

# California Migrant Education Program Allowable Cost Guidebook

**September 2020**

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### Preface

The California Department of Education (CDE) Migrant Education Office (MEO) created this Guidebook with the aid and support of Brustein and Manasevit, PLLC (B&M).

B&M is recognized for its education regulatory and legislative practice. They have provided legal advice regarding federal education programs including the Elementary and Secondary Education Act (ESEA) reauthorized as the Every Student Succeeds Act (ESSA), the Individuals with Disabilities Education Act (IDEA), the Carl D. Perkins Career and Technical Education Act (CTE), the Workforce Investment Opportunity Act (WIOA), as well as the Higher Education Act. In addition, the Firm regularly provides counsel for clients on federal grants management requirements, including the Education Department General Administrative Regulations (EDGAR), the Office of Management and Budget (OMB) Uniform Grants Guidance, and the General Education Provisions Act (GEPA). The Firm also assists clients in drafting, proposing, and reviewing legislation affecting education.

### Introduction

The Migrant Education Program (MEP) was established under the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the Every Student Succeeds Act (ESSA) of 2015. The California Department of Education (CDE) is responsible for leadership, oversight, and ensuring that migratory students receive the full benefit of this funding.

The purpose of this Guidebook is to provide the MEP regional and district staff with basic information and guidelines for the use of migrant education funds. The MEP administrators and staff are required to be familiar with applicable state and federal laws, regulations, and policies. This Guidebook is intended to build on the user’s knowledge of these rules by providing a greater level of detail to assist in the implementation of the MEP. Although MEO subgrants go directly to regions and direct-funded districts, all MEP operational agencies are subject to the stated policies and applicable laws noted throughout this Guidebook.

**Key Terms:**

This Guidebook utilizes the term “operating agency” throughout. Per California *Education Code* (*EC*)Section 54441,[[1]](#endnote-1) the terms “operating agency” and “migrant region” are defined as follows:

* Operating agency means a local educational agency operating under a subgrant of state migrant education funding or a public or private nonprofit agency under a special arrangement with the department to carry out a MEP.
* Migrant region means an operating agency comprised of a county or a combination of counties, or a public or private nonprofit agency not controlled in whole or part by a school district, or a combination of counties and agencies, meeting the criteria of subdivision(a) of Section 54444.1.

Per these definitions, the term “operating agency” shall encompass local districts and migrant regions.

### Chapter 1: Allowable Expenses

Operating agencies assume responsibility for ensuring that federal program

funds have been expended and accounted for consistent with applicable

Title 2, *Code of Federal Regulations* (2 *CFR*), Part 200, (Uniform Guidance) cost principles, agency program regulations, and the terms of subgrant agreements to determine the reasonableness, necessity, and allowability of costs. *2 CFR*, Part 200, Subpart E establishes cost principles and standards for determining allowable costs applicable to grants, contracts, and other agreements with nonfederal entities. Costs are allowable for federal reimbursement only to the extent of benefits received by federal programs, and costs must meet the basic guidelines of allowability, including necessary and reasonable.

All costs must be compared to the purpose of the MEP (ESSA Section 1301), which includes the following:

1. To assist states in supporting high-quality and comprehensive educational programs and services during the school year and, as applicable, during summer or intersession periods, that address the unique educational needs of migratory children.
2. To ensure that migratory children who move among the states are not penalized in any manner by disparities among the states in curriculum, graduation requirements, and challenging state academic standards.
3. To ensure that migratory children receive full and appropriate opportunities to meet the same challenging state academic standards that all children are expected to meet.
4. To help migratory children overcome educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors that inhibit the ability of such children to succeed in school.
5. To help migratory children benefit from state and local systemic reforms.

To ensure that the purposes of the statute are met, each local operating agency must perform a needs assessment to identify the special educational needs of migratory children and determine the specific services that will help migratory children achieve the State’s measurable outcomes and performance targets. This assessment must:

1. Determine the needs of migratory students and how those needs relate to the priorities established by the state;
2. design local services; and
3. select students for the receipt of those services.

All costs must be allowable under the cost principles contained within *2 CFR*, Part 200, Subpart E.

The CDE guidance regarding expenditures that are generally an allowable use of MEP funds is in addition to all other state and federal laws, regulations, and guidance. Expenditures identified as allowable must meet any and all requirements.

#### 1.1 Allowable Expense Criteria

Allowable expenditures shall meet the following criteria:

1. **Be Necessary and Reasonable** for the performance of the MEP grant. Operating agency staff must consider these elements when determining the reasonableness of a cost. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision to incur the cost was made. For example, reasonable means that sound business practices were followed, and purchases were comparable to market prices.
   1. When determining reasonableness of a cost, consideration must be given to:

* Whether the cost is a type generally recognized as ordinary and necessary for the proper and efficient performance of the MEP grant.
* The restraints or requirements imposed by factors, such as: sound business practices; arm’s-length bargaining; federal, state and other laws and regulations; and terms and conditions of the MEP grant award.
* Market prices for comparable goods or services for the geographic area.
* Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the operating agency, its employees, its students, the public at large, and the federal government.
* Whether the operating agency significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the MEP award’s cost (*2 CFR*, Section 200.404).[[2]](#endnote-2)
  1. While *2 CFR*, Section 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, as reflected in the approved Regional Application (RA), District Service Agreement (DSA), or contract. A key aspect in determining whether a cost is necessary is whether the operating agency can demonstrate that the cost addresses an existing need and can prove it. For example, the operating agency may deem transportation to and from an after-school program to be allowable since the school does not provide transportation to students.

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

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

1. **Allocable to the federal award.** A cost is allocable to the federal award if the goods or services involved are chargeable or assignable to the federal award in accordance with the relative benefit received. This means that the federal grant program derived a benefit in proportion to the funds charged to the program (*2 CFR*, Section 200.405).[[3]](#endnote-3) For example, if 50 percent of a teacher’s salary is paid with MEP grant funds, then that teacher must spend at least 50 percent of his or her time on the MEP grant program.
2. The activities and services operating agencies fund must comport with the results of the comprehensive statewide needs assessment and the requirements of the comprehensive service delivery plan.
3. SEAs must first use MEP funds to meet the identified needs of migratory children that result from their migrant lifestyle, and to permit these children to participate effectively in school.
4. Supplement and not supplant non-federal expenses required to carry out the overall responsibility of state or local governments, including school districts and county offices of education (COE). A cost would be considered supplanting if any of the following conditions are met:
5. MEP funds are used to provide services that are provided under other federal, state, or local laws.
6. Non-federal funds were used to cover the cost in the prior year.
7. MEP funds are used to provide services for participating children and non-federal funds are used for nonparticipating children.
8. Be consistent with policy, regulations, procedures, and not prohibited under federal, state, or local laws and regulations.
9. Be consistent with principles, regulations, and procedures that apply uniformly to federal awards and other activities of the subgrantee.
10. Conform to any limitations or exclusions set forth in these principles, federal laws, the conditions of the MEP award, or other governing limitations as to types or amounts of cost items.
11. Be accorded consistent treatment. A cost may not be assigned to a federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to a federal award as an indirect cost.
12. Be determined in accordance with generally accepted accounting principles.
13. Not be included as a cost or used to meet cost sharing or matching requirements of any other federal activity in either the current or a prior period.
14. Be adequately documented so as to illustrate compliance with all applicable funding rules and restrictions.
15. Be net of applicable credits. “Applicable credits” refers to receipts or reductions of expenditures that offset or reduce the cost to federal awards. Examples include, but are not limited to, purchase discounts or allowances, and adjustments of overpayments or erroneous charges.
16. Expenditures for food, travel, conferences, field trips, music, dance and theatre activities must be described in the approved RA, DSA, Memorandum of Understanding (MOU), or its revision/amendment as to the need for the expenditure and how it relates to the supplemental academic program for the students. Based on the description provided, the CDE will approve expenditures deemed to have sufficient nexus to the academic program (Section 1.3).

Examples of allowable activities

* Instructional services (e.g., activities for preschool-age migratory children and instruction in elementary and secondary schools, such as tutoring before and after school);
* Support services (e.g., acting as an advocate of migratory children, providing access to health and social service providers; providing migrant families with necessary supplies), provided these services relate to an identified educational need;
* Professional development (e.g., training programs for school personnel to enhance their ability to understand and appropriately respond to the needs of migratory children);
* Parent Advisory Councils (PAC) and other parental involvement activities;
* Identification and recruitment;
* Coordination activities with other agencies, both within the state and with other States nationwide, including the transfer of student records;
* Comprehensive needs assessment activities; and
* Evaluation of the MEP.

