

# GALENA PARK INDEPENDENT SCHOOL DISTRICT

## Federal Programs & Grants 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)



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## General Information

### **Purpose**

This section sets forth the policies and procedures used by Galena Park Independent School District (the District) 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.

This 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 section to gain familiarity and understanding of the District's rules and practices and to comply with all requirements.

### **Effective Date**

For awards made prior to December 26, 2014, the uniform requirements found in 34 CFR Parts 74 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.

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.

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 section 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.

The District elected to take the three-year grace period and implement EDGAR on July 1, 2018.

*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 section apply to all federal grants received by the District and to all employees of the District.

**Monitoring for Compliance and Consequences for Noncompliance**

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 Part 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:

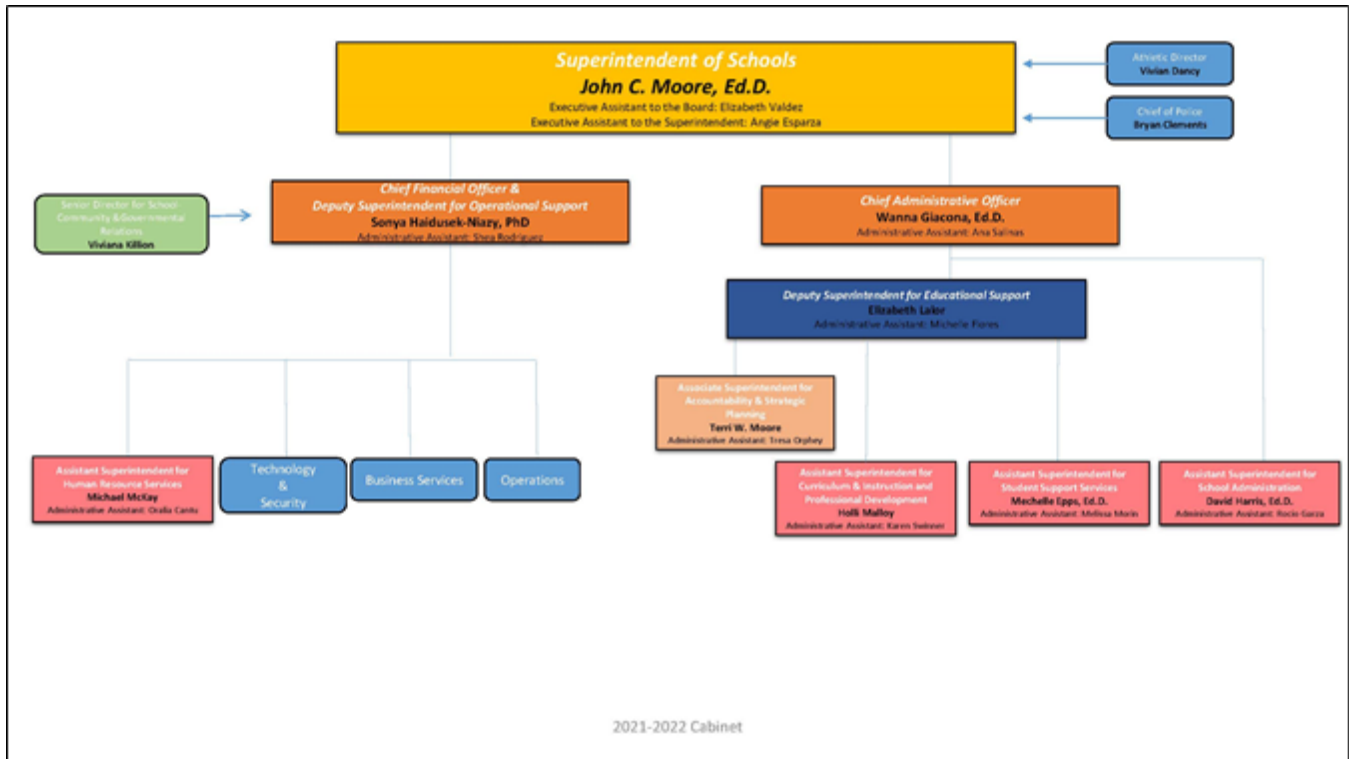
EDGAR	Applicability
34 CFR Part 75 – Direct Grant Programs	Applies to grants awarded directly to the District by the USDE or by another federal awarding agency; also applies to subgrants awarded by TEA for a competitive grant that TEA applied for and received
34 CFR Part 76 – State-Administered Programs	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.

**Organization of District**



## Board Policy

The following Board Policy should be referenced for additional information associated with this section of the manual:

Policy Code	Title: Subtitle
DEA (LOCAL)	Compensation and Benefits Compensation Plan
DBD (LOCAL, EXHIBIT)	Employment Requirements and Restrictions: Conflict of Interest

## Federal Grant Application Process

### 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 Description:* 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.
- [Every Student Succeeds Act \(ESSA\)](#): Required for all programs funded under the Elementary and Secondary Education Act of 1965, as amended by Public Law 114-95, Every Student Succeeds Act (ESSA).

TEA's Provisions and Assurances webpage is located at: <https://tea.texas.gov/finance-and-grants/grants/grants-administration/guidelines-provisions-and-assurances>

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 and the Executive Director for Federal Programs and Compliance, are the authorized officials 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 section, 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 section.

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 Board of Trustees 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 submission. Please coordinate with Anna Gonzales prior to applying for a federal grant.

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 [Grants.Gov](#).

### **Financial Management System**

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 19TEA'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 6 modules:

- Module 1 – Financial Accounting & Reporting (FAR) (PDF, 2,518 KB) and FAR Appendices (PDF, 7,241 KB)
- Module 2 –Special Supplement - Charter Schools (PDF, 1,556 KB)
- Module 3 – Special Supplement - Nonprofit Charter School Chart of Accounts (PDF, 3,398 KB)
- Module 4 – Auditing (PDF, 2,376 KB)
- Module 5 – Purchasing (PDF, 1,401 KB)
- Module 6 – State Compensatory Education, Guidelines, Financial Treatment, and an Auditing and Reporting System (PDF, 917 KB)

### **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 options. For each accounting transaction, the minimum 15-digit account code structure consists of a *fund code, function code, object code, organization 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, 34 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.

The Business Office is responsible for ensuring the required information is entered into the general ledger once it is received from the Federal Programs and Compliance Department. This information is entered at the beginning of each grant year as it is received from the federal government through the NOGA process. The information is then reviewed by the Special Revenue Accountant and the Director for Accounting Services to ensure accuracy in the specific amounts and categories.

### **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.

On a monthly basis, the Special Revenue Accountant runs a Revenue and Expenditure Report from the District's financial software. The expenditures from the reports are entered into an Expenditure Report spreadsheet by object code to identify abnormalities and issues that may be problematic. The Director for Accounting Services reviews and confirms the expenditures to date and the recommended drawdown amount or communicates corrections as necessary. After proper approval, the Special Revenue Accountant will access TEAL and request the drawdown. The reimbursement is then certified by the Director for Accounting Services in order for the payment to be processed. For non-TEA grants, the reporting and review process is similar and the Special Revenue Accountant will access the system of the granting agency to request the drawdown.

### **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 subgrant 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 district's financial software program is used to ensure that the minimum 15 digit structure coding is adhered to prior to any transaction being allowed to be entered into the system for authorization. In the event that a manual journal entry is required, the Special Revenue Accountant reviews and approves the transaction prior to any final system entry.

Purchases requisitions are entered into the district financial software by individual departments and proceed through the approval process for verification by several individuals before the final purchase order is approved and printed for use by the corresponding department.

### **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 § 200.303, "internal controls" means a process implemented by the District to provide reasonable assurance regarding the achievement of objectives in the following categories:

- Effectiveness and efficiency of operations
- Reliability of reporting for internal and external use, and
- 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 all pertaining federal funds. The training process begins with a review and/or revision of the current procedures as warranted and necessary. The final procedures are published in a central location for reference by all employees who use them in the daily operations of conducting their job duties. The updates or changes in the current procedures are compiled and a training program is developed. The initial step in training is to verify and inform central office personnel who directly deal with the end steps of the federal programs validation process. Once this training is complete and in place, individual campus principals, assistant principals and campus leadership are trained on the procedures. Finally, the information is disseminated to the remainder of district employees until everyone who has a vested stake and interest in the program is trained.
- 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 (see procedure above).
- 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 safeguards personally identifiable information for students, teachers, and other populations served in grant programs according to FERPA regulations by only allowing those persons with an education “need to know” reason or job duty required access through their position.

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.
- Property is properly disposed of.
-

As part of the annual financial audit the external auditors are required to conduct an analysis of the District's internal controls and report on their effectiveness. If there are any findings and/or recommendations for improvements then these are implemented immediately by the Business Office.

### **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. See the procedures listed under the *Identification of All Federal Awards* and *Financial Reporting* sections.

