San Benito CISD

Federal Grant Policies and Procedures Manual

Pursuant to Requirements in 2 CFR Part 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and Education Department General Administrative Regulations (EDGAR)

Effective July 1, 2015
Revised August 22, 2018

Federal Grant Policies and Procedures Manual

These federal grant policies and procedures are applicable to all federal grants awarded to the District. All employees who deal with federal grants must be familiar with them and must fully comply with all requirements contained herein.

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Pursuant to Requirements in 2 CFR Part 200:
Uniform Administrative Requirements, Cost Principles, and
Audit Reqirements for Federal Awards, and
Education Department General Administrative Regulations (EDGAR)

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Introduction

Purpose

This manual sets forth the policies and procedures used by San Benito CISD to administer federal funds pursuant to *Title 2 of the Code of Federal Regulations (2 CFR) Part 200*, which took effect for non-federal entities on December 26, 2014. It also includes requirements and references from the federal regulations in *EDGAR* (*Education Department General Administrative Regulations*) as well as certain policies and laws pertaining specifically to Texas school districts.

The manual contains the internal controls and grant management standards used by the District to ensure that all federal funds are lawfully expended. It describes in detail or references the District's financial management system, including cash management procedures; procurement policies; inventory management protocols; procedures for determining the allowability of federal expenditures; time-and-effort reporting; record retention; and monitoring responsibilities. All employees of the District who deal with federal funds in any capacity are expected to review this manual to gain familiarity and understanding of the District's rules and practices and to comply with all requirements.

Effective Date

awards made prior to December 26, 2014, the uniform requirements found in 34 CFR Parts 74 For and 80 of *EDGAR* still apply. For awards made on or after December 26, 2014, the uniform grant guidance in 2 CFR Part 200 applies. Much of the substance found in the previous 34 CFR Parts 74 and 80 is now found in 2 CFR Part 200 and is currently in transition.

Therefore, for formula grants administered by the Texas Education Agency (TEA), the policies and procedures in this document are in effect beginning July 1, 2015, in conjunction with the formula grant period that begins July 1, 2015. These policies and procedures will also be in effect for any new discretionary grants administered by TEA that begin on or after July 1, 2015.

For existing multi-year discretionary grants administered by TEA or by another awarding agency where the initial grant period began before July 1, 2015, the policies and procedures that were previously in effect remain in effect for the duration of that multi-year project period unless significant changes are made to the program. In that case, the policies and procedures in this document are in effect beginning with the year that significant changes were in effect.

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In all cases, the Notice of Grant Award (NOGA) from TEA or the Grant Award Notification (GAN) from another awarding agency will specify which set of rules is in effect for that particular grant. If the grant award specifies that grantees must comply with 2 CFR Part 200 or with the requirements in EDGAR, then the policies and procedures contained in this manual must be followed.

Type of Grant	Effective Date of These Policies and Procedures
Formula grants administered by TEA that begin on or after July 1, 2015	July 1, 2015
Discretionary grants administered by TEA that begin on or after July 1, 2015	July 1, 2015
Multi-year discretionary grants that began prior to July 1, 2015	Follow the policies and procedures that were in effect prior to these unless there are significant changes to the discretionary grant, at which time the policies and procedures in this document will take effect.

Special Note: The District must maintain all policies and procedures that previously applied to federal grants for five years after the ending date of those grants for audit and monitoring purposes. The previously-used policies and procedures are in effect for any grants that were awarded prior to December 26, 2014.

Scope

The policies and procedures contained within this manual apply to all federal grants received by the District and to all employees of the District.

Monitoring for Compliance and Consequences for Non-compliance

The District is responsible for complying with all requirements of each federal award (2 CFR 200.300[b]). Compliance with these policies and procedures is monitored by the District. Failure of a district employee to comply with any of these requirements may result in disciplinary action, up to and including termination.

Definitions

Definitions as they pertain to federal grants appear in two places: *34 CFR Part 77 - Definitions That Apply to Department Regulations*, and *2 CFR Part 200, Subpart A*, which relate to the policies and procedures in this document. District employees who deal with federal grants must be familiar with the definitions in both.

Two terms used frequently in 2 CFR Part 200 are "state-administered grants" and "direct grants." "*State-administered grants*" are those grants that pass through a state agency (i.e., a *pass-through agency*) such as TEA. The majority of grants the District receives are state-administered grants. Both TEA and the subgrantees must comply with the requirements in 34 CFR Part 76 in addition to the requirements in 2 CFR Part 200.

"*Direct grants*" are those grants that do *not* pass through another agency such as TEA and are awarded directly by the federal awarding agency to the grantee organization. These are usually discretionary grants that are awarded by the U.S. Department of Education (USDE) or by another federal awarding agency. In many instances, TEA may apply for a direct grant from the USDE on a competitive basis and then award subgrants. Or the District may apply directly from the USDE for a competitive grant. In either case, these grants are "*direct grants,*" and the District must comply with the requirements in 34 CFR Part 75 in addition to the requirements in 2 CFR 200.

All of the requirements outlined in these policies and procedures apply to both *direct* grants and *state-administered* grants.

The federal provisions contained and referenced in this document apply to all non-federal entities receiving and expending federal funds. A "non-federal entity" as defined in 2 CFR Part 200 means, "a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a federal award as a recipient or subrecipient." Thus, for the purposes of these federal grant policies and procedures, a "non-federal entity" means a school district, open-enrollment charter school, or regional education service center (ESC).

Education Department General Administrative Regulations (EDGAR)

The USDE adopts the uniform grant guidance in 2 CFR Part 200 as its regulations in 2 CFR Part 3474 (with two minor exceptions), which gives regulatory effect to the Office of Management and Budget (OMB) guidance in 2 CFR Part 200. Therefore, as of December 26, 2014, EDGAR now consists of:

EDGAR	Applicability
34 CFR Part 75 – Direct Grant Programs	Applies to grants awarded directly to the District by the USDE or by another federal awarding agency; also applies to subgrants awarded by TEA for a competitive grant that TEA applied for and received
34 CFR Part 76 – State-Administered Programs	Applies to all formula grants administered by TEA and to all grants allocated to TEA based on a formula
34 CFR Part 77– Definitions that Apply to Department Regulations	Applies to all federal education grants
34 CFR Part 81 – General Education Provisions Act (GEPA) – Enforcement	Applies to all federal education grants
34 CFR Part 82 – New Restrictions on Lobbying	All federal grants (government-wide)

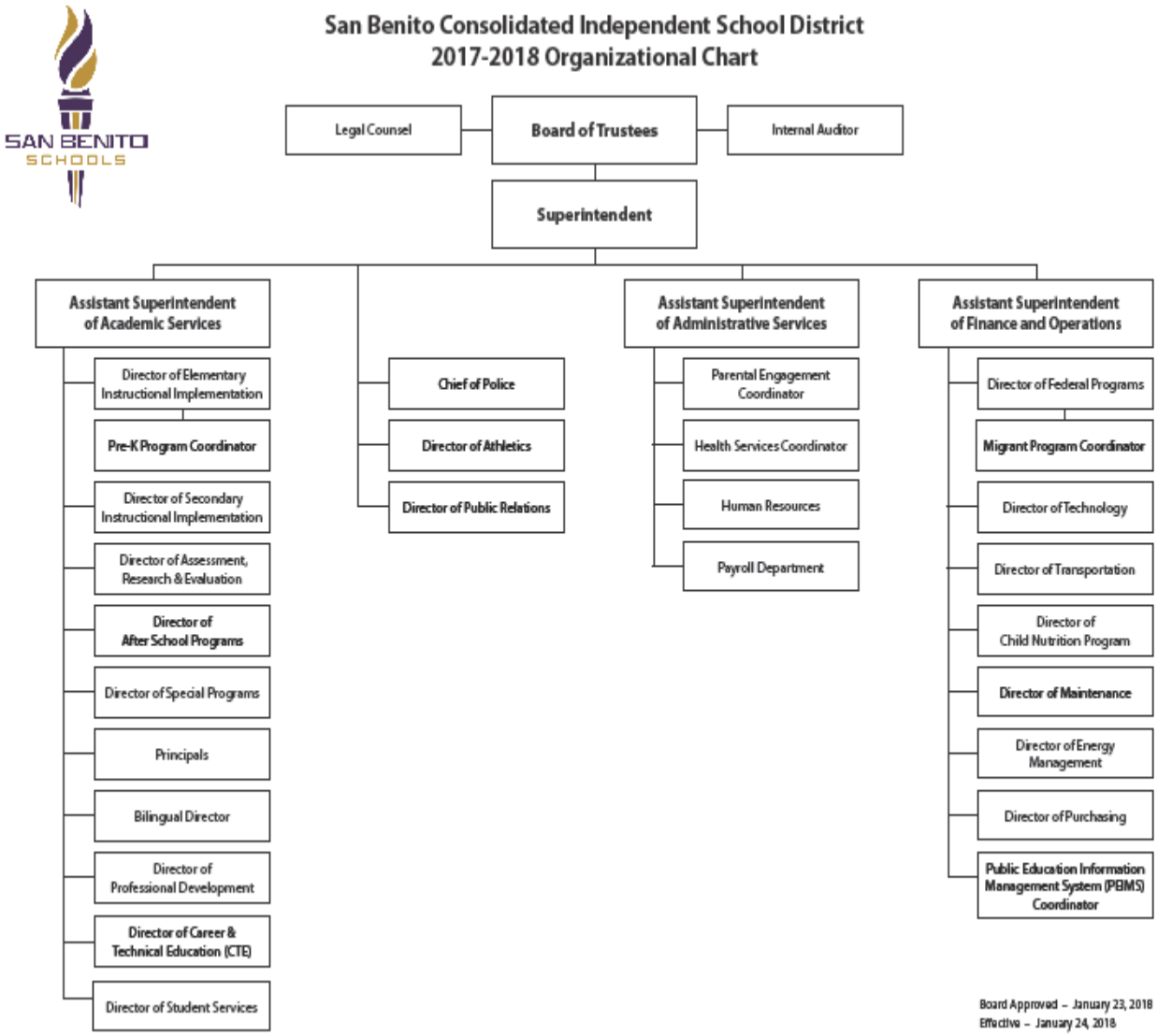
34 CFR Part 84 – Government-wide Requirements for Drug-Free Workplace	Applies to all entities that receive grants directly from the USDE or from any other federal agency. It does not apply to LEAs that only receive funds through TEA or another pass-through agency.
34 CFR Part 86 – Drug and Alcohol Abuse Prevention	Applies to IHEs (i.e., colleges and universities) receiving federal funds directly from the USDE or any other federal agency
34 CFR Part 97 – Protection of Human Subjects	Applies to all research involving human subjects conducted, supported, or otherwise subject to regulation by the USDE or any other federal department or agency that makes it applicable. There are exemptions for certain educational activities.
34 CFR Part 98 – Student Rights in Research, Experimental Programs, and Testing	Applies to all federal education grants unless specifically exempted in the regulations
34 CFR Part 99 – Family Educational Rights and Privacy	Applies to all entities receiving federal education funds
2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards	Applies to all new federal grants awarded as of December 26, 2014
2 CFR Part 3474 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (adopts 2 CFR Part 200 in its entirety with two minor exceptions)	Applies to all federal education grants awarded as of December 26, 2014
2 CFR Part 3485 – Nonprocurement Debarment and Suspension	Applies to all entities that receive federal grants, subgrants, and subcontracts (government-wide)

34 CFR Part 74, which previously applied to IHEs and non-profit organizations, was removed from EDGAR. 34 CFR Part 80, which previously applied to state and local governments (including school districts, open-enrollment charter schools, and ESCs), was also removed in the new EDGAR but is reserved for future use. The uniform grant requirements that were previously in 34 CFR Parts 74 and 80 are now outlined in 2 CFR Part 200.

For grants that were awarded prior to December 26, 2014, the regulations in 34 CFR Parts 74 and 80 still apply. Grantees must maintain access to those parts as long as those grants are in effect and for five years after the ending date of the grant.

The following table provides the regulations that were in effect *prior to* December 26, 2014, and the regulations that are in effect *on or after* December 26, 2014.

Applicable to Grants Awarded Prior to December 26, 2014	Applicable to Grants Awarded On or After December 26, 2014
34 CFR Part 74 (OMB Circular A-110) and 34 CFR Part 80 (OMB Circular A-102)	2 CFR Part 200, Subparts B, C, and D
OMB Circulars A-21, A-87, and A-122 (Federal cost principles)	2 CFR Part 200, Subpart E
OMB Circular A-133, Audits	2 CFR Part 200, Subpart F
34 CFR Parts 75 - 99	34 CFR Parts 75-79 and 81-99



TEA Grants

The majority of federal grants the District applies for and receives are *formula* grants administered by TEA (i.e., state-administered grants). The District may also apply for and receive *discretionary* grants from TEA or directly from the USDE or another federal awarding agency. The policies and procedures outlined in this document apply to all federal formula and discretionary grants, regardless of the awarding agency. Federal agencies that award direct grants may impose requirements or conditions that are not addressed herein and that may result in the need to create additional policies and/or procedures to comply with those requirements.

Refer to TEA's Grant Process for a description of their process for administering state and federal formula and discretionary grants. Also refer to TEA's description of Applying for a Grant for information on allocations, notices of grant funding opportunities, and the competitive review process.

Request for Application (RFA)

TEA publishes a *Request for Application* (RFA) for each grant (formula and discretionary) and posts all grants on the TEA Grant Opportunities page. Some grants are available only in eGrants, while others are available only in paper. Applicants for eGrants must be approved for access to TEA Secure Applications (TEASE) before applying for an eGrant. Each District staff member who wishes to access the application must ensure they are approved for access to eGrants in sufficient time to allow timely access to the electronic application.

The process an applicant must follow to apply for funds is different for eGrants than for paper applications. Applicants can find detailed information about individual grants by selecting a grant from the **Application Name** dropdown list on the TEA Grant Opportunities page. For each individual grant available, the following information is displayed:

- **Program Information:** Briefly describes the program purpose and lists eligible applicants and eligibility criteria
- **Eligibility:** Describes organizations that are eligible to apply for the grant
- **Statutory Authority:** Cites the legislation that authorizes the grant
- **Funding Information:** Provides the start and ending date of the grant, whether it is state or federal, and the total amount that will be awarded
- **Application and Support Information:** Lists links to components of the Request for Application (RFA) such as the General and Fiscal Guidelines, Program Guidelines, Application, and any other pertinent grant materials, such as the announcement letter and any issued errata notices
- **Critical Events:** Lists all deadlines associated with the grant, including the application due date, amendment due date, and fiscal and programmatic reporting due dates
- **Contact Information:** Lists the TEA program and fiscal contacts. The TEA Program Contact can provide information about eligibility, program purpose or description, or

allowable uses of funds. The TEA Funding Contact can answer questions about the grant application, including allocation and amendment questions.

Each RFA published by TEA includes the *General and Fiscal Guidelines* that apply to all federal and state grants, the *Program Guidelines* (that apply to a specific grant program), and the *General Provisions and Assurances* that apply to all grants administered by TEA. District employees who manage the program or fiscal aspects of any TEA grant should consult the *General and Fiscal Guidelines* regularly and frequently, as they may change or be updated periodically.

All employees who deal with federal grants must also carefully review and be familiar with all *Provisions and Assurances*, as applicable:

- *General Provisions and Assurances*: Required for every TEA grant agreement
- *Debarment and Suspension*: Required for all federal grants, regardless of dollar amount
- *Lobbying Certification*: Required for all federal grants greater than $100,000
- *No Child Left Behind Act of 2001*: Required for all programs funded under the Elementary and Secondary Education Act of 1965, as amended by Public Law 107-110, No Child Left Behind Act of 2001

The RFA also includes the grant application (i.e., Standard Application System, or SAS) and the instructions for completing the SAS schedules (i.e., forms). Program managers preparing grant applications should carefully review all contents of the RFA package *prior to planning and developing a grant application* to ensure all requirements are met and the application is completed correctly. Some applications require advance coordination among district staff and/or among other entities such as local businesses, community organizations, or institutions of higher education (IHEs, i.e., colleges and universities).

Submitting Complete Applications on Time

It is equally important that federal grant applications be prepared and submitted *on time*. For formula grants administered by TEA that usually begin July 1, the District cannot obligate funds and begin grant activities until the District submits the application to TEA in *substantially approvable form.* In order to prevent unnecessary delays in program implementation and the provision of services to students, it is the policy of the District that all formula grant applications will be submitted as soon as possible but no later than July 1 unless a later grant beginning date is published by TEA. TEA will process the applications in the order received.

For *competitive discretionary grants*, it is the policy of the District that those applications be submitted in sufficient time for TEA to *receive* the application by the established deadline date and time specified in the competitive RFA. Failure for TEA to *receive* the application by the specified deadline date and time will render the application ineligible for consideration for review and scoring and for funding. In addition, all required forms must be completed in accordance with the instructions in the RFA in order to be eligible for consideration for funding. The program

manager assigned to the grant is responsible for ensuring the application is completed accurately and submitted on time to TEA.

Authorized Official

The person signing/certifying the application must be an authorized official of the District (usually the Superintendent) who will represent the District in the event of a legal dispute. The Superintendent or Designee, in his or her absence, is the authorized official for this District. By signing/certifying the application, the authorized official is certifying that he or she will comply with the terms and conditions of the grant, all applicable provisions and assurances, and the approved application. The signed/certified application submitted to TEA, and the NOGA issued by TEA, together constitute a legally binding contractual agreement between the District and TEA. Campus principals do not have the authority to submit a grant application.

District program staff, fiscal staff, and management are responsible for knowing all requirements and for complying with them. It is the policy of the District that the grant program described in the application is carried out in compliance with applicable statutes, regulations, rules, and guidelines, and in accordance with the approved application to achieve maximum efficiency and effectiveness with the goal of providing an integrated, coordinated delivery of services for students. Grant funds will be obligated, expended, and accounted for in an environment based on ethical principles and sound business practices.

The District program manager assigned to the grant program is responsible and held accountable for knowing the program requirements, fiscal requirements, and reporting requirements. In addition to the policies and procedures outlined in this manual, the program manager may be required to develop additional policies and procedures in order to comply with the specific requirements that may apply to a particular grant program. Any such additional policies and procedures must be used in conjunction with the policies and procedures outlined in this manual.

TEA monitors federal grants for compliance with fiscal and program requirements. In addition, the District's independent auditor is required to determine compliance with certain requirements during the annual independent audit. Failure to comply with applicable statutes, regulations, rules, and guidelines or to implement the grant program in accordance with the approved application could result in the District being identified as a high-risk grantee and having corrective actions or additional sanctions imposed by TEA or other awarding agency; the repayment of federal dollars as a result of monitoring or audit findings; or termination of the grant. Refer to TEA's Corrective Actions Related to Federal Grants for more information related to potential actions for noncompliance.

Other Federal Grants

The assigned program manager is responsible for monitoring grant opportunities that may be available from agencies other than TEA. Approval from the Superintendent to pursue the grant

opportunity must be obtained in advance of completing and submitting the application. An authorized official of the District (as previously described) must sign/certify the application prior to submittal.

Opportunities for other federal grants passed through other state agencies might be published in the *Texas Register* in the "IN ADDITION" section. Opportunities for federal grants available directly from the USDE or from another federal awarding agency are published in www.grants.gov .

I. Financial Management System

Overview Federal regulations require grantees to use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for federal funds (34 CFR 76.702 and 2 CFR 200.302). Implementing and maintaining a proper accounting system is a fiduciary responsibility associated with receiving a federal award. The acceptance of an award creates a legal duty on the part of the District to use the funds or property made available under the award in accordance with the terms and conditions of the grant. The approved grant application itself constitutes an accounting document in that it establishes the purpose and amount of the awarding agency's obligation to the grantee. In turn, it establishes a commitment by the District to perform and expend funds in accordance with the approved grant agreement and the applicable laws, regulations, rules, and guidelines. 2 CFR § 200.300(b)

The District maintains a proper financial management system in order to receive both direct and state-administered grants and to expend funds associated with a grant award. Certain fiscal controls and procedures are in place to ensure that all federal financial management system requirements are met. Failure by the District to meet a requirement may result in return of funds or termination of the award.

Financial management requirements for Texas school districts are established through a pyramid consisting of

- federal regulations
- *Texas Education Code* (TEC)
- *Texas Administrative Code* (TAC), Title 19
- TEA's *Financial Accountability System Resource Guide* (FASRG)

Texas Law and Rule

TEC, Section 44.007 requires the State Board of Education (SBOE) to establish a mandatory fiscal accounting system with which all school districts, ESCs, and open-enrollment charter

schools in Texas must comply. TEC further requires each school district and open-enrollment charter school to adopt and install a standard accounting system that conforms with generally accepted accounting principles (GAAP) and that meets the minimum requirements prescribed by the commissioner of education. It also requires these entities to maintain records of all revenues and expenditures.

Title 19 of the *Texas Administrative Code* (19 TAC), Chapter 109, establishes the SBOE rule for school district budgeting, accounting, and financial reporting. The detailed requirements of the financial accounting system adopted by the SBOE are published in TEA's FASRG (*Financial Accountability System Resource Guide*), adopted and incorporated by reference as TEA's official rule.

FASRG currently consists of the following 11 modules:

- Module 1 – Financial Accounting & Reporting (FAR)
- Module 2 – Budgeting
- Module 3 – Purchasing
- Module 4 – Auditing
- Module 5 – Site-Based Decision Making
- Module 6 – Accountability
- Module 7 – Data Collection & Reporting
- Module 8 – Management
- Module 9 – State Compensatory Education
- Module 10 – Special Supplement – Charter Schools
- Module 11 – Special Supplement – Non-profit Charter School Chart of Accounts

A. Financial Management Standards

The federal standards for financial management systems are found at 2 CFR § 200.302. The mandatory accounting requirements established by TEA in the *Financial Accountability System Resource Guide* (FASRG) conform to these federal financial management standards. Therefore, in accordance with federal regulations, the District's financial management system, including records documenting compliance with federal statutes, regulations, and the terms and conditions of the award, is sufficient to permit:

- the preparation of reports required by general and program-specific terms and conditions; and

- the tracing of funds to a level of expenditures adequate to establish that funds have been used according to the federal statutes, regulations, and the terms and conditions of the federal award.

The District complies with the required federal standards for financial management systems by complying with the minimum budgeting, accounting, auditing, and reporting requirements established in TEA's *Financial Accounting and Reporting* (FAR) *Module 1* of the FASRG. Based on generally accepted accounting principles, FAR details a mandatory account code structure which all school districts, ESCs, and open-enrollment charter schools must use in accounting for all funds received and expended, including state and local funds and federal grant funds.

FAR establishes uniformity in governmental accounting and specifies a *mandatory* account code structure consisting of a minimum of 15 digits, plus 5 digits used at local option (for a total of 20 possible digits). For each accounting transaction, the minimum 15-digit account code structure consists of a *fund code, function code, object code, organization code, fiscal year code, and program intent code*, each serving a different purpose in designating the use of funds, campus served, and student population served.

The mandatory account code structure begins with a 3-digit fund code, which designates the funding source, e.g., the general fund, food service fund, a specific grant (referred to as a *special revenue code*), etc. A different 3-digit fund code is provided for fiscal agents of a shared services arrangement (SSA).

Each accounting transaction recorded in the general ledger must begin with the 3-digit fund code (*net asset code* for nonprofit open-enrollment charter schools). For example, the 3-digit fund code for Title I, Part A is 211. The budget and all revenues and expenditures for Title I, Part A must be recorded in the accounting records using this specific fund code.

Additionally, 2 CFR § 76.760(b) authorizes grantees to use more than one program to support an activity if the grantee has an accounting system that permits the identification of costs paid for under each program. The fund accounting system in FAR accommodates this requirement.

Identification of All Federal Awards

The District identifies, in its accounts, all Federal awards received and expended and the federal programs under which they were received. Federal program and award identification includes, as applicable, the Catalog of Federal Domestic Assistance (CFDA) title and number, federal award identification number and year, name of the federal agency, and, if applicable, name of the pass-through entity. Upon receipt of each grant award, the District obtains the required information from TEA's Notice of Grant Award (NOGA) or other awarding agency's Grant Award

Notification (GAN) and enters the information in the general ledger using the assigned 3-digit fund code.

As each Federal award is received, the program manager assigned to the award, in communication with The Executive Director of Finance and Operations, obtains the fund number either from the assigned NOGA/GAN or TEA's FASRG. The program manager then coordinates with the finance staff to determine the function codes applicable to the award as well as the organizational code and program intent code. The function and program intent codes are obtained from the FASRG while the organizational code is assigned by the Executive Director of Finance and Operations. The program manager will then assign object and sub-object codes for revenue and expenditures using the FASRG for assistance. The program manager will then enter each account code into a budget request screen in the district's accounting system, verifying it matches the grant application. Once entered, the budget request is submitted for approval to the Executive Director of Finance and Operations along with an awarded grant checklist. Once approved by the Executive Director of Finance and Operations, the budget is available in the accounting system for activity.

Reoccurring grants may be budgeted through the annual budget process based on an estimate of anticipated revenues. Upon receipt of the approved grant or award (NOGA), the projected allocations are reviewed and amended as needed through a budget change request (BCR).

Refer to Section 3.1.1 Budget Management of the Standard Operating Procedures Manual for procedures related to the budget process.

Financial Reporting

Accountability is the paramount objective of financial reporting. Accurate, current, and complete disclosure of the financial results of each federal award or program is made in accordance with the financial reporting requirements set forth in 2 CFR § 200.327 - .328 and in EDGAR. The District collects and reports financial information with the frequency required in the terms and conditions of the award and monitors its activities under federal awards to assure compliance with applicable federal requirements.

The overall responsibilities of the Grants Management function include, but are not limited to:

a. Reviewing all grant applications that have a financial reporting or compliance requirement prior to submission for approval by the Superintendent;
b. Establishing, communicating and promoting policies and procedures consistent with federal, state, and local regulations;
c. Providing assistance to project managers for the preparation of grant applications;
d. Exercising budgetary control of grant funds;
e. Providing overall financial support and monitoring: and

f. Providing overall compliance monitoring to include;

- Maintaining an adequate internal control structure to ensure compliance with applicable laws and regulations related to the state and federal regulations;
- Coordinating formal agency audits or interim reviews of grants by federal or state agencies; and
- Providing support and guidance to campus and central administrative offices for the effective administration and financial management of grants.

Program Management

- Evaluate all federal legislation, projects, and programs for grant, entitlement, and allocation opportunities relevant to the needs of the district.
- Inform superintendent or other administration of the effects of current and impending legislation.
- Participate in the drafting of project proposals and reports, including the writing and development of program goals, objectives, and budget for federal/special funding of programs.
- Prepare and submit standard applications for federal funds to Texas Education Agency (TEA).
- Evaluate all requests for projects and programs requiring federal/special money.
- Develop and coordinate a continuing evaluation of the federal/special programs and implement changes based on the findings.

Consultation

- Serve as liaison between school and other agencies on joint projects that are federally funded.
- Consult with administrators, counselors, teachers, community agencies, and other relevant individuals regarding federal/special programs.

Budget and Inventory

- Solicit federal funds and participate in grant-writing activities to obtain funding for federal/special programs and services.
- Monitor grant-funded programs and their expenditures to ensure compliance with regulations and guidelines.
- Ensure that programs are cost effective and that federal/special programs are managed wisely.
- Compile budget and cost estimates based on documented program needs.

Policy, Reports, and Law

- Compile, maintain, and file all physical and computerized reports, records, and other documents required, including required financial reports to TEA.
- Comply with policies established by federal and state law, State Board of Education rule, and the local board policy.

Accounting Records

The District maintains records which adequately identify the source and application (i.e., use) of funds provided for federally-assisted activities. In accordance with federal regulations, these records contain information pertaining to grant or sub-grant awards, authorizations, obligations, unobligated balances, assets, expenditures, income, and interest. All transactions are supported by source documentation (i.e., purchase orders/requisitions, invoices, receipts, travel vouchers, time-and-effort documentation and employee salary records, copies of checks, etc.).

The accounting system mandated in FAR conforms to generally accepted accounting principles (GAAP). The accounting structure is organized and operated on a fund basis and is organization-wide covering all funds. The District uses the 3-digit fund code specified in FAR for each grant received to identify the source of funds. The use of funds is identified by using the required function code, object code, organization code, program intent code, and fiscal year code specified in FAR.

The District uses the minimum 15-digit account code structure mandated in FAR to record all revenues, encumbrances, and expenditures. The Executive Director of Finance and Operations is responsible for ensuring the District uses the minimum 15-digit account code structure to record all accounting transactions. Also specify how and when the accounting entries are periodically reviewed for accuracy, including tracking a purchase through the entire process from start to finish, and the positions responsible.

Internal Controls

Effective control and accountability must be established and maintained for all funds, real property (i.e., land and buildings), personal property, and other assets. The District must adequately safeguard all such property and must assure that it is used solely for authorized purposes.

Internal controls are tools (i.e., policies, procedures, best practices, and activities) to help program and financial managers achieve results and safeguard the integrity of their program. The District's internal controls are in compliance with guidance in the *Standards for Internal Control in the Federal Government* (the Green Book) issued by the Comptroller General of the United States and the *Internal Control Integrated Framework*, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO), and are designed to provide *effective and efficient operations* based on demonstration of the following principles:

- A commitment to integrity and ethical values
- Independent oversight over the development and performance of internal controls
- Clearly defined organizational structure, clear reporting lines, and appropriate authorities
- A commitment to attract, develop, and retain competent individuals, and
- Maintaining a level of competence that allows personnel to accomplish their assigned duties and holding individuals accountable

In accordance with 2 CFR § 200.61, "internal controls" means a process implemented by the District to provide reasonable assurance regarding the achievement of objectives in the following categories:

(a) Effectiveness and efficiency of operations
(b) Reliability of reporting for internal and external use, and
(c) Compliance with applicable laws and regulations

"Internal control over compliance requirements for federal awards" means a process implemented by the District designed to provide reasonable assurance regarding the achievement of the following objectives for federal awards:

- Transactions are properly recorded and accounted for in order to
  - Permit the preparation of reliable financial statements and federal reports.
  - Maintain accountability over assets.
  - Demonstrate compliance with statutes, regulations, and the terms and conditions of the award.

- Transactions are executed in compliance with
  - laws, regulations, and the terms and conditions of the award that could have a direct and material effect on a federal program
  - any other statutes and regulations that are identified in the Audit Compliance Supplement

- Funds, property, and other assets are safeguarded against loss and from unauthorized use or disposition.