### Chapter 2: Unallowable Expenses

The following are examples of unallowable expenses:

1. Salaries, benefits, and expenses incurred by employees of the COE or district offices not directly related to the MEP.
2. Expenses of county or school district boards and their members.
3. Interest on borrowing, cost of financing and refinancing operations.
4. Membership or other professional association fees.
5. Any excess cost incurred under another grant agreement.
6. The development, improvement, maintenance, or repair of any physical facility or property belonging to any COE, school district, or any other party, not belonging to the MEP.

* The only exception is payment for summer school facility maintenance costs that are incurred as a direct result of the operation of the MEP.

1. Costs related to social activities such as potlucks, dances, holiday and graduation parties, or any other celebrations.
2. Costs related to entertainment, including amusement, and diversion.
3. Stipends or compensation for lost wages for participation in PAC activities or any other aspect of the MEP.

* The only exception is reimbursement of lost wages incurred by parent representatives of the Statewide Parent Advisory Council (SPAC), who are the parent of a migratory child, when attending official meetings convened by the CDE. This reimbursement is allowable only when adequately documented and approved in accordance with the process put forth by the CDE. A reasonable upper limit to lost wage amount will be reviewed and set by the CDE biennially upon request from a subgrantee.

1. Instruction in English as a Second Language for parents.
2. Adult education or any for-credit classes for parents.
3. Healthcare or mental health services for parents.
4. Instruction in personal finance.
5. Instruction pertaining to immigration laws, rules or requirements.
6. Political activities or lobbying.

### Chapter 3: General Guidelines

1. Meetings & Trainings

Allowable expenditures for staff, students or parents related to meetings, workshops, in-service or other trainings shall meet the following criteria:

* + - 1. Be reasonable and necessary for the implementation of the MEP program.
      2. Expenses incurred by staff shall be budgeted in the approved application.
      3. Expenses incurred by staff are limited to staff employed by the MEP.
      4. When feasible, MEP staff shall use other modes of communication to disseminate information, such as telephone, email or videoconference, instead of incurring expenses related to in-person meetings. This requirement does not change the statutory or regulatory obligation to hold regular meetings for migrant parents.

1. Travel

Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of a grant recipient. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in the recipient’s non-federally funded activities and in accordance with the recipient’s written travel reimbursement policies (*2 CFR*, Section 200.474[a]).[[4]](#endnote-4)

Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, must be considered reasonable and otherwise allowable only to the extent such costs do not exceed charges normally allowed by the Office of Migrant Education (OME). In addition, if these costs are charged directly to the federal award, documentation must be maintained that justifies that (1) participation of the individual is necessary to the federal award; and (2) the costs are reasonable and consistent with the operating agency’s established policy (*2 CFR*, Section 200.474[b]).[[5]](#endnote-5)

Per the OME, travel to meetings or conferences for the purpose of “information dissemination” is not an allowable use of MEP funds. Whenever feasible, information should be shared via telephone, email or videoconference. The only allowable travel is for provision of “technical information”[[6]](#footnote-1) or when activities cannot properly be conducted through other means. For example, professional development and technical assistance activities may require group interaction that is not feasible other than in person.

To be allowable, travel costs must be budgeted in the approved application or the CDE contract.

Travel to any out-of-state meeting, event, conference, etc. must receive prior approval from the CDE using the Out-of-State Approval Request form. This form shall include a justification, name, and titles of individuals attending, and estimated cost. This form is required in addition to the accounting/budgeting of travel in the appropriate funding application.

1. Conferences

Allowable conference expenditures shall meet the following criteria:

* + - 1. Per the OME guidance, expenditures for conference attendance cannot be solely for the purpose of “information dissemination.”
      2. Be limited to actual and necessary expenses incurred by MEP staff, parents or students.
      3. Be related to the identified and prioritized needs of migratory students.
      4. Be reasonable and necessary for the implementation of the approved RA, DSA or CDE contract.
      5. Each conference to be attended or conducted, including local, state, and out-of-state conferences, must be listed in the approved RA, DSA or CDE contract, and in the related budget documents.
         1. Subsequent additions or substitutions require an approved budget amendment or revision prior to conference attendance.
         2. The budget or amendment request must include each of the following:

Name, purpose, and location of the conference.

List of attendees identified by job title, and name (when available).

Estimated costs.

Requests to participate as a conference presenter on migrant-related topics at other than MEP-sponsored conferences must be approved by the State Administrator of the CDE. These requests must also be listed in the approved RA, DSA or CDE contract, and in the related budget documents. Requests must be submitted at least 60 days in advance, and shall include the information required for conference attendance, as stated in this Guidebook. Operating agency staff members shall not use MEP funds to cover non-MEP staff conference attendance.

1. Food

In February 2014, the OME issued clarification regarding the use of federal grant funds to pay for food for employees. In it, the OME indicates that:

“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 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. These determinations will be made on a case-by-case basis, and there may be some circumstances where the cost would be permissible. Grantees, therefore, will have to make a compelling case that the unique circumstances they have identified would justify costs as reasonable and necessary.”

The OME developed guidelines to assist grantees and subgrantees in evaluating the appropriateness of using MEP funds for a working lunch:

* + - * Is the portion of the agenda to be carried out during lunch substantive and integral to the overall purpose of the conference or meeting?
      * Is there a genuine time constraint that requires the working lunch?
      * If a working lunch is necessary, is the cost of the working lunch reasonable?

Staff: Expenditures for food at staff meetings or functions are not an allowable use of MEP funds. Organizers should plan meeting schedules and locations to allow staff time to procure their own meals. Per the OME, MEP expenditures on food for staff are unallowable even if the expenditure would be less than the cost of reimbursing staff to purchase food while traveling.

Students/Parents: Expenditures for food for students or parents may be allowable if they are reasonable and necessary to provide a service listed in the approved RA, DSA or CDE contract, and in the related budget documents. Federal policy requires that organizers first attempt to plan activities during times and locations that allow students and parents to procure their own meals. Furthermore, non-reasonable expenditures for refreshments or food provided during parent meetings or trainings are allowable, particularly when such meetings extend through mealtime. As long as there is a connection to programmatic purpose and the cost is reasonable.

1. Field Trips

Allowable field trips shall meet the following minimum criteria:

* + 1. Must be directly related to the instructional program in use by the students.
    2. Must include pre and post assessment and ongoing activities aligned with the Common Core State Standards.
    3. Must be supplemental and not supplant activities that are the responsibility of the COE or school district, or that are provided to non-migratory students of these agencies through other funds.
    4. Expenditures related to the participation of staff, parents, and chaperones shall be limited to those that are reasonable and necessary.
    5. Must be listed in the approved RA, DSA or CDE contract, and in the related budget documents.
       - 1. The service agreement or amendment must include:

1. Name and location of the place to be visited.
2. Purpose of the trip and description of how it supports and enhances the curriculum being used by the migrant program or the core curriculum in use by the students.
3. The supplemental nature of the field trip.
4. Number and grade level of students to attend.
5. List of staff and parent attendees to attend.
6. Estimated costs.
7. Transportation

To be allowable, all transportation expenditures must be listed in the approved RA, DSA or CDE contract, and in the related budget documents.

Allowable transportation expenditures may include:

* + - 1. Regular Year: approved field trips for migratory students and extended day or weekend activities.
      2. Summer: transportation to and from migrant-funded summer school

Transportation of students to and from school and core activities is the responsibility of the school district and is generally not an allowable use of MEP funds. An exception may exist if a district does not provide transportation to the core program for any student. Migrant funds may be used to provide such transportation to migratory students if the expenditure does not constitute supplanting and if it can be shown that the expenditure is reasonable and necessary.

Expenditures on transportation of staff must be reasonable and necessary for the implementation of migrant services and must be within state and local guidelines.

Expenditures on transportation of parents to or from regular district or regional MEP activities and meetings are generally not an allowable use of funds. Transportation to or from regional or statewide conferences and of SPAC members to or from official meetings are allowable.