- Expenditures requiring manual approval are usually due to requests for funds that exceed the threshold of the grant or 25% of the total grant award.
- Thresholds are established for each grant and reimbursement is automatic within the thresholds,
- The percent allowable aggregates each month.
- Narrative justification is required for exceeding requests that exceed the threshold. This is a brief detailed explanation and/or additional supporting documentation.
- The e-grant certification manager consults the originator of the program under question to secure justification for the discrepancy and then provides the documentation in response to TEA.
- Documentation should include the general ledger, the payroll ledger, payroll checks, invoices, receipts and vouchers.

### **Cash Management**

The District maintains written procedures to implement the cash management requirements found in 2 CFR § 200.305 and in EDGAR.

Please see *Financial Management System: Federal Cash Management Policy/Procedures* in this manual for these written cash management procedures.

### **Allowable Costs**

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

Please see *Financial Management System: Expending Grant Funds* in this manual for the written procedures for determining allowability of costs.

### **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 District's Business Office 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.

Prior to a grant award, the following proposal development has occurred:

- Identification of any issues or needs and the funding source to be used: A request for funding must relate to an identified need or problem with a school or the district.
- Development of the proposed budget: Involvement of all parties who will be affected by the project and all funding guidelines has been followed. The following elements have been incorporated into the grant/federal fund:
  - *Statement of Need:* Grant need that is supported by quantitative and qualitative data.
  - *Goals and Objectives:* Goals and objectives related to the need have been identified in the grant where goals become the broad and long-term target while the objectives are your short-term. Both goals and objectives are measurable, realistic and indicate a change in outcomes.
  - *Plan of Operation:* A detailed plan of operating the grant has been identified where strategies and activities are outlined to reach the grant objectives and goals. A management plan, a timeline, and listing of key personnel are included.
  - *Evaluation:* All ongoing and final evaluations are described as links to the goals and objectives of the grant. Data collection and personnel responsible for conducting the evaluations are specified.
  - *Budget:* A detailed budget narrative and a completed budget form have been developed with the approval of the Executive Director for Federal Programs and Compliance.

Notification Of Grant Award (NOGA):

- Upon notification of the grant award, the grantee submits a copy of the grant award letter, a copy of the grant, and copies of all budget and reporting forms to the Director of 504 and Grants.
- The grantee must develop a detailed budget of the grant and submit to the Business Office. The Special Revenue Accountant will review and code each budget item in accordance with the provisions of the Financial Accountability System Resource Guide, create an electronic budget account and notify responsible grant recipients.
- All budget expenditures must adhere to the District's board policies and procedures.
- No funds are expended from the grant until a NOGA has been received, unless pre-award costs are specifically allowed by the grant program and included in the approved application.

Grant Process:

The following steps are taken when administering a grant:

1. The Federal Programs Specialist forwards a copy of the grant award and NOGA along with any other required information to the Special Revenue Accountant.
2. Pre-award costs (Payroll) - When allowed by the grant program, the Special Revenue Accountant will coordinate with the Grant Manager, Human Resources, and Payroll to set up the appropriate codes and budget for approved positions prior to the receipt of the NOGA. In the event the grant application is denied, the District will absorb these costs. All federal/state/local rules will apply, including time and effort records and signed job descriptions.
3. Pre-award costs (Other) - When allowed by the grant program and included in the application, most expenditures will be reclassified to the grant once the NOGA is received. All federal and state procurement laws must be followed at the time of the purchase, regardless of the original source of funding, in order for an expenditure to be reclassified. In certain circumstances, budget funds may be set up within the grant fund for pre-award expenditures. Pre-award expenditures that did not follow the most restrictive federal and state procurement laws, as applicable, will not be eligible for reimbursement.
4. Pre-award costs in which the expenditure(s) occurred in a prior, closed fiscal year are not eligible to be reclassified. As such, the grant reimbursement should be recorded as revenue in the same fund in which the prior fiscal year expenditures were recorded.
5. Purchasing: All purchase requisitions to expend federal funds are accessed through the electronic financial system. Approval workflows and forms have been set up to ensure that grant funds are reviewed and expended according to the guidelines of the approved grant.
6. Human Resources: If there are supplemental campus salaries being paid through grants/federal funds, collaboration must occur between the grant recipient and the Human Resources department to ensure positions are coded correctly. An applicant recommendation form is completed using the District's electronic financial system to ensure grant-funded employees are coded to the approved grant/federal fund.
7. Time and Effort: Once per year, during the fall, the Executive Director for Federal Programs and Compliance and the Federal Programs Specialist visit with each campus principal to review their staffing rosters and master schedules to ensure that any split-funded employees are coded correctly and those employees are performing their duties as assigned and as allowed under grant guidelines. Time and Effort rosters are signed by the campus principal and the Executive Director for Federal Programs and Compliance and are kept on file in the Federal Programs and Compliance Office and Business Office.
8. Invoicing and Fiscal Reporting: All invoicing, draw-downs, and expenditure reports are done by the Special Revenue Accountant in the Business Office.

Personnel responsible for the activities described in the planning process include but are not limited to the following:

- Campus initiated purchase requestor
- Grant fund district department coordinator
- Grant fund program coordinator
- Business Office personnel

Reviewing and Approving the Budget Prior to Submitting the Application:

By the end of the month of May, the Federal Programs Specialist 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 *Financial Management System: Expending Grant Funds*, for a discussion on performing allowability determinations. If the Executive Director for Federal Programs and Compliance determines that a cost is not allowable, then the expenditure is removed from the proposed federal budget. If an expenditure is deemed to be unallowable, the department requesting the expenditure is then notified by the Federal Programs Specialist that an alternate fund source should be considered to cover the expenditure.

Once the Federal Programs Specialist 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 Executive Director for Federal Programs and Compliance for final review and approval. Generally, the budget receives final approval by the last day of May. 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 48 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**

Once the application has been approved by the awarding agency and a NOGA has been issued, the Federal Programs Specialist then moves forward with requesting the setup of the appropriate account codes in the district's financial accounting system. If the amount of the NOGA differs from the original submitted application, the Federal Programs Specialist then contacts the awarding agency to determine the reason for the discrepancy. If the original proposed budget requires an adjustment, the Executive Director for Federal Programs and Compliance calls for a meeting that would include the original budget planning staff members to discuss any necessary adjustments that can be made to the proposed budget.

Within 2 days of receiving the approved application and NOGA/GAN from the awarding agency, a complete copy of the application and NOGA/GAN will be provided to the Special Revenue Accountant. The Federal Programs Specialist is responsible for providing copies to appropriate staff members.

All grant budgets are entered into the accounts of the District in the general ledger as approved in the application. The Federal Programs Specialist enters the approved budgets into the district's financial accounting system via web-based software. The Executive Director for Federal Programs and Compliance then reviews and electronically approves each budget entry. The approved budget entries are then routed to the Special Revenue Accountant for approval and posting to the general ledger.

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. As soon as the District receives the NOGA, the Federal Programs Specialist or Financial Clerk will ensure that all necessary account codes are available for use in the District's electronic financial system.

- If it is determined that it is necessary for accounts to be added, the Federal Programs Specialist or Financial Clerk will prepare a spreadsheet of all necessary codes and forward to the Special Revenue Accountant in the Business Office for review and approval. The Special Revenue Accountant will forward codes for entry in the financial system to the Fixed Assets Specialist.

- All budget planning documents are prepared and completed by the Federal Programs Specialist before the start date of the grant award. All budget entries in the financial system are complete on or around the start date of the grant and are ready for final approval and posting by the Special Revenue Accountant.

### **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:

Once the program or grant is approved and a NOGA is issued, re-budgeting within the approved direct cost budget to meet unanticipated requirements and make certain changes to the approved budget is permitted without submitting written amendments. Expenditures in each object class are monitored and reviewed by the Federal Programs Specialist on a monthly basis to determine if an amendment is required.

#### Monitoring and Amending the Program Description:

Amendment with awarding agency is required in the following circumstances:

- Add a class/object code not previously budgeted on the Program Budget Summary
- Increase or decrease the amount budgeted in any class/object code on the Program Budget Summary by more than 25% of the current amount approved in the class/object code (for discretionary grants) or of the total approved budget (for formula grants).
- Add a new item that requires specific approval in the itemized costs.
- Increase or decrease the number of positions approved under Payroll Costs (6100).
- Add a new item of computer hardware/equipment (not capitalized) approved under Inventory Items (6300).
- Add a new Fixed Asset item approved under Capital Outlay for articles costing \$5,000 or more (6600).
- Add a new item or increase the quantity of Fixed Asset items approved under Capital Outlay for articles costing \$5,000 or more (6600).
- Revise the scope (extent or range) or objectives of the grant (regardless of whether there is an associated budget revision requiring prior approval).
- Add carryover funds.
- Add maximum entitlement funds.

Amendment is not required:

#### Discretionary Grants

- Increase or decrease the amount of funds for a previously-approved itemized cost requiring specific approval as long as it does not result in an increase by more than 25% of the amount budgeted in the class/object code.



