award and administration of contracts.

No employee or Board member may participate in the selection, award or administration of a contract supported by a federal award if s/he has a real or apparent conflict of interest as defined above, as well as any other circumstance in which the employee, Board member, any member of his/her immediate family, his/her business partner, or an organization which employs or is about to employ any of them, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

The district shall not enter into any contract with a Board member or employee, or his/her spouse or child, or any business in which the person or his/her spouse or child is associated valued at \$500 or more, nor in which the person or spouse or child or business with which associated is a subcontractor unless the Board has determined it is in the best interests of the district to do so, and the contract has been awarded through an open and public process, including prior public notice and subsequent public disclosure of all proposals considered and contracts awarded. In such a case, the Board member or employee shall not have any supervisory or overall responsibility for the implementation or administration of the contract.

When advertised formal bidding is not required or used, an open and public process shall include at a minimum:

1. Public notice of the intent to contract for goods or services;
2. A reasonable amount of time for potential contractors to consider whether to offer quotes; and
3. Post-award public disclosure of who made bids or quotes and who was chosen.

Any Board member or employee who in the discharge of his/her official duties would be required to vote on a matter that would result in a conflict of interest shall abstain from voting and, prior to the vote being taken, publicly announce and disclose the nature of his/her interest as a public record. No public official or public employee shall accept an honorarium.

Board members and employees may neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to subcontracts, unless the gift is an unsolicited item of nominal value. Gifts of a nominal value may be accepted in accordance with Board policy.

## **Improper Influence**

No person shall offer or give to a Board member, employee or nominee or candidate for the Board, or a member of his/her immediate family or a business with which s/he is associated, anything of monetary value, including a gift, loan, political contribution, reward or promise of future employment based on the offeror's or donor's understanding that the vote, official action or judgment of the Board member, employee or nominee or candidate for the Board would be influenced thereby.

No Board member, employee or nominee or candidate for the Board shall solicit or accept anything of monetary value, including a gift, loan, political contribution, reward or promise of future employment, based on any understanding of that Board member, employee or nominee or candidate that the vote, official action or judgment of the Board member, employee or nominee or candidate for the Board would be influenced thereby.

## **Organizational Conflicts**

Organizational conflicts of interest may exist when due to the district's relationship with a subsidiary, affiliated or parent organization that is a candidate for award of a contract in connection with federally funded activities, the district may be unable or appear to be unable to be impartial in conducting a procurement action involving a related organization.

In the event of a potential organizational conflict, the potential conflict shall be reviewed by the Superintendent or designee to determine whether it is likely that the district would be unable or appear to be unable to be impartial in making the award. If such a likelihood exists, this shall not disqualify the related organization; however, the following measures shall be applied:

1. The organizational relationship shall be disclosed as part of any notices to potential contractors;
2. Any district employees or officials directly involved in the activities of the related organization are excluded from the selection and award process;
3. A competitive bid, quote or other basis of valuation is considered; and
4. The Board has determined that contracting with the related organization is in the best interests of the program involved.

## **Reporting**

Any perceived conflict of interest that is detected or suspected by any employee or third party shall be reported to the Superintendent. If the Superintendent is the subject of the perceived conflict of interest, the employee or third party shall report the incident to the Board President.

Any perceived conflict of interest of a Board member that is detected or suspected by any employee or third party shall be reported to the Board President. If the Board President is the subject of the perceived

conflict of interest, the employee or third party shall report the incident to the Superintendent, who shall report the incident to the District Attorney.

No reprisals or retaliation shall occur as a result of good faith reports of conflicts of interest.

### **Investigation**

Investigations based on reports of perceived violations of this policy shall comply with state and federal laws and regulations. No person sharing in the potential conflict of interest being investigated shall be involved in conducting the investigation or reviewing its results.

In the event an investigation determines that a violation of this policy has occurred, the violation shall be reported to the federal awarding agency in accordance with that agency's policies.

### **Disciplinary Actions**

If an investigation results in a finding that the complaint is factual and constitutes a violation of this policy, the district shall take prompt, corrective action to ensure that such conduct ceases and will not recur. District staff shall document the corrective action taken and, when not prohibited by law, inform the complainant.

Violations of this policy may result in disciplinary action up to and including discharge, fines and possible imprisonment. Disciplinary actions shall be consistent with Board policies, procedures, applicable collective bargaining agreements and state and federal laws.

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