1. Parent Participation
   * + 1. Allowable: The following are generally allowable parent participation expenditures:
2. Expenses for parent training related to understanding the educational system are allowable if training will result in a direct educational benefit to migratory students.
3. Fees paid to consultants providing parent training, translation, or interpretation services that are reasonable and market rate.
4. Costs for childcare while parents attend meetings. Stipends may not be issued to parent members. Costs for childcare may only be reimbursed to the operating agency.
5. Training materials and meeting supplies.
6. Reasonable and necessary meeting room rentals when no free space is available.
7. Maintenance service fees for costs that are a direct result of MEP use.
8. Mileage and transportation costs of regional and district PAC officers to official meetings. Expenditures shall not exceed the locally approved per diem and travel rates.
9. Transportation, meals, and admissions to facilities when acting as chaperones for migratory student field trips.

As a reminder, MEP funds should not be utilized to replace or supplant costs (e.g. translation services), that would otherwise be paid through other sources.

Statewide Parent Advisory Council (SPAC) members may be reimbursed for their travel, lodging, and meal expenses by the operating agency if they meet the following criteria:

1. The meeting is an official SPAC meeting convened by the CDE.
2. Parent participation is requested by the CDE for activities such as meeting with CDE staff.
3. Reimbursement is limited to the locally approved per diem and travel rates.

B. Unallowable: The following are unallowable parent participation expenditures:

1. Stipends or compensation for participation in conferences, regional or district advisory council or committee meetings, or any other MEP activity.
2. The only exception is reimbursement of lost wages incurred by parent representatives of the SPAC, who are the parent of a migratory child, when attending official meetings convened by the CDE. This reimbursement is allowable only when adequately documented in accordance with the process put forth by the CDE.
3. Indirect Costs

Operating agencies may apply through their RA/DSA/MOU for indirect costs by using their approved Restricted Indirect Cost Rate as defined in CSAM procedure 915. Migrant education funds may not be used for any position, service or activity usually funded at the district base program level.

1. Student Work-Study Program

A region or district may hire a migratory student for work-study if the operating agency retains the following documentation:

* + 1. Name of student.
    2. Employer, job description, and location of employment.
    3. Explanation of non-monetary benefit to the student.
    4. Days, dates, time, and hours worked by student.
    5. Date and signature of student confirming the above information.
    6. Date and signature of worksite supervisor confirming and verifying the accuracy of the timekeeping documents and work performance of the migratory student(s).
    7. Acknowledgement by the student and employer of any other federal, state, and local employment guidelines.

1. Summer School Facility Maintenance Costs

Per the statutory requirement in *EC* Section 54444.3(b), each school district, COE, and community college district shall, upon request, make facilities available at cost for the operation of migrant summer school programs whenever they are available. Where available, these facilities shall be suitable for the summer climate.

Expenditures for costs that are incurred as a direct result of the operation of the MEP are an allowable use of funds when they are reasonable, necessary, and based on the following methodology for cost determination:

* + 1. Total all the general maintenance costs incurred for the year.
    2. Prorate the allocated maintenance costs by the number of hours or weeks that a migrant summer program is conducted as compared with the total yearly hours or weeks of use for these facilities for all programs.

1. Substitute Staff

Migrant education funds may be used to secure substitutes for (1) non-migrant funded classroom teachers who work with migratory students to enable them to participate in activities sponsored by the MEP; and (2) migrant-funded personnel when the absence will make a significantly adverse impact on the program.

As a reminder, MEP funds should not be utilized to replace or supplant costs that would otherwise be paid through other sources.

1. Time Accounting Requirements

Expenditures for salaries and wages for employees that work on multiple activities or cost objectives are allowable if they meet the following criteria:

* + 1. The services are clearly supplemental, and do not constitute supplanting.
    2. Multi-funded migratory staff is included in applicable MEP training sessions.
    3. The region or district maintains a list of the names and MSIN numbers of the migratory students served by the multi-funded staff person.
    4. The region or district maintains records documenting the time spent with migratory students and paid for by the MEP.
    5. The region or district retains a Personnel Activity Report (PAR) completed by each employee that works on multiple activities or cost objectives for each pay period, or other documentation meeting the requirements of (*2 CFR*, Section 200.430[i]).[[7]](#endnote-6)
       - 1. Budget estimates or percentages determined before the services are performed do not qualify as support.

1. Support Services

The need for support services is considered a part of the special educational needs of migratory children. If a state or local operating agency intends to focus on meeting these support service needs, it should relate them to the children's educational needs and the measurable outcomes and performance targets established by the state.

### Chapter 4: Practice

The following **Migrant Education Program Allowable Cost Assessment** chart is provided to assist in determining whether a cost is allowable and should be taken into consideration before utilizing MEP funds. Succeeding the chart, are two examples provided to assist in how to properly apply the fields in the chart.

| **Assessment Question** | **Yes, allowable** | **No, not allowable** |
| --- | --- | --- |
| 1. Is the cost identified in the **approved** budget or application? | Yes | No |
| 1. Does the cost align with the result of the comprehensive statewide needs assessment and the requirements of the comprehensive service delivery plan? | Yes | No |
| 1. Does the cost address the identified needs of migratory children that result from their migrant lifestyle and permit these children to participate effectively in school? If not, have MEP funds been first used for these purposes? | Yes | No |
| 1. Is the cost **necessary** for the proper and efficient performance of the MEP program? | Yes | No |
| 1. Is the cost **allocable** to the MEP? Is the cost charged in proportion to the benefit received? | Yes | No |
| 1. Does the cost meet other basic cost principles in the Uniform Guidance (2 CFR Part 200) (e.g. will it be used for a match or cost-sharing purpose)? Is it determined in accordance with GAAP? Is it accorded consistent treatment? Is the cost consistent with the grant award terms and conditions? Is the cost prohibited under state and local law?) | Yes | No |
| 1. Is the cost **reasonable**? Is the cost comparable to market prices for the geographic area? | Yes | No |
| 1. Does the cost supplement, and not supplant, costs provided from nonfederal funds (for example, the service happens after the core program)? | Yes | No |
| 1. Does the activity or service meet the needs of migratory children that are not addressed by services available from other federal or nonfederal programs? | Yes | No |
| 1. Is the cost adequately documented to demonstrate compliance with all applicable funding rules and restrictions? | Yes | No |
| 1. Does the cost meet the conditions in the MEP Allowable Cost Guide? | Yes | No |

### Chapter 5: Frequently Asked Questions

1. Can we purchase meals for parent engagement activities?

Reasonable expenditures for refreshments or food (e.g., light snacks and not full meals), particularly when such meetings extend through mealtime, are allowable. MEP Guidance, Chapter VII, Question C7.[[8]](#footnote-2)

1. Can we compensate the State Parent Advisory Councils (SPAC) for lost wages for attending the SPAC meetings? If so, is there a reasonable amount that we can compensate?

Yes. If necessary, MEP funds may be used to reimburse SPAC **parents or guardians of eligible migratory children** (but not other members of the PAC) for lost wages incurred in attending a SPAC meeting. Compensation for parents or guardians of eligible migratory children should not exceed the actual lost wages of the parent (e.g., if a parent had to miss three hours of work to attend a SPAC meeting, they could be compensated at their hourly wage for three hours). MEP Guidance Chapter VII, Question B12. Also, see page 10, question 9 of this guidebook.

1. Can we pay for keynote speakers for parent engagement activities?

Possibly. MEP funds may be used to support parental involvement activities, such as: parent conferences; resource centers; training programs (including expenditures associated with attending such programs); reporting to parents on children's progress; hiring, training, and use of parental involvement liaison workers; training personnel, including pupil services personnel; providing school-to-home complementary curricula and materials in implementing home-based educational activities; providing timely information on the MEP and responses to parent recommendations; and soliciting parents' suggestions in the planning, development, and operation of MEP projects. If the keynote speaker will support one of these parent engagement activities, the cost of the speaker would be allowable, assuming their fee was reasonable. MEP Guidance, Chapter VII, Question C4.

1. Can we purchase groceries for migratory families?

It depends. Funds provided under MEP shall be used to address the needs of migratory children that are not addressed by services available from other Federal or non-Federal programs. Therefore, you should first examine to see other programs can support purchasing groceries for migratory families. If no other program can address this need, funds can only be used for this purpose if it can be demonstrated that purchasing groceries meets the identified needs of migratory children that result from their migratory lifestyle, and permit these children to participate effectively in school (ESSA Section 1306[b]).

