

The background is a solid dark blue. It features several abstract geometric elements: a large, light blue triangle on the left side; a smaller, light blue triangle on the right side; a light blue circle in the upper right quadrant; a light blue square with a smaller square inside it, tilted at an angle, in the lower right quadrant; and a light blue circle in the lower left quadrant. The text is centered within a white rectangular border.

California Department of Education

# **FEDERAL GRANTS FISCAL GUIDANCE**

# CALIFORNIA DEPARTMENT OF EDUCATION

## FEDERAL GRANTS FISCAL GUIDANCE

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*CDE developed this guide in partnership with Brustein & Manasevit, PLLC, a federal education and grants management law firm ([www.bruman.com](http://www.bruman.com)).*

The California Department of Education (CDE) is providing guidance on the various requirements that impact federal education grants, focusing on issues and questions commonly identified through CDE's fiscal and program monitoring, training, and technical assistance.

## **I. Overview of Governing Legal Authorities and General Structure of Grant Programs**

### **A. Overview of Governing Legal Authorities**

As a condition of receiving federal funds, school districts, county offices of education, and directly funded charter schools (local educational agencies [LEAs]) receiving federal education grants are responsible for complying with many legal requirements. While most grantees know they must comply with the terms of the specific law under which the grant funds were given, such as Title I, Part A of the Elementary and Secondary Education Act (ESEA), Part B of the Individuals with Disabilities Education Act, or the Strengthening Career and Technical Education for the 21st Century Act (Perkins V), many grantees are not aware of the multitude of other legal requirements and responsibilities that are attached to the receipt of federal funds, often referred to as grants management requirements.

#### *1. Federal Law is Supreme*

In general, federal law takes precedence over state law. However, in the context of federal grants it is fairly common for a federal law to permit a state or local government to follow state or local law, as long as certain threshold requirements are met. Where there is a conflict between federal and state law, the federal law will preside unless the federal law in question says otherwise or unless an applicable state law is more stringent. The importance of reading the specific laws and rules that govern a particular grant cannot be overemphasized.

#### *2. Hierarchy of Federal Rules*

The hierarchy of federal requirements is as follows:

- (1) Statutes
- (2) Regulations
- (3) Nonregulatory guidance
- (4) Dear Colleague letters
- (5) Direct communications from US Department of Education (ED) officials

Federal statutes are passed by Congress, the legislative branch of the federal government. Federal regulations are promulgated by federal agencies, such as ED, within the executive branch of government. Regulations fill in practical details about how a law will be implemented, and emphasize and clarify areas where an executive branch agency may exercise some discretion. Regulations have the full force and effect of law, meaning that affected parties are required by law to comply with them. To adopt regulations, a federal agency has to go through a formal rulemaking process.

Federal agencies may also issue nonregulatory guidance that provides additional information about the law in plain-language format. Nonregulatory guidance does not go

through a formal rulemaking process. It does not have the force of law or regulation and is often updated.

In lieu of new guidance, ED often issues Dear Colleague letters to education stakeholders that describe ED policy interpretations and flexibility options. These letters typically are addressed to stakeholders as a group—such as all chief state school officers or all state Title I directors. Like guidance, these letters do not carry the force of law; however, they are an important indicator of policy trends at ED.

Finally, ED program officials will respond to individual questions via letter, phone, or email. While these direct communications are not considered official policy, they can provide an indication of how ED will address certain programmatic and fiscal concerns.

### *3. Statutes: Programmatic and Administrative*

As the highest controlling authority, statutes are the point at which all administrators should start when trying to learn the formal legal requirements of the programs they administer. There are two basic types of statutes that most LEAs will encounter: programmatic statutes and administrative statutes.

#### **Programmatic Statutes**

Examples of programmatic statutes include the:

- ESEA of 1965, as amended by the Every Student Succeeds Act (ESSA)
- Individuals with Disabilities Education Act
- Strengthening Career and Technical Education for the 21st Century Act

Specific statutory programmatic requirements vary a great deal from program to program. Administrators are encouraged to read the statutory language to understand the basic program requirements.

Programmatic statutes typically contain many different education programs. For example, the ESEA (as amended by the ESSA) contains several individual programs, including Title I, Part A; the Title III English Language Acquisition program; and the 21st Century Community Learning Centers program. The overarching purpose of a programmatic statute is to establish the particular requirements of each individual education program, such as:

- How the funds are generated
- How the funds must be allocated
- Who is eligible to be served
- How the program must be designed
- What the permissible uses of funds are
- What types of reports or evaluations are required

In addition to these types of programmatic requirements, the statutory language of individual programs often establishes certain program-specific fiscal requirements. Examples include the supplement not supplant requirement, mandatory set-asides or administrative caps, and matching requirements.

Programmatic statutes, such as the ESEA, often contain certain provisions that are general in nature and apply to all (or most) programs in the statute. For example, a statute may contain a definitions section, a general provisions or uniform requirements section, and a fiscal requirements section. These types of requirements are often located in a different part in the statute than the federal education program language itself; however, they may still apply to the federal program in question.