To accomplish these objectives, the District:

- develops and maintains policies, procedures, and effective practices to ensure federal funds are properly administered and spent and federal property is safeguarded against loss and from unauthorized use or disposition. The District also ensures all employees who deal with federal funds are aware of the policies and procedures and are properly trained in the use of them

- ensures employees comply by regularly and frequently evaluating and monitoring their compliance with the policies and procedures, statutes, regulations, and the terms and conditions of the award
- takes prompt action when instances of noncompliance are identified, including noncompliance identified in audit findings, and taking the appropriate disciplinary action for employees who do not comply, and
- takes reasonable measures to safeguard protected personally identifiable information and other information designated as sensitive consistent with applicable federal, state, and local laws regarding privacy and obligations of confidentiality.

The District uses the following, at least in part, to determine if internal controls are effective:

- Only valid or authorized transactions are processed.
- Transactions occurred during the grant period and were processed timely.
- No proper transactions were omitted from the accounting records.
- Transactions are calculated using an appropriate methodology.
- Transactions appear reasonable relative to other data.
- Property (including supplies and equipment) is tracked and used only for authorized purposes.

  Effective control and accountability must be maintained for all grant and sub-grant cash, real and personal property, and other assets. Grantees and sub-grantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.

Budget Control

The budget for each federal award is recorded in the general ledger in accordance with FAR using the designated 3-digit fund code. Obligations/encumbrances and expenditures are also recorded in the general ledger for each federal award. On a regular basis, the District compares actual *expenditures* or outlays with *budgeted* amounts for each federal award.

Actual expenditures or outlays must be compared with budgeted amounts for each grant or sub-grant. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant or sub-grant agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.

Cash Management

(1) The District maintains written procedures to implement the cash management requirements found in 2 CFR § 200.305 and in EDGAR. Procedures for minimizing the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by grantees and sub-grantees must be followed whenever advance payment procedures are used. Grantees must establish reasonable procedures to ensure the receipt of reports on sub-

grantees' cash balances and cash disbursements in sufficient time to enable them to prepare complete and accurate cash transactions reports to the awarding agency. When advances are made by letter-of-credit or electronic transfer of funds methods, the grantee must make drawdowns as close as possible to the time of making disbursements. Grantees must monitor cash drawdowns by their sub-grantees to assure that they conform substantially to the same standards of timing and amount as apply to advances to the grantees.

(a An awarding agency may review the adequacy of the financial management system of any applicant for financial assistance as part of a preaward review or at any time subsequent to award.

Allowable Costs

The District maintains written procedures for determining *allowability* of costs in accordance with 2 CFR § 200.302(b)(7) and EDGAR.

(1) The allowable costs of the grantees, sub-grantees and cost-type contractors, including allowable costs in the form of payments to fixed-price contractors; and

(2) Reasonable fees or profit to cost-type contractors but not any fee or profit (or other increment above allowable costs) to the grantee or sub-grantee

B. Budgeting Grant Funds

Budgeting - The Planning Phase: Meetings and Discussions

Before Developing the Grant Budget and Submitting the Application: The grant budget must be based on the proposed activities planned and described in the grant application. Prior to developing the budget, the program manager must know the intent of the federal program and the activities that are allowable to be conducted with grant funds. The program manager must coordinate with other District staff as appropriate to conduct the appropriate needs analysis using the appropriate data to determine the goals and objectives for the program and the activities that will be implemented to accomplish the goals and objectives. **Once the goals, objectives, strategies, and activities are outlined, then the budget to carry out the identified strategies and activities should be developed.**

Prior to completing the application, the program manager develops a detailed budget in a document (such as in an Excel spreadsheet) separate from the application. The program manager coordinates with the Executive Director of Finance and Operations in preparing the budget to ensure budgeted items are categorized according to the proper class/object code. This detailed budget, which serves as the guide for expenditures and becomes part of the "working papers" maintained by the program

manager, is used to complete the application. In most instances, particularly for formula grants, the budget entered into the grant application will not be as detailed. The detailed budget is to be modified or revised as necessary to accommodate changes, which may result in an amendment to the application prior to incurring certain expenditures.

If the grant program will be implemented on a Title I schoolwide campus, the planned activities and expenditures must be identified in the schoolwide plan. Conducting activities and expending funds that are not included in the schoolwide plan could result in an audit exception or monitoring finding for the District. Therefore, the program manager is responsible for coordinating with the Title I program director and for ensuring the activities and anticipated expenditures are described in the schoolwide plan.

Decisions are based on a needs assessment and on the needs and/or activities described in the district and/or school improvement plans. All activities and strategies are based on the needs assessment, what it measures, and how the data is used during the budget process. The district and school improvement plans and the planning process are developed in accordance with the site based committees.

Existing resources are considered when determining the budget. The District determines existing resources and how they are considered when making the budget. The district reviews existing unused equipment or supplies in storage to determine if it could benefit the program being planned. The district also considers technology equipment such as computers that are already available and in good condition that could be used in the program being planned.

The District has a process used to determine what items (i.e., goods and services) should be included in the budget. The District ensures budgeted costs are allowable under the federal cost principles, are appropriate use of funds for the specific grant program, and are an allowable use of federal funds. Refer to section *F. Expending Grant Funds* for more information about the different kinds of costs (i.e., indirect vs. direct costs), determining allowability of costs, selected items of cost (outlined in the federal cost principles), and costs that require special attention. The District ensures *items of cost that require specific or prior approval* from the awarding agency are specifically identified and listed in the grant budget.

Additionally, include personnel responsible for the activities described in the policy, including the position and internal unit/office such as the Program Managers and the Executive Director of Finance and Operations and Operations. Included is a timeframe as to when these steps happen and reference a District organizational chart so the reader has an understanding of the different personnel and internal offices involved in the budgetary process.

Reviewing and Approving the Budget Prior to Submitting the Application:

By June, the Executive Director of Finance and Operations and Operations reviews the items in the proposed budget to ensure budgeted items are listed in the correct class/object code according to FAR and the District's classification chart and to ensure the items are allowable. The budget is also reviewed to ensure that any costs requiring specific or prior approval are specifically identified and listed. See *II. Financial Management System, E. Expending Grant Funds*, for a discussion on performing allowability determinations. If the Executive Director of Finance and Operations determines that a cost is not allowable, then the program manager would inform and the grant amount would be re directed or remove the cost from the budget

Once the Executive Director of Finance and Operations determines that all budgeted items are allowable and are budgeted in the proper class/object code according to FAR, the budget is sent to the Board of Trustees for final review and approval. Generally, the budget receives final approval by June. The assigned program manager then enters the final approved budget into the appropriate budget schedules of the grant application.

Negotiating the Submitted Application

Once the grant application is submitted to the awarding agency, the designated program contact, usually the Program or Project Director assigned to the grant program, is available via phone and/or e-mail in the event that the awarding agency needs to contact the District to negotiate the application or to ask questions or seek clarification related to the proposed program and/or budget. The assigned Program/Project Director will seek guidance, if needed, from appropriate District personnel and will respond to any inquiries from the awarding agency within 24 hours. A delay in contacting the awarding agency delays final approval of the grant application, which delays grant program implementation and providing services to intended beneficiaries of the grant.

After Receiving the Approved Application and NOGA/GAN

Notice of grant awards is provided to the Executive Director of Finance and Operations so that suitable budget accounts may be established in a timely manner. The Executive Director of Finance and Operations shall budget grant funds in the appropriate fund code as authorized by Financial Accountability System Resource Guide or the granting agency, as appropriate. In addition, the object expenditure codes noted on the grant application will be consistent with the budgeted account codes. A list of federal grant awards shall be maintained by the Executive Director of Finance and Operations/Program Managers to include all EDGAR required data (denoted with an *) and district-required information listed below:

The CFDA title and number*
Federal award identification number and year*
Name of Federal agency*
Name of pass-through entity*, if any
Program Manager for each grant

• Subgrants, if any

On at least a monthly basis, Program Managers and Executive Director of Finance and Operations will review the status of each federal grant fund. The review will include a comparison of budgets and expenditures. All grant budgets are entered into the accounts of the District in the general ledger as approved in the application. The Executive Director of Finance and Operations is responsible for the Initial Grant Set-up and receives all approved NOGAs and grant award letters. A file is created and stored in the Executive Director of Finance and Operations office for each grant received. TheExecutive Director of Finance and Operations is responsible for the creation of a budget for each grant awarded. Only the Executive Director of Finance and Operations can generate a revenue and expenditure code. District personnel will enter all budget codes and amounts into the District's software system *TEXIS*. Federal grant funds will be budgeted and available for use in a timely manner after receipt of the NOGA or form the stamp-in date. In addition, the following steps are taken to ensure the District is prepared to implement the grant on the beginning date of the grant to maximize the effectiveness of the grant. No federal grant funds will be budgeted, encumbered, or spent until either of the following has occurred:

Grant has been approved by the granting agency and a Notice of Grant Award (NOGA) has been issued to the district; or
The entitlement grant has been received by the district and the grant application has been submitted to TEA.

No pre-award expenses will be made by the District prior to the approval of the federal granting agency or pass-through entity, unless otherwise authorized by the agency statutes or grant guidelines. Non-authorized pre-award expenses, if any, will be paid from local District funds, i.e the General Fund.

Amending the Application

The District consults and complies with the guidelines and procedures provided by TEA or other awarding agency as it pertains to when and how to submit an amendment to an approved application. TEA publishes its requirements for when to amend the application online. Specific deadlines for submitting amendments are published in the corresponding RFA and/or in the *Critical Events* calendar on the TEA Grant Opportunities Page for the specific grant program. Procedures are in place to ensure the District does not exceed any maximum allowable variation in the budget.

***Monitoring and Amending the Budget**:* Budget Amendments/Transfers if any, shall be approved by Program Managers to ensure that the reclassification of funds is allowable under the grant management guidelines related to budget amendments/transfers. Some grants allow a transfer of funds, up to 25% of the grant award, but only if the new object code does not require specific approval from the granting agency. Budget amendments/transfers are entered into the District's software system. See Budget Adjustment Procedures.

Monitoring and Amending the Program Description: The Program Mangers will monitor the need for amendments at least quarterly throughout the grant period and at least one (1) month prior to the grant amendment deadline, if applicable. If an amendment is necessary for any of the reasons specified by the pass-through entity (TEA) or in federal regulations, the Program Manager will request the amendment. The approval process of a grant amendment will be same as the grant application process. The Program Manager shall be responsible for ensuring that the finance system budget corresponds to the most recent grant NOGA.

C.Timely Obligation of Funds

When Obligations are Made

"Obligations" are defined as *orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non-Federal entity during the same or a future period*. (This does *not* mean obligations for which goods and services will be delivered in a future *grant* period.) Essentially, an obligation is a *commitment to pay*.

*****All obligations for all goods and services must occur during the grant** period (i.e., between the beginning and ending dates as stated on the NOGA), **and those goods and services must be delivered during the grant period in sufficient time to provide substantial benefit to the grant to be considered *necessary* to carry out the objectives of the grant.** 34 CFR § 200.71

Per TEA's General and Fiscal Guidelines, in some instances, goods or services delivered near the end of the grant period may be viewed by TEA as not necessary to accomplish the objectives of the current grant program. TEA will evaluate such expenditures on a case-by-case basis. Please note that a TEA monitor or an auditor may disallow those expenditures if the District is unable to (1) document the need for the expenditures, (2) demonstrate that program beneficiaries receive benefit from the late expenditures, or (3) negate the appearance of "stockpiling" supplies or equipment. The following table illustrates when funds are determined to be *obligated* under federal regulations:

If the obligation is for:	The obligation is made:
Acquisition of property	On the date which the District makes a binding written commitment to acquire the property
Personal services by an employee of the District	When the services are performed
Personal services by a contractor who is not an employee of the District	On the date which the District makes a binding written commitment to obtain the services
Public utility services	When the District receives the services
Travel	When the travel is taken
Rental of property	When the District uses the property
A pre-agreement cost that was properly approved by TEA prior to the obligation	On the first day of the grant project period.

34 CFR § 75.707; 34 CFR § 76.707.

In addition, TEA's *FAR* requires *encumbrance* accounting. The amount *committed (or obligated)* must also be known to avoid over-expenditure of budgeted funds. An *encumbrance* accounting system is a method of ascertaining the availability of funds and then reserving funds to cover outstanding obligations.

Encumbrances represent commitments (i.e., obligations) related to contracts not yet performed (executory contracts), and are used to control expenditures for the year and to enhance cash management. A school district often issues purchase orders or signs contracts for the purchase of goods and services to be received during the grant period. At the time these commitments or obligations are made, which in its simplest form means that when a purchase order is prepared, the appropriate account is checked for available funds. If an adequate balance exists, the amount of the order is immediately charged to the account to reduce the available balance for control purposes. The encumbrance account does not represent an expenditure for the period, only a commitment to expend resources.

Period of Availability of Federal Funds

All obligations must occur on or between the beginning and ending dates of the grant project. 34 CFR § 76.707. This period of time is known as the *period of availability*. The *period of availability*, or the period between the beginning and ending dates of the grant, are dictated by statute and will be indicated on TEA's NOGA or other awarding agency's GAN. Further, certain grants have specific requirements for carryover funds that must be adhered to.

TEA Grants: As a general rule, federal funds administered by TEA are available for obligation within the fiscal year for which Congress appropriated the funds. However, given the unique nature of educational institutions, for many formula education grants, pursuant to provisions in the *General Education Provisions Act* (GEPA), the *period of availability* is 27 months. This consists of an initial grant period of 15 months (i.e., July 1 – September 30 of the following year), plus a 12-month carryover period authorized by the "Tydings Amendment." 34 CFR § 76.709. For example, funds awarded on July 1, 2015, would remain available for obligation by TEA through September 30, 2017.

July – September (Forward Funding)	3 months
October – September (Federal fiscal year)	12 months
October – September (carryover period; Tydings Amendment)	12 months
	27 months

Federal education formula grant funds are typically awarded on July 1 of each year. While funds not obligated during the initial 15-month grant period remain available as carryover in the

subsequent 12-month period, the District will always plan to spend to the best of its ability all current grant funds within the year for which the funds were initially appropriated. Per TEA, excess carryover and lapsing of funds may be an indicator in TEA's risk assessment process.

TEA calculates and manages the carryover process each year after final expenditure reports from the prior year are processed. Any carryover funds from the prior year are added to the application and NOGA for the subsequent year. Carryover funds must be used in accordance with the federal statute and regulations in effect for the carryover period and with any approved state plan or application. 34 CFR 76.710

Direct Grants: In general, the *period of availability* for funds authorized under *direct* grants is identified in the GAN.

Liquidation of Obligations

The District must *liquidate* (i.e., make the final payment because the goods or services were received during the grant period, or *cancel* the obligation because the goods or services were *not* received during the grant period) all obligations incurred under the award in accordance with the requirements of TEA or other awarding agency. For TEA formula grants, this is usually within 30 calendar days after the ending date of the formula grant to coincide with submittal of the final expenditure report to TEA. For *direct* grants from the Department of Education, this may be not later than 90 days after the end of the funding period unless an extension is authorized. 2 CFR § 200.343(b).

Any funds not obligated within the period of availability or not liquidated within the appropriate timeframe are said to *lapse* and must be returned to the awarding agency. 2 CFR § 200.343(d). Lapsing of funds is usually considered by TEA to be an indicator of poor planning and may cause the District to be identified as high risk. Consequently, the District closely monitors grant spending throughout the grant cycle.

Liquidation of obligations.
A grantee must liquidate all obligations incurred under the award not later than 90 days after the end of the funding period (or as specified in a program regulation) to coincide with the submission of the annual Financial Status Report (SF–269). The Federal agency may extend this deadline at the request of the grantee.

Carryover

TEA Grants: As previously described, the Tydings Amendment typically extends the period of availability for formula grants for an additional 12 months. Accordingly, the District may have multiple years of grant funds available under the same program at the same time.

Usually, TEA *discretionary* grants do not have a carryover period, as any unobligated and unexpended funds are carried over at the *state* level and are used to issue NOGAs for the subsequent funding period. TEA discretionary grantees must request to extend the ending date of the project/NOGA directly from TEA if such an extension is allowable pursuant to the guidelines related to a particular grant.

Direct Grants: Grantees receiving direct grants are not covered by the 12-month Tydings period. However, under 2 CFR § 200.308, direct grantees enjoy unique authority to expand the period of availability of federal funds. The District is authorized to extend a direct grant automatically for one 12-month period. Prior approval is not required in these circumstances; however, in order to obtain this extension, the District must provide written notice to the federal awarding agency at least 10 calendar days before the end of the period of performance specified in the award. This one-time extension may not be exercised merely for the purpose of using unobligated balances.

The District will seek written prior approval from the federal agency when the extension will not be contrary to federal statute, regulation or grant conditions and when:

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

D.Accounting Records

The Assistant Superintendent of Finance and Operations is responsible for maintaining the official accounting records of the District. All grant budgets are entered into the accounts of the District in the general ledger. Funds are accounted for and records are kept in accordance with the requirements in TEA's FAR. The chart of accounts provided in FAR provides the framework for the accounting system, and the District uses the accounting terminology specified in FAR and generally accepted accounting principles (GAAP).

- All grant awards shall be maintained by the Executive Director of Finance and Operations and is prepared for posting to the general ledger. The general journals are posted by the accountant.

- The Assistant Superintendent of Finance and Operations shall coordinate the budgets received from grant administrators and/or campus principals to ensure compliance with grant award documents.

- Grant reporting timelines shall be monitored by the Executive Director of Finance and Operations and all financial reports prepared and submitted via paper form or electronic submission in accordance with grant requirements.

- The Assistant Superintendent of Finance and Operations shall establish purchasing deadlines to ensure that all grant purchases and payments are settled prior to the end of the grant period.

Procedures for federal funds drawdown request:

- The Assistant Superintendent of Finance and Operations prints summary general ledger from Skyward software on a monthly basis

- The Assistant Superintendent of Finance and Operations will formulate spreadsheets detailing expenditures by object code for each federal program and any indirect cost if applicable

- The Assistant Superintendent of Finance and Operations reports total expenditures incurred for month on TEA website

The Assistant Superintendnet of Finance and Operations maintains (on paper or electronically) original source documentation to support all expenditures recorded in the general ledger. Source documentation may include but is not limited to purchase orders/requisitions, invoices, itemized receipts, travel authorizations and travel vouchers, contracts, proof of delivery, copies of checks, bank statements, etc.

The District ensures each transaction is supported with original source documentation on paper and is stored in the Executive Director of Finance and Operations and Operations.

If electronic source documentation is maintained, the District ensures the documentation is easily retrievable and is readable in accordance with the requirements in 2 CFR § 200.335. Refer to *Section VII. Record Keeping* of this manual for more information about these requirements.

The Assistant Superintendent of Finance and Operations will review electronic documentation to ensure it is readable and retrievable and to substitute paper documentation where it is unreadable or irretrievable. The Executive Director of Finance and Operations is responsible for making the documentation available in electronic format (if it is not already received in electronic format) and is responsible for reviewing the documentation to ensure it is readable and immediately retrievable

Documentation Associated With Using District Credit Card.

Purchases made with credit cards must be closely controlled and monitored to prevent fraud, waste, and abuse. The appropriate and corresponding entries must be made in the general ledger as with any other individual purchase.

Employees who receive and use district-issued credit cards must submit to the Accounting Office *the original itemized receipt* that identifies each item purchased (and not just the credit card receipt). The itemized receipt constitutes the required original source documentation and must be legible and must clearly identify the date of the transaction and *each item* that was purchased. The employee must provide documentation, either on the receipt itself, or in a separate file cross-referencing that particular transaction, how each item was used to benefit the grant program. **If the employee does not provide an original, itemized receipt, the expenditure will not be charged to a federal grant.**

The District must also maintain all other appropriate internal accounting records, such as travel vouchers, expense reimbursement vouchers, purchase orders, etc., related to the credit card purchase.

The classification of costs by funding source and expense type and the maintenance of adequate original source documentation are necessary for reporting purposes to TEA or other awarding agency. It is also necessary to demonstrate compliance with state and federal cost principles, standards of financial management systems, and conformance with GAAP. Lastly, it is a requirement of the Internal Revenue Code applicable to all business entities.

The District's general ledger will reflect each individual charge on each credit card statement with each of the following:

- The individual vendor name (not just the credit card company name)
- The grant funding source/fund code
- The expense category (i.e., supplies, instructional materials, equipment, travel, etc.)
- The actual date of the charge (as opposed to the billing statement or the date the credit card bill was paid)

Rebates on Purchase Cards: Per TEA, any rebates on a district-issued purchase card will be credited to the original funding source(s) for which the card is used to make purchases. The District may prorate rebates based on a percentage of the total amount of funds used from each funding source.

E.Expending Grant Funds

All costs charged to a federal grant are classified as either *direct* or *indirect*. While developing and reviewing the grant budget and when expending grant funds, program and fiscal staff should keep in mind the difference between *direct* costs and *indirect* costs as defined in the federal cost principles. All costs must be properly and consistently identified as either *direct* or *indirect* in the accounting system.

Direct and Indirect Costs

Determining Whether a Cost is Direct or Indirect

Direct costs are those 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. 2 CFR § 200.413(a).

Indirect costs are those that have been incurred for a common or joint purpose benefitting more than one *cost objective*, and not readily assignable to the *cost objectives* specifically benefitted, without effort disproportionate to the results achieved. 2 CFR § 200.56. Costs incurred for the same purpose in like circumstances must be treated consistently as either *direct* costs or *indirect* costs. 2 CFR § 200.413(a). Indirect costs usually support areas that benefit all activities of the District, such as Accounting, Budget, Human Resources, Purchasing, Building Maintenance, etc.

Cost Objective: A *cost objective* is a program, function, activity, award, organizational subdivision, contract, or work unit. A cost objective may be a major function of the District, a particular service or project, a federal award, or an indirect cost activity.

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* of federal awards. Typical costs charged *directly* to a federal award are the compensation of employees who conduct program activities for that award, their related fringe benefit costs, and the costs of materials and other items of expense incurred to carry out the objectives of the federal award. 2 CFR § 200.413(b).

The salaries of *administrative and clerical staff* should normally be treated as *indirect costs*. 2 CFR § 200.413(c). *Direct* charging of these costs may be appropriate only if *all* of the following conditions are met:

- Administrative or clerical services are integral to a project or activity.
- Individuals involved can be specifically identified with the project or activity.
- Such costs are explicitly included in the budget or have the prior written approval of TEA or other awarding agency.
- The costs are not also recovered as *indirect costs*.

Indirect Cost Rate

Pursuant to 34 CFR §§ 75.561 and 76.561, TEA, as the cognizant agency, approves federal indirect cost rates for school districts, ESCs, and open-enrollment charter schools in Texas. The rates are calculated using costs specified in the District's indirect cost plan/proposal submitted to TEA and is effective July 1 through June 30 of each year.

Two indirect cost rates are approved by TEA and are used by the District. The *restricted* rate is used for federal grants containing the *supplement, not supplant* requirement (34 CFR §§ 76.563 and .564). The *unrestricted* rate may be used for federal grants that do *not* contain the supplement, not supplant requirement. The Assistant Superintendent for Finance is responsible for extracting the required information to be included in the indirect cost rate/proposal and submitting it to TEA. The regulations permit a state educational agency to approve an indirect cost rate for longer than one year. Accordingly, state the length of time for which the TEA has approved the district's indirect cost rate.

Applying the Indirect Cost Rate: The District must have a current, approved federal indirect cost rate to charge indirect costs to a federal grant. Once the District has an approved indirect cost rate, the percentage is multiplied against the *actual* direct costs (excluding distorting items specified by TEA or other awarding agency, such as the portion of each contract in excess of $25,000, subgrants, capital outlay, debt service, etc.) incurred under a particular grant to produce the dollar amount of indirect costs allowable to that award. 34 CFR § 75.564; 34 CFR § 76.569. Once the District applies the approved rate, the funds that may be claimed for indirect costs have no federal accountability and may be used as if they were non-federal funds. For *Direct Grants*, reimbursement of indirect costs is subject to the availability of funds and statutory or administrative restrictions. 34 CFR § 75.564.

Indirect costs are part of *administrative* costs (vs. *program* costs). Where a federal program has a specific cap on the percentage of *administrative* costs that may be charged to a grant, that cap must include all *direct administrative* charges as well as any recovered *indirect* charges. If *administrative* costs are limited to 5%, for example, the total *direct* administrative costs plus *indirect* costs claimed for the grant cannot exceed 5%.

Indirect costs are budgeted in the grant application in the corresponding line item. Although the maximum allowable indirect costs may be budgeted in the application, indirect costs can only be *charged* to the grant based on *actual* expenditures of *direct* costs. Therefore, if the District does not expend all of its funds during the grant period, the *maximum* amount of indirect costs budgeted based on the total grant award cannot be charged to the grant. Prior to finalizing expenditures for the grant and submitting the final expenditure report to TEA or other awarding agency, the District adjusts the final amount charged to indirect costs based on the *actual* expenditures.

Determining Allowability of Costs

Grantees are required to have written procedures for determining the *allowability* of costs charged to federal grants. 2 CFR § 200.302(b)(7). All costs must be allowable under the federal cost principles in 2 CFR Part 200, Subpart E, and under the terms and conditions of the specific federal award.

Expenditures must be aligned with budgeted items in the approved grant application. Certain changes or variations from the approved budget and grant application need prior approval from TEA or other awarding agency. Refer to TEA's guidelines on When to Submit an Amendment (under *Amendment Submission Guidance*) to determine when an amendment to the budget is required for TEA grants.

When determining how the District will spend grant funds, Assistant Superintendent of Finance and Operations, 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 goods or services. All expenditures made with federal education funds must meet the standards outlined in EDGAR, 2 CFR Part 3474, and 2 CFR Part 200. The assigned program manager and fiscal staff, including Executive Director of Finance and Operations/Assistant Superintendent Special Programs and principals must consider the following factors when making an allowability determination.

Factors Affecting Allowability of Costs

In general, District staff must consider the following elements when determining the allowability of a cost. In accordance with the federal cost principles, all costs budgeted and charged to a federal grant must be:

- ✓ ***Necessary* and *Reasonable* for the performance of the federal award.**
  Reasonable Costs: 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. "Reasonable" means that sound business practices were followed, and purchases were comparable to current market prices.

  A cost can be *reasonable* if it meets *all* of the following conditions:

  - Prudence was used in making the decision to incur the cost, considering the person's responsibilities to the District, its employees, the public, and the federal government.
  - It is necessary to carry out the objectives of the grant program or is recognized as an ordinary cost to operate the organization.

- The District applied sound business practices; arm's-length bargaining (i.e., the transaction was with an unrelated third party); federal, state, and other laws and regulations; and the terms and conditions of the award in making the decision.
- The price is comparable to that of the current fair market value for equivalent goods or services.
- There were no significant deviations from the established practices of the organization which may unjustifiably increase the cost. 2 CFR § 200.404

Necessary Costs: While 2 CFR § 200.404 does not provide specific descriptions of what satisfies the "necessary" element beyond its inclusion in the reasonableness analysis above, *necessary* is determined based on the needs of the program. Specifically, the expenditure must be necessary to achieve an important program objective. It means it is vital or required in order to meet the objectives of the grant or for the grant to be successful. *Necessary* does *not* mean "nice to have," which means it is *not necessary* to accomplish the objectives of the program in that it is not vital or required for the success of the program.

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 district may deem a language skills software program necessary for a limited English proficiency program.

When determining whether a cost is *necessary*, the District considers:

- Whether the cost is needed for the proper and efficient performance of the grant 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; and
- 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 benefits received.* This means that the federal grant program derived a benefit in proportion to the funds charged to the program. 2 CFR § 200.405. **For example,** if 50% of a supplementary teacher's salary is paid with grant funds, then that teacher must spend at least 50% of his or her time on the grant program. Additionally, if equipment or supplies purchased with grant funds benefits more than one grant program, the purchase must be "split-funded" among the grant programs receiving benefit. The District must be able to

demonstrate how a particular cost benefits the specific population being served in the grant. This is an area of frequent audit exceptions.

- ✓ **Consistent with policies and procedures** that apply uniformly to both federally-financed and other activities of the District. For example, personnel whose travel is paid with federal funds is reimbursed at the same rates as personnel whose travel is paid with state or local funds, and the grant is charged accordingly.

- ✓ **Conform to any limitations or exclusions set forth as cost principles** in 2 CFR Part 200, Subpart E, 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 with original source documentation that is clearly written and maintained on file (either electronically or on paper) with accounting records. Documentation includes purchase orders/requisitions, invoices, receipts, verification of receipt of goods and services, travel authorizations and vouchers, contracts, time-and-effort records, copies of checks, bank statements, etc. Expenditures that are not supported by source documentation cannot be charged to the grant.

- ✓ **Determined in accordance with generally accepted accounting principles (GAAP), unless provided otherwise in 2 CFR Part 200.**

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

- ✓ **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, such as credits. To the extent that such credits accruing to or received by the District 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 § 200.406.

Treatment of miles, points, or awards accrued for travel: Any miles, points, credits, or awards accrued or earned for employee travel using a *district-issued* credit card (where the credit card bill is paid directly by the District) are the property of the District and will be used for employees travelling on behalf of the District to reduce the overall cost to the District. Any such miles, points, credits, or awards accrued will not be used for personal travel.

2 CFR Part 200's cost guidelines must be considered when federal grant funds are expended. Federal rules require state- and District-level requirements and policies regarding expenditures to be followed as well. For example, state and/or District policies relating to travel or equipment may be narrower or more restrictive than the federal rules. In this case, the stricter State and/or District policies must be followed.

Requesting Prior Written Approval

Some costs discussed in the following sections and in the instructions to completing the grant application require *prior written approval* from the awarding agency. For TEA grants, prior written approval must be requested in accordance with TEA's process. The District must submit the request in writing to the TEA Chief Grants Administrator. The Chief Grants Administrator may request additional information, as applicable, and may meet or consult with applicable TEA staff prior to responding to the District in writing.

In addition, for certain costs that it may be difficult to determine reasonableness or allocability, the District may seek *prior written approval* for "special or unusual costs" not identified in the regulations in advance of the incurrence of such costs. This may prevent future disallowance or dispute based on "unreasonableness" or "non-allocability." Prior written approval should include the timeframe or scope of the agreement. 2 CFR § 200.407

The Assistant Superintendent of Finance and Operations will determine if and when the District should seek prior written approval for a certain cost prior to incurring the cost. Federal grant funds will not be expended for any costs that require prior written approval in accordance with 2 CFR 200, Subpart E, or the grant application instructions, if such prior written approval was not properly secured.