1. Can we purchase backpacks, clothing, or other personal necessities for migratory students?

Possibly. For these costs to be allowable, the purchase of the item must align with the state and local needs assessment and support the academic achievement of the child. If the LEA does not provide evidence of why the item is necessary to meet the identified needs of migratory children that result from their migratory lifestyle and permit these children to participate effectively in school, and that the student cannot obtain the item through another Federal or non-Federal program, the cost cannot be allowed. The CDE requires these purchases to be approved on a case-by-case basis. Additionality, the total cost of these small items must be small as compared to the expenditures on student services. Note that OME has indicated that backpacks and personal necessities do not meet the definition of “service” for purposes of the Consolidated State Performance Report. See the OME Policy Questions and Answers, Q 142, available at <https://results.ed.gov/legislation/policy_qas>.

1. Can we **purchase** vehicles to use for recruiting purposes or to transport migratory students to and from MEP services?

Generally, no. Capital expenditures for general purpose equipment, such as motor vehicles are not allowed except with prior approval of CDE (*2 CFR*, sections 200.439[[9]](#endnote-7) and 200.48[[10]](#endnote-8)). In rare circumstances, CDE may approve the purchase of a vehicle, but will consider need and reasonableness of the cost as compared to other options (e.g., staff using own vehicles and being reimbursed for mileage, rental or lease of vehicle, etc.). In addition, the CDE will determine and document the scope and level of transportation services to be provided, as well as who would be authorized to use the vehicle and for what purposes. If MEP funds are used to pay the entire cost of a vehicle, the vehicle must be used exclusively for purposes of the MEP. Seethe OME Policy Questions and Answers,

Q76, available at <https://results.ed.gov/legislation/policy_qas>.

1. Can we **lease** vehicles to use for recruiting purposes?

Possibly. The lease of a vehicle must be necessary and reasonable for the needs of the program. The LEA must demonstrate that the lease of the vehicle is equivalent to, or more effective than, reimbursing staff for mileage. Additionally, the terms of the rental must comply with *2 CFR*, Section 200.465[[11]](#endnote-9) and be reasonable considering the rental costs of comparable vehicles; market conditions in the area; alternatives available; and the type, life expectancy, condition, and value of the property leased. Finally, the leased vehicles cannot available for the personal use of employees (*2 CFR*, Section 200.445).[[12]](#endnote-10)

1. Can we lease vehicles to transport migratory students to and from MEP services?

Possibly. The lease of a vehicle must be necessary and reasonable for the needs of the program and supplement state or local funds and services. If the LEA would otherwise need to provide transportation, it cannot use MEP funds to do so. The LEA must demonstrate that the purchase of the vehicle is equivalent to, or more effective than, contracting for the transportation of students. Additionally, the terms of the rental must comply with *2 CFR*, Section 200.465 and be reasonable considering the rental costs of comparable vehicles; market conditions in the area; alternatives available; and the type, life expectancy, condition, and value of the property leased. Finally, the leased vehicles cannot be available for the personal use of employees (*2 CFR,* Section 200.445).

1. Can we purchase bus passes for migratory students?

Possibly. The purchase of bus passes may be supplanting if the operating agency must provide transportation services to students under state or local law. Otherwise, the LEA may provide transportation as a support service as a part of the special educational needs of migratory children. To offer support services, the LEA should relate them to the children's educational needs and the measurable outcomes and performance targets established by the State. MEP Guidance Chapter IV Question A17.

1. Can we purchase bus passes for parents?

No, except for members of the SPAC. The MEP funds may be used to reimburse members for their expenses incurred in attending SPAC meetings and the operating agency could reimburse parent members of the SPAC for their transportation costs to attend the meeting. MEP Guidance Chapter VII Question B11.

1. Can we issue medals or trophies for migratory students or provide incentives or rewards to parents or students?

Maybe. The rewards and incentives must be an effective use of funds tied to meeting the purposes of the MEP. In addition, the rewards and incentives must be reasonable and of nominal cost. In discussing student incentives, the OME states that it is a good idea to focus on prizes that have educational merit, such as books or e-readers, as well as forms of public recognition in lieu of or in addition to other prizes.See OME Policy Questions and Answers, Q65, available at <https://results.ed.gov/legislation/policy_qas>.

1. Can we purchase shirts as “uniforms” for employees or to make staff or parents identifiable?

Maybe, but this purchase would carry a high burden for demonstrating “reasonable and necessary.” Generally, uniforms for employees are not costs designed to meet the special educational needs of migratory children or address their unmet needs and could be considered promotional items, which are unallowable (*2 CFR*, Section 200.421).[[13]](#endnote-11) The OME has acknowledged that, if certain conditions are met, t-shirts may be purchased and worn by Identification and Recruitment staff during their field work. However, the OME states that grantees must “exercise care in determining when costs for items such as these are ‘reasonable and necessary’”. Further, the OME emphasizes that the purpose of these funds is to support migratory children, and questions whether using the funds for t-shirts enhances the effectiveness of MEP programs. SeeOME Policy Questions and Answers, Q89, available at <https://results.ed.gov/legislation/policy_qas>.

1. Can we purchase shirts for students to wear on field trips for security purposes?

Possibly. Purchasing shirts for students to wear on a field trip may be allowable. The operating agency would need to document the need for a t-shirt and explain how those shirts are necessary supplies to ensure the safety of the students on the field trip (e.g. shirts are of a bright color to allow easy identification and tracking of students). Adding logos to the shirts or purchasing general promotional items would not be allowed (*2 CFR*, Section 200.421[e]).

1. Can we print the MEP logo on t-shirts or conference materials? What if the printing cost is waived?

Promotional items and memorabilia purchased for conferences are not allowable (*2 CFR*, Section 200.421[e][3]). If the printing is at no cost, the operating agency does not need to test for allowability of the printing; but, the operating agency will need to apply its conflict of interest rules and the printing cost must be below the operating agency’s gratuity threshold (*2 CFR*, Section 200.318).[[14]](#endnote-12)

1. Can migrant funds be used to pay a portion of the COE’s building security system maintenance?

Possibly. If the security system maintenance is included as an indirect cost, then COEs may be reimbursed for the MEP’s portion of these costs through the restricted indirect cost rate.

1. Can maintenance cost be included in a building rental agreement contract?

Yes, as long as the rental agreement is reasonable. The maintenance cost may be included in the rental agreement if the cost of the rental is similar to what the LEA would have paid for a comparable rental plus separate maintenance charges. Maintenance costs will only be allowed to the extent those costs do not add to the value of the building nor appreciably prolong its intended life. If the rental agreement contains maintenance, the LEA cannot also charge maintenance as a separate cost (*2 CFR*, Section 200.452).[[15]](#endnote-13)

1. Can school districts charge the MEP to use their facilities during before and after school programs, Saturday school, or summer school programs?

No. Schools are required to have facilities under other state or local laws and the use of MEP funds would supplant those funds. However, MEP funds can be used to pay for the utilities of a school building (e.g., janitorial and maintenance costs) that the MEP uses for a summer program provided the agency does not include the costs in its indirect cost pool during the same period. MEP Guidance, Chapter X, Question F6; *2 CFR*, Section 200.452.

1. What steps should be considered when making technology purchases?

Technology purchases must follow the general rules for allowability. The LEA must show that the purchase of technology was necessary for the MEP and that purchase was reasonable. The LEA should also ensure that it has proper internal controls to adequately safeguard its technology, preventing loss, damage, or theft (e.g. sign-out/sign-in procedures; GPS tracking or other controls on devices; etc.) (*2 CFR*, Section 200.302[b][4]).[[16]](#endnote-14)

1. Sometimes vendors for summer services require a deposit prior to service implementation. This deposit may cross fiscal years. Is this allowable?

This is allowable. The LEA must document the need to obligate its MEP funds in advance of the service implementation and should include reasons that the program could not contract closer to the date that the services will be provided. In addition, the LEA should implement appropriate internal controls related to the deposit in order to ensure that the vendor performs in accordance with the contract (*2 CFR*, Section 200.318[b]). Further, the LEA has 90 days after the end of an award period to liquidate valid obligations made during the period of performance (*2 CFR*, Section 200.343).[[17]](#endnote-15) Accordingly, if a summer program is going to cross fiscal years, but is appropriately obligated through a binding contract signed in the prior fiscal year, the LEA could charge the contracted services against the prior fiscal year and continue making payments against that contract (after services are rendered) for 90 days after the end of the award period.