- Increase or decrease the amount of funds currently approved in a class/object code as long as a new line item requiring specific approval is not being added and as long as the previous condition does not require an amendment.

Formula Grants

- Increase or decrease the amount of funds approved in an object code as long as a new line item requiring specific approval is not being added & cumulative transfers don't exceed 25% of the total approved budget.

All Grants

- Increase the quantity of technology hardware (not capitalized) previously approved under Inventory Items (6300) as long as a new item of technology hardware is not being added.
- Increase the quantity of capital outlay items previously included and approved in the list of articles costing less than \$5,000 under Capital Outlay (6600) as long as a new item of capital outlay is not being added.
- Follow procedures listed in the grant for submission of schedules and reasons for amendments.

NOTE: Budget amendments to the awarding agency will be reviewed by the Executive Director for Federal Programs and Compliance or grant administrator prior to submission.

**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.

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 (d).

The Grant Manager shall monitor the expenditures during the grant period to ensure that the funds are spent in a systematic and timely manner to accomplish the grant purpose and activities. The following timeline shall be used as a general guide for spending thresholds for a grant period of 15 months.

The optimal spending thresholds noted below may be adjusted based on programmatic needs. For example, if the federal grant will be used for summer activities such as summer school, a larger percentage of the grant may need to be withheld for those specific activities.

- Within 3 months of the grant start date 25%
- Within 6 months of the grant start date 50%
- Within 9 months of the grant start date 75%
- Within 12 months of the grant start date 100%

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. 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. If a grant allows for pre-award costs, the effective dates will be stated in the grant application.

*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, 2017, would remain available for obligation by TEA through September 30, 2019.

July – September (Forward Funding)	3 months
October – September (Federal fiscal year)	12 months
October – September (carryover period; Tydings Amendment)	<u>12 months</u>
	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 submission of the final expenditure report to TEA. For *direct grants* from the Department of Education, this may be no later than 90 days after the end of the funding period unless an extension is authorized.

Any funds not obligated within the period of availability or not liquidated within the appropriate time frame 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.

On a monthly basis, the Special Revenue Accountant provides an internal report used as a tool to assist monitoring up-to-date balances from the current month-end expenditure report to the Executive Director for Federal Programs and Compliance and each Budget Manager. The report includes the awarded NOGA amounts in comparison to the current year’s budgeted amounts, and all open purchase orders through the current ending period. The completed monthly report is submitted to the Executive Director for Federal Programs and Compliance. The Grant Department staff monitors obligated and unobligated balances to ensure an excessive amount of funds do not lapse. All goods and services must be received and provided 30 days prior to the end of the current grant cycle. In the event that an item is not utilized by this time, the item is either cancelled or the purchase is incurred for the next grant cycle. The Accounts Payable Department receives the bills and makes this determination according to the calendar date upon receipt.

**Carryover**

**§200.309 Modifications to Period of Performance. If a Federal awarding agency or pass-through entity approves an extension, or if a recipient extends under §200.308(e)(2), the Period of Performance will be amended to end**

**at the completion of the extension. If a termination occurs, the Period of Performance will be amended to end upon the effective date of termination. If a renewal award is issued, a distinct Period of Performance will begin.**

*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)

At this time, Program extensions will not be approved or allowed in the District.

### **Accounting Records**

The Business Office 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 found on TEA's website Financial Accountability Resource Guide (FASRG). The chart of accounts provided in FASRG provides the framework for the accounting system, and the District uses the accounting terminology specified in FASRG and generally accepted accounting principles (GAAP).

All journal entries posted to the general ledger are reviewed for accuracy and appropriate classification by the Senior Accountant and/or the Director for Accounting Services. The Accounts Payable Supervisor is responsible for accurate disbursement of funds.

Every effort is made to avoid incorrect entries to the general ledger. In the event a reclass is necessary, a Journal Entry Form is prepared with all pertinent documentation as back up to make a correction to the general ledger. In addition, the Business Office may require the campus or a department to complete a Journal Entry Request Form found on the District's website under Districtwide Business Forms.

The Business Office 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.

Invoices that are received by mail, fax or email are attached to a copy of the original purchase order. Once the items have been received in the financial system and proper approvals are received, the payment is processed by the Accounts Payable Department. No payment will be processed without sufficient documentation and approvals. If documentation does not qualify for grant funding, the payment will be processed using other funds. All payments must be approved by the budget manager and Special Revenue Accountant. The complete paid file is then filed in the Accounts Payable Department. If an invoice is not received from the vendor, Accounts Payable will contact the vendor. All invoices must be legible or a new one will be requested. No payment is made without proper documentation.

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 *Record Keeping* of this section for more information about these requirements.

### **Documentation Associated With Using District Credit Cards/Procurement Cards**

Purchases made with credit cards or procurement 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. For more information, including District policy and regulations for using the procurement card, see Section 12: Procurement Cards in the District's [Fiscal Procedures Manual](#).

EDGAR regulation 2 CFR § 200.302(b)(7) requires that grantees have written procedures for determining the *allowability* of costs charged to federal grants **and** documentation that written procedures were followed to make the determination. The District will limit its liability related to items purchased with District credit cards to be paid with federal funds; therefore use of the District procurement card for items to be paid with federal funds (2XX-4XX) is not allowed unless prior approval has been obtained from the Executive Director for Federal Programs & Compliance.

The District has made available credit cards at Sam's Club to be used to purchase items to be paid with federal funds (2XX-4XX). **An approved purchase order must be in place before obligating and spending the funds on the credit card.**

Employees who receive and use district-issued credit cards must submit to the Business 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 billing date of the charge

*Rebates on Purchase Cards:* Per 2 CFR 200.406, Applicable Credits, requires the refund or rebate to be credited back, either as a cost reduction or cash refund, to the federal grant program in proportion to the amount of federal program expenditures that were charged on the card that generated the refund/rebate. When the rebate or applicable credit is received after the end of the fiscal year in which the expenditure was incurred, the type of grant program will determine how the rebate is credited back to the federal grant. For continuous formula programs where the subgrantee has a continuing grant under the federal program in the subsequent year, the rebate may be credited back to the current year grant program as a cost reduction. If the grant has permanently ended (there is no continuing grant) then a refund equaling the rebate amount must be remitted to TEA and subsequently will be returned to the federal government.

## **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 benefited, 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. The *unrestricted* rate may be used for federal grants that do *not* contain the supplement, not supplant requirement. The Special Revenue Accountant is responsible for extracting the required information to be included in the indirect cost rate proposal and submitting it to TEA., The District shall apply for an indirect cost rate through TEA in accordance with the current regulations. The Special Revenue Accountant shall complete and submit an indirect cost rate proposal by the established deadline as specified by TEA on the indirect cost website. The District has applied for and been granted an IDCR by TEA at a rate of 5.731% through June 30, 2023.

*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. 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.

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.

In the event that a grant has any funds left at the end of the grant period, the Business Office calculates the indirect costs from the indirect cost rate and submits it through the Expenditure Report. This is done for the final grant report for the year.

### **Determining Allowability of Costs**

Grantees are required to have written procedures for determining the *allowability* of costs charged to federal grants. 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, the Executive Director for Federal Programs and Compliance and the Federal Programs Specialist will review the proposed cost **and document** how it is determined 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 campus principals and financial clerks, 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 Executive Director for Federal Programs and Compliance 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.

See Appendices for the list of forms.

### **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):

<b>Item of Cost</b>	<b>Citation of Allowability Rule</b>
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
Telecommunication Costs and Video Surveillance Costs	2 CFR § 200.471
Termination costs	2 CFR § 200.472
Training and education costs	2 CFR § 200.473
Transportation costs	2 CFR § 200.474
Travel costs ( <i>TEA restricts to actual costs, not per diem</i> )	2 CFR § 200.475
Trustees	2 CFR § 200.476

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 *Programmatic Fiscal Requirements: Supplement, Not Supplant*, of this section 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.

### **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 hosting 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. District employees engaged in federally-funded activities are required to consult this document regularly and be familiar with its contents. Annual training on updates of procedures and practices will be implemented at the beginning of each school year as necessary.

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**

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 [Grants Compliance and Administration](#) page.

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 not provide for reimbursement of travel expenses at a higher rate as specified in the District's written travel policies (see Section 6: Employee Travel for more information).

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

*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 § 200.464(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:

- The costs are a direct result of the individual's travel for the federal grant.
- 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.
- 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 § 200.464(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.

In order for travel to be allowed from a federal fund, the following questions must be completed and submitted prior to making travel arrangements:

1. What concepts will be covered?
2. How will GPISD students or staff benefit from this event? Justification tied to CIP/DIP/Supt & District Goals?
3. How will the information be shared with others?
4. How is the expenditure reasonable and necessary to carry-out the purpose of the grant?
5. What need, as identified in the comprehensive needs assessment, does the expenditure address?
6. What is the description in the Campus/District Improvement Plan, of the goal, objective and strategy addressed by expenditure?
7. If it is for school-wide use, how will the expenditure upgrade the entire program on campus?
8. How is the expenditure supplemental to other non-federal programs?
9. How will the expenditure be evaluated to measure positive impact on student achievement?