Selected Items of Cost – 2 CFR Part 200, Subpart E

2 CFR Part 200, Subpart E, examines the allowability of 55 specific cost items (commonly referred to as *Selected Items of Cost*) at 2 CFR §§ 200.420 -.475. These cost items are listed in the chart below along with the citation where it is discussed. Please do not assume that an item is allowable because it is specifically listed, as it may be *unallowable* despite its inclusion in the selected items

of cost section, or it may be allowable only under certain conditions, including prior written approval.

The expenditure may be *unallowable* for a number of reasons, including: the express language of the regulation states the item is unallowable; the terms and conditions of the grant deem the item unallowable; or State/local restrictions dictate that the item is unallowable or allowable only under certain conditions or circumstances. The item may also be unallowable because it does not meet one of the factors affecting allowability of costs, such as being reasonable because it is considered too expensive. **If an item is unallowable for any of these reasons, the District does not use federal funds to purchase it.**

The selected items of cost addressed in *2 CFR Part 200, Subpart E* include the following (in alphabetical order):

Item of Cost	**Citation of Allowability Rule**
Advertising and public relations costs	2 CFR § 200.421
Advisory councils	2 CFR § 200.422
Alcoholic beverages	2 CFR § 200.423
Alumni/ae activities	2 CFR § 200.424
Audit services	2 CFR § 200.425
Bad debts	2 CFR § 200.426
Bonding costs	2 CFR § 200.427
Collection of improper payments	2 CFR § 200.428
Commencement and convocation costs	2 CFR § 200.429
Compensation – personal services	2 CFR § 200.430
Compensation – fringe benefits	2 CFR § 200.431
Conferences	2 CFR § 200.432
Contingency provisions	2 CFR § 200.433
Contributions and donations	2 CFR § 200.434
Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements	2 CFR § 200.435
Depreciation	2 CFR § 200.436
Employee health and welfare costs	2 CFR § 200.437
Entertainment costs	2 CFR § 200.438
Equipment and other capital expenditures	2 CFR § 200.439
Exchange rates	2 CFR § 200.440
Fines, penalties, damages and other settlements	2 CFR § 200.441
Fund raising and investment management costs	2 CFR § 200.442
Gains and losses on disposition of depreciable assets	2 CFR § 200.443

General costs of government	2 CFR § 200.444
Goods and services for personal use	2 CFR § 200.445
Idle facilities and idle capacity	2 CFR § 200.446
Insurance and indemnification	2 CFR § 200.447
Intellectual property	2 CFR § 200.448
Interest	2 CFR § 200.449
Lobbying	2 CFR § 200.450
Losses on other awards or contracts	2 CFR § 200.451
Maintenance and repair costs	2 CFR § 200.452
Materials and supplies costs, including costs of computing devices	2 CFR § 200.453
Memberships, subscriptions, and professional activity costs	2 CFR § 200.454
Organization costs	2 CFR § 200.455
Participant support costs	2 CFR § 200.456
Plant and security costs	2 CFR § 200.457
Pre-award costs	2 CFR § 200.458
Professional services costs	2 CFR § 200.459
Proposal costs	2 CFR § 200.460
Publication and printing costs	2 CFR § 200.461
Rearrangement and reconversion costs	2 CFR § 200.462
Recruiting costs	2 CFR § 200.463
Relocation costs of employees	2 CFR § 200.464
Rental costs of real property and equipment	2 CFR § 200.465
Scholarships and student aid costs	2 CFR § 200.466
Selling and marketing costs	2 CFR § 200.467
Specialized service facilities	2 CFR § 200.468
Student activity costs	2 CFR § 200.469
Taxes (including Value Added Tax)	2 CFR § 200.470
Termination costs	2 CFR § 200.471
Training and education costs	2 CFR § 200.472
Transportation costs	2 CFR § 200.473
Travel costs (*TEA restricts to actual costs, not per diem*)	2 CFR § 200.474
Trustees	2 CFR § 200.475

Likewise, it is possible for the State and/or District to put additional requirements on a specific item of cost. Under such circumstances, the stricter requirements must be met for a cost to be allowable. Accordingly, employees consult federal, State and District requirements when spending federal funds. For example, the travel rules for grants administered by TEA are more restrictive than the federal cost principles allow, which means TEA's policies must be followed.

Other Considerations for Allowability

In order for a cost to be allowable, the expenditure must also be allowable under the applicable *federal 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, non-regulatory guidance, and grant award notifications*.

Most federal programs also contain the *supplement, not supplant* requirements. In general, this means that the District cannot use federal grant funds to pay for a cost or activity that is usually supported by state or local funds. See *Section X. Programmatic Fiscal Requirements, A.. Supplement, Not Supplant*, of this manual for more information about this requirement.

In summary, for a cost to be allowable under a federal grant program, the District ensures it meets *all* of the following conditions. A cost that does not meet all of these conditions could be questioned during an audit or monitoring visit and could require repayment to the awarding agency. The cost must be:

- ✓ *reasonable* in cost (as described above)
- ✓ *necessary* to accomplish the objectives of the grant program (as described above)
- ✓ based on an identified need, concern, or area of weakness within the grant program
- ✓ appropriate under the authorizing program statute
- ✓ consistent with the underlying needs of the program in that it benefits the intended population of students or teachers for which the funds are appropriated
- ✓ *allocable* to the grant based on the relative benefits received (as described above)
- ✓ authorized or not prohibited under state or local laws or regulations
- ✓ consistent with policies, regulations, and procedures that apply to all activities, including other grants and state and local activities
- ✓ treated consistently as either a *direct* cost or as an *indirect* cost
- ✓ determined in accordance with GAAP
- ✓ not used to meet cost sharing or matching requirements of another federal grant (unless specifically permitted in the other program statute or regulations)
- ✓ consistent with the terms and conditions of the grant award
- ✓ budgeted in the approved grant application
- ✓ adequately documented with appropriate supporting original source documentation
- ✓ the net of any applicable credits such as rebates or discounts
- ✓ allowable under the federal cost principles

- ✓ in most cases, supplemental to the core foundation program of the school and to other activities normally conducted by the school (i.e., supplement, not supplant)
- ✓ if the school is a Title I schoolwide program, the grant program's activities and applicable costs must be included in the schoolwide plan, the school must have conducted a comprehensive needs assessment, and the plan must contain the required components specified in statute (see Title I, Part A, §1114[b]).

District personnel responsible for spending federal grant funds and for determining allowability must be familiar with the Part 200 selected items of cost section. District employees are required to follow these rules when charging these specific expenditures to a federal grant. In addition to checking the selected items of cost in Part 200, District staff must check costs against TEA's *Guidelines Related to Specific Costs*, the *Request for Application* (RFA), local district policy, and any grant program restrictions to ensure the cost is allowable.

To protect the district from an audit or monitoring finding, it is recommended that, on each purchase order/requisition, there is a signed assurance (CIP goals and objectives on requisitions) that the cost is:

- Reasonable in cost, comparable to current fair market value
- Necessary to carry out the objectives of the federal program
- Allowable under the federal cost principles and the terms and conditions of the award
- Allocable to the grant in accordance with benefits received.

Costs That Require Special Attention

In addition to the aforementioned, certain types of costs may be allowable under federal law but may not be allowable under state law or guidelines, or may only be allowable under certain circumstances and conditions. TEA's Guidelines Related to Specific Costs (under *Allowable Cost Guidance*) outlines several other types of costs that require special attention due to the fact some costs frequently cause audit exceptions or monitoring findings. Included in that guidance are descriptions of allowable awards and incentives; cell phones; employer contributions to *voluntary* retirement plans; field trips; printing costs; food costs, including for hostessing meetings and conferences; fundraising; gifts; promotional items; social events; and training on grant writing.

The District makes every effort to comply with these guidelines in the expenditure of federal grant funds to avoid audit exceptions. The District follows the specific process/procedures to ensure compliance with these guidelines and the Program Manager reviews all purchase orders. District employees engage in federally-funded activities that are required to review these documents regularly and be familiar with its contents.
The state and/or District rules related to some specific cost items are discussed below. District employees must be aware of these State and District rules and ensure they are complying with these requirements.

Travel

Expenditures for Travel outside of the District with overnight stay will require an Overnight Payment Request Form indicating a summary of all costs that will be incurred along with individual requisition forms for each individual payee.

1. Travel Expense – Advances & Settlements

The immediate administrative supervisor and Superintendent or Designee shall authorize all travel. The Travel Advance/Reimbursement Form acts as permission to travel and as a request for advancement of estimated travel expenses. The Internal Revenue Service (IRS) requires that a settlement of advanced business expenses and it dictates that if a settlement is not received, the amount of the advance be deducted from the wages of the employee and properly taxed.

The travel rates for meals, lodging, mileage, and airline are limited to the rates and amounts stated in accordance to the State of Texas Travel Policy.

- Travel requires use of company vehicle, or through established Rental Agency (Enterprise Rent a Car) State
- Contract Rate should be obtained with a direct bill to the district.
- Vehicle gas cards are issued, if necessary for gasoline travel expenses. Receipts for gasoline expenses must be turned in toExecutive Director of Finance and Operations immediately upon return to campus on the next business of arrival.
- If no school vehicle is available, then mileage is paid on actual mileage from district to destination prior approval by Superintendent or Assistant Superintendent of Finance and Operations is required
-

2. One Day Trips - Trips that do not require overnight stay considered One Day Trips.

- School vehicle (if available) or personal vehicle
- Meal expenses will not be reimbursed by the district for non-overnight travel.

Program director must pre-approve mileage for one day trips and should be included with a mileage form, with appropriate signatures. A map that verifies distance traveled and justification for mileage reimbursement must also be included.

See travel policy for allowable rates: (Local/State/Federal) also refer to the additional information at the end of this manual.

3. Student Travel Guidelines

- Use only Student District Travel Form.
- Attached documents must include a list of students.
- Travel must state date and time of departure and return.
- Always include a copy of registration, itinerary, and list all other activities.
- Registration must be paid on a purchase order, and will NOT be paid to an employee.

- Account code will be listed by theExecutive Director of Finance and Operations and must be clearly written on travel form.
- All signatures must be present in order for travel to be considered for payment.
- All hotel expenses are to be paid by purchase order. Traveler will need to get cost faxed from hotel. Original hotel receipt must be returned.
- Phone calls and movies are not reimbursable expenses.

Set rates are established for student meals.

4. Travel Advance/Reimbursement Forms

Checks will be process once a week and available by 2:00pm on Fridays. If you want to pick up your check, please make arrangements with our department. You must follow the schedule so your check is available in a timely manner.

Travel Settlement Form (Appendix A Forms)

District Vehicle Request Form (Appendix A Forms

Travel costs are the expenses for transportation, lodging, subsistence (i.e., meals), and related items incurred by employees who are in travel status on official business of the District. TEA's policy for reimbursing travel is more restrictive than the federal cost principles allow. In an effort to keep travel costs reasonable, TEA restricts reimbursement for travel paid from federal and state grants to rates that are specified in the State of Texas *General Appropriations Bill, Article IX, General Provisions, Travel Regulations*, in effect for the particular grant period. TEA regularly publishes information and guidance about allowable travel costs and rates on the Administering a Grant page (scroll down under *Handbooks and Other Guidance*).

The federal cost principles allow for reimbursement for meals on a *per diem* basis, whether or not the employee actually spends the entire per diem. TEA, however, in following the travel restrictions specified in the Appropriations Bill for state employees, allows for reimbursement of meals at *actual costs*, not to exceed the federal rate for the locale, or local policy, *whichever is less*. Travel *allowances* (where the employee is reimbursed the per diem rather than actual costs whether or not the employee actually spends all of the maximum allowable per diem) are not allowable charges to state and federal grants in Texas. The State of Texas defines reimbursement of the difference between the maximum per diem and the actual amount spent on meals as a "gift of public funds", which is unallowable per the Texas Constitution. Therefore, the District ensures that its travel policy and reimbursement practices reflect this requirement.

Additionally, if local District policy provides for reimbursement for travel expenses at an amount that exceeds the rates allowed by TEA, the District pays the difference from state or local funds. District policy does provide for reimbursement of travel expenses at a higher rate as specified in the District's written travel policies.

In general, reimbursement from state or federal grants for employees on travel is limited to the following:

- the *actual* cost of meals incurred by the employee per day, not to exceed the maximum allowable federal per diem rate
- the *actual* cost of lodging, not to exceed the current federal rate in the locale to which the employee is travelling
- the actual cost of coach airfare
- actual mileage in a personal vehicle
- the cost of a rental car and gasoline

Applying Meal Funds to Lodging Reimbursement: Per guidance from TEA related to travel, for both in-state and out-of-state travel, the traveler may apply funds available for meal reimbursement (i.e., up to the rate specified in the Federal Rate Schedule) toward lodging. For example, if the traveler chooses to stay in a hotel that costs $10 more per night than the allowable maximum for lodging, the traveler may apply $10 of the maximum available for meal reimbursement per day toward the lodging rate. If the traveler chooses to apply meal reimbursement to lodging, the maximum meal reimbursement rate per day is reduced by the same amount (applying $10 of the meal reimbursement to lodging would reduce the meal reimbursement by $10 per day). Note: All lodging costs must still be *reasonable* and *necessary*.

NOTE: The opposite case does not apply; that is, a traveler may *not* reduce the amount spent on lodging and increase the amount spent on meals. Under no circumstances may a traveler be reimbursed from grant funds for meals at a rate that exceeds the rate given on the Federal Rate Schedule.

Temporary Dependent Care Costs: Pursuant to the provisions in 2 CFR § 200.474(c), the District may reimburse an employee on travel status for temporary dependent care costs *above and beyond regular dependent care* that directly results from travel to conferences. Such travel is allowable provided that *all* of the following conditions are met:

1. The costs are a direct result of the individual's travel for the federal grant.
2. The costs are consistent with the District's documented travel policy for all District travel regardless of funding source of the employee or of the travel.
3. The dependent care costs are only temporary during the travel period.

Travel costs for dependents are unallowable.

The District does not reimburse employees for temporary dependent care costs.

*Documentation that Travel Costs are **Reasonable** and **Justifiable***: Additionally, costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, must be deemed by the District to be *reasonable* and otherwise allowable only to the extent such costs do not exceed charges normally allowed by the District in its regular operations as the result of its written travel policy.

Pursuant to the requirements in 2 CFR § 200.474(b), documentation must be maintained that *justifies* that (1) participation of the particular *individual* is *necessary* to the federal award; and (2) the costs are *reasonable* and *consistent* with the District's established policy

Refer to the District's *written travel reimbursement policy,* which complies with TEA's guidelines related to travel, for specific provisions related to travel. 2 CFR § 200.474(a).

Other cost requiring special attention are discussed below.

Advertising and Public Relations Costs

Pursuant to the requirements in 2 CFR § 200.421, the costs of *advertising* are allowable only for the recruitment of grant personnel; the procurement of goods and services for the award; disposal of scrap or surplus materials acquired under the award; and program outreach. Allowable *public relations* costs are those necessary to communicate with the public and press pertaining to specific activities or accomplishments or as necessary to keep the public informed on matters of public concern. All advertising and public relations costs must be necessary for the performance of the particular award, and must *not* be for the purpose of advertising or relating to the public with regard to the district in general.

Hosting Meetings and Conferences

2 CFR § 200.432 discusses the allowability of conference costs paid by the district as a sponsor or host of the conference. A conference is defined as "a meeting, retreat, seminar, symposium, workshop or event whose primary purpose is the dissemination of technical information beyond the non-federal entity (i.e., the conference is for non-employees) and is necessary and reasonable for successful performance under the award." These federal guidelines state that costs may include rental of facilities, cost of meals and refreshments, local transportation, and other items incidental to such conferences unless further restricted by the terms and conditions of the federal award. Per the guidance, conference hosts/sponsors must exercise discretion and judgment in ensuring that conference **costs are appropriate, necessary, and managed in a manner that minimizes the costs to the federal award.**

However, the USDE issued more restrictive guidance related to the use of funds for conferences and meetings (under *Allowable Cost Guidance*), particularly with regard to food costs such as meals, snacks, and refreshments.

Per guidance from the USDE:

> "Generally, there is a very high burden of proof to show that paying for food and beverages with Federal funds is necessary to meet the goals and objectives of a Federal grant. When a grantee is hosting a meeting, the grantee should structure the agenda for the meeting so that there is time for participants to purchase their own food, beverages, and snacks. In addition, when planning a meeting, grantees may want to consider a location in which participants have easy access to food and beverages.
>
> While these determinations will be made on a case-by-case basis, and there may be some circumstances where the cost would be permissible, it is likely that those circumstances will be rare. Grantees, therefore, will have to make a compelling case that the unique circumstances they have identified would justify these costs as reasonable and necessary."

Additionally, the USDE guidance states that grantees should consider whether a face-to-face meeting or conference is the most effective or efficient way to achieve the desired result and whether there are alternatives, such as webinars or video conferences, that would be equally or similarly effective and more efficient in terms of time and costs than a face-to-face meeting. The USDE guidance also states that grantees should consider how the meeting or conference will be perceived by the public; for example, will the meeting or conference be perceived as a good use of taxpayer dollars?

These and more specific guidelines are also discussed in TEA's Guidelines Related to Specific Costs (under *Allowable Cost Guidance*) in the *Food and Beverage Costs* section.

District staff will adhere to these guidelines if and when hosting a meeting or conference for non-employees. Prior to planning a meeting or conference, approval will be obtained from the Superintendent/Designee in the District. The proposed meeting or conference will be budgeted in the approved application and the District will obtain prior approval from TEA as specified in the *Guidelines Related to Specific Costs*.

Cost of Identifying Local Dependent Care: Pursuant to the provisions in 2 CFR § 200.432, the District may use grant funds to pay for *identifying*, but *not providing*, locally available dependent-care resources for those attending the conference. For example, allowable costs might

include accessing, compiling, and providing a list of nearby child care facilities for attendees at a conference.

The District does not use grant funds to pay for *identifying* locally available dependent care resources.

Entertainment Costs and Field Trips

Pursuant to 2 CFR § 200.438, costs of *entertainment*, including amusement, diversion, and social activities and any associated costs are *unallowable*, except where specific costs that might otherwise be considered entertainment have a programmatic purpose. TEA interprets this section to include some *field trips*, depending on the nature and purpose of the field trip. All field trips require the prior written approval of TEA.

TEA's *Guidance Related to Specific Costs* (under *Allowable Cost Guidance*) includes information about allowable and unallowable field trips. District staff will consult these guidelines and secure prior written approval from TEA prior to planning and scheduling any field trips.

Use of Federal Funds for Religion Prohibited

Without exception, federal funds will not be used to pay for any of the following:

- religious worship, instruction, or proselytization
- equipment or supplies to be used for any of those activities

34 CFR § § 75.532 and 76.532

Use of Federal Funds for Construction or Major Remodeling and Renovation

Federal funds will not be used to purchase real property or for construction unless the costs are specifically permitted by the authorizing program statute or implementing regulations for the program, and the costs are properly budgeted and approved in the applicable federal grant application. 34 CFR § 76.533.

***Remodeling and Renovation: Major* remodeling and renovation is defined as *construction*. Therefore, all of the federal requirements apply to any major remodeling or renovation paid with federal funds.**

The term *construction* does *not* include *minor* remodeling and renovation. *Minor remodeling* as defined in 34 CFR Part 77 means

> "minor alterations (that do not affect structural supports) in a previously completed building. The term also includes the *extension* of utility lines, such as water and electricity, from points beyond the confines of the space in which the minor remodeling is undertaken but within the confines of the previously completed building. The term does *not* include building construction, structural alterations to buildings, building maintenance, or repairs."

The purchase of a portable building is a capital purchase (i.e., equipment) and may be allowable under certain federal programs if necessary to carry out the objectives of the grant program, if appropriate for the circumstances, and if approved in the applicable grant application. **However, preparing the site for the installation of the portable building, including ground leveling, electrical wiring, plumbing, and constructing a sidewalk and steps, is considered *construction* and is not allowable from a federal grant unless the authorizing federal program statute specifically permits construction and it is approved in the grant application.**

If construction and/or major remodeling and renovation are allowable and approved under a particular federal program, there are numerous laws and regulations with which the District must comply. The District will comply with all applicable state and federal laws, regulations, and guidelines for construction and/or major remodeling and renovation, including those found in 34 § CFR 76.600 and in 34 CFR §§ 75.600 - .617, as well as those found in 2 CFR §§ 200.317 - .326 related to procurement. In addition, the District will comply with requirements under the Department of Labor's Davis-Bacon and related Acts, as well as bonding requirements specified in 2 CFR § 200.325. Failure to comply with these requirements could result in the repayment of funds.

The district will comply with all requirements pertaining to using federal funds for construction, remodeling, or renovation and the positions responsible.

Use of Federal Funds Benefitting Students and Teachers in Private Schools

Many federal programs contain the requirement that equitable services be provided to students and teachers in private nonprofit schools located within the District's boundaries if the officials of the nonprofit school desire that their children and teachers receive the benefits of those federal programs. In the event that private nonprofit schools wish to participate, there are restrictions with regard to the use and control of funds which benefit those students and teachers. 34 CFR §§ 76.658 - .662.

The expenditure of all federal funds for the benefit of participating private school students and teachers is directly related to the specific federal program under which private school students and

teachers are receiving benefit. The following provisions will be adhered to in the use of federal funds for the benefit of private school students and teachers.

- The District shall maintain continuing administrative direction and control over funds and property that benefit private school teachers and students. No funds will ever be paid to a private school. All goods and services are purchased by the District on behalf of and for use by the participating private school.
- The District will monitor participating private schools to verify compliance with these requirements.
- The District shall not use funds to finance the existing level of instruction in a private school or to otherwise benefit the private school.
- The District shall use funds to meet the *specific* program *needs of students* enrolled in private schools, rather than the *needs* of a *private school* or the *general needs of the students* enrolled in a private school.
- The District may use funds to make *District* personnel available in *other than* District facilities to the extent necessary to provide equitable program benefits designed for students enrolled in a private school and if those benefits are not normally provided by the school.
- The District may use funds to pay for the services of a *private school employee* if the employee performs the services outside of his or her regular hours of duty and the employee performs the services under the supervision and control of the District or other public entity.
- Equipment and Supplies
    - The District must keep title to and exercise continuing administrative control of all equipment and supplies that the District acquires with federal funds. The District will only place equipment and supplies in a private school for the period of time needed for the federal grant project. (The equipment and supplies are “on loan” to the private school for the duration of the grant project.)
    - The District will monitor to ensure that the equipment or supplies placed in a private school are used only for the purposes of the project and can be recovered from the private school without remodeling the private school facilities.
    - The District will remove the equipment or supplies from a private school if the equipment or supplies are no longer needed for the purposes of the project or if removal is necessary to avoid use of the equipment or supplies for other than project purposes.
- The District will ensure that federal funds are not used for the construction of private school facilities.

For additional information pertaining to the requirements for participation by students enrolled in private nonprofit schools, see section *XI. Programmatic Requirements, A. Private Nonprofit School Participation* in this manual.

C. Reporting Expenditures

TEA Grants

The *General Provisions and Assurances* that accompany every grant application funded by or through TEA contains an assurance that grantees agree to comply with expenditure reporting requirements. The District will submit expenditure reports in the time and manner requested by TEA.

TEA requires that districts and other grantees use a standard format for reporting expenditures for grants funded through TEA. Reports are submitted electronically through the automated Expenditure Reporting (ER) system by class/object code. The *Program Guidelines* for each RFA published by TEA and/or the *Critical Events* calendar provided on the TEA Grant Opportunities page for a specific program identify the required expenditure reporting dates. However, even though dates for submitting interim expenditure reports may not be specified, the District will submit expenditure reports more frequently, such as monthly, to indicate that grant activities and expenditures are occurring as planned and there are no major delays in the project.

Final expenditure reports are generally due 30 days after the ending date of the grant. If the grant program has a cost share or matching funds requirement, the District must also report the total cost share or matching funds in ER.

Each District employee who reports and/or certifies expenditures in ER is required to have a TEASE (TEA Secure Environment) username and password to access ER. (As of the writing of this template, TEA was in the process of migrating to a new secure environment, TEA Login (TEAL), which replaces the older TEASE. ER and eGrants will eventually be transferred to TEAL.) The District reports cumulative expenditures to date in ER, and the system automatically calculates the amount already paid to the District and the amount owed and generates a payment to the District.

When filing interim reports, the District will only report actual expenditures, and any expenditures that will be paid out within three business days once payment is received by the District. In addition, the District will comply with the cash management procedures described in *II. Financial Management System, H. Federal Cash Management Policy/Procedures* of this manual.

The Assistant Superintendent of Finance and Operations submits the reports in ER. Each report is certified by, an authorized official who attests that expenditures are true and correct. Effective July 1, 2015, the fiscal reports requesting payment will include a certification signed/certified by an official who is authorized to legally bind the District. 2 CFR § 200.415. The certification reads as follows:

> "By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, or false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."

See *II. Financial Management System, H. Federal Cash Management Policy/Procedures* in this manual for more information on requesting grant payments and the "three-day rule," as well as the calculation of interest earned on funds not paid out upon receipt.

The ER system automatically rejects expenditure reports if:

- The District is claiming expenditures in a class/object code not budgeted in the application.
- The total amount reported exceeds the total amount awarded.

TEA (or other agency administering the grant on behexpenditure realf of TEA) reserves the right to require supporting documentation (such as an accounting ledger) that lists the individual expenditures by object code, as well as invoices, receipts, travel vouchers, and other expenditure documents for expenditures at any time during or after the grant period for as long as the records are retained according to requirements for record retention. **The District will be required to reimburse all expenditures that are unsupported by appropriate documentation or found to be unallowable under the grant**. Depending upon the severity of noncompliance with allowable cost principles, additional sanctions may be imposed, up to and including termination of the grant and refund of all unallowable costs.

In addition, failure to submit the expenditure reports according to the required reporting dates could cause the grantee to be identified as high risk and could result in additional sanctions. (See *Part VIII. Monitoring, B. TEA Monitoring, Identification as a High-Risk Grantee* in this manual.)

Refunds Due to TEA

If the final expenditure report indicates that a refund is due to TEA, within 30 days of notification that a refund is due, the District will submit a refund check to the following address:

Texas Education Agency—MSC
P.O. Box 13717
Austin TX 78711-3717

The District will write the name of the grant program and the NOGA ID number on the refund check and note the reason for the refund (e.g., due to an internal audit or an annual audit).

Failure to comply with the requirements for submitting a refund within 30 days will result in an enforcement action by TEA to withhold future payments. 2 CFR § 200.338

Grants from Other Awarding Agencies

The District will submit expenditure reports to other awarding agencies in the time and manner requested by the agency. The District will comply with the cash management procedures described in the following section.

D. Federal Cash Management Policy/Procedures

Generally, grantees receiving state and federal grants from TEA receive payment from TEA by reporting cumulative expenditures (by class/object code) and requesting payment in TEA's electronic Expenditure Reporting (ER) system. Specific expenditure reporting requirements are provided in TEA's General and Fiscal Guidelines that accompany each *Request for Application* (RFA) from TEA. These guidelines are updated regularly and must be consulted on a regular basis.

Payments through ER are deposited into the District's depository bank by the state comptroller's office within six to seven business days of the payment request (provided TEA receives any supporting documentation requested in a timely manner and there are no other complications with the automated system).

Two methods of payment are provided in federal regulations: *advance* and *reimbursement*. The District uses the reimbursement method for requesting grant payments from TEA and other awarding agencies.

Advance Method

If the advance payment method is used, the District maintains

- *written procedures* that minimize the time elapsing between the transfer of funds and disbursement by the District, and

- *financial management systems* that meet the standards for fund control and accountability. 2 CFR § 200.305.

In accordance with federal requirements, advance payments are limited to the minimum amounts needed and are timed in accordance with the actual, immediate cash requirements of the District. The timing and the amount of advance payments is as close as is administratively feasible to the actual disbursements by the District. The District also makes timely payment to contractors.

To the extent the District receives advance payments of federal funds as described above, the District will expend (i.e., pay out) the federal funds on allowable expenditures within 3 business days (i.e., 72 hours) of receipt to avoid excess cash on hand and a refund due to TEA (see *Excess Cash on Hand* section below). (Please note that interest starts accruing upon *receipt* of funds. See *Interest Earned on Advances* section below.) Accordingly, the District will not have more cash on hand than is necessary to meet three days' cash needs. Therefore, the District requests cash no earlier than six working days before actual disbursement of funds and will request only that amount that has already been paid out or will be paid out within three business days once the payment is received from TEA.

The District ensures that it requests payment only for obligations incurred during the grant period and for goods and services that have been actually received. The District also verifies that it is not requesting payment for any costs that cannot be satisfactorily documented with appropriate source documentation.

Prior to each payment request, the Executive Director of Finance and Operations reviews the general ledger to determine the exact amount of cumulative expenditures to date and reviews and calculates the exact amount of payroll and/or other payables that will be paid out within three business days once the payment is received. The Executive Director of Finance and Operations verifies that legible, satisfactory source documentation is on file to support each cost included in the request for payment. Prior to the draw-down request, the Executive Director of Finance and Operations reviews and verifies the accuracy of the amount to be requested. The Executive Director of Finance and Operations logs into the ER system to request payment and certifies that the expenditures are true and correct and that the payment received will be paid out within three business days of receipt in the District's depository account.

No later than three days after payment was requested, the Executive Director of Finance and Operations will verify that the payment was received in the District's depository account. The Executive Director of Finance and Operations will notify the Account(s) that payment has been received and to immediately process said payroll or other payables. The Accountant(s) will verify all payments to ensure that no funds are being paid out for goods and services not actually received and to verify that all funds received for a particular payment are paid out and do not remain on deposit in the District's account.

The District ensures checks are actually written and mailed or payroll checks are actually distributed or deposited within 3 days. The Accountant(s) ensure contractors are paid within 30 days of receipt of goods or services and a properly prepared invoice.

Advance payments are deposited and maintained in *insured* accounts whenever possible. In addition, the District maintains federal funds in interest-bearing accounts.

Interest Earned on Advances

The District will calculate interest earned on cash advances upon *receipt* of advance payments and will remit interest as specified below. Any interest earned on those funds while on deposit in the District's bank account after receipt and before disbursal will be included in the interest-earned calculation. Total federal grant cash balances will be calculated on cash balances per grant and applying the District's actual interest rate.

Annually, within 30 days after the end of each fiscal year, the District will remit interest earned on U.S. Department of Education grants to the Department of Health and Human Services Payment Management System (PMS) as specified below. As permitted in the regulations, the District will retain up to $500 per year for administrative expense.