1. Is “braiding” of MEP funds with Title III or Title I, Part A allowed?

Typically, blending and braiding of Federal funds are considered together. When an LEA “braids” federal funds, the LEA coordinates financial assistance from multiple sources to support a single initiative and each funding source does not lose its award-specific identity. Generally, braiding funds is an exercise in effective project management. If an LEA braided MEP funds with Title I, Part A, and Title III funds, the LEA could coordinate the three funding streams to maximize benefits to migratory students. For example, the LEA has determined that migratory students in its area are scoring below proficiency on reading assessments. The LEA determines that the students need support as English learners, additional support after school in reading, and support over the summer to prevent loss of reading skills. The LEA could use Title III funds to provide supplemental support in English language acquisition, Title I, Part A funds to fund an afterschool program for migratory and other eligible students at risk of failing to meet state academic standards, and MEP funds to provide a supplementary summer school program geared only to migratory children. When braiding funds, special care must be taken to avoid violating the supplanting provisions of each funding source.

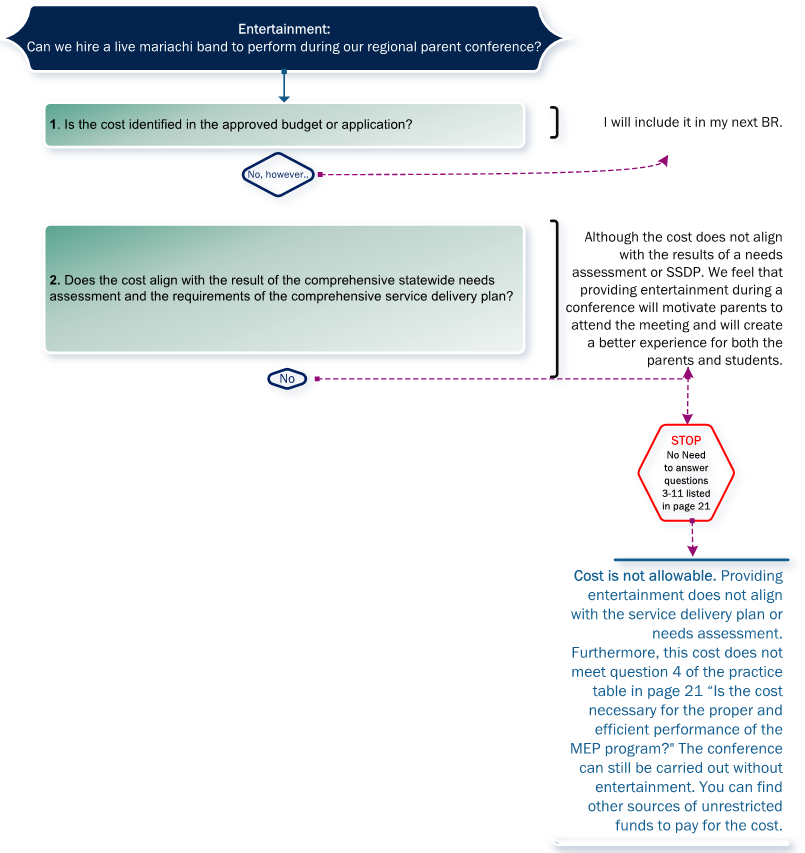
MEP funds may also be blended, or consolidated, with Title I, Part A, funds in a Title I schoolwide program. Before an LEA can consolidate MEP funds, it must first use MEP funds, in consultation with parents of migratory children or organizations representing those parents, or both, to (1) meet the unique educational needs of migratory students that result from the effects of their migratory lifestyle, and those other needs that are necessary to permit these students to participate effectively in school, as identified through the comprehensive Statewide needs assessment under *34 CFR*, Section 200.83,[[18]](#endnote-16) and (2) document that these needs have been met (*34 CFR*, Section 200.29[c][1]).[[19]](#endnote-17) If these two conditions are met, the LEA may consolidate a portion of MEP funds into the schoolwide program. Once funds are consolidated, they lose their identity as “MEP” funds and can be used for any purpose within the schoolwide program plan.

1. Can we contract with a university to provide services to migratory students?

Yes, a local operating agency may contract with third-parties, including universities, nonprofits, other districts, etc., to provide services to migratory students. As with any procurement using federal funds, the local agency must follow federal and state procurement requirements (2 *CFR* Section 200.318[a]). Depending on the price of the contract, the local agency may need to obtain quotes from other potential service providers, or conduct an open competition (request for proposals) (2 *CFR* Section 200.320)[[20]](#endnote-18).

### Example Flow Charts

#### Entertainment Expense Example

 Entertainment Expense Example Long Description

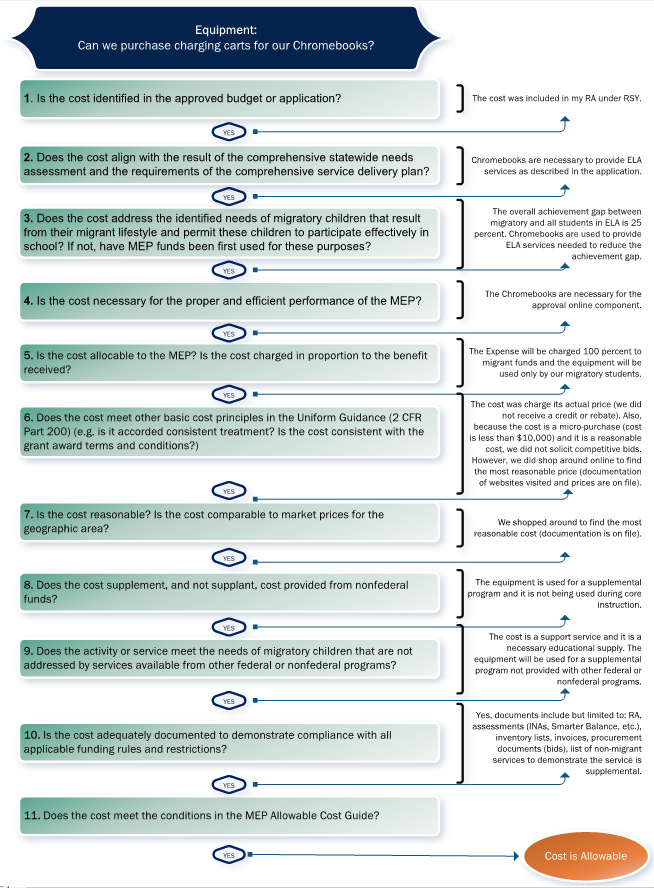
Entertainment Question: Can we hire a mariachi band to perform during our regional parent conference?

1. Is the cost identified in the approved budget or application? No, however I will include it in my next budget revision. And,
2. Does the cost align with the result of the comprehensive statewide needs assessment and the requirements of the comprehensive service delivery plan? No, although the cost does not align with the results of a needs assessment or State Service Delivery Plan. We feel that providing entertainment during a conference will motivate parents to attend the meeting and will create a better experience for both the parents and students.

Stop, no need to answer questions 3-11 listed on page 21.

Cost is not allowable. Providing entertainment does not align with the service delivery plan or needs assessment. Furthermore, this cost does not meet question 4 of the practice table on page 21 “Is the cost necessary for the proper and efficient performance of the Migrant Education Program (MEP)?” The conference can still be carried out with entertainment. You can find other sources of unrestricted funds to pay for the cost.