The answers must be submitted on a Non-Overnight or Overnight Travel Request form and sent to the Executive Director for Federal Programs and Compliance for initial approval. Once this approval step has been cleared, it will be forwarded to the Business Office for secondary approval. When the travel is approved by the Business Office, the originator of the travel will be notified that they may then enter logistics for their travel purchase order.

Refer to Section 6: Employee Travel, which complies with TEA's guidelines related to travel, for specific provisions related to travel. 2 CFR § 200.464(a).



### Request to Travel Form

Employees who plan to travel must complete a *Non-Overnight or Overnight Travel Request* form located in Eduphoria Formspace *prior* to travel, detailing the dates of the proposed travel, purpose of the travel, how it will benefit the grant program, and *estimated* travel expenses. The *Non-Overnight or Overnight Travel Request* form must be approved by the Program Manager, the Executive Director for Federal Programs and Compliance, and the Assistant Superintendent for Student Support Services. A notification is sent to the Senior Accounts Payable Clerk/Travel Specialist in the Business Office. The Program Manager will verify that the travel by the particular *individual* is necessary to accomplish the objectives of the grant program. The Senior Accounts Payable Clerk/Travel Specialist will verify that costs are reasonable and consistent with the District's travel policies.

Out-of-state staff travel expenditures require a written justification documented on the TEA Grants Administration Division form. This form is maintained locally as specified in the application guidelines and instructions.

See Appendices for forms.

### Travel Reimbursement

Travel costs must be properly documented to be reimbursable by the District. The employee must document travel costs with a *Travel Reimbursement Form* located in the District website under Business Services Forms. This form is completed *after* the travel has occurred. The *Travel Reimbursement Form* must include the following at a minimum:

- Name of the individual claiming travel reimbursement
- Destination and purpose of the trip, including how it was necessary for this particular individual to travel on this particular trip in order to accomplish the objectives of the grant program
- Dates of travel
- Actual mileage (not to exceed reimbursement at the maximum allowable rate). Travelers are required to calculate mileage by one of the following two methods:
  - Actual odometer reading (point-to-point method)
  - Electronic mapping source (such as that on [www.Mapquest.com](http://www.Mapquest.com) or any other online mapping service). If this method is chosen, the traveler must print out the driving directions provided by the site and attach them to the travel voucher.
  - Travelers are required to select the shortest and most economical route but may justify the selection of another route if it was chosen for safety reasons and specific justification of the selection is given.
- *Actual amount* expended on lodging per day, with a receipt attached (may not exceed the federal rate for the locale)
- *Actual amount* expended on meals per day (must not exceed the federal rate for the locale; tips and gratuities are not reimbursable). Receipts for meals are not required by TEA but may be required per local District policy.
- Actual amount of airfare (receipt must be attached; a printed copy of an online receipt is acceptable)
- Actual amount expended on public transportation, such as taxis and shuttles (receipt not required by TEA but may be required per local District policy)

- Actual amount expended on a rental car, with receipt attached and justification for why a rental car was necessary and how it was more cost effective than alternate transportation; receipts for any gasoline purchased for the rental car must be attached (*mileage* is not reimbursed for a rental car – only the *actual cost for gasoline* is reimbursed)
- Actual cost of gasoline for a rental car (receipts must be attached)
- Actual cost of parking (receipt may be required at the local level, but is not required by TEA)
- Actual amount expended on incidentals, such as hotel taxes, copying of materials, and other costs associated with the travel (receipts must be attached)
- The amount of any cash advance paid to the employee prior to the travel
- Total amount to be reimbursed to the employee
- The signature and date of the employee
- The signature and date of the supervisor or other manager

Travel costs that are not supported by proper documentation as described above are not allowable to be charged to the grant and are subject to disallowance by state and federal auditors and monitors.

Predetermined Conference Hotel Lodging Rates:

The primary goal is to demonstrate that the employee is staying in the most cost-effective (while still being safe) hotel lodging. If the hotel *conference* rate *exceeds* the federal rate for the locale, check the rate of hotels in close proximity and **print or record the rates in writing**. If the hotel is within walking distance and is within the federal rate for the locale, it may be difficult to justify staying at the conference hotel at the higher rate.

But if the hotel with a lower rate is *not* within walking distance and **would require the traveler to travel by bus, taxi, or even rental car to get to the hotel conference facilities each day**, it may be justifiable to stay at the conference hotel with the higher rate if the traveler can document that it would cost more to stay at another hotel and pay for the bus or taxi at least twice per day, or even pay for a rental car and gas and parking for the rental car (whichever is the most economical) than to stay at the conference hotel.

Complete and accurate documentation must be maintained in order for this scenario to be considered acceptable by an auditor or monitor.

Other costs 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 §200.322 Domestic preferences for procurements. (a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award (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 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*. If necessary or required, the proposed meeting or conference will be budgeted in the approved application.

Hosting or Sponsoring Conferences require written justification documented on the TEA Grants Administration Division form. This form is either submitted with the grant application or maintained locally as specified in the application guidelines and instructions. See Appendices for forms.

*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.

The District permits the use of federal funds for education field trips out of Title I, C and Tile IV, A. Educational field trip expenditures require written justification documented on the TEA Grants Administration Division form. This form is maintained locally as specified in the application guidelines and instructions. See Appendices for forms.

### **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**

Galena Park Independent School District does not use federal funds for renovations, remodeling or construction of any building or structures within the district. In the event that this process becomes necessary, the following is a rough draft of the guidelines for use of funds for this purpose.

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.

### **Use of Federal Funds Benefiting 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 benefits. 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.

Private, nonprofit schools are not allowed to utilize funds for any purpose other than to provide targeted instruction to eligible students upon request and proof of eligibility.

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

## **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 TEAL (TEA Login) username and password to access ER. 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. In addition, the District will comply with the cash management procedures described in the *Financial Management System: Federal Cash Management Policy/Procedures* of this section.

The Special Revenue Accountant prepares the interim report and it is reviewed by the Director for Accounting Services, the Program Manager, and the Executive Director for Federal Programs and Compliance prior to submitting the reports in ER.

Each report is certified by the Director for Accounting Services, 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).”

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 behalf 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 *Monitoring: TEA Monitoring, Identification as a High-Risk Grantee* in this section.)

### **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.

### **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.

### **Reimbursement Method**

Under the reimbursement method, the District charges federal grant expenditures to the federal grant, records the receivables due from the federal agencies and recognizes revenue. When the payment is received, it is applied to the receivables. All reimbursements are based on actual disbursements and wages, not on obligations.

The District Special Revenue Accountant 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

### **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 § 1201.80. The District will not generate any



program income as part of a federal grant award, unless it is a requirement of the grant, to reinvest the income in the federal grant award to accomplish the grant activities.

*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.

### **Use of Program Income**

The District does not currently utilize or produce any program income. In the event that this situation arises in the future, the following is a rough draft of the possible applicable procedures for use.

*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). See Appendices for forms.

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 another 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.

## Procurement System

*Module 5* of TEA's FASRG outlines requirements and best practices related to the purchasing function. Reflecting state (and some federal) requirements for purchasing, *Module 5* 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 5)* 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 5* and in state law.

In accordance with TEA's *purchasing policy* established in *Module 5*, 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 5*, 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 5*. 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.

Purchasing Guidelines are outlined in the [Fiscal Procedures Manual](#) Section 4: Purchasing and in GPISD Procurement Procedures.

### **Conflict of Interest Requirements**

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.

See Appendices for forms.

## Standards of Conduct

### *State Requirements*

According to *The Handbook on Purchasing for Texas Public Schools, Junior Colleges and Community Colleges* (Module 5 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:

- 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.
- 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.
- 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.
- **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]).

- A political subdivision can use district funds however; purchase small gifts, plaques, and flowers (less than \$50) for employees if the political subdivision determines that such expenditures accomplish a public purpose, such as enhancing employee morale.
- Flowers/gifts (in any amount) for birthdays, retirement or bereavement should be paid for with faculty funds.
- **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.
- **Contract Clause:** The prohibition against gratuities and kickbacks prescribed above should be conspicuously set forth in every contract and solicitation therefore.

- 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 CFR § 200.318(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.")

Reference current District policy, BBFB (LEGAL), for policy specifications regarding conflict of interest.

#### **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.

No employee or Board member shall participate in selection, award, or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when any of the following has a financial or other interest in the firm selected for award:

- An employee or Board member
- Any member of the immediate family of an employee or Board member
- The partner of an employee or Board member
- An organization that employs or is about to employ any of the above

The District's employees and Board members shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.

The District may establish minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.