The Executive Director of Finance and Operations is responsible for monitoring cash on hand that earns interest, how and when (frequency/timing) the interest is calculated. The Executive Director of Finance and Operations is responsible for actually returning the interest to the Department of Health and Human Services and any other appropriate details for this procedure.

Remitting Interest

Payment of interest will be through an electronic medium using either Automated Clearing House (ACH) network or a Fedwire Funds Service payment. Remittances will include pertinent information of the District and nature of payment in the memo area (often referred to as "addenda records" by financial institutions) that will assist in the timely posting of interest earned on federal funds. Pertinent details include the Payee Account Number (PAN) if the payment originated from PMS, or Agency information if the payment originated from G5 (Department of Education), ASAP (Automated Standard Application for Payments), NSF, or another federal agency payment system. The remittance will be submitted as follows:

For ACH Returns:
Routing Number: 051036706
Account number: 303000
Bank Name and Location: Credit Gateway—ACH Receiver St. Paul, MN

For Fedwire Returns*:
Routing Number: 021030004
Account number: 75010501

Bank Name and Location: Federal Reserve Bank Treas NYC/Funds Transfer Division, New York, NY

* Please note organization initiating payment is likely to incur a charge from your Financial Institution for this type of payment.

For recipients that do not have electronic remittance capability, please make check** payable to:
The Department of Health and Human Services
Mail Check to Treasury approved lockbox:
HHS Program Support Center, P.O. Box 530231, Atlanta, GA 30353-0231

(** Please allow 4-6 weeks for processing of a payment by check to be applied to the appropriate PMS account)

Any additional information/instructions may be found on the PMS Web site at *http://www.dpm.psc.gov/*.

Excess Cash on Hand

In addition to remitting interest per the preceding instructions, per TEA's policy (TEA's General and Fiscal Guidelines, Return of Interest Earned from Excess Cash on Hand), any funds that are not paid out within three business days of *receipt* of funds are considered *excess cash on hand*, which must be returned to TEA immediately as a refund. Refunds that are a result of excess cash will be sent to the following address:

Texas Education Agency—MSC
P. O. Box 13717
Austin TX 78711-3717

Per instructions from TEA, the District will write the name of the grant program and the NOGA ID number on the refund check. The refund will be credited to the NOGA ID from which the excess funds were drawn down.

Reimbursement Method

Under the reimbursement method, the District initially charges federal grant expenditures to nonfederal funds and makes appropriate journal entries to charge the federal grant once payment is received. All reimbursements are based on actual disbursements (i.e., payments already made), not on obligations.

The District Assistant Superintendent of Finance and Operations will request reimbursement for actual expenditures incurred under the federal grants monthly or as specified by TEA or other

awarding agency through TEA's ER System (described above) or through other awarding agency's system, such as the Department of Education's G5 system, for direct grants. When using this method, the District will only request *reimbursement* for funds actually already paid out.

Reimbursements of *actual expenditures* do not require interest calculations as detailed in the *Advance Method* section.

Noncompliance with Cash Management Requirements

Pursuant to the provisions of 2 CFR § 200.338, grantees that fail to comply with cash management requirements, including the repayment of interest earned, may be subject to the following special conditions or enforcement actions:

- Identification as a high-risk grantee, pursuant to the provisions of 2 CFR § 3474.10 and 2 CFR § 200.207, which may involve the imposition of special conditions and being placed on reimbursement basis only (District would not be able to draw down its own funds in the ER system without first submitting supporting documentation for expenditures)
- Temporarily withholding cash payments pending correction of the deficiency
- Disallowing all or part of a cost not in compliance
- Suspension or termination of the award
- Withholding further awards for future grants from TEA
- Debarment or suspension from receiving any future federal funds from any entity
- Other remedies that may be legally available

E. Program Income

Definition

Program income means gross income earned by the District that is directly generated by a supported activity or earned as a result of the federal award during the grant's period of performance. 2 CFR § 200.80.

Program income includes, but is not limited to:

- income from fees for services performed
- the use or rental of real or personal property acquired under federal awards
- the sale of commodities or items fabricated under a federal award (costs to purchase or fabricate items must be allowable under the grant and the activities must be appropriate for the grant program)
- license fees and royalties on patents and copyrights
- principal and interest on loans made with federal award funds

Interest earned on advances of federal funds is *not* program income. Except as otherwise provided in federal statutes, regulations, or the terms and conditions of the federal award, program income does *not* include rebates, credits, discounts, and interest earned on any of these. 2 CFR § 200.80. Additionally, taxes, special assessments, levies, fines, and other such revenues raised by the District are *not* program income unless the revenues are specifically identified in the federal award or federal awarding agency regulations as program income. Finally, proceeds from the sale of real property, equipment, or supplies are *not* program income. 2 CFR § 200.307

The District will describe in the applicable grant application any program income it wishes to earn, including a description of the activity(ies) that will be conducted to earn program income and how the activity(ies) will further the objectives of the grant program. The Assistant Superintendent will make the final determination if the activity that is proposed to generate program income is suitable for the program and whether it is permissible to proceed with requesting it in the application.

Use of Program Income

Deduction Method: Per federal regulations, the default method for the use of program income for the District is the *deduction* method. 2 CFR § 200.307(e). Under the *deduction* method, program income is *deducted* from *total* allowable costs to determine the *net* allowable costs. Thus, prior to submitting the expenditure report, the amount of program income must be deducted from total expenditures. Program income will only be used for current costs unless the District is otherwise directed by TEA or other awarding agency. 2 CFR § 200.307(e)(1).

Addition Method: The District may also request written prior approval from the TEA Chief Grants Administrator (or other awarding agency) to use the *addition* method. Under the *addition* method, program income may be *added* to the Federal award. The program income must then be used for the purposes and under the conditions of the Federal award. 2 CFR § 200.307(e)(2)

While the *deduction* method is the default method, the District always refers to the NOGA/GAN prior to determining the appropriate use of program income. If the NOGA/GAN does not address the use of program income or does not authorize districts to use the *addition* method, the District must determine if it needs to request authorization from TEA or other awarding agency to apply the *addition* method if it is in the best interest of the District.

Reporting Program Income

If the District earns any program income, all program income will be reported on the expenditure report, even when the District has been given permission in the application to retain the program income and add it to the grant funds.

Earning Program Income after the Grant Period

There are no federal requirements governing the disposition of program income earned after the end of the grant period, unless the terms of the agreement or the program-specific federal regulations provide otherwise. After the ending date of the grant, the District is no longer required to report any program income generated for the grant. For multi-year discretionary grant projects, this means at the end of the multi-year grant project.

II. Procurement System

Module 3 of TEA's FASRG outlines requirements and best practices related to the purchasing function. Reflecting state (and some federal) requirements for purchasing, *Module 3* is based on statutes containing requirements for districts for competitive *purchasing/contracting processes* found in the *Texas Education Code, Local Government Code, Texas Government Code, Texas Revised Civil Statutes*, Texas Attorney General Opinions, federal regulations and other sources. The *Handbook on Purchasing for Texas Public Schools, Junior Colleges and Community Colleges* (Appendix 1 of Module 3) was written to provide information about purchasing and also be a ready reference regarding:

- Purchasing ethics
- Questions and answers on bidding and purchasing topics
- Example purchasing documents
- Purchasing laws
- Texas Attorney General Opinions
- Definitions of purchasing terms

According to *Section 271.003(9), Local Government Code*, "school district" means an independent school district, common school district, community college district, junior college district or regional college district organized under the laws of this state. Therefore, the District is required to comply with all requirements outlined in *Module 3* and in state law.

In accordance with TEA's *purchasing policy* established in *Module 3*, the District's objective is to purchase the best products, materials, and services at the lowest practical prices within relevant statutes and policies. It is important to acquire goods and services for the best price through fair and open competition to protect the interest of the local, state, and federal government while still maintaining the desired quality and minimizing exposure to misuse of funds.

Also in accordance with *Module 3*, the District's administrative *procedures* pertaining to purchasing goods and services shall reflect *quality assurance* and *quality control*, including an analysis of products provided through the procurement process, a review of services provided, and a review of vendor performance. Additionally, the District's purchasing practices and procedures must comply with federal procurement standards, some of which are already incorporated into

Module 3. It should be noted that some state requirements for purchasing are more restrictive than the federal requirements. Key state requirements that are more restrictive are noted in this section.

A. Conflict of Interest Requirements (Appendix V)

Substantial state and federal requirements exist pertaining to standards of conduct and conflict of interest. It is the intent of the District for all employees, officers, or agents to conduct all activities associated with procurements in compliance with the highest ethical standards, including the avoidance of any *real or perceived conflict of interest.* It is also the intent of the District to impose appropriate sanctions or disciplinary actions, including but not limited to termination and/or prosecution, for any employees or officers who violate any of these requirements.

Standards of Conduct

State Requirements

According to *The Handbook on Purchasing for Texas Public Schools, Junior Colleges and Community Colleges* (Module 3 of FASRG, Appendix 1), it is a serious breach of the public trust to subvert the public purchasing process by directing purchases to certain favored vendors, or to tamper with the purchasing process, whether it is done for kickbacks, friendship or any other reason. State law relating to violation of purchasing requirements imposes upon violators certain criminal penalties, which are found in *Section 44.032, Texas Education Code, and Chapter 271.029, Local Government Code.*

The following common standards of ethics shall govern the conduct of District employees involved in the purchasing function:

1. It is a breach of ethics to attempt to realize personal gain through public employment with a school district by any conduct inconsistent with the proper discharge of the employee's duties.

2. It is a breach of ethics to attempt to influence any public employee of a school district to breach the standards of ethical conduct set forth in this code.

3. It is a breach of ethics for any employee of a school district to participate directly or indirectly in a procurement when the employee knows that:

    - The employee or any member of the employee's immediate family has a financial interest pertaining to the procurement;
    - A business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement; or

- Any other person, business or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

4. Gratuities: It is a breach of ethics to offer, give or agree to give any employee or former employee of a school district, or for any employee or former employee of a school district to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore pending before this government. Acceptance of gratuities may be construed as a criminal offense.

   In addition, Texas law makes a gift (an item valued at $50 or more, cash of any amount, or a negotiable instrument of any value) to a public employee a Class A misdemeanor if the employee is someone who exercises some influence in the purchasing process of the governmental body. (*Texas Penal Code*, 36.09[d] and [h]).
5. Kickbacks: It is a breach of ethics for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract of a school district, or any person associated therewith, as an inducement for the award of a subcontract or order.

6. Contract Clause: The prohibition against gratuities and kickbacks prescribed above should be conspicuously set forth in every contract and solicitation therefore.

7. It is a breach of ethics for any employee or former employee of a school district knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated gain of any person.

Local Government Code, Chapter 176 provides information regarding conflict of interest statements to be filed by vendors and certain school district employees. Refer to the Texas Ethics Commission website for additional information and sample forms.

Federal Requirements

In addition to the state requirements pertaining to standards of conduct and avoiding conflict of interest, in accordance with 2 C.F.R. § 200.18(c)(1), the District's standards of conduct covering

conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of federal contracts include the following federal standards.

> No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a *real or apparent* conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.
>
> The officers, employees, and agents of the District 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. (See state requirements above pertaining to defining "nominal value.")

Immediate Family is defined as:
1. Spouse
2. Son or daughter, including a biological, adopted, or foster child, a son or daughter in law, a stepchild, a legal ward or a child for whom the employee stands *in loco parentis*
3. Parent, stepparent, parent in law, or other individual who stands *in loco parentis* to the employee
4. Sibling, stepsibling, sibling-in-law
5. Grandparent and grandchild
6. Any person residing in the employee's household at the time of illness or death

Person means a natural person, corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

Partnership is the relationship existing between two or more persons who join to carry on a trade or business. Each person contributes money, property, labor or skill, and expects to share in the profits and losses of the business.

Financial or other interest means any financial or other personal involvement of the person, his or her spouse, domestic partner, children, parent, or siblings who reside in the same household including, but not limited to:

- income; honoraria or other payment for services
- reimbursed or sponsored travel for services
- equity such as stock, stock options or other ownership rights, excluding interests of any amount in publicly traded, diversified mutual funds, pension funds, or other institutional investment funds over which the person does not exercise control
- patents and copyrights
- contracts, licensing and other agreements
- royalties, employment; and services, relationships or positions, even if uncompensated

Reporting Process

A local government officer/staff member/agent must file a Conflicts Disclosure Statement with

the Purchasing Department not later than 4:30 p.m. on the seventh (7th) business day after the date on which the officer/staff member/agent becomes aware of the facts that require the filing of the statement.
A form may be filed with the Purchasing Department by using a printed form that must be signed and notarized, or filing electronically on the Center's website. A statement filed electronically satisfies the signature requirement and does not need to be notarized.

Disciplinary Actions

The District will impose appropriate sanctions or disciplinary actions, including but not limited to termination and/or prosecution, for any employee or officer who violates any of these requirements related to standards of conduct and conflict of interest. 2 CFR § 200.318(c)(1)

Board Policy CAA(Local)

Mandatory Disclosure

Upon discovery of any potential conflict, the District will disclose in writing the potential conflict to TEA or other federal awarding agency in accordance with applicable TEA or other federal awarding agency policy. 2 CFR § 200.112.

In addition, the District will disclose, in a timely manner, in writing to TEA or other federal awarding agency, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. 2 CFR § 200.113. Failure to make required disclosures can result in any of the remedies described in 2 CFR § 200.338, Remedies for Noncompliance, including Debarment and Suspension.

Full and Open Competition

All procurement transactions paid with federal funds are conducted in a manner providing *full and open competition* consistent with 2 C.F.R § 200.319. In an environment of full and open competition, no proposer or bidder has a competitive advantage over another. All potential proposers and bidders must be provided the same information and have the same opportunity to submit a bid or proposal. Providing a competitive advantage to one or more potential proposers or bidders over another can open up the potential for disputes and lawsuits that can be costly and can significantly delay the completion of projects.

In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals (RFPs) are excluded from competing for such procurements. The District does not engage in the following situations that may restrict *full and open competition*, including but not limited to:

- placing unreasonable requirements on firms in order for them to qualify to do business;
- requiring unnecessary experience and excessive bonding;
- noncompetitive pricing practices between firms or between affiliated companies;
- noncompetitive contracts to consultants that are on retainer contracts;
- organizational conflicts of interest;
- specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and
- any arbitrary action in the procurement process. 2 CFR § 200.319(a)

The District also complies with the following requirements in 2 CFR 200 to ensure full and open competition when purchasing with federal funds.

Geographical Preferences Prohibited

The District conducts federal procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. 2 CFR § 200.319(b). Accordingly, when purchasing with federal funds, the District does not give preference to a contractor/vendor which is located in Texas or the local or surrounding community simply due to the location. Nothing in this section preempts state licensing laws.

When contracting for *architectural and engineering (A/E) services*, geographic location may be a selection criterion provided an appropriate number of qualified firms, given the nature and size of the project, are left to compete for the contract.

Contracting with Small and Minority Businesses

The District takes all necessary affirmative steps to assure that historically underutilized businesses (HUBs), including minority businesses and women's business enterprises, and labor surplus area firms are used when possible. 2 CFR § 200.321. To accomplish this, the District uses the following required affirmative steps:

- placing qualified small and minority businesses and women's business enterprises on solicitation lists
- assuring that small and minority business, and women's business enterprises are solicited whenever they are potential sources
- dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises

- establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises
- using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce, and
- requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above.

The Executive Director of Finance and Operations/Designee is responsible for reviewing and monitoring the process.

Prequalified Lists

The District ensures that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. 2 CFR § 200.319(d). The District accomplishes this by conducting internet searches, including using vendor searches available through the Texas Comptroller of Public Accounts, and by using other less technologically-advanced tools to locate and identify potential contractors.

- Texas Cooperative Purchasing Network (TCPN): http://www.tcpn.org/index-texas.htm
- BuyBoard is a trademark of TASB Inc: http://www.buyboard.com
- Tips (REGION 13)
- Region One Coop

Also, the District will not preclude potential bidders from qualifying during the solicitation period. The Assistant Superintendent of Finance and Operations is responsible for reviewing prequalified lists and determining if they include an adequate number of qualified sources.

Solicitation Language

All solicitations will incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description will not, in competitive procurements, contain features which unduly restrict competition. The description will include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, will set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications will be avoided if at all possible.

When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the

performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers will be clearly stated and will identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals. 2 CFR § 200.319(c)
The District uses a standard template for all of its Bids/RFP proposals. The template encompasses all of the standard language that is required by law, including times and dates of any pre-award meetings, deadlines for submission, a conflict of interest form, and a debarment and suspension form. The template is then adjusted to reflect the specific goods/services being solicited. With the assistance of the department seeking the goods/services (if goods/services benefit the entire District, the Purchasing Department will be responsible for the specific wording for those goods/services), the Purchasing Department will create the specifications for the goods/services.

B. Federal Procurement System Standards

In addition to avoiding conflicts of interest and ensuring full and open competition as described above, the District's written procurement procedures for purchases made with federal funds reflect applicable state and local laws and regulations and conform to the following *federal* standards for procuring goods and services with federal funds. 2 CFR § 200.318

Avoiding Acquisition of Unnecessary or Duplicative Items

The District avoids the acquisition of unnecessary or duplicative items. Additionally, the District considers consolidating or breaking out procurements to obtain a more economical purchase. And, where appropriate, the District makes an analysis of leases versus purchase alternatives, and other appropriate analyses to determine the most economical approach. 2 CFR § 200.318(d)

These considerations are given as part of the process to determine the allowability of each purchase made with federal funds. See *II. Financial Management Standards, F. Expending Grant Funds, Determining Allowability of Costs*, for written procedures on determining allowability

Use of Intergovernmental Agreements

To foster greater economy and efficiency, the District enters into state and local intergovernmental agreements where appropriate for procurement or use of common or shared goods and services. 2 CFR § 200.318(e). This includes cooperative purchasing agreements as well as shared services arrangements (SSAs) where practical and beneficial. Cooperative purchasing is described in section 3.5 of *Module 3*. SSAs as they pertain to a particular grant program are described in section 1.3.1 of *Module 1* (FAR).

- Texas Cooperative Purchasing Network (TCPN): http://www.tcpn.org/index-texas.htm
- BuyBoard is a trademark of TASB Inc: http://www.buyboard.com
- Tips (REGION 13)Region One Coop

In addition, the Center administers the following Purchasing Cooperatives:

- Child Nutrition Program – South Texas Cooperative (CNP-STC)
- Library Purchasing Cooperative
- Region One Purchasing Cooperative (ROPC)
- Texas Energy Center

Use of Federal Excess and Surplus Property and Procurement of Recovered Materials

The District considers the use of federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs. 2 CFR § 200.318(f). The program manager/director that oversees the Federal award is responsible for researching or inquiring other Federal program areas within the District to determine if existing material/equipment is available for use for Federal award.

Procurement of Recovered Materials: In addition, the District complies with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. 2 CFR § 200.322. The requirements of section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The requirements apply to state and local governments, including school districts, and include the purchase of everyday items such as paper products, non-paper office products, office furniture, floor mats, and awards and plaques, as well as many other items, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired by the preceding fiscal year exceeded $10,000. Requirements also include:

- procuring solid waste management services in a manner that maximizes energy and resource recovery and
- establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Pursuant to section 6002, the decision *not* to procure recovered materials must be based on a determination that such procurement items—

A. are not reasonably available within a reasonable period of time;
B. fail to meet the performance standards set forth in the applicable specifications or fail to meet the reasonable performance standards of the District; or
C. are only available at an unreasonable price. Any determination under subparagraph (B) shall be made on the basis of the guidelines of the Bureau of Standards in any case in which the material is covered by the guidelines.

The district determines if any item being purchased is on EPA's list of recovered materials and the steps that will be used to ensure the purchase complies with this requirement. The Executive Director of Finance and Operations is responsible for carrying out the steps and for making the final determination that the item to be purchased complies with these requirements.

Awarding Contracts to Responsible Contractors

The District awards contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. The District considers such matters as contractor integrity and business ethics, compliance with public policy, ability to complete the project on time and in accordance with specifications, record of past performance, and the contractor's financial and technical resources. 2 CFR § 200.318(h)

The District will check references where possible and engage in practical activities such as checking with the local Better Business Bureau and the Texas Attorney General's office to ensure there are no outstanding complaints against the contractor.

The District will award a contract to a contractor who has the appropriate experience, expertise, qualifications, and any required certifications, necessary to perform the work. Contractors should also have the financial resources to sustain the project while the initial work is being completed and during each service period until he or she submits invoices for payment to the District as work is completed (for example, at the end of each month). Contractors should have the proper equipment or the capability to subcontract for the proper equipment necessary to complete the contracted work. For example, if the contractor is to develop curriculum guidelines on a computer, the contractor should already have his or her own computer with the appropriate software.

Debarment and Suspension: The District will not subcontract with or award subgrants to any person or company who is debarred or suspended from receiving federal funds. The Assistant Superintendent of Finance and Operations is required to check for excluded parties at the System for Award Management (SAM) website before any procurement transaction paid with federal funds. This list is located at: http://www.sam.gov/. 2 CFR Part 180 and 2 CFR Part 3485.

State Rules for Selecting Vendors

In addition to federal standards for making awards only to responsible contractors, TEC § 44.031 establishes nine criteria that school districts must use in determining contract awards to vendors, whether using state, local, or federal funds. All nine criteria must be considered *unless federal law prohibits it or is more restrictive as noted below*. These criteria are as follows:

(1) the purchase price

(2) the reputation of the vendor and of the vendor's goods or services

(3) the quality of the vendor's goods or services

(4) the extent to which the goods or services meet the district's needs

(5) the vendor's past relationship with the district

(6) the impact on the ability of the district to comply with laws and rules relating to historically underutilized businesses

(7) the total long-term cost to the district to acquire the vendor's goods or services

(8) for a contract for goods and services, other than goods and services related to telecommunications and information services, building construction and maintenance, or instructional materials, whether the vendor or the vendor's ultimate parent company or majority owner:

(A) has its principal place of business in this state; or

(B) employs at least 500 persons in this state

(**Note**: Federal requirements prohibit geographic preference when purchasing with federal funds. Therefore, *this requirement cannot be used to select a contractor when the purchase is made with federal funds*.)

(9) any other relevant factor specifically listed in the request for bids or proposals. Factors that a school district may consider under this criteria would include vendor response time and compatibility of goods/products purchased with those already in use in the district.

Contract Provisions

In all federally-funded contracts, the District includes the applicable provisions described in Appendix II to 2 CFR Part 200 – Contract Provisions for non-Federal Entity Contracts under Federal Awards. 2 CFR § 200.326. Provisions include the following:

1. All contracts paid from state or federal grants administered by TEA must retain copyright for the Texas Education Agency (TEA) and for the federal government (if a federally funded contract) unless otherwise negotiated in writing with TEA. Pursuant to the provisions in 2 CFR § 200.315, title to intangible property vests in the District as long as such property is used for authorized purposes. However, TEA and the federal awarding agency reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for federal purposes, and to authorize others to do so.
2. All contracts greater than $150,000 must address administrative, contractual, or legal remedies.

3. All contracts greater than $10,000 must address termination for cause and for convenience.
4. All construction contracts must include the Equal Employment Opportunity clause.
5. All prime construction contracts in excess of $2,000 must include a provision for compliance with the Davis-Bacon Act and its implementing regulations.
6. All contracts in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with the Contract Work Hours and Safety Standards Act and its implementing regulations.
7. All contracts that meet the definition of "funding agreement" and where the District wishes to enter into a contract with a small business firm or nonprofit organization must include a provision for compliance with the Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements.
8. All contracts and subgrants greater than $150,000 must contain a provision for compliance with the Clean Air Act and the Federal Water Pollution Control Act and their implementing regulations.
9. All contracts must include compliance with the Energy Policy and Conservation Act pertaining to mandatory standards and policies relating to energy efficiency contained in the state energy conservation plan.
10. A contract or subcontract must not be made to any party that is debarred or suspended from receiving federal funds.
11. Lobbying Certification and Disclosure of Lobbying (Byrd Anti-Lobbying Amendment) – All contractors that apply or bid for an award of $100,000 or more must file the required Lobbying Certification that it has not and will not use any federal funds to lobby. If *non*-federal funds are used to lobby, the contractor must complete the Disclosure of Lobbying and forward the disclosure to the next tier, who must forward it through each tier to the federal awarding agency.
12. All contracts greater than $10,000 must include compliance with section 6002 of the Solid Waste Disposal Act and its implementing regulations. 2 CFR § 200.322

The District also adheres to the best practices recommended by TEA as it pertains to professional services contracts paid from federal grants. See *III. Procurement System, G. Contract Administration*.

Maintenance of Procurement Records

Per *Module 3* of FASRG,

> "Accurate record-keeping and documentation should be a fundamental element of the procurement process. Precise and systematic record-keeping and records management withstands the constant scrutiny of various interest groups including vendors, the general

public, and outside agencies as well as internal groups which are the users or customers of the purchasing system. This records management function should support the school district's overall information management plan described in the Data Collection and Reporting module and generally provide for:

- Both the *flow and retention of forms* including requisitions, purchase orders, petty cash and cash reimbursement receipts.

- *Full documentation of all competitive procurements* with comprehensive competitive procurement files containing specifications, competitive procurement advertisement, pre-competitive procurement conference minutes (as appropriate), competitive procurements submitted, competitive procurement tabulation, board minutes indicating competitive procurement awards (or a similar award notice) and related records.

- *Full documentation of procurement procedures* utilized to obtain goods and services through competitive sealed proposals, design/build contracts and other procurement options.

- *Documentation of price quotations* obtained when purchasing with federal funds.

The records management function may rely on electronic formats including automated systems, diskettes, CD-ROM, imaging and microfiche. Alternatively, it may use hard copy or a combination of methods."

Therefore, the District will select the methods best suited to its needs.

In addition, in accordance with federal standards, the District maintains records sufficient to detail the history of all federal procurements, including but not necessarily limited to, the following:

- the method of procurement and the rationale for choosing that method (i.e., the reason the District chose procurement by micro-purchase, small purchase procedures, sealed bid, competitive proposals, or noncompetitive proposals)
- the type of contractual agreement or instrument used and rationale for using that type
- the process used to either select the contractor or to reject the contractor (what was the process and what were the factors considered in selecting or rejecting the contractor; this must be in writing)
- the basis used for determining the price of the contract (including a cost or price analysis), and
- verification that the contractor is not suspended or debarred. 2 CFR § 200.318(i)

Please see section *VII. Record Keeping* for more information on the District's records management policies. Records are kept at theExecutive Director of Finance and Operations and the Superintendent is responsible for maintaining records in both paper and electronic form.

Time and Materials Contracts

Time and materials contracts are a hybrid of fixed-price and cost-reimbursement contracts. They present the highest risk to the government and the lowest risk to the contractor. Therefore, they are the *least* desirable for the federal or state government and are rarely awarded. 2 CFR § 200.318(j)

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. In other words, the contractor is saying it will work until the task is completed, but it has no idea how long it will take, nor how much money it will cost. This obviously can be very cost prohibitive and can encourage fraudulent behavior by some unscrupulous contractors. Therefore, federal regulations permit the use of a time and materials contract only after a determination is made that no other contract is suitable and only if the contract includes 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.

The District may use a time and materials type contract paid with federal funds in accordance with the above and *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.

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 made with federal funds. 2 CFR § 200.318(k). These issues include, but are not limited to, source evaluation (i.e., analyzing information *sources* in order to assess their credibility), 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. The Executive Director of Finance and Operations in the District is the primary office responsible for handling and coordinating the settlement of any contractual and administrative issues arising out of procurements.

Protest Procedures to Resolve Disputes

The District maintains protest procedures to handle and resolve disputes relating to procurements made with federal funds and, in all instances, discloses information regarding the protest to TEA or other awarding agency. 2 CFR § 200.318(k). The protestor must exhaust all administrative remedies with the District before pursuing a protest with a federal agency. The Assistant Superintendent of Finance and Operations in the District is the primary office responsible for handling and coordinating any disputes relating to procurements.

Protest procedures must be in accordance with state and local law. Issues that should be addressed include, but are not limited to, how potential vendors receive notice of ability to protest. The Executive Director of Finance and Operations receives the protest; the Executive Director of Finance and Operations reviews the protest; whether a report of the review is provided to the complainant; and timeframes for both making the protest and reviewing the protest. The Superintendent reviews the protest.

Responsibility for Purchasing

The Assistant Superintendent of Finance and Operations and Operations in the Business Department is responsible for overseeing all procurements of the District. This includes development and revision of the policies and procedures related to the purchasing function, training staff in how to use and implement the policies and procedures, and monitoring for employee compliance with policies and procedures. It also includes reporting any potential or realized conflicts of interest to TEA and implementing the appropriate sanctions or disciplinary actions for employees who fail to comply with the policies and procedures.

1. Requisition Process - The originator will submit a written Requisition to the campus with all the appropriate information such as Description of item(s), Vendor/address/phone, Unit Price (including shipping), Quantity, Total Cost, and Account Number, Goal and Objective.

2. The Campus will review information and submit form to campus principal for approval. Such action will be evident by his/her signature. Campus secretaries will enter signed forms into the RSCCC Accounting System and forwarded documentation to A/P office.

3. Accounts Payable Office will review forms for proper preparation. If essential information is missing, it will be sent back. A/P department will approve requests and forwarded them to Assistant Superintendent of Finance and Operations for approval. Requests not approved will be sent back to campuses. Approved requests will become Purchase Orders and forwarded according to A/P timelines.

4. Requisitions Timelines - Requisitions need to be submitted 5 days before its due date for it to be reviewed, approved, and signed by the appropriate administrator. Requisitions will be reviewed

and approved by Superintendent or Assistant Superintendent of Finance and Operations/Designee. Please review your requests for proper documentation to avoid any delays.

5. Requisition Check List provides detail information on procedures needed to turn in a complete and successful Purchase Requisition Form to the office.

a. Check for fund availability
b. Correct Account Number
c. Proper back up documentation when applicable
    - Quotes of items being purchase
    - Copy of the front page of the catalog
    - Registration form
    - Travel request form
    - Hotel request form
    - Confirmation of lodging; if applicable
    - Mileage report.
    - Contract of Consulting Services.
d. Detailed description of items being purchased or event taking place
e. What you will be purchasing – Example: Fruit, Snacks, Chips, Soft Drinks, Water, Cups, Coffee, etc
f. Your description should answer the following questions
    - Who is benefiting? List of students or staff.
    - What will take place?
    - Where will it take place?
    - When will it take place?
    - Why are we participating?
g. Proper signatures.
    - Requestor
    - Principal
    - Fed program if required
    - Department supervisor
h. Shipping and handling cost
i. Discounts
j. Cannot purchase any goods without a purchase order

Purchase Requisition Form (Appendix A Forms)

B. Purchase Order Process

1. (Electronic System – Skyward)

- User profiles should be created in the *Skyward* system, to include clerical, teaching, and administrative staff, as appropriate. The appropriate restrictions to account codes and functions should be established. Global access and override functions shall be

limited to the Assistant Superintendent of Finance and Operations and the Accounting Specialist.