#### Equipment Expense Example



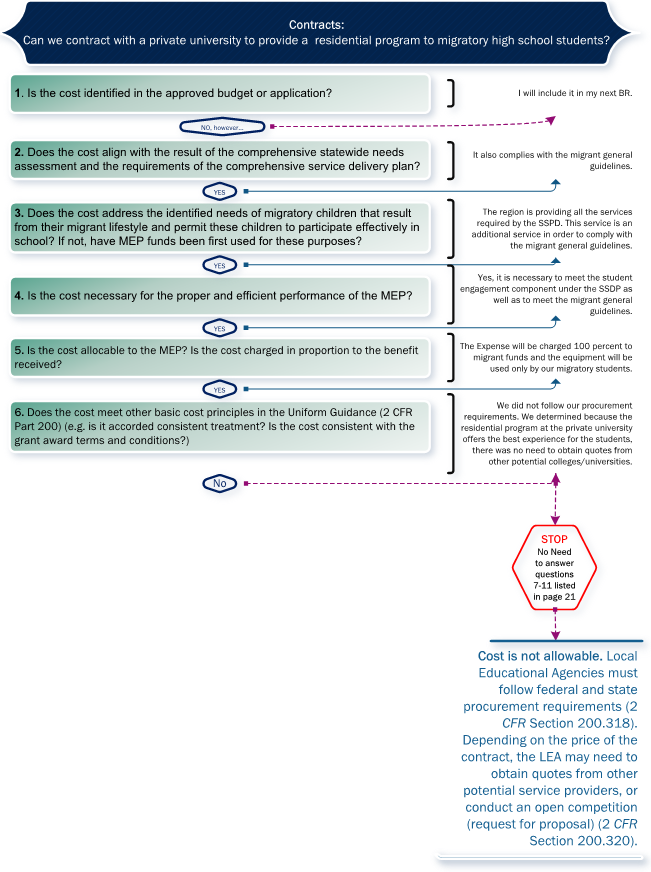
Equipment Expense Example Long Description

Equipment Question: Can we purchase charging carts for our Chromebooks?

1. Is the cost identified in the approved budget or application? Yes, the cost was included in my regional application (RA) under Regular School Year (RSY).
2. Does the cost align with the result of the comprehensive stateside needs assessment and the requirements of the comprehensive service delivery plan? Yes, Chromebooks are necessary to provide English Language Arts (ELA) services as described in the application.
3. Does the cost address the identified needs of migratory children that result from their migrant lifestyle and permit these children to participate effectively in school? If not, have Migrant Education Program (MEP) funds been first used for these purposes? Yes, the overall achievement gap between migratory and all student in ELA is 25 percent. Chromebooks are used to provide ELA services needed to reduce the achievement gap.
4. Is the cost necessary for the proper and efficient performance of the MEP? Yes, the Chromebooks are necessary for the approved online component.
5. Is the cost allocable to the MEP? Is the cost charged in proportion to the benefit received? Yes, the expense will be charged 100 percent to migrant funds and the equipment will be used only by our migratory students.
6. Does the cost meet other basic cost principles in the Uniform Guidance (2 CFR Part 200) (e.g. is it accorded consistent treatment? Is the cost consistent with the grant award terms and conditions?) Yes, the cost was charged its actual price (we did not receive a credit or rebate). Also, because the cost is a micro-purchase (cost is less than $10,000) and it is a reasonable cost, we did not solicit competitive bids. However, we did shop around online to find the most reasonable price (documentation of websites visited and prices are on file).
7. Is the cost reasonable? Is the cost comparable to market prices for the geographic area? Yes, we shopped around to find the most reasonable cost (documentation is on file).
8. Does the cost supplement, and not supplant, cost provided from nonfederal funds? Yes, the equipment is used for a supplemental program and it is not being used during core instruction.
9. Does the activity or service meet the needs of migratory children that are not addressed by services available from other federal or nonfederal programs? Yes, the cost is a support service and it is a necessary educational supply. The equipment will be used for a supplemental program not provided with other federal or nonfederal programs.
10. Is the cost adequately documented to demonstrate compliance with all applicable funding rules and restrictions? Yes, documents include but are not limited to: RA, assessments (INAs, Smarter Balance, etc.), inventory lists, invoices, procurement documents (bids), list of non-migrant services to demonstrate the service is supplemental.
11. Does the cost meet the conditions in the MEP Allowable Cost Guide? Yes.

Cost is allowable.

#### Contract Expense Example



Contract Expense Example Long Description

Contract Question: Can we contract with a private university to provide a residential program to migratory high school students?

1. Is the cost identified in the approved budget or application? No, however, I will include it in my next Budget Revision (BR).
2. Does the cost align with the result of the comprehensive stateside needs assessment and the requirements of the comprehensive service delivery plan? Yes, it also complies with the migrant general guidelines.
3. Does the cost address the identified needs of migratory children that result from their migrant lifestyle and permit these children to participate effectively in school? If not, have Migrant Education Program (MEP) funds been first used for these purposes? Yes, the region is providing all the services required by the State Service Delivery Plan (SSDP). This service is an additional service in order to comply with the migrant general guidelines.
4. Is the cost necessary for the proper and efficient performance of the MEP? Yes, it is necessary to meet the student engagement component under the SSDP as well as to meet the migrant general guidelines.
5. Is the cost allocable to the MEP? Is the cost charged in proportion to the benefit received? Yes, the expense will be charged 100 percent to migrant funds and the equipment will be used only by our migratory students.
6. Does the cost meet other basic cost principles in the Uniform Guidance (2 CFR Part 200) (e.g. is it accorded consistent treatment? Is the cost consistent with the grant award terms and conditions?) No, we did not follow are procurement requirements. We determined because the residential program at the private university offers the best experience for the students, there was no needs to obtain quotes from other potential colleges/universities.

Stop, no need to answer questions 7-11 list on page 21. Cost is not allowable. Local educational agencies (LEA) must follow federal and state procurement requirements (2 CFR Section 200.318). Depending on the price of the contract, the LEA may need to obtain quotes from other potential service providers or conduct an open competition (request for proposal) (2 CFR Section 200.320).

### Appendix: Resources

#### California Education Code

[http://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml?tocCode=EDC&tocTitle=+Education+Code+-+EDC](http://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml?tocCode=EDC&tocTitle=+Education+Code+-+EDC" \o "California Education Code)

#### Code of Federal Regulations:

Title 2, *Code of Federal Regulations* (2 *CFR*), Part 200, (Uniform Guidance) <https://www.ecfr.gov/cgi-bin/text-idx?SID=6214841a79953f26c5c230d72d6b70a1&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl>

*2 CFR*, Part 200, Subpart E (Cost Principles)

<https://www.ecfr.gov/cgi-bin/text-idx?SID=2ae0020115323ea3148951a836b1cda2&mc=true&node=sp2.1.200.e&rgn=div6>

#### Office of Migrant Education (Resources):

OME

<https://www2.ed.gov/about/offices/list/oese/ome/index.html>

Food Cost for Meetings

<https://www2.ed.gov/policy/fund/guid/gposbul/faqs-grantee-conferences.doc>

Results

<https://results.ed.gov/>

Results- MEP Policy Questions and Answers

<https://results.ed.gov/legislation/policy_qas>

### Endnotes

1. (e) “Operating agency” means a local educational agency operating under a subgrant of state migrant education funding, or a public or private nonprofit agency under a special arrangement with the department to carry out a migrant education program. (f) “Migrant region” means an operating agency comprised of a county or a combination of counties, or a public or private nonprofit agency not controlled in whole or part by a school district, or a combination of counties and agencies, meeting the criteria of subdivision (a) of Section 54444.1. [↑](#endnote-ref-1)
2. **§200.404 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 was made to incur the cost. The question of reasonableness is particularly important when the non-Federal entity is predominantly federally-funded. In determining reasonableness of a given cost, consideration must be given to:

   (a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award. (b) The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; Federal, state, local, tribal, and other laws and regulations; and terms and conditions of the Federal award. (c) Market prices for comparable goods or services for the geographic area. (d) Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-Federal entity, its employees, where applicable its students or membership, the public at large, and the Federal Government. (e) Whether the non-Federal entity significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost. [↑](#endnote-ref-2)
3. **§200.405 Allocable costs.** (a) A cost is allocable to a particular Federal award or other cost objective if the goods or services involved are chargeable or assignable to that Federal award or cost objective in accordance with relative benefits received. This standard is met if the cost:(1) Is incurred specifically for the Federal award;

   (2) Benefits both the Federal award and other work of the non-Federal entity and can be distributed in proportions that may be approximated using reasonable methods; and (3) Is necessary to the overall operation of the non-Federal entity and is assignable in part to the Federal award in accordance with the principles in this subpart.

   (b) All activities which benefit from the non-Federal entity's indirect (F&A) cost, including unallowable activities and donated services by the non-Federal entity or third parties, will receive an appropriate allocation of indirect costs.