[CBB \(LEGAL\)](#)

#### **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. See Appendices for forms.

A vendor to the District shall file any required conflict of interest questionnaire if the person has a business relationship with the District and:

- has an employment or other business relationship with an officer of the District, or a family member of the officer, described by Local Government Code 176.003(a)(2)(A); or
- has given an officer of the District, or a family member of the officer, one or more gifts with the aggregate value specified by Local Government Code 176.003(a)(2)(B), excluding any gift described by Local Government Code 176.003(a-1).

The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the date that the vendor:

- begins discussions or negotiations to enter into a contract with the District;
- submits to the District an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the District; or
- the date the person becomes aware:
  - of an employment or other business relationship with a local government officer, or a family member of the officer; or
  - that the person has given one or more gifts.

The required questionnaire, including signature requirements, may be filed electronically in a form approved by the Commission. Local Gov't Code 176.008.

The records administrator for each district shall maintain a list of local government officers of the entity and shall make that list available to the public and any person who may be required to file a conflict of interest questionnaire. *Local Gov't Code 176.007* [See BBFA].

The District shall provide access on the District's Internet Web site to the required conflict of interest statements and questionnaires filed with the records administrator. The District's conflict of interest forms for local government officers are located on the [Conflict of Interest](#) page. *Local Gov't Code 176.009*

See Appendices for forms.

## [CHE \(LEGAL\)](#)

### **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 will only receive questions on RFP’s or bids in writing and the responses for those questions will be sent to all interested vendors via e-mail or addendum. The Director for Purchasing is responsible for communicating this information and ensuring that no limits to open competition are created.

#### [CAA \(Local\)](#)

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(c). 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.

Open bidding procedures will be followed as outlined in the District’s board policy, CVA (LEGAL). The responsible monitor will be the Executive Director for Treasury and Capital Projects Management.

#### **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.

### **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(e). 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. The Purchasing Department is committed to maintaining an open and equitable opportunity to all interested vendors. Galena Park ISD will seek to competitively procure goods and services whenever possible or as required by policies or statutes. Vendors awarded contracts by the District are placed on the approved vendor list maintained by the Purchasing Department. Also, the District will not preclude potential bidders from qualifying during the solicitation period. The Director for Purchasing is responsible for reviewing pre-qualified 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(d)(1).

Notice of when and where bids or proposals or the responses to a request for qualifications will be received and opened shall be published in the county where the District’s central administrative office is located, once a week for at least two weeks prior to the deadline for receiving bids, proposals, or responses to a request for qualifications. If there is no newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which the District’s central administrative office is located. In a two-step procurement process, the time and place where the second-step bids, proposals, or responses will be received are not required to be published separately. *Education Code 44.031(g)*.

[CH \(LEGAL\)](#)

The Director for Purchasing is responsible for reviewing the solicitation documents to ensure they meet all requirements.

### **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.

§200.318 General procurement standards. (a) The non-Federal entity must have and use documented procurement procedures, consistent with State, local, and tribal laws and regulations and the standards of this section, for the acquisition of property or services required under a Federal award or subaward. The non-Federal entity's documented procurement procedures must conform to the procurement standards identified in §200.317 through 200.327 of this subpart.

### **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 *Financial Management Standards: 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 5*. SSAs, as they pertain to a particular grant program, are described in section 1.3.1 of *Module 1* (FAR).

Competition requirements will be met and applied to documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.

The District may participate in a cooperative purchasing program with another local government or a local cooperative organization. If the District does so, it may sign an agreement with another participating local government or a local cooperative stating that the District will:

- Designate a person to act on behalf of the District in all matters relating to the program
- Make payments to another participating local government or local cooperative organization or directly under a contract, as provided in the agreement
- Be responsible for the vendor's compliance

If the District participates in a cooperative purchasing program, it satisfies any law requiring it to seek competitive bids. The cooperative purchasing programs shall provide an EDGAR compliance certification on an annual basis. If the cooperative fails to provide the certification, the District shall not purchase goods or services through the cooperative with federal grant funds.



Local Gov't Code 271.102; Atty. Gen. Op. JC-37 (1999)

[CH \(LEGAL\)](#)

**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).

*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—

- are not reasonably available within a reasonable period of time;
- fail to meet the performance standards set forth in the applicable specifications or fail to meet the reasonable performance standards of the District; or
- 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.

**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 Director for Purchasing is required to check for excluded parties at the System for Award Management (SAM) website before any procurement transaction paid with federal funds in accordance with THE DISTRICT'S Board Policy CH (LEGAL). This list is located at: <http://www.sam.gov/>. 2 CFR Part 180 and 2 CFR Part 3485.

As a part of the vetting process, purchasing reviews of the SAM system for any person or company who is debarred or suspended prior to allowing the vendor to be set up as a vendor in our financial system.

### **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:

- the purchase price
- the reputation of the vendor and of the vendor's goods or services
- the quality of the vendor's goods or services
- the extent to which the goods or services meet the District's needs
- the vendor's past relationship with the District
- the impact on the ability of the District to comply with laws and rules relating to historically underutilized businesses
- the total long-term cost to the District to acquire the vendor's goods or services
- 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:
  - has its principal place of business in this state; or
  - 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.*)

- 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.
- 2 CFR § 200.215 Never contract with the enemy. Federal awarding agencies and recipients are subject to the regulations implementing Never Contract with the Enemy in 2 CFR part 183. §200.216 Prohibition on certain telecommunications and video surveillance services or equipment.

### **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:

- 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.
- All contracts greater than \$150,000 must address administrative, contractual, or legal remedies.
- All contracts greater than \$10,000 must address termination for cause and for convenience.
- All construction contracts must include the Equal Employment Opportunity clause.
- All prime construction contracts in excess of \$2,000 must include a provision for compliance with the Davis-Bacon Act and its implementing regulations.
- 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.
- 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.
- 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.
- 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.
- A contract or subcontract must not be made to any party that is debarred or suspended from receiving federal funds.
- 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.
- 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 *Procurement System: Contract Administration*.

### **Maintenance of Procurement Records**

Per *Module 5* 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:

2 CFR § 200.322 Domestic preferences for procurements. (a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the

purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. 2 CFR § 200.318

- 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.

Please see *Record Keeping* for more information on the District’s records management policies. A purchase order report is run daily by the Purchasing Department on all requisitions in the Director for Purchasing queue prior to 4:00 pm. The report is saved in Word format on the Business Office shared drive under Purchasing and a hard copy is kept at the Purchasing Clerk’s desk.

All bid documents are kept on the Business Office shared drive under Purchasing and hard copies are filed in the Purchasing Department by the Director for Purchasing.

### ***Time and Materials Contracts***

THE DISTRICT will not use a Time and Materials contract with any Federal Funds agreement.

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 Director for Purchasing in the District is the primary officer 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 Director for Purchasing in the District is the primary officer responsible for handling and coordinating any disputes relating to procurements.

### **Responsibility for Purchasing**

The Director for Purchasing 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.

Requisitions are entered into the financial software system by the Financial Clerk and routed to the Budget Manager and various department heads for approval. Prior to the Director for Purchasing final approval, the Federal Programs and Compliance Department and the Special Revenue Accountant must review and approve (or deny as necessary) the requisition. The Purchasing Clerk is responsible for processing the purchase orders approved by the Director for Purchasing. All Financial Clerks are entered into the software system by the Technology Department once approval is submitted by the Budget Manager.

## **Purchase Methods When Using Federal Funds**

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):

- competitive bidding
- competitive sealed proposals
- request for proposals, for services other than construction services
- interlocal contracts
- design-build contracts
- contract to construct, rehabilitate, alter, or repair facilities that involve using a construction manager
- a job order contract for the minor construction, repair, rehabilitation, or alteration of a facility
- reverse auction procedure as defined by Section 2155.062(d), Government Code; or
- 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 Director for Purchasing in the Business Office verifies the proposed purchase is *reasonable in cost* (i.e., comparable to current fair market value).

All District contracts for the purchase of goods and services, except contracts for the purchase of produce or vehicle fuel, valued at \$50,000 or more in the aggregate for each 12-month period, shall be made by the method that provides the best value for the District:

- Competitive bidding for services other than construction services
- Competitive sealed proposals for services other than construction services
- A request for proposals for services other than construction services
- An interlocal contract
- The reverse auction procedure as defined by Government Code 2155.062(d)
- The formation of a political subdivision corporation under Local Government Code 304.001  
*Education Code 44.031(a)*

*Note:* Regarding construction of school facilities, see CV generally; CVA for competitive bidding; CVB for competitive sealed proposals; CVC and CVD for contracts using a construction manager; CVE for design/build contracts; and CVF for job order contracts for minor repairs/alterations.