- Approval paths shall be established which will dictate the electronic flow of the purchase order.
- Any authorized user may create a purchase requisition. Any paper documentation that is related to a purchase requisition should be forwarded separately to the Accounting Specialist.
- All bid and quote thresholds will apply as they do in the manual system.
- The purchase requisition will be available for approval by all individuals in the approval path.
- The approver may approve the entire requisition, or approve/disapprove line items.
- The final approval will be the Assistant Superintendent of Finance and Operations or designee as needed.
- After the approval of the Assistant Superintendent of Finance and Operations, the purchase orders will be printed and distributed to vendors as noted in the manual system.
- Copies of the purchase order will not be distributed to the schools since they can review and track purchase orders on-line.
- All other controls established for purchase orders processed under the manual system shall apply.

On-line Purchasing:

- On-line purchasing has been established by the district and meets all guidelines
- The campus secretaries, principals, accounting specialist and Assistant Superintendent of Finance and Operations are authorized users of the on-line account.
- All purchases entered on-line by campus staff should be followed by a purchase order for the amount of the total purchase. A copy of the on-line order should be attached to the purchase order.
- All on-line purchases must have an approved purchase order prior to placing the order.

C.Purchase Methods When Using Federal Funds

For purchases with federal funds, the Assistant Superintendent of Finance and Operations reviews and approves all proposed purchases related to the federal program for which he or she is responsible. This person makes all final determination on any proposed purchase where there may be a question on budget or denial.

Note: The state requirements for purchasing change periodically. Therefore, it is important to stay abreast of any state or TEA-mandated changes pertaining to purchasing to enable the district to revise its purchasing procedures accordingly.

In some situations, the federal requirements pertaining to purchasing methods are more restrictive than state of Texas requirements. In other situations, the state requirements are more restrictive than the federal requirements. Therefore, when determining the method that must be used in a particular purchasing situation, the more restrictive method or requirement must be used in each case.

State Requirements Related to Purchasing Methods

Unless otherwise more restrictive in federal law for procurement with federal funds, the District complies with the purchasing methods prescribed in TEA's FASRG and in state law for all purchases regardless of the funding source (i.e., state, local, or federal).

Texas Education Code § 44.031 (a) states that all school district contracts for the purchase of goods and services valued at **$50,000 or more** in the aggregate, for each 12-month period are to be made by the method that provides the best value to the district. This does not apply to contracts for the purchase of produce or vehicle fuel.

The law enumerates several options for competitive procurement that are available to school districts. One of these options must be used for contracts expected to equal or exceed $50,000 regardless of the funding source **(i.e., state, local, or federal):**

(1) competitive bidding
(2) competitive sealed proposals
(3) request for proposals, for services other than construction services
(4) interlocal contracts
(5) design-build contracts
(6) contract to construct, rehabilitate, alter, or repair facilities that involve using a construction manager
(7) a job order contract for the minor construction, repair, rehabilitation, or alteration of a facility
(8) reverse auction procedure as defined by Section 2155.062(d), Government Code; or
(9) the formation of a political subdivision corporation under Section 304.001, Local Government Code."

Professional and Consulting Services

Several exceptions to following one of these competitive procurement methods are identified in TEC § 44.031. This section does not apply to a contract for *professional services* rendered, including services of an architect, attorney, certified public accountant, or engineer (which must

be selected in accordance with *Chapter 2254 of the Government Code*.) A school district may, at its option, contract for professional services rendered by a *financial consultant* or a *technology consultant* in the manner provided by Section 2254.003, Government Code, in lieu of the methods provided by this section.

The federal cost principles (specifically in 2 CFR § 200.459) broadly define *professional and consultant services* as those services rendered by persons who are members of a particular profession or possess a special skill, and who are not officers or employees of the District.

Professional services are further defined in the *Handbook on Purchasing* as "infrequent, technical, and/or unique functions performed by independent contractors whose occupation is the rendering of such services." Finally, professional services as described in Attorney General Opinion DM-418, referenced in the *Handbook*, includes not only the services of lawyers, physicians, or theologians, "but also those members of disciplines requiring special knowledge or attainment and a high order of learning, skill, and intelligence including guest speakers, consultants, writers, and artists." A professional is only one who "'is a member of [a] discipline with widely accepted standards of required study or specified attainments in special knowledge as distinguished from mere skill.'" Id. (quoting Wooddell, 230 S.E.2d at 470).

Certain *professional services*, specifically those covered under Chapter 2254, Subchapter A of the Texas Government Code, (i.e., architects, CPAs, registered engineers, optometrists, physicians, surgeons, land surveyors, landscape architects, registered nurses and state certified or state licensed real estate appraisers) are not selected based on competitive bidding. **Rather, they must be selected based on demonstrated competence and qualifications obtained through a *Request for Qualifications* or similar document.** After the District makes its selection based on demonstrated competence and qualifications, a fair and reasonable price for the services is then negotiated and agreed upon.

Consulting services: According to FAR (Module 1 of TEA's FASRG), consulting services

> "refer to the practice of helping districts to improve performance through analysis of existing problems and development of future plans. Consulting may involve the identification and cross-fertilization of best practices, analytical techniques, change management and coaching skills, technology implementations, strategy development, or operational improvement. Consultants often rely on their outsider's perspective to provide unbiased recommendations. They generally bring formal frameworks or methodologies to identify problems or suggest more effective or efficient ways of performing tasks. Consulting services cover all functional areas such as instruction, curriculum, and administration.
>
> Consulting does not include a routine service/activity that is necessary to the functioning of a school district's programs, such as hiring additional people on contract to supplement

present staff. It also does *not* apply to services provided to conduct organized activities (such as training or other similar educational activities.)"

The District shall use a consultant only if the services of the consultant are necessary to accomplish the objectives of the particular program/project, the fees are reasonable in cost, and the District cannot meet the needs by using an employee. 34 CFR 75.515. For example, an employee may have the knowledge, skills, and capability to provide the consulting services, but the employee may not have the time in an already-busy schedule to provide the consulting services in the time required.

Under IRS rules, a person cannot work part of the time as an employee, and part of the time as a contractor/consultant. If an employee provides additional services above and beyond his or regular contracted hours and regular job responsibilities, the employee is paid *extra-duty pay* in accordance with the District's employee compensation policy, and not a fee based on a contract.

Allowable Professional Service Costs

Professional and consultant services are allowable to be purchased with federal funds when reasonable and when the District considers the following factors:

- The nature and scope of the service rendered in relation to the service required;
- The necessity of contracting for the service, considering the District's capability in the particular area;
- The past pattern of such costs, particularly in the years prior to federal awards;
- The impact of federal awards on the District's business (i.e., what new problems have arisen);
- Whether the proportion of federal work to the District's total business is such as to influence the District in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under federal awards;
- Whether the service can be performed more economically by direct employment rather than contracting;
- The qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-federally funded activities; and
- The adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation, and termination provisions).

Purchasing Goods or Services with Federal Funds

In accordance with 2 CFR Part 200, Subpart E, Cost Principles, all purchases made with federal funds, regardless of the method of purchase, must be determined to be:

- *reasonable* in cost (comparable to current fair market value)
- *necessary* to carry out the objectives of the federal program
- *allowable* under the federal cost principles and the terms and conditions of the award
- *allocable* (chargeable or assignable) to the grant program based on the relative benefits received

Prior to each purchase and for each proposed purchase, on each purchase order, purchase requisition, contract, invoice, receipt, travel voucher, or other documentation for obligations, encumbrances, or expenditures, the District documents these criteria are met in the following manner regardless of the purchase method used:

The Assistant Superintendent of Finance and Operations verifies the proposed purchase is *reasonable in cost* (i.e., comparable to current fair market value) The program manager/director assigned to the grant verifies the proposed purchase is necessary to accomplish the objectives of the grant program in that the expenditure is vital or required for the grant program to be successful.

Five Methods for Procuring with Federal Funds

2 CFR § 200.320 provides for five methods that must be used when making purchases with federal funds. In some cases, these *federal* methods are less restrictive than *state* requirements; in other cases, the *state* requirements are more restrictive than these *federal* methods. Additionally, if *local* requirements are more restrictive than either state or federal, then local requirements must be followed. In all cases, the more restrictive requirements or methods must be followed when making purchases with federal funds.

The type of purchase method and procedures required depends on the cost (and type, in some cases) of the item(s) or services being purchased.

- Micro-purchase
- Small purchase procedures
- Sealed bids
- Competitive proposals
- Noncompetative proposals (sole source)

Micro-Purchases (Purchases up to $3,500)

Federal methods provide for procurement by *micro-purchase*. *Micro-purchase* is defined in 2 CFR § 200.320(a) as a purchase of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed $3,500. The micro-purchase method is used in order to expedite the completion of its lowest-dollar small purchase transactions and minimize the associated administrative burden and cost.

In accordance with federal requirements, micro-purchases may be awarded without soliciting competitive quotations *if the District considers the price to be reasonable.* Also, when using federal funds, to the extent practicable, the District must distribute micro-purchases equitably among qualified suppliers The District intends to use this option, and will determine the equitable distribution of micro-purchases among qualified suppliers. TheExecutive Director of Finance and Operations will make the determination.

The District maintains evidence of this reasonableness in the records of all micro-purchases. Please see page for written procedures on how to determine whether a price is reasonable. See purchasing procedures for guidance and documentation process.

Small Purchase Procedures (Purchases between $3,501 and $49,999 in the Aggregate)

The *federal* threshold for *small purchase procedures* is $150,000. 2 CFR § 200.320(b). However, with some exceptions noted in TEC § 44.031, the *state* threshold for all school district contracts that do not require competitive bidding is less than $50,000 in the aggregate. Therefore, the more restrictive *state* threshold of less than $50,000 must be followed. *Small purchase procedures* (as defined in 2 CFR § 200.320[b]) may be used in those relatively simple and informal procurement methods for securing nonprofessional services, supplies, or other property that do not cost more than $50,000.

For purchases funded from *state or local funds*, to obtain the most competitive price, a district, *may* at its option, obtain price quotes for items costing less than $50,000. Per *Module 3*, the district's purchasing procedures should clearly define the lower figure for which quotes are required and obtain and retain written verification of the prices quoted. Unlike the mandatory competitive procurement described for purchases over $50,000, if an item to be paid from *state or local funds* costs less than $50,000, a district may utilize price quotations to stimulate competition and to attempt to receive the most favorable pricing.

However, if using *federal funds* to purchase goods or services, *price or rate quotations* ***must*** *be obtained* from an adequate number of qualified sources for all purchases between $3,501 and $49,999. Such price or rate quotations must be documented in writing, and the District must demonstrate that price or rate quotations were obtained from an adequate number of qualified sources. . If purchasing from a purchasing cooperative or existing Bid/RFP, the departments can elect to obtain only one quote to purchase the goods or services although it is recommended to obtain more than one quote. Such price or rate quotations may be obtained orally and/or documented in writing, and the Center must demonstrate that price or rate quotations were obtained from an adequate number of qualified sources.

The Purchasing Department will also have a list of current Bids/RFPs.

Purchases $50,000 or More in the Aggregate

According to Texas law, one of the following competitive methods must be used for purchases of $50,000 or more in the aggregate:

(1) competitive bidding
(2) competitive sealed proposals
(3) request for proposals, for services other than construction services
(4) interlocal contracts
(5) design-build contracts
(6) contract to construct, rehabilitate, alter, or repair facilities that involve using a construction manager
(7) a job order contract for the minor construction, repair, rehabilitation, or alteration of a facility
(8) reverse auction procedure as defined by Section 2155.062(d), Government Code; or
(9) the formation of a political subdivision corporation under Section 304.001, Local Government Code.

Each of these competitive methods is described more thoroughly in *Module 3* of FASRG.

In addition, *one of the three following methods must be used*, depending on the circumstance described below, when purchasing with *federal funds*: sealed bids (formal advertising); competitive proposals; or noncompetitive proposals (sole source).

Sealed Bids (Formal Advertising)

Bids are publicly solicited and a *firm fixed-price contract* (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the following conditions apply:

- A complete, adequate, and realistic specification or purchase description is available;
- Two or more responsible bidders are willing and able to compete effectively for the business; and
- The procurement lends itself to a firm fixed-price contract and the selection of the successful bidder can be made principally on the basis of price.

If sealed bids are used, the following requirements apply:

- Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids. The invitation for bids must be publically advertised.

- The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond.
- All bids will be opened at the time and place prescribed in the invitation for bids. The bids must be opened publicly.
- A firm fixed-price contract award must be made in writing to the lowest responsive and responsible bidder.

Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of. Any or all bids may be rejected if there is a sound documented reason.

Competitive Proposals

A competitive proposal is normally used with more than one source submitting an offer, and either a *fixed price* or a *cost-reimbursement* type contract is awarded. (A *cost reimbursement contract* reimburses the contractor for actual costs incurred to carry out the contract.) Competitive proposals are generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical.
- Proposals must be solicited from an adequate number of qualified sources.
- The District must have a written method for conducting technical evaluations of the proposals received and for selecting recipients.
- Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

When using federal funds, the District may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

Noncompetitive Proposals (Sole Sourcing)

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used when using federal funds only when one or more of the following circumstances apply:

- The item is available only from a single source and an equivalent cannot be substituted. This must be documented.
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.
- **TEA (or other federal awarding agency) expressly authorizes noncompetitive proposals in response to a written request from the District.**
- After solicitation of a number of sources, competition is determined inadequate.

Additionally, *state* requirements related to sole source purchasing are, in some ways, more restrictive. In addition to the federal requirements above, sole source purchases must meet established criteria:

- Identification and confirmation that competition in providing the item or product to be purchased is precluded by the existence of a patent, copyright, secret process or monopoly;
- A film, manuscript, or book;
- A utility service, including electricity, gas, or water; and
- A captive replacement part or component for equipment.

According to state requirements, sole source does not apply to mainframe data-processing equipment and peripheral attachments with a single item purchase price in excess of $15,000.

In all cases, the District will obtain and retain documentation from the vendor which clearly delineates the reasons which qualify the purchase to be made on a sole source basis. Reasons for sole source contracts may include:

1. only one firm has a product that will meet the projects needs or only one firm can do the work;
2. the existence of an unusual and compelling urgency;
3. for purposes of industrial mobilization or expert services;
4. an international agreement;
5. sole source is authorized or required by law, e.g., socio-economic programs

Cost/Price Analysis for Federal Procurements in Excess of $150,000

In accordance with the requirements in 2 CFR § 200.323, the District will make independent estimates of the goods or services being procured *before* receiving bids or proposals to get an estimate of how much the goods and services are valued in the current market.

To accomplish this, *after* bids and proposals are received, but *before awarding a contract*, the District conducts either a *price analysis* or a *cost analysis*, depending on the type of contract, in connection with every procurement with federal funds in excess of $150,000. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation;

however, the District will come to an independent estimate prior to receiving bids or proposals. 2 CFR § 200.323(a). The *cost analysis* or *price analysis, as appropriate for the particular situation,* will be documented in the procurement files.

Accordingly, the District performs a *cost or price analysis* in connection with every *federal* procurement action in excess of $150,000, including contract modifications, as follows:

Cost Analysis ➔ Non-competitive Contracts: A *cost* analysis involves a review of proposed costs by expense category, and the federal cost principles apply, which includes an analysis of whether the costs are allowable, allocable, reasonable, and necessary to carry out the contracted services. In general,

- A *cost* analysis must be used for all *non-competitive contracts*, including sole source contracts.
- The federal cost principles apply.
- All *non-competitive contracts* must also be awarded and paid on a *cost-reimbursement basis*, and not on a fixed-price basis.
- In a cost-reimbursement contract, the contractor is reimbursed for reasonable actual costs incurred to carry out the contract.
- Profit must be negotiated as a separate element of the price in all cases where there is no competition.

When performing a *cost* analysis, the Assistant Superintendent of Finance and Operations negotiates profit as a separate element of the price. To establish a fair and reasonable profit, consideration is given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work. 2 CFR § 200.323(b).

Price Analysis ➔ Competitive Contracts: A *price* analysis determines if the lump sum price is fair and reasonable based on current market value for comparable products or services. In general,

- A price analysis can only be used with *competitive* contracts and is usually used with fixed-price contracts. It cannot be used with non-competitive contracts.
- Compliance with the federal cost principles is not required for fixed-price contracts, but total costs must be reasonable in comparison to current market value for comparable products or services.
- A competitive contract may be awarded on a fixed-price basis or on a cost-reimbursement basis. If awarded on a cost-reimbursement basis, the federal cost principles apply and costs are approved by expense category, and not a lump sum.

Costs or prices based on *estimated* costs for contracts are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable costs under the federal cost principles.

C. Purchase Cards (District-Issued Credit Cards/Pro Cards)

The use of district-issued credit cards or procurement cards is carefully controlled and monitored to prevent fraud, waste, and abuse. Section 3.3.3.3 in Module 3 of the FASRG addresses the use of credit/pro cards. The Superintendent, Assistant Superintendent of Finance and Operations and Operations, Assistant Superintendent of Human Resources, and Assistant Superintendent of Academic Services will work together to set and enforce policies and procedures. Misuse and abuse will not be tolerated.

In accordance with suggested procedures in *Module 3* of FASRG, the District:

- Holds reviewers of credit card purchases to the same standards as cardholders.
- Applies the same set of rules to all card users, although spending limits may vary.
- Restricts card usage by spending limits, unauthorized merchant category codes, and time of use to business hours.
- Issues cards to employees only after they have completed training on the purchasing card program.

Segregation of Duties

- Identifies certain employees to be cardholders and others within the same department to be reviewers of the cardholders' purchases.
- Does not allow the same employee to buy, receive, approve, and reconcile card purchases.
- Has different employees set up cardholders and reviewers in the P-card system and the banking system.

Cardholders

- Requires cardholders to turn in detailed receipts in accordance with policies and documenting the business reason. Restaurant receipts must include line-by-line detail of the order.
- Requires cardholders to complete training prior to receiving a card and acknowledge in writing receipt of the policy and procedure manual.

Reviewers

- Revokes a department's card privileges if a departmental reviewer does not review and approve transactions according to policy.
- Requires the reviewers to call the employee immediately upon noticing a questionable transaction rather than waiting for the due date of receipts.
- Requires the reviewers to complete training prior to reviewing transactions and acknowledging in writing receipt of the policy and procedure manual.

- Reviewers are responsible for 4 to 10 cardholders at most in order to be effective.

Monitoring and Oversight

- Is selective when issuing cards--focus on repetitive, small-dollar purchases.
- Keeps limits as low as possible to accommodate normal business needs. If there is a need to allow for emergency purchases, certain employees can have a higher limit.
- Card reviewers must follow the same high standards applied to cardholders.
- TheExecutive Director of Finance and Operations staff reviews the work of the card reviewers, and the list of P-card users is reviewed annually.
- Uses the software to review the average spent by cardholder, purchases from unauthorized suppliers, purchases shipped to the cardholder's home, and purchase amounts slightly below purchase limits.
- Reviews reports provided by the p-card programs such as declined authorizations report, disputes report, and lost/stolen card report which can reveal employees in need of additional training or attempting to misuse the card.
- Reviews district-wide activity periodically to identify frequently used vendors or products to consider negotiating volume discounts in order to obtain best prices for the district.
- Encourages staff to contact the hotline used to report any fraud.

Each credit card transaction must be properly accounted for. Refer to *II. Financial Management System, E. Accounting Records, Documentation Associated with Using District Credit/Pro Cards,* for specific information related to the proper accounting of credit card purchases.

D. Contract Administration

The District maintains the following oversights to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. 2 CFR § 200.318(b).

To ensure proper administration of contracts and any subgrants that may be awarded by the District, the District uses the following guidelines to determine whether each agreement it makes for the disbursement of federal funds is a *contract,* whereby funds are awarded to a *contractor*, or a *subaward,* whereby funds are awarded to a *subrecipient*. The substance of the relationship is more important than the form of the written agreement. 2 CFR § 200.330

Subawards/Subgrants

A *subaward/subgrant* is for the purpose of carrying out a portion of a federal award and creates a federal assistance relationship with the subrecipient. The District determines who is eligible to receive what federal assistance, and a *subrecipient/subgrantee*:

- Has its performance measured in relation to whether objectives of a federal program are met
- Has responsibility for programmatic decision making

- Is responsible for adhering to applicable federal program requirements, and
- In accordance with the subgrant agreement, uses the federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the District.

Contracts

A *contract* is for the purpose of obtaining goods or services for the District's own use and creates a procurement relationship with the contractor. A *contractor*:

- Provides goods and services within normal business operations
- Provides similar goods or services to many different purchasers
- Normally operates in a competitive environment
- Provides goods or services that are ancillary to the operation of the federal program, and
- Is not subject to compliance requirements of the federal program as a result of the contract, though similar requirements may apply for other reasons.

The District complies with the following *best practices* recommended by TEA for all *professional services contracts* paid with federal funds:

1. The effective dates (i.e., beginning and ending dates) of the contract are within the effective dates of the federal award as stated on TEA's NOGA. A contract may be *negotiated* prior to the effective date of the award, but it may not be signed or be effective until on or after the effective date stated on the NOGA.
2. The District may sign a *letter of intent* with the potential contractor prior to the issuance of the NOGA. The letter of intent must contain a provision that the pending contract is contingent upon receipt of the specific NOGA.
3. To ensure the potential contract is approved by TEA, the contract shall not be signed until after the NOGA is received by the District.
4. The contract will contain the following provisions (in addition to the Contract Provisions required and identified in *III. Procurement System, C. Federal Procurement System Standards, Contract Provisions*.
    a. All services will be completed during the effective dates of the contract.
    b. All services will be paid only upon receipt of a proper invoice that coincides with the contract upon verification that the services were satisfactorily performed in accordance with the description in the contract. For ongoing services, payment may be made at the end of every month upon receipt of the invoice. Contractors will not be paid in advance.
    c. The contract specifies that the invoice provided by the contractor will include the list of services provided, dates of services, and location(s) where services were provided during the billing period.

d. The District complies with the regulations pertaining to procurement in 2 CFR § 200.318 - .323.
e. The District complies with the provisions in 2 CFR § 200.459 pertaining to allowable professional service costs.
f. The contract identifies the funding source(s) that will be charged for the services provided, including the specific amount and/or percentage of the total contract amount to be charged to each funding source.
g. The contract identifies and lists only reasonable, necessary, and allocable services to be provided in accordance with the funding sources that will be charged.
h. The administrative costs charged to the grant in the contract must be reasonable and must comply with any statutory limitations for administrative costs specified in the federal program funding source.

Additionally, the District complies with the *Standards of Conduct* and *Conflict of Interest* policies and procedures related to procurement, including the mandatory disclosure of any potential or real conflicts of interest. (See section *III. Procurement System, A. Conflict of Interest Requirements*.)

Documentation for Contracts

The District maintains the following written documentation, at a minimum, for each contract paid with federal funds: The Executive Director of Finance and Operations is responsible for obtaining, creating, and maintaining the documentation listed below.

1. A copy of the written, signed contract/agreement for services to be performed
2. The rationale or procedure for selecting a particular contractor
3. Evidence the contract was made only to a contractor or consultant possessing the ability to perform successfully under the terms and conditions of the contract or procurement
4. Records on the services performed – date of service, purpose of service – ensuring that services are consistent and satisfactorily performed as described in the signed contract or purchase order
5. Documentation that the contractor was *not paid before services were performed*, and
6. Records of all payments made (such as a spreadsheet or report generated from the general ledger), including the total amount paid to the contractor.

Payment Only After Services Are Performed

For both state and federally funded contracts, it is not permissible under Texas law to pay a contractor or consultant in *advance* of performing services. Advance payment to contractors is considered "lending credit" to the contractor and is prohibited under the *Texas Constitution*, Article 3, §§ 40 and 52. For ongoing services that occur monthly, payment can be made at the end of every month (based on a proper invoice submitted by the contractor and verification of work performed) for services performed during the month, or some other similar arrangement.

Consultants and contractors will not be paid without having a properly signed and dated contract or other written agreement in place which clearly defines the scope of work to be performed, the beginning and ending dates of the contract, and the agreed-upon price. The contract should also include a description of the payment procedures.

Upon performance of services (monthly or upon completion of services), the contractor is required to submit an *invoice* to the District that contains at a minimum the following:

- a clear identification of the contractor/consultant, including name and mailing address
- a corresponding contract (or written agreement) number, if applicable
- the dates (beginning and ending date) during which the services were performed (i.e., billing period)
- a description of the services/activities completed during the billing period
- the total amount due to the contractor for the billing period

By submitting a properly-prepared invoice, the contractor is certifying that it is true and correct.

Verification of Receipt of Goods and Services Provided by Contractors

If the purpose of the contract or purchase order is to deliver goods, the Executive Director of Finance and Operations in business department will verify that the quantity and quality of goods were received as specified in the contract/purchase order. The receiving report and procedures used in all other state/local purchases will be used for all federal purchases.

The district utilizes a centralized receiving system – all goods are delivered to the Shipping/Receiving Department. A copy of every purchase order for goods (supplies/equipment) will be forwarded to the receiving clerk or clerk has access to reprint purchase order copies. Upon receipt of the goods, all items that require an inventory or fixed asset tag will be tagged [by the receiving clerk] before delivery to the appropriate campus/department. All orders will be delivered to the respective campus or department. Discrepancies, if any, should be reported to the receiving clerk. Upon receipt of the receiving report or packing slips when available and the invoice, the vendor will be paid for the order.

Staff members that receive authorization to pick-up goods directly from a vendor shall submit written confirmation of receipt to the receiving clerk or accounts payable clerk.

Merchandise is not accepted at any campus. However, food is accepted in the Food Service Department. A Food Service Worker will sign for receipt of goods

If the purpose of the contract is to purchase services, the CFO will verify that the quality and scope of services were received as specified in the contract.

Prompt Payment to Vendors/Contractors

The District pays all vendors/contractors within 30 days of receipt of a proper invoice and the receipt of the goods or services in accordance with the *Texas Prompt Payment Act*. *Government Code, Chapter 2251, Subchapter A, for all contractors, and Property Code, Chapter 28 for Construction Contractors*.

E. Submission of Procurement System

In accordance with 2 CFR § 200.324(b), the District will make available upon request from TEA all procurement documents for pre-procurement review, such as requests for proposals or invitations for bids, or independent cost estimates.

In addition, the District may request (in accordance with the process established by TEA) that its procurement system be reviewed by TEA to determine whether the system meets federal standards in order for the system to be certified. The District may also self-certify its procurement system in accordance with the provisions in 2 CFR § 200.324(c), which does not preclude TEA's right to survey the system.

III. Property Management Systems

A. Property Classifications

The following property classifications are found in federal law. The District should include all relevant property definitions and revise to ensure property classifications are also in accordance with state and local law. For example, school districts, open-enrollment charter schools, and ESCs are authorized to alter the definition of equipment as long as the revised definition includes all of the property included within the federal definition.

Equipment means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the District for financial statement purposes, or $5,000. 2 CFR § 200.33. The District's capitalization level is [$5,000].

Supplies means all tangible personal property other than those described in §200.33 Equipment. A *computing device* is a supply if the acquisition cost is less than the lesser of $5,000, regardless of the length of its useful life. 2 CFR § 200.94.

Computing devices means machines used to acquire, store, analyze, process, and publish data and other information electronically, including accessories (or "peripherals") for printing, transmitting and receiving, or storing electronic information. 2 CFR § 200.20.

Capital assets means tangible or intangible assets used in operations having a useful life of more than one year which are capitalized in accordance with GAAP. Capital assets include:

- Land, buildings (facilities), equipment, and intellectual property (including software) whether acquired by purchase, construction, manufacture, lease-purchase, exchange, or through capital leases; and
- Additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations or alterations to capital assets that materially increase their value or useful life (not ordinary repairs and maintenance). 2 CFR § 200.12.

B. Inventory Records

For each equipment and computing device purchased with federal funds, the following information is maintained by shipping and receiving/fixed assists clerk located within the Executive Director of Finance and Operations. This clerk is responsible for entering it into the fixed asset inventory and for making adjustments to the inventory:

- Serial number or other identification number
- Source of funding for the property
- Who holds title*
- Acquisition date and cost of the property
- Percentage of federal participation in the project costs for the federal award under which the property was acquired
- Location, use, and condition of the property, and
- Any ultimate disposition data including the date of disposal and sale price of the property.

*Pursuant to federal regulations, the District holds a *conditional title* for equipment purchased with federal funds unless a statute specifically authorizes a federal agency to vest title in the District without further obligation to the federal government. Title will vest in the District as long as:

- the District uses the equipment for the authorized purposes of the project until funding for the project ceases, or until the property is no longer needed for the purposes of the project
- the District does not encumber the property without approval of TEA or other awarding agency, and
- the District uses and disposes of the property in accordance with federal rules.

C. Physical Inventory

A physical inventory of the property is taken and the results reconciled with the property records every two years.

Equipment Insurance and Maintenance of Equipment

The District insures equipment acquired or improved with federal funds at the same levels and in accordance with the same policies as provided to equipment purchased with state or local funds unless required to be insured by terms and conditions of the federal grant. 2 CFR § 200.310.

In accordance with 2 CFR § 200.313(d)(4), the District maintains adequate maintenance procedures to ensure that property is kept in good condition

D. Lost or Stolen Items

The District maintains a control system that ensures adequate safeguards are in place to prevent loss, damage, or theft of the property. Any loss, damage, or theft is investigated in accordance with the following procedures. 2 CFR § 200.313(d)(3)

Refer to Assest Management Department Policies ad Procedures Manul in regards to lost or stolen items of assests procedures.

E. Use of Equipment

Equipment will be used in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the federal award. The District will not encumber the property without prior approval of TEA and the federal awarding agency.

When no longer needed for the original program or project, the equipment may be used in other activities supported by the federal awarding agency, in the following order of priority: (1) activities under a federal award from the federal awarding agency which funded the original program or project; then (2) activities under federal awards from other federal awarding agencies.