   (c) Any cost allocable to a particular Federal award under the principles provided for in this part may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or terms and conditions of the Federal awards, or for other reasons. However, this prohibition would not preclude the non-Federal entity from shifting costs that are allowable under two or more Federal awards in accordance with existing Federal statutes, regulations, or the terms and conditions of the Federal awards.

   (d) Direct cost allocation principles. If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost must be allocated to the projects based on the proportional benefit. If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, then, notwithstanding paragraph (c) of this section, the costs may be allocated or transferred to benefitted projects on any reasonable documented basis. Where the purchase of equipment or other capital asset is specifically authorized under a Federal award, the costs are assignable to the Federal award regardless of the use that may be made of the equipment or other capital asset involved when no longer needed for the purpose for which it was originally required. See also §§200.310 through 200.316 and 200.439. [↑](#endnote-ref-3)
4. ## **§200.474   Travel costs.** (a) *General.* Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the non-Federal entity. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in the non-Federal entity's non-federally-funded activities and in accordance with non-Federal entity's written travel reimbursement policies. Notwithstanding the provisions of §200.444 General costs of government, travel costs of officials covered by that section are allowable with the prior written approval of the Federal awarding agency or pass-through entity when they are specifically related to the Federal award.

   [↑](#endnote-ref-4)
5. **(b) *Lodging and subsistence.*** Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, must be considered reasonable and otherwise allowable only to the extent such costs do not exceed charges normally allowed by the non-Federal entity in its regular operations as the result of the non-Federal entity's written travel policy. [↑](#endnote-ref-5)
6. 16 See ED Memoranda and Guidance for Grantees: <http://www2.ed.gov/policy/fund/guid/gposbul/gposbul.html> [↑](#footnote-ref-1)
7. (**i) *Standards for Documentation of Personnel Expenses*** (1) Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must: (i) Be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated; (ii) Be incorporated into the official records of the non-Federal entity; (iii) Reasonably reflect the total activity for which the employee is compensated by the non-Federal entity, not exceeding 100% of compensated activities (for IHE, this per the IHE's definition of IBS); (iv) Encompass federally-assisted and all other activities compensated by the non-Federal entity on an integrated basis, but may include the use of subsidiary records as defined in the non-Federal entity's written policy; (v) Comply with the established accounting policies and practices of the non-Federal entity (See paragraph (h)(1)(ii) above for treatment of incidental work for IHEs.); and (vi) [Reserved] (vii) Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one Federal award; a Federal award and non-Federal award; an indirect cost activity and a direct cost activity; two or more indirect activities which are allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity. (viii) Budget estimates (i.e., estimates determined before the services are performed) alone do not qualify as support for charges to Federal awards, but may be used for interim accounting purposes, provided that: (A) The system for establishing the estimates produces reasonable approximations of the activity actually performed; (B) Significant changes in the corresponding work activity (as defined by the non-Federal entity's written policies) are identified and entered into the records in a timely manner. Short term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term; and (C) The non-Federal entity's system of internal controls includes processes to review after-the-fact interim charges made to a Federal awards based on budget estimates. All necessary adjustment must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated. [↑](#endnote-ref-6)
8. **Non-Regulatory Guidance for Title I, Part C, Education of Migratory Children (March 2017)**  [↑](#footnote-ref-2)
9. **§200.439 Equipment and other capital expenditures.** (a) See §§200.1 for the definitions of capital expenditures, equipment, special purpose equipment, general purpose equipment, acquisition cost, and capital assets.(b) The following rules of allowability must apply to equipment and other capital expenditures:(1) Capital expenditures for general purpose equipment, buildings, and land are unallowable as direct charges, except with the prior written approval of the Federal awarding agency or pass-through entity. (2) Capital expenditures for special purpose equipment are allowable as direct costs, provided that items with a unit cost of $5,000 or more have the prior written approval of the Federal awarding agency or pass-through entity. (3) Capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life are unallowable as a direct cost except with the prior written approval of the Federal awarding agency, or pass-through entity. See §200.436, for rules on the allowability of depreciation on buildings, capital improvements, and equipment. See also §200.465. (4) When approved as a direct charge pursuant to paragraphs (b)(1) through (3) of this section, capital expenditures will be charged in the period in which the expenditure is incurred, or as otherwise determined appropriate and negotiated with the Federal awarding agency. (5) The unamortized portion of any equipment written off as a result of a change in capitalization levels may be recovered by continuing to claim the otherwise allowable depreciation on the equipment, or by amortizing the amount to be written off over a period of years negotiated with the Federal cognizant agency for indirect cost. (6) Cost of equipment disposal. If the non-Federal entity is instructed by the Federal awarding agency to otherwise dispose of or transfer the equipment the costs of such disposal or transfer are allowable. (7) Equipment and other capital expenditures are unallowable as indirect costs. See §200.436. [↑](#endnote-ref-7)
10. ## **§200.48 General purpose equipment.** *General purpose equipment* means equipment which is not limited to research, medical, scientific or other technical activities. Examples include office equipment and furnishings, modular offices, telephone networks, information technology equipment and systems, air conditioning equipment, reproduction and printing equipment, and motor vehicles. See also Equipment and Special Purpose Equipment.

    [↑](#endnote-ref-8)
11. ## **§200.465 Rental costs of real property and equipment.** (a) Subject to the limitations described in paragraphs (b) through (d) of this section, rental costs are allowable to the extent that the rates are reasonable in light of such factors as: rental costs of comparable property, if any; market conditions in the area; alternatives available; and the type, life expectancy, condition, and value of the property leased. Rental arrangements should be reviewed periodically to determine if circumstances have changed and other options are available. (b) Rental costs under “sale and lease back” arrangements are allowable only up to the amount that would be allowed had the non-Federal entity continued to own the property. This amount would include expenses such as depreciation, maintenance, taxes, and insurance. (c) Rental costs under “less-than-arm's-length” leases are allowable only up to the amount (as explained in paragraph (b) of this section). For this purpose, a less-than-arm's-length lease is one under which one party to the lease agreement is able to control or substantially influence the actions of the other. Such leases include, but are not limited to those between: (1) Divisions of the non-Federal entity;(2) The non-Federal entity under common control through common officers, directors, or members; and (3) The non-Federal entity and a director, trustee, officer, or key employee of the non-Federal entity or an immediate family member, either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest. For example, the non-Federal entity may establish a separate corporation for the sole purpose of owning property and leasing it back to the non-Federal entity. (4) Family members include one party with any of the following relationships to another party: (i) Spouse, and parents thereof; (ii) Children, and spouses thereof; (iii) Parents, and spouses thereof; (iv) Siblings, and spouses thereof; (v) Grandparents and grandchildren, and spouses thereof; (vi) Domestic partner and parents thereof, including domestic partners of any individual in 2 through 5 of this definition; and (vii) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship. (5) Rental costs under leases which are required to be treated as capital leases under GAAP are allowable only up to the amount (as explained in paragraph (b) of this section) that would be allowed had the non-Federal entity purchased the property on the date the lease agreement was executed. The provisions of GAAP must be used to determine whether a lease is a capital lease. Interest costs related to capital leases are allowable to the extent they meet the criteria in §200.449 Interest. Unallowable costs include amounts paid for profit, management fees, and taxes that would not have been incurred had the non-Federal entity purchased the property. (6) The rental of any property owned by any individuals or entities affiliated with the non-Federal entity, to include commercial or residential real estate, for purposes such as the home office workspace is unallowable. (d) Rental costs under leases which are required to be accounted for as a financed purchase under GASB standards or a finance lease under FASB standards under GAAP are allowable only up to the amount (as explained in paragraph (b) of this section) that would be allowed had the non-Federal entity purchased the property on the date the lease agreement was executed. Interest costs related to these leases are allowable to the extent they meet the criteria in § 200.449. Unallowable costs include amounts paid for profit, management fees, and taxes that would not have been incurred had the non-Federal entity purchased the property. (e) Rental or lease payments are allowable under lease contracts where the non-Federal entity is required to recognize an intangible right-to-use lease asset (per GASB) or right of use operating lease asset (per FASB) for purposes of financial reporting in accordance with GAAP. (f) The rental of any property owned by any individuals or entities affiliated with the non-Federal entity, to include commercial or residential real estate, for purposes such as the home office workspace is unallowable.