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[CBB \(LEGAL\)](#)

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
- Noncompetitive proposals (sole source)

### **Procurement Documents**

- Purchase Order required
- A purchase order is generated through the District's financial software system and emailed to the vendor's email stored in the financial software system automatically
- When a purchase is made, what type of information must be contained on the purchase order or requisition
  - It should include a description of the services to be performed or goods to be delivered;
  - a location where the services are to be performed or goods to be delivered; and
  - the appropriate dates of service or delivery.
- Where is the documentation kept once the purchase is made? What other documentation is maintained with it? Are they recorded in a log?
  - The Financial Clerk attaches all documents to the requisition online, where they can be viewed at any time.
- Responsibilities
  - Financial Clerk enters a requisition into the financial software system
  - The Budget Manager approves the requisition and it is sent to the next approver
  - The Director for Purchasing ensures pricing and contract information before approving the requisition
- Required Number and Types of Quotations
  - Bids are advertised for commodities exceeding \$50,000 threshold or cooperative contract is used
  - Bids are submitted in written form from the Proposer
  - Bids are mailed to the District administration building
  - These bids must be received before a purchase order, requisition, or contract is made

- The Director for Purchasing is responsible for receiving the bids
- All required documents are verified by the Purchasing Coordinator and maintained on the Business Office shared drive under Purchasing and a hard copy filed in the Purchasing Department

### **Micro-Purchases (Purchases up to \$9,999.99)**

Federal methods provide for procurement by *micro-purchase*. *Micro-purchase* is defined in 2 CFR § 200.320(a)(1) as a purchase of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed \$9,999.99. 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,

200.320 Methods of Procurement to be followed.

(i) Distribution. To the maximum extent practicable, micro-purchases should be distributed equitable among qualified suppliers.

(ii) Micro-purchase awards. Micro-purchases may be awarded without soliciting competitive price or rate quotations *if the District considers the price to be reasonable based on research, experience, purchase history or other information and documents it files accordingly*. *Purchase cards can be used for micro - purchases if procedures are documented and approved by the non - Federal entity.*

(iii) Micro-purchase thresholds. The non-Federal entity is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, **and** its documented procurement procedures. The micro-purchase threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations.

(iv) Non-Federal entity increase to the micro-purchase threshold up to \$50,000. NonFederal entities may establish a threshold higher than the micro-purchase threshold identified in the FAR in accordance with the requirements of this section. The nonFederal entity may self-certify a threshold up to \$50,000 on an annual basis and must maintain documentation to be made available to the Federal awarding agency and auditors in accordance with §200.334. The self-certification must include a justification, clear identification of the threshold, and supporting Documentation of any of the following: (A) A qualification as a low-risk auditee, in accordance with the criteria in §200.520 for the most recent audit; (B) An annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or, (C) For public institutions, a higher threshold consistent with State law.

The District maintains evidence of this reasonableness in the records of all micro-purchases. Please see *Factors Affecting Allowability of Costs* for written procedures on how to determine whether a price is reasonable.

### **Small Purchase Procedures (Purchases Between \$10,000 and \$49,999.99 in the Aggregate)**

The *federal* threshold for *small purchase procedures* is \$150,000. 2 CFR § 200.320(a)(2). 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.

(i) Small purchase procedures. The acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold.

(ii) Simplified acquisition thresholds. The non-Federal entity is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk and its documented procurement procedures which must not exceed the threshold established in the FAR. When applicable, a lower simplified acquisition threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations.

The **Procurement by Small Purchase Procedures** shall be used by the District when the purchase of goods or services do not exceed \$50,000, the Simplified Acquisition Threshold (CFR 200.88). The Purchasing Department shall require written, emailed, or faxed quotations from at least three (3) qualified vendors for all small purchases, i.e. purchases that do not exceed \$50,000 [the state law threshold which requires a competitive procurement].

(b) Formal procurement methods. When the value of the procurement for property or services under a Federal financial assistance award exceeds the SAT, or a lower threshold established by a non-Federal entity, formal procurement methods are required. Formal procurement methods require following documented procedures.

Formal procurement methods also require public advertising unless a noncompetitive procurement can be used in accordance with §200.319 or paragraph (c) of this section. The following formal methods of procurement are used for procurement of property or services above the simplified acquisition threshold or a value below the simplified acquisition threshold the non-Federal entity determines to be appropriate.

The District shall use a Product/Service Quote Form to document the quotations from vendors. A copy of the GPISD Product/Service Quote Form shall be filed with the appropriate purchase order.

The District shall strive to obtain small purchases from qualified vendors under a Cooperative Purchasing Program [2 CFR 200.320 (b)]. Even though these cooperative purchasing programs have competitively procured the vendor contracts, the District shall compare the pricing among the vendors to select the best quality and price.

The Cooperative Purchasing programs shall provide an EDGAR compliance certification on an annual basis. If the Cooperative fails to provide the certification, the district shall not purchase goods or services through the Cooperative with federal grant funds.

### **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:

- competitive bidding
- competitive sealed proposals
- request for proposals, for services other than construction services
- interlocal contracts
- design-build contracts
- contract to construct, rehabilitate, alter, or repair facilities that involve using a construction manager
- a job order contract for the minor construction, repair, rehabilitation, or alteration of a facility

- reverse auction procedure as defined by Section 2155.062(d), Government Code; or
- 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 5* 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)

The **Procurement by Sealed Bids** (formal advertising) method shall be used by the district when the purchase of goods or services exceed \$250,000 if the acquisition of the goods or services lends itself to a fixed price contract and the selection of the successful bidder can be made principally on the basis of price [2 *CFR* 200.320 (b)(1)]. The District shall comply with the sealed bid requirements, as defined by the EDGAR, as noted below:

- Bids must be solicited from an adequate number of bidders, but no less than two (2) bidders
- Bids must be publicly advertised and bidders shall be provided an adequate amount of time to prepare and submit their bid. Local criteria shall include:
  - The District shall publicly advertise all bids in accordance with state law, i.e. at least two (2) times in two separate weeks
  - The District shall provide no less than ten (10) days for bidders to prepare and submit their bids
- Bids must contain detailed specifications to ensure that bidders have a clear understanding of the goods or services that the District is seeking to purchase
- Bids must specify the time, date, and district location where bids will be opened publicly
- Bids must be awarded based on a fixed-price contract to the lowest responsive and responsible bidder. The District shall consider discounts, transportation costs, and life cycle costs only if these factors were included in the bid specifications. The District will consider payment discounts because the District does routinely take advantage of payment discounts.
- Bids will be evaluated, ranked, and a recommendation for award made to the School Board at a regularly scheduled board meeting.
  - If no bidder is recommended, the District shall reject all bids and evaluate whether to modify the bid specifications to initiate a new bid process
- The District shall notify the successful bidder and process the contract documents and/or purchase orders, as appropriate
- The District shall notify all of the unsuccessful bidders to ensure that qualified bidders are encouraged to submit bids during future bid opportunities

**\*Note. The state regulations (TEC Chapter 44) related to competitive procurement shall be implemented at a \$50,000 threshold even though the federal regulations allow greater flexibility.**

#### *Competitive Proposals*

The **Procurement by Competitive Proposal** method shall be used by the District when the acquisition of the goods or services exceeds \$250,000 and does not lend itself to a fixed price contract [2 *CFR* 200.320 (d)(5)]. The District shall comply with the sealed bid requirements, as defined by the EDGAR, as noted below:

- Requests for Proposals (RFP) must be publicly advertised
- The RFP shall identify the evaluation factors and their weight in awarding the proposal
- Proposals shall be solicited from an adequate number of bidders, but no less than two (2) qualified vendors
- Proposals shall be evaluated, ranked, and a recommendation for award made to the School Board at a regularly scheduled board meeting
  - The District shall utilize the Competitive Sealed Proposal Process Checklist
  - The District shall develop an instrument to evaluate each proposal and rank the proposals based on the evaluation scores
  - The District shall evaluate each proposal by committee or no less than two (2) district staff with knowledge of the RFP specifications
  - In accordance with state law, the vendor who is ranked highest as providing the “ proposal most advantageous to the district” shall be notified of the potential award
    - The District may negotiate with the vendor only as it relates to potential cost savings
    - If the District and vendor cease to negotiate, the District shall notify the vendor in writing before starting to negotiate with the 2<sup>nd</sup> highest ranked vendor.
- The District shall notify the successful proposer and process the contract documents and/or purchase orders, as appropriate
- The District shall notify all of the unsuccessful proposers to ensure that qualified bidders are encouraged to submit bids during future bid opportunities

#### *Noncompetitive Proposals (Sole Sourcing)*

The **Procurement by Noncompetitive Proposal** method shall be used by the District when the purchase of goods or services is from a “sole source vendor” [2 CFR 200.320 (c) (1)].