During the time equipment is used on the project or program for which it was acquired, the equipment will also be made available for use on other projects or programs currently or previously

supported by the federal government, provided that such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use must be given to other programs or projects supported by the federal awarding agency that financed the equipment. Second preference is given to programs or projects under federal awards from other federal awarding agencies. Use for non-federally funded programs or projects is also permissible. However, the original purchase of any equipment to be used in other programs will be properly allocated (i.e., prorated) among the applicable funding sources.

E. Disposal of Equipment and Supplies

Equipment

In accordance with 2 CFR §200.313(e), when it is determined that original or replacement equipment acquired under a federal award is no longer needed for the original project or program or for other activities currently or previously supported by a federal awarding agency, the Executive Director of Finance and Operations will contact the TEA Chief Grants Administrator or other awarding agency for disposition instructions.

Generally, disposition of equipment is dependent on its fair market value (FMV) at the time of disposition.

- An item that has a current FMV of **$5,000 or less**, may be retained, sold, or otherwise disposed of with no further obligation to TEA or other federal awarding agency. However, TEA must still approve disposition in accordance with specified procedures.
- If an item has a current FMV of **more than $5,000**, TEA or other federal awarding agency is entitled to the federal share of the current market value or sales proceeds. Pursuant to the provisions in 2 CFR § 200.313(d)(5), the District uses procedures to ensure the highest possible return. TEA must approve the disposition.

If acquiring replacement equipment, the District may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.

Disposition of equipment will be properly recorded in the fixed asset inventory.

Additionally, TEA's *General Provisions and Assurances* for all grants (state and federal) administered by TEA contain the following provision:

> **V. Capital Outlay:** If the Contractor purchases capital outlay (furniture and/or equipment) to accomplish the objective(s) of the project, title will remain with the Contractor for the period of the Contract. The Agency reserves the right to transfer capital outlay items for Contract noncompliance during the Contract period or as needed after the

ending date of the Contract. This provision applies to any and all furniture and/or equipment regardless of unit price and how the item is classified in the Contractor's accounting record.

Supplies

Supplies are all tangible property other than equipment. This includes computing devices. If there is a residual inventory of unused supplies exceeding $5,000 in total aggregate value upon termination or completion of the project or program, and the supplies are not needed for any other federal award, the District will compensate the federal government for its fair share in accordance with procedures established by TEA. The Assistant Superintendent of Finance and Operations/Designee will contact the TEA Chief Grants Administrator or other awarding agency for disposition instructions of supplies. 2 CFR § 200.314

IV. Written Compensation Policies

Allowable Compensation

Compensation for employees paid from federal funds will be in accordance with the established written policy for compensation for all employees, and the written policy will be consistently applied among all employees, whether paid from state, local, or federal funds. Compensation includes all remuneration, paid currently or accrued, for services of employees rendered during the period of performance under the federal award, including but not necessarily limited to wages and salaries. Compensation for personal services may also include fringe benefits.

Costs of compensation are allowable to be charged to a federal award to the extent that they satisfy the following requirements as specified in 2 CFR § 200.430 and that the total compensation for individuals:

1. Is reasonable for the services rendered and conforms to the established written policy of the District consistently applied to both federal and non-federal activities;
2. Follows an appointment made in accordance with the District's rules or written policies and meets the requirements of federal statute; and
3. Is determined and supported by documentation that meets the federal *Standards for Documentation of Personnel Expenses*.

Reasonable Compensation

Compensation for employees engaged in work on federal awards will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the District. In cases where the kinds of employees required for the federal awards are not found in the other activities of the District, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the District competes for the kind of employees involved.

Professional Activities Outside the District

Unless an arrangement is specifically authorized by TEA or other awarding agency, the District must follow its written policies and practices concerning the permissible extent District employees may provide professional services outside the District for non-District compensation. If a policy does not exist or does not adequately define the permissible extent of consulting or other non-District activities undertaken by an employee for extra outside pay, the federal government may require that the effort of professional staff working on federal awards be allocated between:

1. District activities and
2. Non-district professional activities.

If TEA or other awarding agency considers the extent of non-District professional effort excessive or inconsistent with the conflicts-of-interest terms and conditions of the federal award, appropriate arrangements governing compensation will be negotiated on a case-by-case basis.

Therefore, the District's policy which governs employees obtaining payment for performing professional services outside the District is incorporated into the District's written employee compensation policy. Any employee wishing to perform professional services outside the District and receive payment for such services by another entity must complete, sign and submit the *Conflict of Interest* form prior to agreeing to perform professional services outside the District. The purpose of the *Conflict of Interest* form is to disclose the nature of the professional services to be performed outside the district to ensure a conflict of interest does not exist for the District. The completed, signed form will be submitted to [Executive Director of Finance and Operations and Operations] for review and determination of whether a potential conflict of interest exists. www.ethics.state.tx.us

The District complies with other requirements pertaining to allowable and unallowable costs as specified in 2 CFR § 200.430(d), (e), and (f), including:

1. Compensation for certain employees of cost-reimbursement contracts covered under 10 USC 2324(e)(1)(P); 41 USC 1127; and 41 USC 4304(a)(16);
2. Changes in compensation resulting in a substantial increase in the District's employees' level of compensation; and

3. Incentive compensation based on cost reduction, efficient performance, suggestion awards, safety awards, etc.

Where practical, the District also adheres to the *Suggested Areas for Consideration of Internal Control Structure* for areas of employee compensation that could require internal control procedures. TEA's *Module 1 – FAR*, 1.5.4.7 of FASRG

Job Descriptions

Each employee must have a current job description on file. The immediate supervisor or manager is responsible for developing a complete and accurate job description for each employee under his or her supervision. The job description must describe the employee's job responsibilities as well as delineate all programs or cost objectives under which the employee works.

Job descriptions must be updated as new assignments are made. The supervisor must review the job description with the employee upon hiring and as the job description is updated. The employee must sign and date that he or she has read and understands the job description and the programs under which he or she is working.

The job description must be immediately available upon request by an auditor or monitor.

A. Documentation of Personnel Expenses

Standards for Documentation of Personnel Expenses

Charges to federal awards for salaries and wages must be based on records that accurately reflect the work performed. In accordance with 2 CFR § 200.430, these records must:

- Be supported by a system of *internal controls* which provides reasonable assurance that the charges are accurate, allowable, and properly allocated
- Be incorporated into official records
- Reasonably reflect total activity for which the employee is compensated, not exceeding 100% of compensated activities
- Encompass both federally assisted and all other activities compensated by the District on an integrated basis
- Comply with the established accounting policies and practices of the District, and
- Support the distribution of the employee's salary or wages among specific activities or costs objectives if the employee works on:
    - More than one federal award
    - A federal award and a non-federal award

- An indirect cost activity and a direct cost activity
- Two or more indirect activities which are allocated using different allocation bases, or
- An unallowable activity and a direct or indirect cost activity.

All employees who are paid in full or in part with federal funds must keep specific documents to demonstrate the amount of time they spend on grant activities. This includes an employee whose salary is paid with state or local funds but is used to meet a required match or cost share for a federal program.

These documents, known as time-and-effort records, are maintained in order to charge personnel costs to federal grants. In addition, current and up-to-date job descriptions for each employee are maintained.

902.71 Compensation & Benefits – Employee (Payroll Expenditures)

Compensation and benefits (payroll expenditures) are allowable costs for personal services rendered by district employees during the period of performance under the federal grants.

Compensation Costs

All payroll expenditures shall be paid in accordance with the federal cost principles. First and foremost, the payroll expenditures must be authorized on the grant application and the duties assigned must be directly related to grant activities. In addition, compensation costs shall be allowable if:

- The costs are reasonable for the services rendered and conforms to the established district compensation and benefit plans for expenditures with all other funds, i.e. local funds,
- The employees have been employed in accordance with the district's established Hiring Procedures, and
- The costs are supported by the appropriate timekeeping, absence tracking, time & effort certifications or other documentation, as appropriate,
- Federally-funded employees shall report all outside employment or professional services rendered to other entities. The external employment and/or professional services shall not conflict with the federally-funded activities with the district,
- Incentive compensation, such as stipends, awards, early resignation incentive, attendance incentive, etc. in accordance with the district's written plans for each of these incentives,
- Stipend compensation for other non-federal grant award duties shall be supported by a Supplemental Duties Job Description/Pay Notice. The additional duties shall not conflict with the federally-funded activities with the district,

Benefit Costs

District costs for fringe benefits for federally-funded staff shall be allowable as noted below:

- All benefit costs shall be in accordance with the district's written Summary of Employee Benefits
- All leave benefits shall be in accordance with the district's written Leaves and Absences Policy (DEC Local)
- The benefit costs shall be distributed equitably at the same allocation rate (percentage) as the base compensation
- The benefit costs were earned and paid during the grant period
- All benefit costs shall be allowable under the Internal Revenue Service, Fringe Benefits Guide (as subjected to taxes, as required by federal statute)

The district shall not charge any benefit costs to a federally-funded grant if the benefit costs are not in accordance with district's written Summary of Employee Benefits, School Board Policy, or other written benefit plan(s). The district has established the following as **non-allowable** benefit costs:

- Severance or settlement agreement payouts to current and/or previous federally-funded grant staff
- Optional pension plans (other than the mandatory Teacher Retirement System of Texas contributions).
- Automobile costs or allowance

Documentation of Compensation and Benefit Costs

In addition, to the time and effort reporting requirements, the district shall support all compensation and benefit costs paid with federal grant funds shall be supported by the following documentation:

- Exempt staff
    - Employment agreement, contract, or reasonable assurance, as appropriate
    - Job description signed by the employee with language similar to: *Funded by Title I, Part A with the primary purpose of supporting grant activities aimed at improving academic achievement for students struggling to meet state standards.*
    - *Supplemental duties, if any, shall be supported by a* Supplemental Duties Job Description/Pay Notice
    - Absence records, if any

- Time and Effort documentation, as appropriate (Semi-Annual Certification, Periodic Time and Effort, or the Substitute System for Time and Effort
- Other _____

- Non-Exempt staff
  - Employment agreement, contract, or reasonable assurance, as appropriate
  - Job description signed by the employee with language similar to: *Funded by Title I, Part A with the primary purpose of supporting grant activities aimed at improving academic achievement for students struggling to meet state standards.*
  - Absence records, if any
  - Time and Effort documentation, as appropriate (Semi-Annual Certification, Periodic Time and Effort, or the Substitute System for Time and Effort
  - Timekeeping records (actual work hours per workweek) in accordance with the FLSA and the district's Timekeeping Procedures.
  -

Note. The Grant/Program Manager shall ensure that the Role ID and object codes reflected on the grant application (Payroll Summary) are consistent with the HR, payroll, finance and PEIMS records.

902.72 Selection of Grant-Funded Staff

The Grants/Programs Manager shall work collaboratively with the appropriate stakeholders (campuses and departments) to identify all staff needed to accomplish the grant activities. The Grant/Program Manager shall work collaboratively with The Assistant Superintendent of Finance and Operations and Operations to obtain estimated salaries for proposed grant-funded staff prior to the completion of the grant application.

The process of approving payroll expenditures from grant funds shall be a collaborative process between the campus or department, Assistant Superintendent of Human Resource, Grants Management, and Finance [Budgeting, Accounting and Payroll] departments. Each campus and/or department plays an essential role in ensuring that all federal grant requirements are met.

The School Board approved Teacher Hiring and Mid-Point Pay Scale shall be used to compensate all district staff whether paid from local, state or federal grant funds. In addition, the district shall provide the same employer-provided benefits for all district staff whether paid from local, state or federal grant funds.

The compensation for grant-funded staff shall be allocated to the respective grant program (fund) based on the single and/or multiple cost objectives performed by the grant-funded staff. If a grant-funded staff member performs non-grant activities during the day or beyond the normal work day, the compensation for the non-grant activities shall be paid from non-grant funds. Grant-funded staff with more than one cost objective, shall comply with the Time and Effort documentation requirements. Incentive payments, such as performance, perfect attendance, safety, etc. for grant-

funded staff shall be allowable with federal grant funds if they are based on the same criteria as non-federal grant funded staff.

New Positions

New grant-funded positions shall be created only when a job description has been developed and approved by the Assistant Superintendent of Human Resource and the Grant/Program Manager. The Grant/Program Manager shall ensure that the position is approved on the grant application and that adequate funds exist to fill the position. The finance and payroll departments shall be notified to ensure that the position is budgeted on the general ledger and the position is paid using the correct payroll account distribution codes.

New Hires

New staff hired for work in positions that are wholly or partially funded with federal grant funds, shall be hired when a position and funding are both available. Upon separation of an employee, the home campus or department of the position shall initiate a request to replace the position. [NOTE: A Personnel Requisition or similar form may be used to start the process.]

The Grants/Programs Manager shall review the request to ensure that the position is still authorized and necessary. Changes to the job description, if any, shall be made at this time. The Payroll department shall review the request to ensure that adequate funds exist in the appropriate account code(s). If funds do not exist, the Payroll Department shall notify the Grants/Programs Manager to determine if funds will be re-appropriated to the account code(s). After approval from the Grants/Programs Manager and Payroll department, the Executive Director of Human Resource department shall advertise the position.

The screening and selection process shall include a review of the recommended applicant to ensure that he/she meets the highly qualified requirements under the No Child Left Behind Act (NCLB), as appropriate, or any other grant-specific credentials. [NOTE: A Personnel Recommendation or similar form may be used to start the process.]

Upon employment, the new hire shall receive and sign a copy of his/her respective job description to include the grant funding source. NOTE: If the position is funded with a short-term grant fund, the employee shall be notified in writing when the grant funding will lapse, especially if their position will lapse at the end of the grant.]

Transfer of Personnel

When staff in a position funded with grant funds is recommended for transfer to another campus, department, or assignment, the grants management, Assistant Superintendent of Human Resource, and payroll departments shall work collaboratively to ensure that the appropriate staff allocations and funding changes are made at the time of the transfer. The home campus or department shall

initiate the request for the transfer, especially if it is a teaching assignment change at a campus. The grants management, Executive Director of Human Resource and payroll departments must evaluate the requested transfer to ensure that the staff allocations, highly qualified staff requirements, and funding source changes are in compliance with grant requirement.

For example, if an elementary principal requests to transfer a Title I Reading teacher to a Pre-Kindergarten regular classroom teacher, the following considerations should be evaluated by the respective departments: 1) HR – ensure that a vacancy exists in a PK teacher position and that the teacher recommended for transfer is certified to teach PK; 2) Grants management – ensure that the grant strategies and activities can be accomplished in a timely manner after filling the vacancy that would be created by the transfer; and 3) Payroll department – ensure that funds exists for the additional PK teacher slot and change the payroll account distribution code(s) from Title I to PK as of the effective date of the transfer.

Substitute Teachers

Salary expenditures for substitute teacher are allowable for approved teacher positions. The finance and payroll departments shall ensure that the expenditures for substitute teacher costs are budgeted and expensed from the appropriate account code(s). The School-Board approved substitute pay scale shall be used to compensation all substitute teachers whether paid from local, state or federal grant funds.

Stipends and Extra Duty Pay

Stipend and extra duty pay expenditures are allowable for authorized and approved activities. A schedule or work log shall be maintained to substantiate the stipend and/or extra duty pay. NOTE: It is recommended by the TEA that a job description for each stipend role include the duties related to the grant purpose and the grant funding source. **[Note. A sample Supplemental Pay Notice-Job Description is included in the Exhibit Section.]** The School-Board approved Stipend and Extra Duty Pay Schedule shall be used to compensation all substitute teachers whether paid from local, state or federal grant funds.

The Assistant Superintendent of Finance and Operations and Operations shall ensure that the expenditures for stipend and extra duty pay are budgeted and expensed from the appropriate account code(s). The stipend and extra duty pay rates shall be the same as the rates used for similar locally funded activities. For example, if a teacher stipend for attending a 1-day professional development activity funded through local funds during a non-scheduled work day is $150 per day, the teacher stipend for attending a federally-funded 1-day professional development activity should be $150 per day, too. **[The Stipend and Extra Duty Pay Scale (adopted by the School Board) is included in the Exhibit Section].**

902.73 Time and Effort Documentation

District staff funded wholly or partially with federal grant funds shall comply with federal guidelines related to time and effort. The grant funded staff, their immediate supervisors, grants management, Assistant Superintendent of Human Resource, and Assistant Superintendent of Finance and Operations and Operations shall be aware of the federal guidelines related to time and effort documentation. On a least an annual basis, all impacted staff shall be trained by the grants management department and/or attend appropriate training from an outside source.

The district shall collect and monitor time and effort documentation for district employees only. **Time and effort documentation does not apply to Independent Contractors.**

The district shall comply with all federal time and effort documentation guidelines. The following requirements shall apply to all district staff funded wholly or partially from federal grant funds, including staff funded through non-federal grant funds as part of a cost sharing or matching requirement.

Job description for all grant funded staff

The district shall develop and distribute a job description to all district staff that is wholly or partially funded with grant funds. The job description shall include the funding source and the job duties as they relate to the grant position. The grant-funded staff shall be sign the job description at employment and on an annual basis, or at a minimum, when the funding source, job title or other change occurs in the employment or assignment of the staff member.

The job description and assignment shall be supported by documentation such as grade books, master schedule, etc.

Roster of all grant funded staff

The Grant/Program Manager shall maintain an up-to-date roster of all grant funded staff to include the position title, annual salary, and funding source(s) by percentage. The roster of grant funded staff shall include all staff paid with non-federal grant funds whose compensation/benefits are paid as part of a matching or cost sharing requirement of a federal grant fund.

The home campus or department, Assistant Superintendent of Human Resource, and Assistant Superintendent of Finance and Operations and Operations shall work collaboratively to ensure that the roster accurately reflects that data maintained in their respective area of responsibility. Discrepancies, if any, in the roster shall be brought to the attention of the grants management department.

The review of the roster shall include, but not be limited to the following:

1) Campus or department – ensure that the grant funded staff are assigned in the position title as noted on the roster. The master schedule or assignment of instructional staff must support the position title and funding source.
2) Assistant Superintendent of Human Resource – ensure that the position title and salary are correct as noted on the roster. In addition, the HR department shall ensure that each grant funded staff member has a signed job description on file for the position title noted on the roster. And, the HR department shall ensure that all grant-funded staff meet the state's Certification or are Highly Qualified, as appropriate.
3) Finance/Payroll – ensure that the funding source(s) and salary are correct as noted on the roster. In addition, The Assistant Superintendent of Finance and Operations and Operations shall ensure that the payroll distribution account code(s) are in accordance with the FASRG.
4) Grant/Program Manager – ensure that the positions are authorized on the grant application and that the PEIMS Staff Data submitted to TEA is consistent with the position title, Role ID and object code.

The review shall occur on at least a quarterly basis throughout the school year to ensure that the roster of grant funded staff is accurate and up-to-date throughout the year. NOTE: It is critical that at least one of the reviews coincide with the submission of the Fall PEIMS Staff Data to ensure that accurate data is submitted as of the October snapshot date.

Budgeting of grant funded staff

The roster of grant funded staff shall be the basis for budgeting of grant funded staff. The percentage of time in each funding source shall be utilized by The Assistant Superintendent of Finance and Operations and Operations to create and enter the salary portion of the grant budget. The percentages shall also be utilized by the payroll department to enter the payroll distribution account code(s).

In addition, The Assistant Superintendent of Finance and Operations shall ensure that the Grant Personnel Schedule of the grant application matches the budget and payroll account code(s). For example, if the Grant Personnel Schedule for Title I, Part A includes a position of a "008 – Counselor (6119)", the budget and payroll account code distribution shall be entered in a 6119 object code.

The grants management, Assistant Superintendent of Human Resource and Assistant Superintendent of Finance and Operations shall work collaboratively to adjust the budget and payroll account code distributions of grant funded staff if the time and effort documentation consistently reflects that the percentage(s) across the funding source(s) is not a true reflection of the normal work schedule.

Time and effort requirements for staff funded 100% from one grant (or working 100% of their time in a single cost objective)

The staff funded 100% from one grant source do not have to maintain periodic time and effort records. However, all employees must certify in writing, at least semi-annually, that they worked solely on the program for the period covered by the certification. The employee and his/her immediate supervisor must sign the Semi-Annual Certification Form (sample in Exhibit Section).

The timeline for semi-annual certifications shall be once per academic semester to coincide with teaching assignment each semester. The immediate supervisor shall submit all signed semi-annual certifications to the Accounting department as noted below:

1) 1st Certification – due 1 week after the start of the 1st semester
2) 2nd Certification –due 1 week after the start of the 2nd semester

The Grant/Program Manager review shall consist of the following:

1) A review of the certification forms to ensure that every staff member and supervisor has certified that their schedule is 100% grant related
2) A test sampling of staff assignments, i.e. master schedule, duty schedule, etc. to verify the schedule is 100% grant related

The Grant/Program Manager shall collect and review all Semi-Annual Certification Forms. Any certifications that reflect a percentage other than 100% shall be forwarded to Assistant Superintendent of Finance and Operations and Operations for adjustment of the grant payroll expenditures for the certification period. NOTE: Steps should also be taken to ensure that the staff member's work schedule is adjusted to 100% grant related, or is changed from the semi-annual certification method to time and effort reporting. The Assistant Superintendent of Finance and Operations and Operations shall file the certifications for audit purposes.

The Accounting department shall prepare a journal ledger entry to correct the account distribution code(s) as appropriate. The Assistant Superintendent of Finance and Operations shall post the entry to the finance general ledger.

Time and effort requirements for staff split funded (funded from more than one (1) cost objective and/or grant programs)

Time and effort applies to employees who do one of the following:

1) Do not work 100% of their time in a single grant program
2) Work under multiple grant programs
3) Work under multiple cost objectives

These employees are required to maintain a Time and Effort Worksheet [Refer to Exhibit Section] or to account for their time under a substitute system. Employees must prepare time and effort reports at least monthly to coincide with the district pay periods. Such reports must reflect an *after-the-fact* distribution of 100 percent of the *actual* time spent on each activity and must be signed by the employee and their immediate supervisor. Charges to payroll must be adjusted to coincide with preparation and submittal of the interim expenditure report required for TEA discretionary grants.

Grant-funded staff under this category shall complete a Time and Effort Worksheet (sample in Exhibit Section) to include the date, grant source, percentage worked in the grant source per day and the summary for the month (or pay cycle). The staff member and his/her immediate supervisor shall sign the time and effort report. The timeline for time and effort reports shall be once per month to coincide with the monthly payroll cycles as noted below:

1) Monthly payroll [25th of the month] – Time & Effort reports are due by the 10th of the month for the prior month.

The immediate supervisor shall submit all signed time and effort reports to the Grant/Program Manager.
The Grant/Program Manager review shall consist of the following:

1) A review of the time and effort reports to compare the summary percentage of grant-related work per funding source to the budgeted percentage utilized to charge the monthly (or semi-monthly) payroll charges
2) A test sampling of staff assignments, i.e. master schedule, duty schedule, etc. to verify the percentage of grant-related work per funding source
3) If the time and effort report reflects the same percentage, the report may be filed for audit purposes
4) If the time and effort report reflects a different percentage, the report shall be reconciled to reflect the correct payroll charges by grant funding source and forward the reconciliation to the accounting department for adjustment of the payroll charges on the general ledger.

The accounting department shall prepare a journal entry to reclassify the expenditures as noted on the reconciliation of the time and effort report(s). According to federal regulations, the final amount charged to each grant award must be accurate, allowable and properly allocated. The Assistant Superintendent of Finance and Operations and Operations shall post all variances greater than 10% to the general ledger; otherwise, the variances shall be posted prior to the final expenditure report. NOTE: The Executive Director of Finance and Operations and Operations should use caution to avoid excess drawdown of grant funds due to unallowable payroll costs if timely adjustments to the general ledger as not posted prior to the drawdown of funds.]

Time and Effort Substitute System

The US Department of Education (USDE) and the Texas Education Agency (TEA) have authorized the use of a substitute system for time and effort.

1)The district has opted to use the Time and Effort Substitute System.

902.74 Non-Payroll Expenditures

Direct non-payroll expenditures include contracted services, supplies, travel and equipment. The expenditure of federal grant funds for non-payroll costs shall adhere to the district's purchasing policies and procedures. In addition to the normal purchasing process, all grant funds must be approved by the Grants/Programs Manager for each respective grant program, as appropriate.

TEA Guidelines Related to Specific Costs

The district shall adhere to TEA's Guidelines Related to Specific Costs as published to the TEA website. A copy of the guidelines shall be made available to all staff with authority to initiate and/or authorize a purchase or expenditure with federal grant funds. In addition, all staff with authority to initiate and/or authorize a purchase or expenditure, such as campus bookkeepers, campus and department administrators, business office staff, and grant department staff shall receive a copy of the latest guidelines. The guidelines shall be incorporated in the annual training for all of these staff members. These guidelines shall be posted on the District's website as a resource when expending federal grant funds.

Note: Districts may develop and implement more restrictive guidelines, as appropriate, based on local policies and procedures.

Time and Effort Procedures

All District employees who are paid in whole or in part with federal funds will maintain documentation in accordance with the following requirements.

All charges to payroll for personnel who work on one or more federal programs or cost objectives must be based on one of the following, depending on the circumstances:

- **Semi-annual certification** (for employees who work 100% of the time on a single program and/or cost objective [except for programs covered under Ed-Flex, as long as Texas remains an Ed-Flex state], in which case a signed and dated job description must be in the employee's personnel file; also see exception for schoolwide programs below)

- **Time-and-effort records** (for employees working on more than one program and/or more than one cost objective)

- **Substitute system**

Additional summary information pertaining to each of these is provided below. Refer to the section "Compensation for personal services" in 2 CFR § 200.430 for more detailed information pertaining to charges to payroll.

Semi-Annual Certification

Semi-annual certification applies to employees who do one of the following:

- Work 100% of their time on a single grant program and/or single *cost objective*
- Work 100% of their time in administering programs that are part of *consolidated administrative funds* (such as a Federal Programs Director who administers only these programs)
- Work 100% of their time under a *single cost objective* funded from eligible multiple funding sources. A Title I, Part A, schoolwide program is a single cost objective. Refer to TEA's page on Schoolwide Programs for further guidance.

*"Cost objective" means a program, function, activity, award, organizational subdivision, contract, or work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capital projects, etc. A cost objective may be a major function of the District, a particular service or product, a federal award, or an indirect cost activity.

These employees are not required to maintain time-and-effort records. However, each employee must certify in writing, at least semi-annually, that he/she worked solely on the program or single cost objective for the period covered by the certification. The certification must be signed by the employee or by the supervisor having first-hand knowledge of the work performed and should reference the employee's signed and dated job description maintained in their personnel file. Charges to the grant must be supported by these semi-annual certifications. The semi-annual certifications are maintained by the Payroll Department of the District.

(See the exceptions for schoolwide programs and Ed-Flex programs below.)

Job Descriptions: These employees are also required to maintain on file a signed and dated job description which clearly shows that the employee is assigned 100% to the program or single cost objective. The job description must be updated annually or when a function or activity is added to or deleted from an existing job description, must clearly identify the function and activities

performed by the employee for the applicable fund source(s) or cost objective, and must be maintained in the employee's personnel file.

The semi-annual certification must

- be executed after the work has been completed, and not before
- state that the employee worked solely (i.e., 100% of the time) on activities related to one particular grant program or single cost objective
- identify the grant program or cost objective
- specify the 6-month reporting period
- be signed and dated by the employee or a supervisor with first-hand knowledge of the work performed

Charges to the grant must be supported by these semi-annual certifications. All certifications must be retained for audit and monitoring purposes. It is recommended that the certifications be retained in a central location to facilitate an audit.

Other examples:

Because all funds consolidated on a Title I schoolwide campus benefit only that campus and no other cost objective, a Title I schoolwide program is a single cost objective. However, depending on the funding sources consolidated, personnel may or may not be required to complete a certification. See more information below about consolidating funds on a Title I schoolwide program.

A statutory set-aside within a program is a cost objective. For example, Title I, Part A requires that districts receiving $500,000 or more in Title I, Part A reserve not less than 1% of their Title I, Part A allocation (at the LEA level, not at the campus level) to carry out parental involvement activities. In order to track the 1% expended for this activity, this parental involvement activity must be identified as a separate activity or cost objective for time and effort purposes.

Special Note on Single Cost Objectives: Per TEA, some districts have received an audit finding for identifying the following or something similar as a single cost objective. Auditors do not view these and similar as single cost objectives because there are multiple set-asides and cost objectives within each of these areas.

Federal programs
Title I, Part A
Title II, Part A
NCLB

Working on initiatives and programs that benefit Title I students
Director of Federal Programs
Title I Program Director

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Semi-Annual Certification

I, _(name of employee)_, certify that for the period __(month, day, year)__ through __(month, day, year)_, I spent 100% of my time and effort on ___(name of single cost objective)__.

_____ _____

Printed Name Signature Date

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Special Note for Schoolwide Programs: A Title I, Part A, schoolwide program is considered a "single cost objective." This has different implications depending on the types of funding consolidated on the schoolwide program.

Full Consolidation: If **federal, state, and local funds** are consolidated on the schoolwide program, neither the semi-annual certification nor time and effort is required. There is no distinction between staff paid with federal funds and staff paid with state or local funds.

Federal Consolidation: If **only federal funds** are consolidated, for the employees funded from the consolidated pool, normally the semi-annual certification would be required. However, if all federal funds included in the consolidation are Ed-Flex programs, then the semi-annual certification for school districts is automatically waived. Note: Not all NCLB programs are Ed-Flex programs.

If one or more of the programs included in the consolidation is *not* an Ed-Flex program, then the semi-annual certification must be completed for those programs. Note: Not all NCLB programs are Ed-Flex programs. See below for a list of Ed-Flex programs in Texas.

Title I, Part A (no consolidation): If **only Title I, Part A funds** are used on a schoolwide basis to serve all of the children on campus, normally the semi-annual

certification would be required. However, because Title I, Part A is an Ed-Flex program in Texas, the semi-annual certification is automatically waived for employees paid with Title I, Part A.

If an employee works part of the time on a schoolwide program, and part of the time on a separate federal program or other cost objective, then the employee must maintain time and effort because the employee is working on multiple cost objectives.

Ed-Flex Programs in Texas

Ed-Flex is a provision that allows the U.S. Secretary of Education to delegate to states the authority to waive certain federal education requirements that may impede local efforts to reform and improve education. It is designed to help districts and schools carry out educational reforms and raise the achievement levels of all children by providing increased flexibility in the implementation of federal education programs in exchange for enhanced accountability for the performance of students.