    [↑](#endnote-ref-9)
12. **§200.445 Goods or services for personal use.** (a) Costs of goods or services for personal use of the non-Federal entity's employees are unallowable regardless of whether the cost is reported as taxable income to the employees.(b) Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances and personal living expenses are only allowable as direct costs regardless of whether reported as taxable income to the employees. In addition, to be allowable direct costs must be approved in advance by a Federal awarding agency. [↑](#endnote-ref-10)
13. ## **§200.421 Advertising and public relations.** (a) The term advertising costs means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television, direct mail, exhibits, electronic or computer transmittals, and the like. (b) The only allowable advertising costs are those which are solely for: (1) The recruitment of personnel required by the non-Federal entity for performance of a Federal award (See also §200.463); (2) The procurement of goods and services for the performance of a Federal award; (3) The disposal of scrap or surplus materials acquired in the performance of a Federal award except when non-Federal entities are reimbursed for disposal costs at a predetermined amount; or (4) Program outreach and other specific purposes necessary to meet the requirements of the Federal award. (c) The term “public relations” includes community relations and means those activities dedicated to maintaining the image of the non-Federal entity or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public. (d) The only allowable public relations costs are: (1) Costs specifically required by the Federal award; (2) Costs of communicating with the public and press pertaining to specific activities or accomplishments which result from performance of the Federal award (these costs are considered necessary as part of the outreach effort for the Federal award); or (3) Costs of conducting general liaison with news media and government public relations officers, to the extent that such activities are limited to communication and liaison necessary to keep the public informed on matters of public concern, such as notices of funding opportunities, financial matters, etc. (e) Unallowable advertising and public relations costs include the following: (1) All advertising and public relations costs other than as specified in paragraphs (b) and (d) of this section; (2) Costs of meetings, conventions, convocations, or other events related to other activities of the entity (see also §200.432), including: (i) Costs of displays, demonstrations, and exhibits; (ii) Costs of meeting rooms, hospitality suites, and other special facilities used in conjunction with shows and other special events; and (iii) Salaries and wages of employees engaged in setting up and displaying exhibits, making demonstrations, and providing briefings; (3) Costs of promotional items and memorabilia, including models, gifts, and souvenirs; (4) Costs of advertising and public relations designed solely to promote the non-Federal entity.

    [↑](#endnote-ref-11)
14. ## **§200.318   General procurement standards.** (a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this part. (b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. (c)(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. 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 non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity. (2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization. (d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach. (e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. (f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs. (g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost. (h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also §200.213 Suspension and debarment. (i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. (j)(1) The non-Federal entity may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to a non-Federal entity is the sum of: (i) The actual cost of materials; and (ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit. (2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls. (k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

    [↑](#endnote-ref-12)
15. ## **200.452 Maintenance and repair costs.** Costs incurred for utilities, insurance, security, necessary maintenance, janitorial services, repair, or upkeep of buildings and equipment (including Federal property unless otherwise provided for) which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable. Costs incurred for improvements which add to the permanent value of the buildings and equipment or appreciably prolong their intended life must be treated as capital expenditures (see §200.439). These costs are only allowable to the extent not paid through rental or other agreements.

    [↑](#endnote-ref-13)
16. **200.302 Financial management.** (4) Effective control over, and accountability for, all funds, property, and other assets. The non-Federal entity must adequately safeguard all assets and assure that they are used solely for authorized purposes. See §200.303 Internal controls. [↑](#endnote-ref-14)
17. ## **§200.443 Gains and losses on disposition of depreciable assets.** (a) Gains and losses on the sale, retirement, or other disposition of depreciable property must be included in the year in which they occur as credits or charges to the asset cost grouping(s) in which the property was included. The amount of the gain or loss to be included as a credit or charge to the appropriate asset cost grouping(s) is the difference between the amount realized on the property and the undepreciated basis of the property. (b) Gains and losses from the disposition of depreciable property must not be recognized as a separate credit or charge under the following conditions: (1) The gain or loss is processed through a depreciation account and is reflected in the depreciation allowable under §§200.436 Depreciation and 200.439 Equipment and other capital expenditures. (2) The property is given in exchange as part of the purchase price of a similar item and the gain or loss is taken into account in determining the depreciation cost basis of the new item. (3) A loss results from the failure to maintain permissible insurance, except as otherwise provided in §200.447 Insurance and indemnification. (4) Compensation for the use of the property was provided through use allowances in lieu of depreciation. (5) Gains and losses arising from mass or extraordinary sales, retirements, or other dispositions must be considered on a case-by-case basis. (c) Gains or losses of any nature arising from the sale or exchange of property other than the property covered in paragraph (a) of this section, e.g., land, must be excluded in computing Federal award costs. (d) When assets acquired with Federal funds, in part or wholly, are disposed of, the distribution of the proceeds must be made in accordance with §§200.310 Insurance Coverage through 200.316 Property trust relationship.

    [↑](#endnote-ref-15)
18. ## **§200.83 Responsibilities of SEAs to implement projects through a comprehensive needs assessment and a comprehensive State plan for service delivery.** (a) An SEA that receives a grant of MEP funds must develop and update a written comprehensive State plan for service delivery based on a current statewide needs assessment that, at a minimum, has the following components: (1) *Performance targets.* The plan must specify— (i) Performance targets that the State has adopted for all children in reading and mathematics achievement, high school graduation, and the number of school dropouts, as well as the State's performance targets, if any, for school readiness; and (ii) Any other performance targets that the State has identified for migratory children. (2) *Needs assessment.* The plan must include an identification and assessment of— (i) The unique educational needs of migratory children that result from the children's migratory lifestyle; and (ii) Other needs of migratory students that must be met in order for migratory children to participate effectively in school. (3) *Measurable program outcomes.* The plan must include the measurable program outcomes (i.e., objectives) that a State's migrant education program will produce to meet the identified unique needs of migratory children and help migratory children achieve the State's performance targets identified in paragraph (a)(1) of this section. (4) *Service delivery.* The plan must describe the strategies that the SEA will pursue on a statewide basis to achieve the measurable program outcomes in paragraph (a)(3) of this section by addressing— (i) The unique educational needs of migratory children consistent with paragraph (a)(2)(i) of this section; and (ii) Other needs of migratory children consistent with paragraph (a)(2)(ii) of this section. (5) *Evaluation.* The plan must describe how the State will evaluate the effectiveness of its program. (b) The SEA must develop its comprehensive State plan for service delivery in consultation with the State parent advisory council or, for SEAs not operating programs for one school year in duration, in consultation with the parents of migratory children. This consultation must be in a format and language that the parents understand. (c) Each SEA receiving MEP funds must ensure that its local operating agencies comply with the comprehensive State plan for service delivery.

    [↑](#endnote-ref-16)
19. **200.29 Consolidation of funds in a schoolwide program.** (c) A school must meet the following requirements if the school consolidates and uses funds from these programs in its schoolwide program: (1) *Migrant education.* Before the school chooses to consolidate in its schoolwide program funds received under part C of Title I of the ESEA, the school must— (i) Use these funds, in consultation with parents of migratory children or organizations representing those parents, or both, first to meet the unique educational needs of migratory students that result from the effects of their migratory lifestyle, and those other needs that are necessary to permit these students to participate effectively in school, as identified through the comprehensive Statewide needs assessment under §200.83; and (ii) Document that these needs have been met. [↑](#endnote-ref-17)
20. ## **§200.320   Methods of procurement to be followed.** The non-Federal entity must use one of the following methods of procurement. (a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (§200.67 Micro-purchase). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable. (b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources. (c) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply. (1) In order for sealed bidding to be feasible, the following conditions should be present: (i) A complete, adequate, and realistic specification or purchase description is available; (ii) Two or more responsible bidders are willing and able to compete effectively for the business; and (iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price. (2) If sealed bids are used, the following requirements apply: (i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised; (ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond; (iii) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly; (iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and (v) Any or all bids may be rejected if there is a sound documented reason. (d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply: (1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical; (2) Proposals must be solicited from an adequate number of qualified sources; (3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients; (4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and (5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort. (e) [Reserved] (f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply: (1) The item is available only from a single source; (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation; (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or (4) After solicitation of a number of sources, competition is determined inadequate.

    [↑](#endnote-ref-18)