A sole source vendor is defined as a vendor that meets the following requirements:

(1) The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold;

- The goods or services are only available from a single source [2 CFR 200.320 (f)(1)]
  - The District shall acquire and maintain a copy of a vendor’s sole source letter which specifies the statutory or other reason for its sole source status
  - The [TEA Division of Grants Administration Request for Noncompetitive Procurement \(Sole Source\) Approval Form](#) shall be utilized to request prior approval of a non-competitive, sole source proposal
  - The District’s Sole Source Justification Form shall be completed and submitted with the single source proposal
- A public exigency or emergency will not permit a delay resulting from the competitive solicitation process [2 CFR 200.320 (c)(3)]
  - The District shall declare a public exigency or emergency prior to making such as purchase of goods or services under this method
- The granting agency or pass-through entity authorized the use of a non-competitive proposal method [2 CFR 200.320 (c)(4)]
  - The District shall obtain written approval/authorization from the granting agency or pass-through entity

- The District has received written authorization from the Texas Education Agency that the Education Service Center, Region 20 is approved as a non-competitive proposal
- After solicitation of a number of sources, competition is determined to be inadequate [2 CFR 200.320 (f)(4)]
  - The District shall determine that competition is inadequate if after two (2) solicitations of bids and/or proposal, only one vendor is responsive to the solicitations

**Note. TEA has approved Education Service Centers in the non-competitive proposal category.**

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

In accordance with the requirements in 2 CFR § 200.324, 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 \$250,000. 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 § 200.324(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 Cost Analyst 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 § 200.324(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.

### **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 5 of the FASRG addresses the use of credit/pro cards. Misuse and abuse will not be tolerated.

In accordance with suggested procedures in *Module 5* 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.

#### *Accountholders*

- Requires account holders 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 account holders to complete training prior to receiving a card and acknowledge in writing receipt of the policy and procedure manual.

#### *Approvers*

- Revokes a department's card privileges if a departmental approver does not review and approve transactions according to policy.
- Requires the approvers to call the employee immediately upon noticing a questionable transaction rather than waiting for the due date of receipts.
- Requires the approvers to complete training prior to reviewing transactions and acknowledging in writing receipt of the policy and procedure manual.
- Approvers are responsible for 4 to 10 account-holders 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 approvers must follow the same high standards applied to account holders.
- The Business Office staff reviews the work of the card approvers, and the list of Pp-card users is reviewed annually.
- Uses the software to review the average spent by account-holder, purchases from unauthorized suppliers, purchases shipped to the account-holder'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.

Also reference the [Fiscal Procedures Manual](#) Section 12: Procurement Cards.

### **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 § 200.331.

#### *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:

- 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.



- 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.
- To ensure the potential contract is approved by TEA, the contract shall not be signed until after the NOGA is received by the District.
- 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*.
  - All services will be completed during the effective dates of the contract.
  - 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.
  - 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.
  - The District complies with the regulations pertaining to procurement in 2 CFR § 200.318 - .323.
  - The District complies with the provisions in 2 CFR § 200.459 pertaining to allowable professional service costs.
  - 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.
  - The contract identifies and lists only reasonable, necessary, and allocable services to be provided in accordance with the funding sources that will be charged.
  - 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 *Procurement System: Conflict of Interest Requirements*.)

### **Documentation for Contracts**

The District maintains the following written documentation, at a minimum, for each contract paid with federal funds in the Business Office:

- a copy of the written, signed contract/agreement for services to be performed
- the rationale or procedure for selecting a particular contractor
- 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
- 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
- documentation that the contractor was *not paid before services were performed*, and
- records of all payments made (such as a spreadsheet or report generated from the general ledger), including the total amount paid to the contractor.

### **Contract Monitoring**

Grantees must establish a contract administration system to consistently ensure that contract deliverables are being provided as specified in the contracts. *Texas Administrative Code, Title 1, Chapter 3, Subchapter B, Rule 3.77*

The District will monitor the performance of state and federally funded contracts.

Items will be monitored to ensure performance of the contracted services as defined in the scope of services and program measures, if any.

The documentation of monitoring will be maintained at the District's Administration Building in the Federal Programs and Compliance Department. When contract performance deficiencies are identified, they are to be documented by the Federal Programs and Compliance Department for suitable action aimed at correcting contractor performance, placing the contractor on probation for a period of time, suspension from bidding on future contracts, contractor debarment, and/or contract termination. The contractor should receive written notification followed with a telephone call or meeting to discuss the problems being experienced. A mutual understanding of the corrective action and timeline should be established and documented. Should the contractor continue to not meet the requirements, the contracting party should proceed with the appropriate course of action, up to and including termination of the contract.

### **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 financial clerk in the requesting organization or 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.

If the purpose of the contract is to purchase services, the financial clerk at the requesting campus or in the department 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.*

### **Submission of Procurement System**

In accordance with 2 CFR § 200.325(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 § 200.325(c)(2), which does not preclude TEA's right to survey the system.

## Property Management Systems

### **Property Classifications**

*Fixed Asset* 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 \$5,000. 2 CFR § 200.33. Fixed Assets are entered into the District's Financial Software Program and maintained by the Fixed Assets Specialist.

*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.

*Inventory Item* means an item valued at less than \$5,000 and not considered to be of significant value to formally report for accounting purposes, but is of value considered necessary to track and inventory on a periodic basis. All technology devices (i.e. computers, monitors, laptops, mobile devices, data projectors, document cameras, interactive tablets/ boards) are received, tagged and inventoried by the Technology Department utilizing Hayes TipWeb software.

### **Inventory Procedure**

All Fixed Assets and Inventory Items are required to be purchased using a District purchase order, they are not permitted to be purchased on a District credit card or purchased by Student Activity (Fund 865) groups. The District also requires all Fixed Assets and Inventory Items to be coded to a specific set of account codes to ensure that items are properly added to the correct database for inventory and maintenance. All Inventory Items are received by the Technology Department, checked for damage and that it matches what is listed on the purchase order and invoice. It is then logged into the property management database, tagged, boxed and sent to the proper campus/department. When the campus/department receives the item(s) they check for damage and that it matches what is listed on the purchase order and invoice. Orders are received in the Financial Software Program to complete the receiving process. If additional configuration or installation is required, the campus/department submit a request to the Technology Department for completion.

All Inventory Items are tagged by the Technology Department and Fixed Asset tags are printed and logged by the Fixed Assets Specialist and submitted to the proper campus/department for the tag to be placed on the item.

### **Inventory Records**

For each equipment and computing device purchased with federal funds, the following information is maintained:

The Inventory Item database is maintained utilizing Hayes TipWeb software by the Technology Specialist. The Fixed Asset database is maintained in the Financial Software Program by the Fixed Assets Specialist. Both positions are responsible for updating and making any necessary changes or adjustments to the inventory. All data entered into the database for Inventory Items or Fixed Assets is based on the purchase order, invoice and receipt of the item.

The following information is maintained for both Inventory Items and Fixed Assets:

- serial number or other identification number
- source of funding for the property
- who holds title\*
- acquisition date and cost of the property
- location 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.

When an item is sold, lost or stolen, or cannot be repaired, it is updated in the respective database and marked appropriately to reflect the current status and removed from the physical inventory.

### **Physical Inventory**

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

The District's fixed asset procedures shall include at a minimum a biennial inventory (or more frequently if required by a granting agency) of all assets and reconciliation of the inventory reports. [Note. Federal requirements CFR 200.313(d)(2) requires an inventory at least once every 2 years.] The District's biennial inventory of assets shall be conducted by August each fiscal year that the audit is required. Lost, damaged, or stolen assets shall be recorded on the respective database with the date of the loss. The disposition records such as the loss report (police report for thefts) shall be maintained with the item's records.

### **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. Each campus has a technician that repairs equipment, performs equipment maintenance, and/or schedules warranty repair. The technician repairs / needs are scheduled utilizing Eduphoria HelpDesk.

### **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).

Equipment that is allowed to be removed from campus is checked out to teachers and/or students through the Instructional Technology Department or the campus librarian. All equipment is labeled as property of the District. Stolen or lost equipment is turned over to the Security Department.

In the case that a Fixed Asset or Inventory Item is lost, stolen or damaged, the following procedures will be used to remove the item from District records:

- The responsible campus/department is required to complete a *Fixed Asset and Inventory Item Disposal Form*, which is located in Eduphoria Form Space.
- If an insurance claim is required, information will be forwarded to appropriate District personnel to handle that process. Most items will be replaced or repaired through regular campus/department funds because the cost would fall below the District's insurance deductible.
- Unless a claim is processed, replacement of the lost item is the responsibility of the campus/department.
- If the asset was lost, stolen, or damaged as a result of employee negligence, and the item is not subject to an insurance claim, the employee responsible for the item will be held personally liable for replacement or repair.

### **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.

Transferring equipment from one location to another requires an Eduphoria FormSpace request. The request requires building principal approval from both the giving and receiving campus in addition to District Technology Department approval. An inventory of all transferring equipment is taken and inventory programs updated.

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.

### **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 Fixed Asset Specialist 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. Disposing of equipment requires an Eduphoria FormSpace request. The request requires building principal approval as well as District Technology approval. An inventory of all disposed equipment is taken and inventory programs updated.

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 non compliance 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.

When an asset has reached the end of its useful life (broken, obsolete etc.), it can be requested for removal and sent to auction. All requests must follow the system workflow to be approved with the final approval completed by the Fixed Assets Specialist. To ensure the highest possible return all assets shall be sent to auction, handled by the Warehouse Services Manager.