Authorized under the Education Flexibility Partnership Act of 1999 and amended on April 13, 2006, the Ed-Flex waivers approved for Texas provide relief to grantees from certain *administrative* requirements, as well as from certain *programmatic* requirements. Refer to the Ed-Flex Waivers page on TEA's website for information on Texas' Ed-Flex waivers. Also refer to the NCLB Program Appendix on Ed-Flex.

For example, Texas provides an Ed-Flex statewide administrative waiver for the applicable programs from the requirement to complete the semi-annual certification for employees who work 100% of their time on a single grant program or single cost objective. This is allowable for these applicable programs as long as the employee's job description clearly states that the employee is assigned 100% to the program or cost objective.

The following programs are Ed-Flex programs in Texas (until reauthorization of the ESEA):

- No Child Left Behind Act of 2001
  - Title I, Part A (except sections 1111 and 1116, school improvement grants)
  - Title I, Part C (Migrant Education)
  - Title I, Part D (Neglected and Delinquent)
  - Title I, Part F (Comprehensive School Reform – no longer funded)

- Title II, Part A, Subparts 2 and 3 (Teacher and Principal Training and Recruiting)
- Title II, Part D, Subpart 1 (Educational Technology)
- Title III, Part B, Subpart 4 (Emergency Immigrant Education)
- Title IV, Part A, Subpart 1 (Safe and Drug-Free Schools – no longer funded)
- Title V, Part A (Innovative Programs – no longer funded)

o Carl D. Perkins Career and Technical Education Act of 2006

Ed-Flex waivers are NOT available for all NCLB programs. Therefore, relief from the requirement to complete the semi-annual certification for employees who work 100% of their time on a single grant program is NOT available for programs not covered under Ed-Flex. Those employees must maintain time and effort in accordance with the requirements specified below.

Employees paid with non-Ed-Flex program funds who work 100% of their time on non Ed-Flex program activities must complete the certification every six months and submit it to the Payroll Department.

Employees paid with non-Ed-Flex program funds who work only a portion of their time on non-Ed-flex program activities must complete time-and-effort records and submit them to the Payroll Department at least monthly to coincide with the pay period.

Implementing any of the Ed-Flex waivers for a non-Ed-Flex program will result in findings during an audit or monitoring visit and potentially the repayment of funds.

Time and Effort (i.e., Personnel Activity Reports)

Time and effort applies to employees who do one of the following:

- Do *not* work 100% of their time on a single grant program and/or single cost objective
- Work under multiple grant programs or multiple cost objectives

These employees are required to maintain time-and-effort records or to account for their time under a substitute system (see below). Employees must prepare time-and-effort summary reports at least monthly (or every other week, as applicable) to coincide with pay periods. Such reports must reflect an *after-the-fact* distribution of 100% of the *actual* time spent on each activity and must be signed by the employee. Monthly reports must be submitted to the Payroll Department, and charges to payroll must be adjusted at least monthly to coincide with preparation and submittal of expenditure reports.

Examples of employees who work on multiple cost objectives:

- An employee who works partially on *administering* programs included in *NCLB* consolidated administrative funds pool, and partially on *administering other programs (not included in NCLB consolidated administrative funds pool)*, must maintain time-and-effort records or account for his or her time under a substitute system. These are two different cost objectives.

- An employee who works partially on *administrative* activities (paid from administrative funds) and partially on *program* activities (paid from program funds) of the same program must maintain time-and-effort records or account for his or her time under a substitute system. These are two different cost objectives.

- An employee who works on regular Title I activities and Title I parent involvement activities must maintain time-and-effort records. (The LEA must document the 1% of its allocation expended on parent involvement activities if the LEA receives more than $500,000 in Title I, Part A.) These are two different cost objectives.

- An employee who works part of the time on *direct* cost activities and part of the time on *indirect* cost activities must maintain time-and-effort records or account for his or her time under a substitute system. These are two different cost objectives.

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Daily Time-and-Effort Report

(To Be Completed Daily for All Hours Worked and Retained as
Supporting Documentation for the Monthly Summary Report)

Name:_____ Date: _____

Program/ Fund Source	**Activity**	**Number of Hours**
Title I, Part A 211	Planned parent involvement meeting	1.5
McKinney-Vento 206	Visits to parents of homeless students	4.5
Title III, ELA 263	Developed and submitted quarterly program report	2.0
Vacation Leave	Vacation Leave	
Sick Leave	Sick Leave	

	Total Number of Hours	8.0

Note: Daily T&E records can be kept on separate pieces of paper, in a log book, or on a calendar, as long as the records are sufficient to allow the employee to accurately complete the monthly summary report. Daily and monthly T&E records can also be entered and maintained electronically, provided that the electronic reporting system contains the required elements.

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Monthly Summary Time-and-Effort Report

(To Be Completed At Least Monthly* and Submitted to the Payroll Department)

Month: _____ Year _____

Program/Fund Source	Total Number of Hours

* Must coincide with pay period. If pay period is every two weeks, then must be completed and submitted to the Payroll Department every two weeks.

Signature of Employee Date Signed

****

Substitute Systems in Lieu of Time-and-Effort Reports

In accordance with 2 CFR § 200.430(i)(5), substitute systems for allocating salaries and wages may be used in place of time-and-effort reports. Substitute systems may include, but are not limited to, random-moment sampling, "rolling time studies," case counts, or other quantifiable measures of work performed. Substitute systems that use sampling methods must meet acceptable statistical sampling standards. Refer to 2 CFR § 200.430(i)(5) for detailed requirements. The substitute system must be approved by TEA.

Documentation of rationale and calculations for allocating salaries and wages based on a substitute system must be maintained for audit purposes.

TEA Substitute System of Federal Time-and-Effort Reporting for Employees Supported by Multiple Cost Objectives

TEA issued guidance in a letter dated December 12, 2012, pertaining to *Substitute System of Federal Time-and-Effort Reporting for Employees Supported by Multiple Cost Objectives*. Pursuant to this guidance, employees who work on *multiple* cost objectives (i.e., more than one federal grant award or more than one cost objective) and *who meet certain conditions* may complete a *schedule* at the beginning of the reporting period and a *certificate* (similar to the semi-annual certification) at the end of the reporting period in lieu of traditional time-and-effort records.

To qualify for this substitute system in lieu of traditional time-and-effort reports, the employee must work on *multiple activities or cost objectives (i.e., more than one federal grant award)* based on a *predetermined, set schedule*, which is most likely applicable to classroom teachers or instructional aides. The employee must also normally be required to complete traditional monthly time-and-effort reports. In order for any employees to use this system, the LEA must also submit a *Management Certification* form to TEA by the specified deadline date each year.

Daily Class Schedules

Daily class schedules for classroom teachers and instructional aides may be used in lieu of time-and-effort reports for these personnel. *Daily class schedules* may qualify as a suitable "*substitute system*" because they provide a "quantifiable measure of employee effort." However, to avoid an audit exception, daily class schedules should be documented as a *substitute system* in accordance with the procedures described above for TEA's substitute system.

Reconciliation and Closeout Procedures

It is critical for payroll charges to match the actual distribution of time recorded on the monthly certification documents. Grantees may **initially** charge payroll costs based on budget estimates. Budget estimates or other distribution percentages determined before the services are performed do not qualify as support for charges to federal awards, but may be used for interim accounting purposes provided that the system for establishing the estimates produces reasonable approximations of the activity actually performed.

If using budget estimates, the District will periodically, at least quarterly, reconcile payroll charges to the actual time and effort reflected in the employees' time-and-effort records. If the quarterly (or more frequent) **reconciled difference** between the actual and budgeted amounts is **10% or greater**, two things will occur:

- The District will adjust its accounting records to reflect the costs based on the actual time and effort reported.
- To minimize future differences, the District will revise the budget estimates for the following quarter to reflect the actual distribution, if necessary.

If the reconciled difference is **less than 10%**, the District will adjust the accounting records annually. But in all cases, the accounting records will be adjusted to reflect actual time-and-effort records. Please note that the 10% variance only governs *how often* the reconciliation will occur. It does not govern *whether* or not the reconciliation will occur.

All time and effort certifications and reports are collected and reviewed for accuracy and appropriate signatures and dates and are turned in to the Human Resource Director at the end of the year or at termination.

Employee Exits

V. Human Resources Policies

The District's human resource policies are online.

All employees, including those paid with federal funds and those not, will adhere to the District's written leave policy.

If the District institutes any mass or abnormal severance pay, the District will request prior written approval from TEA in accordance with 2 CFR § 200.431(i)(2)(ii).

VI. Record Keeping

A. Record Retention

In general, records document the use of funds, compliance with program and fiscal requirements, and the performance of the grant. In accordance with 34 C.F.R. §§ 76.730-.731 and §§ 75.730-.731, the District maintains all records that fully show (1) the amount of funds under the grant or subgrant; (2) how the District uses those funds; (3) the total cost of each project; (4) the share of the total cost of each project provided from other sources; (5) other records to facilitate an effective audit; and (6) other records to show compliance with federal program requirements. The District also maintains records of significant grant project experiences and results. 34 C.F.R. § 75.732. These records and accounts must be retained and made available for programmatic or financial audit.

Pursuant to the provisions in 34 C.F.R. § 81.31(c), the USDE is authorized to recover any federal funds misspent within 5 years before the receipt of a program determination letter. Consequently, in accordance with TEA's General Provisions and Assurances and the statute of limitations, the District retains records for a minimum of five (5) years from the date on which the final expenditure report is submitted or the ending date of the grant, whichever is later, unless otherwise notified in writing to extend the retention period by TEA or other awarding agency. However, if any litigation, claim, or audit is started before the expiration of the record retention period, the records will be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken. 2 C.F.R. § 200.333

Local governments in Texas, including all school districts, open-enrollment charter schools, and ESCs, are required to implement a *Records Management Policy*, designate a *Records Management Officer* to oversee the policy, and comply with a *Records Retention Schedule*. The Texas State Library and Archives Commission (TSLAC) administers the records management requirements pursuant to the *Local Government Records Act*, *Local Government Code*, *Chapters 201-205*, and *Chapter 441*, *Subchapter J*, published as Local Government Bulletin D on TSLAC's website.

The District retains and destroys records in accordance with these requirements. Failure to produce a program or fiscal record for an auditor or monitor during the 5-year retention period will most likely result in an audit or monitoring finding and the repayment of funds for the missing documentation.

Destruction of Records

Because records establish compliance with the use of funds and with program and fiscal requirements, failure to retain the proper records or to dispose of them prematurely can result in monumental problems for the District, including the repayment of all funds associated with the activity, event, decision, or transaction for which the records are missing. In addition, destroying or disposing of a record improperly or prematurely constitutes a Class A Misdemeanor under state law.

The District cannot destroy any record that is involved in an ongoing

- Litigation
- Claim
- Negotiation
- Public information request (PIR)
- Audit or investigation
- Administrative review or hearing

The District's *Records Management Policy* includes policy and procedures for *disposing* of records. Records can only be destroyed in accordance with the *Records Retention Schedule* adopted by the District. Records that are not on the *Records Retention Schedule* may require written permission from the TSLAC prior to disposing. Procedures include maintaining a "records disposition log" that identifies the disposition date and method of disposal of each record.

According to Local Government Code, §202.003, *confidential* records must be *burned, shredded, or pulped*. *Open* records can be *burned, shredded, pulped, recycled, or buried in a landfill*. If a contractor is hired to destroy records, the contractor must comply with all of the state and local government laws pertaining to the destruction of records as if it were the District.

B. Records That Must Be Maintained

A *record* is any recorded information that documents school business; it serves as evidence that an activity, event, decision, or transaction occurred. A record must be retrievable at a later date (i.e., for 5 years after the ending date of the grant or after submittal of the final expenditure report, whichever is later).

Not every piece of paper or every piece of data is an *official record*. Materials used for *reference* are just that – reference materials; they are not records. District personnel must use some judgment in determining whether a record constitutes an "official business record" by looking at the content of the record to determine its value in serving as evidence. A good place to start is by consulting the District's *Records Management Officer* and *Records Management Policy*. The [*title of position*] serves as the District's *Records Management Officer*.

Records are created by the District to support a grant activity and they are retained as evidence of that activity. Records may come in a variety of different forms and may be *created* by the District or be *received* by the District in any medium, including hard copy paper or electronic, audio, or video. Whether the District *creates* it, or *receives* it from someone outside the District, if it documents school operations, it's a record and must be retained according to the records retention schedule.

Most e-mails are records; telephone messages can be records. The record can be on a computer's hard drive, on a USB, on a DVD, in a filing cabinet, or on someone's desk. Even if the record contains confidential information and may be exempt from release under a Public Information Request (PIR), it is still a record and must be retained using proper security procedures to safeguard the confidential data.

Records generally include but are not limited to

- General correspondence, including letters and e-mail
- Handwritten notes and electronic notes
- Completed forms and reports and the data used to complete the reports
- Personnel documentation
- Websites created by the District
- Audio tapes and video tapes
- Final, complete, and signed (if applicable) documents
- Plans, photographs, or drawings
- Data in spreadsheets and databases
- Financial records, including but not limited to budgets, accounting ledgers, all supporting documentation for expenditures, copies of checks, bank statements, etc.

Records generally do NOT include

- Convenience copies (extra identical copies created only for convenience of reference or research)
- Drafts of documents
- Copies of documents furnished to the public to fulfill a PIR
- Blank forms/stocks of publications (keep at least one copy for archives to demonstrate compliance or proof of program activities)
- Library or museum materials
- Dispute resolution working files (the *final* written finding or report is a record)
- Personal or junk e-mail
- Ccs of e-mails (or letters) or convenience copies of e-mails (or letters) (the recipient in the "To" line is the keeper of the official record)

C. Collection and Transmission of Records

It is becoming more common to store records electronically to conserve storage space. Storing records electronically is acceptable and is encouraged. In accordance with the provisions in 2 CFR § 200.335, whenever practical, the District will collect, transmit, and store federal grant-related information in open and machine readable formats rather than in closed formats or on paper. However, TEA or other awarding agency must always provide or accept paper versions of grant-related information to and from the District upon request.

When original records are electronic and cannot be altered, there is no need to create and retain paper copies. When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided that they are subject to periodic quality control reviews, provide reasonable safeguards against alteration, and remain readable.

The retention period is the same whether the record is paper or electronic. However, a few precautions are in place.

It is permissible to scan hard copies of records and then store them electronically. The District must comply with *Electronic Records Standards and Procedures* (Local Government Bulletin B on TSLAC's website) when scanning records. The District's designated *Records Management Officer* is aware of these standards. The PIEMS Office is responsible for performing or overseeing the scanning of all records to ensure the following procedures are properly carried out.

Prior to scanning, the employee must ensure that the original document has not been altered in any way. It is permissible to have *additional* hand-written notes on an original record, but the hand-written notes cannot obscure the contents of the original document in any way.

When scanning records, the employee must conduct *visual quality control* on each page of each document to ensure the scan is high quality and that it is *entirely* legible. Even one illegible line, word, or number on a scanned document can render the scanned document as unacceptable by auditors, monitors, TEA, and other oversight agencies.

Once the original has been scanned and the employee has conducted a thorough visual quality control **on each page of each document**, the scanned version becomes the official record and the originals can be destroyed. **However, *before destroying any documents*, the employee must check with the District's designated *Records Management Official*.** He or she may wish to confer with legal counsel or the auditor. There may be legal reasons for not destroying the originals. Also before destroying the originals, the employee will want to consider if there is any historical value to retaining the original, and if so, perhaps retain the original for historical purposes.

The employee must also ensure that each scanned document is properly indexed (labeled) so that a specific document can be easily searched and retrieved at a moment's notice. Failure to properly index a scanned document can result in the inability to retrieve it in a timely manner for audit or monitoring purposes, which could ultimately result in an audit or monitoring finding and the repayment of grant dollars.

The District must also ensure that scanned versions can be preserved over the long term as technology becomes obsolete. The District considers archival quality microfilm for some records.

D. Access to Records

All grant records are government records and are the property of the District; they are not the personal property of an individual. Records should be easily accessible by all personnel in the District who may need to refer to the documentation for program management, accounting, compliance, audit, or monitoring purposes. With the exception of confidential personnel hiring records, proprietary information of contractors, and confidential student information, all grant information is public information.

Pursuant to the provisions in 2 CFR § 200.336, the District provides TEA or other awarding agency, Inspectors General, the Comptroller General of the United States, the Texas State Auditor's Office, the Texas Attorney General's Office, and the US Department of Education staff or their contracted monitors or any of their authorized representatives, the right of access to any documents, papers, or other records of the District which are pertinent to the federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the District's personnel for the purpose of interview and discussion related to such documents.

Protecting the True Names of Victims of a Crime

Only under extraordinary and rare circumstances would such access include review of the true name of victims of a crime. Routine monitoring would not necessitate access to this information, as it is not considered extraordinary and rare circumstances. When access to the true name of victims of a crime is necessary, appropriate steps to protect this sensitive information must be taken by both the District and the awarding agency. Any such access, other than under a court order or subpoena pursuant to a bona fide confidential investigation, must be approved by the head of the awarding agency or delegate.

The rights of access in this section are not limited to the required retention period but last as long as the records are retained. 2 CFR § 200.336(b)

E. Privacy

Pursuant to local policy GBA and Texas Government code Chapter 552 Open Records Act.
http://pol.tasb.org/Policy/Code/643?filter=GBA
http://pol.tasb.org/Policy/Code/643?filter=GRAC

VIII. Monitoring

A. Self-Monitoring

The District is responsible for oversight of the operations of the federal award-supported activities. The District is responsible for monitoring its activities under federal awards to assure compliance with applicable federal requirements and to ensure performance expectations are being achieved. **This process is known as self-monitoring. Monitoring by the District must cover each program, function, or activity. 2 CFR § 200.328. Additionally, the District must directly administer or supervise the administration of each project. 34 CFR § 76.701**

Ongoing monitoring occurs in the course of operations. It includes regular management and supervisory activities and other actions personnel take in performing their duties. The scope and frequency of self-monitoring depends primarily on an assessment of risks and the effectiveness of ongoing monitoring procedures.

Implementing the appropriate and required internal controls and monitoring for compliance with internal controls is one of the District's tools for self-monitoring. Any discrepancies or deficiencies detected or discovered will be immediately corrected and processes or systems put into place to ensure such discrepancies or deficiencies do not occur again.

Additionally, the District will develop a self-monitoring assessment that will be administered at the end of every year. Corrective actions, including the actions required, the persons responsible, and the target date for completion, will be developed to address any deficiencies. The District embraces a philosophy of continuous improvement and transparency. A critical part of this is a comprehensive monitoring protocol followed cyclically. Our District has established a comprehensive needs assessment (CNA) with parameters focused principally on the student. The District believes that a data-based, purposeful approach will yield students whose strong educational development will enable them with assets for a more successful future. Therefore, the CNA process is based on analytic (numeric) and descriptive (observational) systems. This methodology is our avenue for the ongoing improvement of student learning. The process in place to identify deficiencies centers on sound evaluation. To gather data that contains integrity, a mixed method design is used (Creswell, 2003). All genres of performance-based data, those which fundamentally lie within the realm of quantitative inquiry, form the core of decision-making. Quantitative research involves the collection of numerical data to explain, predict, and/or control phenomena of interest (Gay & Airasian, 2002). Realizing that the affective domain of our stakeholders is as important as numerical data, our evaluation also involves post-positivist methods (or qualitative, as described by Lincoln and Guba, 1985) which permit us to focus on particular issues and study those in depth (Gall, Gall, and Borg, 2003). Altogether, the evaluation process encompasses a triangulated methodology which yields specific priorities. Findings from our CAN

gives rise to deficiencies. We operationalize deficiencies differently fro year to year, as these are based on results from ongoing assessments and improvement systems

B. TEA Monitoring

Risk Assessment

Pursuant to the provisions in 2 CFR § 200.331(b), TEA, as a pass-through agency, is required to evaluate each subrecipient's risk of noncompliance with federal statutes, regulations, and the terms and conditions of the award for purposes of determining the appropriate subrecipient monitoring. Accordingly, the risk assessment may include:

- The District's prior experience with the same or similar awards;
- The results of previous audits including whether or not the District receives a Single Audit in accordance with Subpart F of 2 CFR, and the extent to which the same or similar award has been audited as a major program;
- Whether the District has new personnel or new or substantially changed systems; and
- The extent and results of USDE monitoring if the District also receives federal awards directly from the USDE.

Special Conditions

Based on the evaluation of risk, TEA *must* consider imposing one or more of the following specific conditions upon the District if appropriate:

- Requiring payments as reimbursements rather than advance payments
- Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance
- Requiring additional, more detailed financial reports
- Requiring the District to obtain technical or management assistance
- Establishing additional prior approvals. 2 CFR § 200.207(a)

TEA is required to notify the District as to:

- The nature of the additional requirements
- The reason why the additional requirements are being imposed
- The nature of the action needed to remove the additional requirements, if applicable
- The time allowed for completions the actions, if applicable, and
- The method for requesting reconsideration of the additional requirements imposed.

TEA must promptly remove any special conditions once the condition that prompted them have been corrected.

Identification as a High-Risk Grantee

In accordance with the provisions 2 CFR § 3474.10, TEA has the authority to identify the District as a high-risk grantee:

- Based on the results of the risk assessment;
- If the District has a history of failure to comply with the general or specific terms and conditions of a federal award;
- If the District fails to meet expected performance goals;
- If the District is not otherwise responsible.

TEA may impose one or more special conditions as needed to bring the District into compliance.

Monitoring

TEA must monitor the activities of the District as necessary to ensure that the award is used for authorized purposes, in compliance with the federal statutes, regulations, and the terms and conditions of the award; and that the award performance goals are achieved. 2 CFR § 200.331(d). Monitoring *must* include:

- Reviewing financial and programmatic reports required by TEA;
- Following up and ensuring that the District takes timely and appropriate action on all deficiencies pertaining to the award provided to the District from TEA detected through audits, on-site reviews, and other means; and
- Issuing a management decision for audit findings pertaining to the award.

Depending on the District's assessment of risk by TEA, TEA may use the following monitoring tools (not all-inclusive) to ensure proper accountability and compliance with program requirements and achievement of performance goals:

- Performing desk reviews of certain information;
- Providing the District with training and technical assistance on program-related matters;
- Performing on-site reviews of the District's program operations; and
- Arranging for agreed-upon procedures engages as described in 2 CFR § 200.425 Audit services.

TEA will also consider taking any enforcement action (i.e., remedies for noncompliance) against the District if it is found to be in noncompliance.

Remedies for Noncompliance

If the District fails to comply with federal statutes, regulations, or the terms and conditions of the award, the USDE (for direct grants) or TEA (for state-administered grants) may impose one or

more of the conditions described in *Special Conditions*. In addition, TEA may take one or more of the following actions, as appropriate in the circumstances:

- **Temporarily withhold cash payments pending correction of the deficiency by the District or more severe enforcement action by the USDE or TEA.**
- **Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.**
- **Initiate suspension or debarment proceedings as authorized under 2 CFR Part 180 and USDE regulations (or in TEA's case, recommend such a proceeding be initiated by the USDE).**
- **Withhold further federal awards for the project or program.**
- **Take other remedies that may be legally available.**

2 CFR § 200.338

B. Subrecipient Monitoring

In the event that the District awards subgrants to other entities, it is responsible for monitoring those grant subrecipients to ensure compliance with federal, state, and local laws. Monitoring is the regular and systematic examination of all aspects associated with the administration and implementation of a program. Each program office that awards a subgrant must have its own monitoring policy. This policy must ensure that any monitoring findings are corrected.

The District does not award subgrants as a regular course of action.

IX. Audits

A. Annual Independent Audit

Section 44.008 of TEC requires that each school district have its fiscal accounts audited annually *at district expense* by a certified or public accountant (independent of the district) holding a permit from the Texas State Board of Public Accountancy (CPA). No portion of the independent audit may be paid from state or federal grant funds. The cost to conduct the annual independent audit must be paid from state or local funds.

The audit must meet at least the minimum requirements and be in the format prescribed by the SBOE and the commissioner. Audits must be conducted in accordance with generally accepted auditing standards (GAAS) and Government Auditing Standards (GAS), also referred to as the *Yellow Book*. Audit requirements are also provided in TEA's FASRG, *Module 4 – Auditing*.

The itemized accounts and records of the district must be made available to audit. The independent audit must be completed following the close of each fiscal year and must be submitted to TEA within 150 calendar days of the close of the fiscal year.

During the annual independent audit, the auditor examines whether the district has complied with financial management and reporting requirements and with internal controls. The annual audit is organization-wide and includes an examination of all fund types and account groups.

The audit reports are reviewed by TEA audit staff, and TEA notifies the local board of trustees of any objections, violations of sound accounting practices or law and regulation requirements, or of any recommendations concerning the audit report that the commissioner wants to make. If the audit report reflects that penal laws have been violated, the commissioner must notify the appropriate county or district attorney and the state's attorney general.

TEA must be permitted access to all accounting records, including vouchers, receipts, fiscal and financial records, and other school records TEA considers necessary and appropriate for the review, analysis, and passing on audit reports.

B. Single Audit

In addition to the state-mandated annual audit, federal regulations require that grantees obtain audits in accordance with 2 CFR Part 200, Subpart F – Audit Requirements. (Note: The requirements in 2 CFR Part 200 apply for fiscal years that begin after December 26, 2014, (i.e., in most cases, for fiscal years that begin July 1 or September 1, 2015, and end June 30 or August 31, 2016, respectively. The requirements in OMB Circular A-133 are in effect for the fiscal years that end June 30 or August 31, 2015, respectively.) The audits must be made by an independent auditor in accordance with generally accepted government auditing standards (GAGAS). Awarding agencies, including TEA, are required to determine whether their grantees have met the audit requirements.

State agencies such as TEA are required to follow their own procedures to determine whether the District spent federal funds in accordance with applicable laws and regulations. This includes reviewing an audit to determine if the District had a single audit conducted in accordance with 2 CFR § 200.514, or through other means if there was no single audit.

TEA as a state agency must also

- ensure that the District takes appropriate corrective action within six months after receiving a report with an instance of noncompliance with federal laws and regulations
- consider whether the audit necessitates an adjustment of TEA's own records

Who Is Required to Have a Single Audit?

School districts that **expend $750,000** or more total in federal awards (i.e., all of the expenditures added together for all of the federal grants) during the fiscal year are required to have a Single Audit conducted *in addition to and in conjunction with* the annual independent audit.

The Single Audit must be completed in accordance with 2 CFR Part 200, Subpart F and the *Audit Compliance Supplement* (see link below), normally updated around March of each year. The *Audit Compliance Supplement* outlines specific requirements and corresponding audit procedures for each major federal program.

For federal programs *not* covered in the *Compliance Supplement*, the auditor is directed to use the *types* of compliance requirements contained in the *Supplement* as guidance for identifying compliance requirements to test, and to determine the requirements governing the federal program by reviewing the provisions of grant agreements and the laws and regulations applicable to those federal programs.

The cost to conduct the Single Audit can be prorated among the federal programs being audited in proportion to the total award amount of each program.

What Happens During a Single Audit?

During a Single Audit, the auditor examines

- the District's financial statements and schedule of expenditures of federal awards
- compliance with laws, regulations, and the provisions of contract or grant agreements that have a direct and material effect on each of the District's federal programs
- the effectiveness of internal control over federal programs in preventing or detecting noncompliance

Auditors are required to classify and select federal programs for audit using a risk-based approach. Where a District receives only one federal program, the auditor may conduct a *program-specific* audit rather than a Single Audit.

Auditors use the suggested audit procedures in the *Audit Compliance Supplement* to test general compliance requirements for each federal program selected for audit during the Single Audit or program-specific audit process. Program and fiscal managers should be aware of the requirements and what the auditor may look for so they can be properly prepared. Auditors may potentially interview program managers and fiscal managers to solicit evidence of compliance with certain requirements.

As the auditor is reviewing the compliance requirements, he or she identifies any significant deficiencies in internal control and any noncompliance with laws, regulations, or grant agreements. The auditor also identifies any known questioned costs which are greater than $25,000. Auditors must present the findings in a written report in sufficient detail for the District to prepare a corrective action plan and take corrective action, and for TEA or other awarding agency to arrive at a management decision.

The auditor assembles the report in accordance with *2 CFR Part 200, Subpart F* and submits the audit package to the local board of directors for approval. A copy of the full audit report, including the required annual audit, and the Single Audit or program-specific audit, is submitted to TEA as the pass-through entity. The auditor must also complete a data collection form that includes certain prescribed information about the District and the results of the audit. The District must submit the data collection form and a copy of the complete audit package to the Federal Audit Clearinghouse operated on behalf of OMB.

TEA audit staff review the audit report and issue a management decision within six months of receiving the package. The management decision (written letter) must inform the District whether or not the finding by the auditor is sustained, the reasons for the decision, and the expected action to repay disallowed costs, make financial adjustments, or take other corrective action. The District is responsible for follow-up and must prepare a corrective action plan for all audit findings, along with the anticipated completion date for each action and who is responsible.

TEA is required to follow up to ensure the District resolved the corrective actions. The audit in the subsequent year will include a follow up to ensure the District implemented the corrective actions.

TEA also uses the results of the report as a monitoring tool and may use the results to identify the District as high-risk and impose special conditions on federal awards.

The district hires an external auditor to conduct an annual audit. The external auditor works closely with Accounting Department, if for any reason a finding has occurred. A corrective action will be place by the Accounting Department to correct the finding by the external auditor and will be reviewed by theExecutive Director of Finance and Operations for accuracy.

C. Audits and Special Investigations Conducted by TEA or By Another Regulatory Agency

A review of the annual independent audit report and/or the Single Audit report may prompt TEA to schedule a subsequent desk audit or on-site audit or investigation. Additionally, TEA may schedule an audit or investigation on the basis of legitimate complaints received by TEA about the District's use of federal funds.

Federal regulations require that subgrantees, including school districts, also cooperate with the Secretary of Education and the Comptroller General of the United States or any of their duly authorized representatives in the conduct of audits authorized by federal law. This cooperation includes access without unreasonable restrictions to records and personnel of the District for the purpose of obtaining relevant information.

The Comptroller General of the United States is the Director of the U.S. Government Accountability Office (GAO). GAO is an independent, nonpartisan agency that works with Congress. GAO ensures fiscal and managerial responsibility of the federal government by investigating how the federal government spends taxpayer dollars.

In addition, the Office of Inspector General (OIG) at the USDE may conduct an audit, investigation, or other activities to promote the efficiency, effectiveness, and integrity of the Department's programs and operations. Anyone knowing of fraud, waste, or abuse of federal education funds is able to contact the OIG Hotline to make a confidential report.

TEA also has a procedure for reporting fraud, waste, or abuse of state and federal resources. In addition, TEA has a procedure for filing a complaint with regard to federal programs when it cannot be resolved at the local level following district policies and procedures.

District Procedures for Reporting Fraud, Waste, or Abuse

Anyone knowing of fraud, waste, or abuse of federal education funds is able to contact the OIG Hotline to make a confidential report.

X. Programmatic Fiscal Requirements

A. Supplement, Not Supplant

Most federal education grants contain the *supplement, not supplant* provision. In most cases, the expenditure of grant funds for a particular cost or activity must supplement, and not supplant, state or local funds. Therefore, supplement, not supplant is a crucial factor in determining whether a particular cost is allowable, and it must be understood by program and fiscal managers.

What Does Supplement, Not Supplant Mean?

The intent behind supplement, not supplant, is that federal funds are not meant to substitute for state or local funds, but rather to provide for an additional layer of support for students who need extra academic assistance in order to succeed in school. Districts must demonstrate that federal funds are used to purchase additional academic and support services, staff, programs, or materials the state or district would not normally provide.

The supplement, not supplant provision means, in general, that

- Federal funds may not be used to replace activities normally funded from state or local funds.
- State and local funds may not be diverted for other purposes due to the availability of federal funds.
- Federal funds may not be used to support activities that are required by state law, State Board of Education or Commissioner's rule, or local policy.
- All students must receive the same level and quality of services from State and local resources. In other words, State and local sources *cannot* be used to provide services to only *some* of the students, while Federal funds are used to provide services to the *remaining* students. (Schoolwide programs may be an exception.)
- Federal funds must be used to *supplement* activities already being provided by the District, meaning they must be used to *expand, enhance, or improve* existing services and activities or to create something *new*.

Rebutting the Presumption of Supplanting

Violations for supplanting with federal funds can be quite severe. If a grantee is determined to be supplanting with the entire program, the penalty could be as great as repaying 100% of the funds

expended. Federal regulations require that a grantee repay funds in proportion to the harm to the federal government.

Districts may be able to *rebut* the presumption of supplanting by an auditor or monitor. To determine compliance with the supplement, not supplant requirement, the District must determine what services *would have been provided* to students in the absence of federal funds. Generally in a situation where the District used Title 1 funds, for example, to provide services that it provided with non-Federal funds in the prior year(s), an auditor or monitor will presume supplanting occurred.

The USDE provides excellent guidance on supplement, not supplant with regard to Title I, Part A in their *Non-Regulatory Guidance on Title I Fiscal Issues, Revised February 2008*. In addition, TEA's *Supplement, Not Supplant Handbook* (under *Handbooks*) discusses supplement, not supplant as it applies to NCLB programs and other programs, including IDEA-B and Perkins. Both documents contain excellent information and examples as it pertains to rebutting the presumption of supplanting.

In any case, due to different experiences and knowledge level of independent auditors and federal oversight personnel, the independent auditor or federal oversight agency may *still* consider it supplanting.

Supplement, Not Supplant on Schoolwide Programs

The fiscal requirements for supplement, not supplant are slightly different for Title I schoolwide programs than for Title I Targeted Assistance schools. In a Title I Targeted Assistance school, the District must identify low-achieving students and provide additional, supplemental services only to those identified students. In no case can federal funds replace state and local funds. (Refer to the archived *USDE guidance on Targeted Assistance Schools* for more information.)

Unlike a Targeted Assistance program, however, a *schoolwide* program is *not* required to select and provide supplemental services to specific children identified as in need of services. A school operating a schoolwide program does not have to

- show that Federal funds used with the school are paying for additional services that would not otherwise be provided
- demonstrate that Federal funds are used only for specific target populations
- separately track Federal program funds once they reach the school

A schoolwide program school, however, must use Title I funds only to supplement the **amount** of funds that would, in the absence of the Title I funds, be made available from non-Federal sources

for that school, including funds needed to provide services that are required by law for children with disabilities and children with limited English proficiency. In other words, the same *amount* of state and local resources must still be spent on the school in order to conduct the regular academic program, and the amount of Title I funds must supplement, or be in addition to, the amount of state and local funds normally provided to that school *[Title I, Part A, Section 1114(a)(2)]*.

The USDE provides helpful non-regulatory guidance on supplement, not supplant with regard to both Targeted Assistance schools and schoolwide programs. TEA also provides excellent guidance related to NCLB and other programs in a *Supplement, Not Supplant Handbook: A Guide for Grants Administered by the Texas Education Agency*.

Again, it is important that District personnel involved in federal programs understand supplement, not supplant. School districts are frequently cited for a supplant violation. On the surface, a particular cost may seem allowable in that it is reasonable, allowable under the federal cost principles, allocable, and appropriate under a federal program such as Title I, Part A. However, **if the cost is not supplemental, all of the other factors do not counteract**. All costs associated with a supplant violation would be required to be repaid to TEA or other federal awarding agency.

How to Document Compliance for an Auditor

Any determination about supplanting is specific to the individual situation, and general guidelines cannot be provided to meet the particular details of any situation. Examples of the types of documentation auditors may request from the District to demonstrate that the expenditure is supplemental to other federal and/or non-federal programs include the following:

- Fiscal or programmatic documentation to confirm that, in the absence of federal funds, the District would have eliminated staff or other services in question
- Board minutes/agendas with discussion of elimination of staff due to lack of state funds
- State or local legislative actions
- Itemized budget histories from one year to the next and information
- Planning documents
- Actual reduction in state or local funds
- Decision to eliminate position or services was made without regard to the availability of federal funds, including the reason the decision was made
- Class-size data from previous years and upcoming year
- Specific policies and procedures related to supplement, not supplant requirements

Procedures for Complying with Supplement, Not Supplant

The District follows the specific procedures for ensuring that the determination of allowable costs includes an analysis of supplement, not supplant. The Assistant Superintendent of Finance and Operations and Operations and Assistant Superintendent of Academic Services is responsible for reviewing planned budgets, grant applications, program plans, and schoolwide plans/school improvement plans, to determine that costs budgeted and activities planned do not constitute a supplant.

Communication is key for creating the awareness of supplement, not supplant requirements. Therefore, a systematic process allows for continuous learning of guidelines and policies linked to federal programs. USDE and TEA are our major resources who provide assistance through conferences, trainings, online information (emails), mail, and phone calls. Information is shared at the district and campus levels to all stakeholders through trainings (particularly the annual budget training held in the Spring), online information (emails), mail, and phone calls. A key informational item relating to federal programs is the Federal Programs Department Manual on allowable and non-allowable use of funds. This reference source specifically covers supplement, not supplant, requirements. Each program manager ensures that the determination of allowable costs includes an analysis of supplement, not supplant, for their respective program. In addition, program managers review planned budgets, grant applications, program plans, and schoolwide plans/school improvement plans, to determine that costs budgeted and activities planned do not constitute a supplant. As encumbrances begin, program managers monitor supplement, notsupplant, by reviewing requisitions. Purchases are approved and authorized through the systemicbudgetary process established by TEA (purchase order (PO) system that follows the account code structure). In our district the software *Skyward* allows for an explicit process of approval of purchases.Through said process the different program managers approve/disapprove requisitions as respective purposes are analyzed. If requirements are met, including supplement/supplant, apurchase order is created; if not, purchases are not made. To certify and document said procedure, all purchases involving the use of federal funds require verification of federal requirements and the referencing of specific district/campus improvement plan activities.

In case that a supplant is discovered, it is sent back to the original person submitting requisition to review what is supplemental and not supplant. The problem is immediately remedied rather than waiting for an auditor to discover it during an audit.

B. Maintenance of Effort (MOE)

MOE is one of the fiscal requirements, similar to supplement, not supplant, that ensures that federal funds are used to provide services that are in addition to the regular services normally provided by a District. If MOE is a requirement, it will be included in the authorizing program statute. For

example, for most NCLB programs, the MOE requirement is included in Title IX, General Provisions, Part E, Subpart 2, § 9521.

MOE means the District must maintain its expenditures for public education from state and local funds from year to year. A district cannot reduce its own state and local spending for public education and replace those funds with federal funds.

For most federal programs for which MOE applies, such as Title I, Part A, the District's combined fiscal effort per student, or the aggregate expenditures of the District with the respect to the provision of a free public education for the fiscal year preceding the fiscal year for which the determination is made, must be not less than 90% of the combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made. (Note: The MOE requirements are different for some grant programs, such as IDEA-B [Individuals with Disabilities Education Act, Part B]).

MOE is based on *actual* expenditures from State and local funds, not on budgeted amounts. The District is responsible for maintaining effort and for documenting compliance with MOE. TEA will verify the District's MOE using fiscal information obtained through the Public Education Information Management System (PEIMS) database.

Expenditures Included in the Determination of MOE

In determining whether the District has maintained fiscal effort, TEA must consider the District's expenditures from State and local funds for free public education. These include expenditures for

- administration
- instruction
- attendance services
- health services
- pupil transportation services
- operation and maintenance of plant
- fixed charges
- net expenditures to cover deficits for food services
- net expenditures to cover deficits for student body activities

34 CFR § 299.5*(d)(1)*

TEA calculates MOE for school districts and open-enrollment charter schools. TEA includes expenditures for the following functions (specified in FAR) in determining whether the District has met the MOE requirement:

Category	Function
Instruction	11
Instructional Leadership (previously Administration)	21
Instructional Leadership (previously Administration)	12
Curriculum Development and Instructional Staff Development	13
School Leadership	23
Guidance and Counseling Services	31
Social Work Services	32
Health Services	33
Student (Pupil) Transportation	34
Deficits for Cocurricular/Extracurricular Student Body Activities	36
Deficits for Food Services	35
General Administration	41
Plant Maintenance and Operation	51
Data Processing Services	53

Expenditures Excluded from the Determination of MOE

The following expenditures are *excluded* from the determination of MOE:

- community services
- capital outlay
- debt service
- supplemental expenses made as a result of a Presidentially declared disaster
- any expenditures made from federal funds
  34 CFR § 299.5(d)(2)

"Preceding Fiscal Year" Defined

For purposes of determining MOE, regulations specify that the "preceding fiscal year" is the federal fiscal year, or the 12-month fiscal period most commonly used in a State for official reporting purposes, prior to the beginning of the federal fiscal year in which funds are available. TEA calculates MOE using State and local expenditures for the **state** fiscal year, or September 1 through August 31. 34 CFR § 299.5(c)

Failure to Meet MOE

If the District fails to meet MOE for any given fiscal year, the award amount is reduced in the exact proportion by which the District did not meet MOE. The Secretary of Education may waive

the requirements for one year due to exceptional or uncontrollable circumstances, such as natural disaster, or a precipitous decline in the financial resources of the District.

Procedures for Complying with MOE

The District complies with guidance provided by TEA pertaining to MOE for NCLB programs and for IDEA-B. The Assistant Superintendent of Finance and Operations ensures and files certification of compliance with MOE. The **Assistant Superintendent** of Finance and Operations ensures that procedures for reviewing and revising the budget and activities described in the proposed grant application are followed.

XI. Programmatic Requirements

A. Private Nonprofit School Participation

If the authorizing federal program statute provides for private nonprofit school participation, the District must comply with certain requirements. Before completing and submitting the application, the District must contact the private nonprofit schools located within the District's boundaries, notifying them of the opportunity to participate in the program. The *Private Nonprofit School Participation* schedule in the applicable federal grant application must be completed and submitted with the application.

Generally, in accordance with the specific program statute, private nonprofit schools must be consulted in the planning and development of the project. Both children and teachers from private nonprofit schools must be assured equitable participation in all services, materials, equipment, and teacher training.

Prior to completing any federal grant application, the District ensures that private nonprofit schools have been consulted in accordance with the provisions of the statute and in accordance with the guidelines specified in TEA's General and Fiscal Guidelines and Program Guidelines. The program manager/director assigned to the federal program is responsible for ensuring that all requirements with regard to the participation of private nonprofit schools are carried out.

B. Equitable Access and Participation

Provisions for equitable access and participation apply to all federally funded grants administered by the US Department of Education. As such, *Equitable Access and Participation* is a required schedule in the application for any federally funded grant. The application will not be approved in the absence of this schedule.

In accordance with the General Education Provisions Act (GEPA), Section 427, applicants must develop and describe the procedures they will use to ensure equitable access to and equitable participation in the grant program. The barriers to such participation should be identified for all participants and potential participants during the needs assessment phase of the program planning and development.

All applicants, including the District, must address the special needs of students, teachers, and other program beneficiaries to overcome barriers to equitable participation, including those based on gender, race, color, national origin, disability, and age.

The District complies with the requirements for completing the *Equitable Access and Participation* schedule in each federally funded grant application The District Safety Committee has specific procedures to analyze and determine any barriers to equitable participation by all students and reports to the Superintendent.

C. Civil Rights and Prohibition of Discrimination

Several federal civil rights laws prohibit discrimination in programs or activities that receive federal funds from the USDE. These laws prohibit discrimination on the basis of race, color, and national origin; sex; disability; and age. The civil rights laws extend to all state educational agencies, elementary and secondary school systems, colleges and universities, vocational schools, proprietary schools, state vocational rehabilitation agencies, libraries, and museums that receive USDE funds.

The four primary civil rights laws are as follows:

Subject	**Statute**	**Regulation**
Discrimination on the basis of race, color, or national origin	Title VI of the Civil Rights Act of 1964 (45 USC §§ 2000d-2000d-4)	34 CFR Part 100
Discrimination on the basis of sex	Title IX of the Education Amendments of 1972 (20 USC §§ 1681-1683)	34 CFR Part 106
Discrimination on the basis of handicap	Section 504 of the Rehabilitation Act of 1973 (29 USC § 794)	34 CFR Part 104

Discrimination on the basis of age	The Age Discrimination Act (42 USC §§ 6101 et seq.)	34 FR Part 110

The District must comply with the provisions pertaining to all four of these civil rights statutes and their implementing regulations to be eligible to receive any federal education funds. GEPA requires the Secretary of Education to reduce an allotment to a state for any Districts not in compliance with any of these four civil rights laws. *Title 20 USC, Chapter 31 – General Provisions Concerning Education, § 1231e*

Other federal laws that prohibit discrimination include Title II of the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability by public entities, whether or not they receive federal funding. The Boy Scouts of America Equal Access Act amends the Elementary and Secondary Education Act (ESEA) of 1965 in the No Child Left Behind Act (NCLB) of 2001, § 9525. This Act prevents public schools from discriminating against patriotic youth societies, including Boy Scouts of America, by insuring equal access to meet on school premises and in school facilities.

Each civil rights law is discussed in more detail below. These laws require that all recipients of federal funds ensure their educational programs are administered in a manner that prohibits discrimination in the participation of federal programs. The USDE Office for Civil Rights (OCR) enforces these laws and their implementing regulations.

Prohibition of Discrimination on the Basis of Race, Color, or National Origin

Title VI of the Civil Rights Act of 1964 prohibits discrimination in the participation of federal programs on the basis of *race, color, or national origin*. No person shall be excluded from participation in, be denied the benefits of, or be subjected to any form of discrimination in, any federal program on the basis of race, color, or national origin.

Specific discriminatory actions that are prohibited include

- denying an individual any service or other benefit provided under the program
- providing any service or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program
- subjecting an individual to segregation or separate treatment in any matter related to his or her receipt of any service or other benefit under the program
- restricting an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or other benefit under the program

- treating an individual differently from others in determining whether he or she satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service or other benefit provided under the program

- denying an individual an opportunity to participate in the program through the provision of services or otherwise or afford him or her an opportunity to do so which is different from that afforded others under the program

- denying a person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program

Every federal grant application includes an assurance that the District complies with these provisions. The assurance is included in the TEA General Provisions and Assurances.

The District may be required to submit to the USDE OCR records that demonstrate compliance with the provisions. The District must also permit on-site access to records by USDE OCR staff to verify compliance.

Any person who believes to have been the subject of discrimination may file a written complaint with the USDE OCR not later than 180 days following the alleged discrimination. OCR staff will promptly investigate the complaint and attempt to resolve it informally. If the complaint cannot be resolved informally, the USDE has the right to suspend or terminate federal funding for the program affected. The USDE must provide an opportunity for a hearing prior to suspension or termination of the program.

The regulations that implement Title VI of the Civil Rights Act for educational institutions are in *34 CFR Part 100*. *34 CFR §§ 75.500 and 76.500* and *Title VI of the Civil Rights Act of 1964*

The Assistant Superintendent of Academic Services is responsible for coordinating and ensuring compliance with this Act.

Prohibition of Discrimination on the Basis of Sex

Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of *sex* in any federal program. No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity.

The regulations in 34 CFR Part 106 implement the provisions of Title IX. These regulations require that

- **the District designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX, including investigating any complaint communicated to the District alleging its noncompliance with Title IX. The District must notify all its students and employees of the name, office address, and telephone number of the employee or employees appointed to carry out the requirements of Title IX.**

- **the District adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action which would be prohibited by Title IX.**

- **the District implement specific and continuing steps to notify students, parents and employees that it does not discriminate on the basis of sex in the educational programs or activities which it operates, and that it is required by Title IX and 34 CFR Part 106 not to discriminate in such a manner. The District must publish in any document used to recruit students or employees the policy that states that the District does not discriminate on the basis of sex.**

There are certain exceptions, such as allowing boys and girls to be separated in physical contact activities, such as football, soccer, basketball, boxing, etc.

The District must not discriminate on the basis of a student's pregnancy. The District must also not discriminate on the basis of sex in the employment of personnel, compensation, fringe benefits, or work assignments under any federal programs.

Every federal application includes an assurance that the District complies with these provisions. The assurance is included in the TEA General Provisions and Assurances. *Title IX of the Education Amendments of 1972*; *34 CFR Part 106*; and *34 CFR §§ 75.500 and 76.500*

The Assistant Superintendent of Academic Services is responsible for coordinating and ensuring compliance with this Act.

Prohibition of Discrimination on the Basis of Age

The Age Discrimination Act of 1975 prohibits discrimination based on *age* in programs or activities that receive federal financial assistance. The regulations in 34 CFR Part 110 implement the *Age Discrimination Act* and describe conduct that violates the Act.

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. The District may not, in any program or activity receiving federal financial assistance, directly or through contractual, licensing, or other arrangements, use age distinctions or take any other actions that have the effect, on the basis of age, of

(1) **excluding individuals from, denying them the benefits of, or subjecting them to discrimination under a program or activity receiving federal financial assistance**

(2) denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance

These regulations do not apply to

(1) an age distinction contained in that part of a federal, state, or local statute or ordinance adopted by an elected, general purpose legislative body that

(i) provides any benefits or assistance to persons based on age

(ii) establishes criteria for participation in age-related terms

(iii) describes intended beneficiaries or target groups in age-related terms

(2) any employment practice of any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program, except any program or activity receiving federal financial assistance for employment under the Job Training Partnership Act (29 U.S.C. 1501 *et seq.*).

The regulations do not apply where age is a factor in conducting normal operations of the District. For example, where the District is operating a program or activity that provides special benefits to children, the use of age distinctions is presumed to be necessary to the normal operation of the program or activity.

Age discrimination in *employment* is covered under the Age Discrimination in Employment Act. Complaints of employment discrimination based on age may be filed with the U.S. Equal Employment Opportunity Commission.

The District must take steps to comply and maintain records demonstrating compliance. The District may be required to submit to the USDE OCR records that demonstrate compliance with the provisions and must also permit on-site access to records by USDE OCR staff to verify compliance. The District must

- **Designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under the *Age Discrimination Act*, including investigating any complaint communicated to the recipient alleging its noncompliance with the Act. The District must notify all its students of the name, office address, and telephone number of the employee or employees appointed to carry out the requirements of the Act.**

- **Adopt and publish grievance procedures providing for prompt and equitable resolution of student complaints alleging any action which would be prohibited by the Age Discrimination Act.**

The USDE may conduct compliance reviews, pre-award reviews, and other similar procedures to investigate and correct violations of the Act and of the regulations, even in the absence of a complaint against the District. The review may be as comprehensive as necessary to determine whether a violation of the regulations occurred.

If a compliance review or pre-award review indicates a violation of the Act or of the regulations, the USDE attempts to achieve voluntary compliance with the Act. If voluntary compliance cannot be achieved, the USDE arranges for enforcement.

Any person who believes to have been the subject of age discrimination may file a written complaint with the USDE OCR not later than 180 days following the alleged discrimination. OCR staff is required to promptly refer the complaint for mediation. If the complaint cannot be resolved through mediation, the USDE will conduct an investigation and attempt to achieve voluntary compliance by the District. If the District does not comply, the USDE has the right to suspend or terminate federal funding for the program affected. The USDE must provide an opportunity for a hearing prior to suspension or termination of the program.

The Act prohibits retaliation for filing a complaint with OCR or for advocating for a right protected by the Act.

An assurance that the District complies with these provisions is included in the TEA General Provisions and Assurances. *Age Discrimination Act of 1975*; *34 CFR Part 110*; and *34 CFR §§ 75.500 and 76.500*

The Executive Director of Human Resource is responsible for coordinating and ensuring compliance with this Act.

Prohibition of Discrimination on the Basis of Disability

In addition to the Individuals with Disabilities in Education Act (IDEA), there are two other laws pertaining to non-discrimination on the basis of disability:

- Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in programs or activities that receive federal financial assistance from the USDE

- Title II of the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability by state and local governments, including school districts, regardless of whether they receive any federal financial assistance

Section 504 of the *Rehabilitation Act of 1973*, effective May 1977, is widely recognized as the first civil-rights statute for persons with disabilities. Because it was successfully implemented over the next several years, it helped to pave the way for the 1990 Americans with Disabilities Act. The *Americans with Disabilities Act Amendments Act of 2008* (Amendments Act), effective January 1, 2009, amended the *Americans with Disabilities Act of 1990* (ADA) and included a conforming amendment to the *Rehabilitation Act of 1973* (Rehabilitation Act) that affects the meaning of *disability* in Section 504.

Section 504 and Title II of ADA are both unfunded mandates with which all school districts [as well as ESCs and open-enrollment charter schools] must comply. **It is important to recognize that while a specific child enrolled in the District may not be eligible for services under IDEA, the child *may* be eligible for protection under Section 504**. Failure to comply with Section 504 could result in costly hearings and potential lawsuits.

Section 504

Section 504 states that no otherwise qualified individual with a disability in the United States shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Section 504 defines *individuals with disabilities* as "persons with a *physical or mental impairment* which substantially limits one or more *major life activities*." However, a student protected under Section 504 may also have a *record* of such an impairment or be *regarded* as having such an impairment.

Physical or mental impairment means, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory,

endocrine, and reproductive functions. It includes any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, as well as any mental or psychological disorder.

Major life activities were expanded in the Amendments Act and now include

- caring for oneself
- performing manual tasks
- seeing
- hearing
- eating
- sleeping
- walking
- standing
- lifting
- bending
- speaking
- breathing
- learning
- reading
- concentrating
- thinking
- communicating
- working

The regulations implementing Section 504 in the context of educational institutions appear at 34 CFR Part 104. These regulations require a school district to provide a "free appropriate public education" (FAPE) to each qualified student with a disability who is in the school district's jurisdiction, regardless of the nature or severity of the disability. Under Section 504, FAPE consists of the provision of regular or special education and related aids and services designed to meet the student's individual educational needs as adequately as the needs of nondisabled students are met.

Determining whether a child is a *qualified disabled student* under Section 504 begins with the evaluation process. Section 504 requires the use of evaluation procedures that ensure that children are not misclassified, unnecessarily labeled as having a disability, or incorrectly placed, based on inappropriate selection, administration, or interpretation of evaluation materials.

School districts must establish standards and procedures for initial evaluations and periodic re-evaluations of students who need or are believed to need special education and/or related services because of disability. The Section 504 regulations require districts to individually evaluate a student before classifying the student as having a disability or providing the student with special education. In addition, evaluation and the provision of appropriate accommodations are required regardless of any methods the student might be using to mitigate the impairment.

Costs related to provisions under Section 504 must come from state or local funds. Such expenditure must not be paid from federal grant funds.

Title II of ADA

Title II of the Americans with Disabilities Act of 1990 extends this prohibition against discrimination to the full range of state and local government (including public schools) services, programs, and activities *regardless of whether they receive any federal financial assistance*.

However, "for purposes of employment", *Qualified Individuals with Disabilities* must also meet "normal and essential eligibility requirements", such that:

"*Qualified Individuals with Disabilities* are persons who, with *Reasonable Accommodation*, can perform the essential functions of the job for which they have applied or have been hired to perform."

"*Reasonable Accommodation* means an employer is required to take reasonable steps to accommodate [one's] disability unless it would cause the employer undue hardship."

That is, *Qualified Individuals with Disabilities* must be able to perform the job duties (with reasonable accommodation) associated with the job for which they will be hired.

Enforcement of Section 504 and Title II of ADA

The USDE OCR enforces the provisions of *Section 504* and the provisions of *Title II of ADA* as it applies to LEAs. An assurance that the grantee complies with these provisions is included in the TEA General Provisions and Assurances.

Although the implementing regulations for *Title II of ADA* in *28 CFR Part 35* are enforced by the U. S. Department of Justice (DOJ), the USDE Office of Civil Rights is designated by DOJ to resolve complaints filed against SEAs and LEAs.

The Assistant Superintendent of Academic Services coordinates and ensures compliance with the requirements under Section 504. The Assistant Superintendent Special Programs coordinates and ensures compliance with the requirements of Title II of ADA.

Section 504 of the Rehabilitation Act of 1973; *34 CFR Part 104*; *34 CFR §§ 75.500 and 76.500; Title II of the Americans with Disabilities Act of 1990*; *Americans with Disabilities Act Amendments Act of 2008*; and *28 CFR Part 35*

Prohibition of Discrimination of Groups Affiliated with Boy Scouts of America

Under this Act, Districts that sponsor any group affiliated with Boy Scouts of America or any other patriotic youth society must not discriminate against such youth or deny equal access to, or fair

opportunity to meet in, school facilities or on school premises. Patriotic youth societies include, among others, Big Brothers Big Sisters, Boys and Girls Clubs of America, Girl Scouts of the U.S.A., and Little League Baseball, Inc. This does not require that the District *sponsor* a group affiliated with Boy Scouts of America or similar patriotic youth society.

The U.S. Supreme Court has ruled that the Boy Scouts have the right to set their own standards for leadership. Schools must respect that right and not exclude the Boy Scouts because of its membership and leadership policies and oath of allegiance to God and country.

34 CFR Part 108 implements the provisions of the Act. The District shall not deny access or opportunity or discriminate for reasons including the membership or leadership criteria or oath of allegiance to God and country of the Boy Scouts or of a similar patriotic youth society.

Any group officially affiliated with the Boy Scouts or officially affiliated with any other patriotic youth society that requests to conduct a meeting in the District's facilities or on school grounds must be given equal access to school premises or facilities to conduct meetings. Such groups must also be given equal access to any other benefits and services provided to other groups that are allowed to meet on school premises or in school facilities. These benefits and services may include, but are not necessarily limited to, school-related means of communication, such as bulletin board notices and literature distribution, and recruitment.

Any decisions relevant to the provision of equal access must be made on a nondiscriminatory basis. Any determinations of which youth or community groups are *outside groups* must be made using objective, nondiscriminatory criteria, and these criteria must be used in a consistent, equal, and nondiscriminatory manner.

The USDE OCR enforces the requirements of the Act.

ESEA, as Amended by the No Child Left Behind Act of 2001, § 9525, Equal Access to Public School Facilities; Boy Scouts of America Equal Access Act; and *34 CFR Part 108*

School Prayer

A related provision applies to constitutionally protected prayer in public schools. As a condition of receiving federal funds, the District must certify in writing that no policy of the District prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary and secondary schools. Per statute, the certification must be provided to TEA by October 1 of each year. However, TEA includes the certification in the federal NCLB Consolidated Application each year in the NCLB Provisions and Assurances, Section N, thus eliminating the need for LEAs to submit a separate certification.

The provision also requires the Secretary to provide guidance to Districts and to publish the guidance on the Internet. A link to the guidance is provided below. *ESEA, as Amended by the No Child Left Behind Act of 2001, § 9524*

USDE Guidance on Constitutionally Protected Prayer in Public Schools

The Assistant Superintendent of Academic Services coordinates and ensures compliance with the requirements of this Act.

D. Program Reporting

Federal regulations require that grantees cooperate in any evaluation of the program. 34 CFR § 76.591. States may require subgrantees to furnish reports that the state needs to carry out its evaluation and performance reporting duties. 34 CFR § 76.722. Evaluation reports must include

- the District's progress in achieving the objectives in its approved application
- the effectiveness of the project in meeting the purposes of the program
- the effect of the project on participants being served by the project

Federal regulations also require that grantees, in this case, TEA, submit, at a minimum, annual performance reports to the federal awarding agency. 2 CFR § 200.328. The federal awarding agency may also require quarterly or semi-annual reports. Performance reports must contain, for each grant, brief information on the following:

- a comparison of actual accomplishments to the objectives established for the project period
- the reasons why established objectives were not met, if applicable
- additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs

Grantees must adhere to the same standards in prescribing performance reporting requirements for subgrantees.

In addition, events may occur between the scheduled performance reporting dates which have significant impact upon the grant activities. 2 CFR § 200.328(d). In such cases, the regulations require the District to inform TEA, and TEA to inform the USDE or other federal awarding agency, if appropriate, as soon as either of the following conditions become known:

- problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.
- favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more beneficial results than originally planned

The USDE or TEA may make site visits as warranted by program needs.

Program reporting requirements are specified in the *Program Guidelines* accompanying each RFA published by TEA. The program manager/director assigned to the program is responsible for ensuring mechanisms and systems are in place or collecting and analyzing any and all required data and/or information and for reporting such data and/or information in accordance with TEA's requirements.

XII. Legal Authorities and Helpful Resources

The following documents contain relevant grants management requirements. Staff should be familiar with these materials and consult them when making decisions related to the federal grant.

- Education Department General Administrative Regulations (EDGAR)
  - http://www2.ed.gov/policy/fund/reg/edgarReg/edgar.html
- Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (2 CFR Part 200)
  - http://www.ecfr.gov/cgi-bin/text-idx?SID=ccccf77e01c9e6d4b3a377815f411704&node=pt2.1.200&rgn=div5
- USDE's Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (2 CFR Part 3474)
  - http://www.ecfr.gov/cgi-bin/text-idx?SID=ccccf77e01c9e6d4b3a377815f411704&tpl=/ecfrbrowse/Title02/2cfr3474_main_02.tpl
- Federal education program statutes, regulations, and guidance
  - http://www.ed.gov/