See Appendices for forms.

## Written Compensation Policies

### Allowable Compensation

In accordance with District Board Policy DEA (LOCAL), 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:

- 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;
- follows an appointment made in accordance with the District's rules or written policies and meets the requirements of federal statute; and
- 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:

- District activities, and
- 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, in accordance with the District's Policy DBD (LOCAL, EXHIBIT) 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 *GPISD Permission for Non-School Employment* form (located on page 59 of the employee handbook. Also, see Appendices for forms) prior to agreeing to perform professional services outside the District. The purpose of the *GPISD Permission for Non-School Employment* 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 the administration-in-charge, who shall submit the request to the Cabinet Level Supervisor for review and determination of whether a potential conflict of interest exists.

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

- 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);
- changes in compensation resulting in a substantial increase in the District's employees' level of compensation; and
- 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.

All employees' job descriptions are located online. Each District employee electronically signs the appropriate job description for their current position and it is submitted to their supervisor for review and approval. Ensuring employees sign the correct job description is monitored by both the Human Resource Services Department and Federal Programs and Compliance Department.

## **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
- 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
  - 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.

### **Time and Effort Procedures**

Time and Effort: Once per year, during the fall, the Executive Director for Federal Programs and Compliance and the Federal Programs Specialist visit with each campus principal to review their staffing rosters and master schedules to ensure that any split-funded employees are coded correctly and those employees are performing their duties as assigned and as allowed under grant guidelines. Staffing rosters are signed by the campus principal and the Executive Director for Federal Programs and Compliance and are kept on file in the Federal Programs and Compliance office.

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 (see the exceptions for school wide 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 Budget Manager and the Executive Director For Federal Programs and Compliance 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.

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

*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 ESSA 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 ESSA 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 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.

See Appendices for forms.

### **Ed-Flex Programs in Texas**

At this time The District does not participate in the Ed-Flex program. In the event that this process becomes necessary, the following is a rough draft of the guidelines for use of funds for this purpose.

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 ESSA 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):

- Every Student Succeeds Act (ESSA) 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)
- Carl D. Perkins Career and Technical Education Act of 2006

**Ed-Flex waivers are NOT available for all ESSA 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 Federal Programs Specialist.***

***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 Federal Programs Specialist at least monthly.***

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.

Examples of employees who work on multiple cost objectives:

An employee who works partially on *administering* programs included in ESSA consolidated administrative funds pool, and partially on *administering other programs (not included in ESSA 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.

### **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 the *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.

### **Employee Exits**

For an employee that is separating his or her services with the District, the employee will complete the required paperwork and submit his or her final certification or time-and-effort report to the Human Resources Department. The HR department will verify the final paperwork as complete and notify the Business Office of completion prior to the issuance of the final paycheck.

## **Human Resources Policies**

All employees, including those paid with federal funds and those not, will adhere to the District's written leave policy. Reference the District's Employee Handbook and Policies through the DISTRICT'S website. The employee handbook and harassment policies may be viewed on the DISTRICT'S website or a copy obtained from the Human Resources department.

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).

[DECA \(LEGAL\)](#)

[DEB \(LEGAL\)](#)

[DEC \(LEGAL\)](#)

## **Record Keeping**

### **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 CFR §§ 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 CFR § 75.732. These records and accounts must be retained and made available for programmatic or financial audit.

In accordance with HCDE's General Provisions and Assurances and the statute of limitations, the District retains records for a minimum of three (3) 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 CFR § 200.334.

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 3-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.

The District utilizes Harris County Department of Education (HCDE) Records Imaging and Storing Services for the storage, destruction, scanning and retrieval of records. HCDE adheres to all TSLAC policies and procedures in the processing and handling of all records sent to them. All records that are stored at the HCDE facility are listed in the online inventory that is updated as records are added or destroyed. [CPC \(LEGAL\)](#)

#### **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 3 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 Manager of Warehouse Services 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)

### **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 agencies 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.

Critical records (such as student, human resources, payroll and finance records) that are available only in electronic format are stored on shared drives and backed up on a regular schedule (nightly) in 3 locations. Records found on individual computers are the responsibility of the employee. If the original electronic records are destroyed or lost due to any reason, the backup location will have a duplicate copy of the records.

### **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 § 200.337.

### **Privacy**

The privacy of student and employee personal information is restricted to those with an educationally vested interest or those in a specific job related role for access. Employees have private passwords that are linked to the software programs utilized by the District that are required for their job responsibilities. Employees must review and annually verify the employee handbook and code of conduct. The Family Educational Rights and Privacy Act (FERPA) is also reviewed regularly with employees as rules and regulations are changed or updated. See District Records Policy located in the Employee and Student handbooks available on the DISTRICT'S website.

([FL LOCAL](#), [FL LEGAL](#))

## **Monitoring**

### **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 § 200.329. 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.

In the daily function of following the processes and guidelines as established by The District policies and procedures manuals, ongoing daily monitoring and cross-checking is occurring throughout all of the programs in the District.

### **TEA Monitoring**

#### **Risk Assessment**

Pursuant to the provisions in 2 CFR § 200.331, 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.

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 has 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; and
- 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 engagements 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 § 200.339

### **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.

## **Audits**

### **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.

### **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, and
- 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.

As information is requested by the auditor the individual reports are prepared or located for review by the individual department that is over the information. A centralized location is provided for the auditors to conduct their audit. If

applicable, the auditors findings are reviewed, corrective action plans are established and incorporated into the procedures and processes of the District. The Business Office assists the auditors in their audit process as needed.

### **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**

As fraud, waste, and abuse are suspected by any individual in the District, it is their responsibility to report this information to their immediate supervisor.

Any person who suspects fraud or financial impropriety in the District shall report their suspicions immediately to any supervisor, the Superintendent or designee, the Board of Trustees' President, or local law enforcement. If anonymity is desired, please use the Fraud and Ethics Reporting Hotline via telephone or their web-based service:

- (800) 398-1496 – English
- (800) 216-1288 – Spanish
- [www.lighthouse-services.com](http://www.lighthouse-services.com)
  - The web version is in English only and requires the following username and password:
    - Username: galenapark
    - Password: 10910

Also reference the [Fiscal Procedures Manual](#) Section 2: Ethics Fraud and Compliance.

## **Programmatic Fiscal Requirements**

### **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 ESSA 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 ESSA 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**

If a supplant issue is identified, steps are taken in a timely manner to remedy the situation immediately rather than waiting for an auditor to discover it during an audit.

**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 ESSA 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
<b>Deficits</b> for Co Curricular/Extracurricular Student Body Activities	36
<b>Deficits</b> 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 ESSA programs 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.

On an annual basis, the District calculates the MOE to ensure compliance.

### **Procedures for Complying with MOE**

The District complies with guidance provided by TEA pertaining to MOE for ESSA programs and for [IDEA-B](#). The Accounting Department and the corresponding program directors are responsible for maintaining the District compliance with MOE.

## **Programmatic Requirements**

### **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.

### **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.

### **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 CFR 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 (ESSA) of 2001, § 9525. This Act prevents public schools from discriminating against patriotic youth societies, including Boy Scouts of America, by ensuring 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 Executive Director of Human Resources for the District 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 designates 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 adopts and publishes 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 implements 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 Executive Director of Human Resources for the District 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

- excluding individuals from, denying them the benefits of, or subjecting them to discrimination under a program or activity receiving federal financial assistance, or
- denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance.

These regulations do not apply to

- 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
  - provides any benefits or assistance to persons based on age
  - establishes criteria for participation in age-related terms
  - describes intended beneficiaries or target groups in age-related terms, or
- 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 Resources for the District 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 Director for Grants and 504 coordinates and ensures compliance with the requirements under Section 504. The Executive Director of Human Resources for the District 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 ESSA 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 ESSA Consolidated Application each year in the ESSA 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 Executive Director of Human Resources for the District coordinates and ensures compliance with the requirements of this Act.

### **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 § 200.329. 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.

## 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](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/>

## Appendices

- Appendix 1 – Request for Approval of Special or Unusual Costs
- Appendix 2 – Non-Overnight Travel Request
- Appendix 3 – Overnight Travel Request
- Appendix 4 – Justification for Program Related Out of State Travel
- Appendix 5 – Travel Reimbursement Form
- Appendix 6 – Justification for Hosting or Sponsoring of Conference
- Appendix 7 – Justification for Educational Field Trips
- Appendix 8 – Request to Add Program Income to Federal or State Grant Award and Expand Delivery of Programmatic Service
- Appendix 9 – Conflict of Interest Disclosure
- Appendix 10 – Mandatory Disclosure
- Appendix 11 – Request for Noncompetitive Procurement (Sole-Source) Approval
- Appendix 12 – Inventory Disposition Request
- Appendix 13 – Permission For Non School Employment
- Appendix 14 – Semi-Annual Certification
- Appendix 15 – Substitute System Time-and-Effort Certification