### **Administrative Statutes**

Administrative statutes do not address programmatic issues. Instead, administrative statutes outline the basic threshold requirements or processes that apply to federal funds. One primary administrative statute with which LEAs should be familiar is the General Education Provisions Act (GEPA).

GEPA outlines the basic administrative requirements that pertain to most ED programs. It is important to note that while GEPA establishes the general administrative framework for federal education grant funds, certain programmatic statutes state that some portions of GEPA do not apply to certain programs. For example, GEPA includes sections regarding single state and local applications for education funds, but the ESEA establishes different application requirements and specifically states that the application sections of GEPA do not apply to consolidated applications under the ESEA. Therefore, it is essential to check the specific program statute at issue to determine whether the rules outlined in the program statute or the rules contained in GEPA apply in a specific situation.

Some of the most important general provisions of GEPA for recipients of federal education funds are the following:

- Forward funding and the period of performance: GEPA sections 420–421
- State reporting requirements: GEPA Section 424
- State agency monitoring and enforcement responsibilities: GEPA Section 440
- Single state and local application requirements: GEPA sections 441–442
- Family Educational Rights and Privacy Act (FERPA) requirements: GEPA Section 444
- Requirements relating to protection of pupil rights: GEPA Section 445
- Enforcement provisions for noncompliance: GEPA sections 451–459

#### **4. Federal Agency Regulations**

Regulations are next in the hierarchy of federal rules. Regulations are designed to fill in vague areas within the statute that require federal agency interpretation. For instance, if a statute requires that an appeal be filed “within a reasonable time,” the relevant federal agency may issue a regulation indicating the appeal must be filed within 30 days. Like statutes, regulations have the force of law and are considered to be binding legal authority.

Regulations are promulgated by federal agencies through a formal rulemaking process to implement a bill that has been passed by Congress and has become law. Not all programs have regulations. Generally, regulations are promulgated for larger, more complex federal education programs. It is essential to determine whether a specific program has regulations, because compliance with regulations is a condition of receiving funds.

ED designates all of its general administrative requirements collectively as the Education Department General Administrative Regulations, or EDGAR. Hence, grantees may encounter such statements as “This program is subject to EDGAR.” This is simply a shorthand way for the department to indicate that the normal administrative regulations apply to that program.

The regulations in EDGAR contain important administrative requirements that apply to federal education funds. Specifically, EDGAR addresses topics such as the threshold administrative systems that must be in place for recipients of federal grants, application requirements (34 *CFR* 76.300–76.304), private school and charter school requirements (34 *CFR* 76.650–76.662; 76.785–76.797), and enforcement requirements (34 *CFR* 81.1–81.45), among many others. Many of the concepts laid out in GEPA are further articulated and explained in EDGAR. In addition to the sections of EDGAR outlined above, ED has formally adopted the administrative requirements, cost principles, and audit requirements issued by the Office of Management and Budget (OMB) under Title 2 of the *Code of Federal Regulations* (2 *CFR*), including 2 *CFR* Part 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (also known as the Uniform Guidance [UGG]) and 2 *CFR* Part 3474. The 2 *CFR* Part 200 regulations address financial management; procurement and inventory management requirements; allowable costs, including time and effort documentation; and single audit requirements, including corrective action plans.<sup>1</sup>

## 5. *Nonregulatory Guidance*

Nonregulatory guidance is used by ED to provide informal advice to grantees and subgrantees regarding federal education requirements. For example, ED has issued nonregulatory guidance for most major ESEA programs, sometimes revising the guidance multiple times to reflect policy changes or new flexibility in administering the program.

Technically, nonregulatory guidance does not have the force of law in the same way a statute or regulation does. However, nonregulatory guidance reflects ED’s most user-friendly interpretation of a statute, as it is generally written in plain-language question-and-answer format. Moreover, the guidance typically represents policy and flexibility that will be followed by the program offices. In other words, if an LEA complies with the nonregulatory guidance, ED’s program offices generally will not later issue a finding of noncompliance. However, it is important to recognize that the guidance is not binding on the Department in the same way that statutes or regulations are binding and that program offices occasionally issue multiple versions of guidance on the same subject with different interpretations.

In addition, the ED Office of Inspector General (OIG) has recently viewed nonregulatory guidance as less authoritative than in the past. The OIG has made findings of noncompliance where a grantee or subgrantee complied with advice provided in nonregulatory guidance that (in OIG’s view) was not entirely consistent with the statute. Accordingly, recipients of federal grant funds are advised that statutes and regulations should be viewed as the gold standard for compliance purposes. If there is an inconsistency between guidance and the relevant statute or regulation, ultimately the statute or regulation controls.

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<sup>1</sup> On August 13, 2020, OMB published technical revisions and edits to the UGG, 2 *CFR* Part 200. See <https://www.federalregister.gov/documents/2020/08/13/2020-17468/guidance-for-grants-and-agreements>. The revised regulations are effective November 12, 2020, except for amendments to sections 200.216 and 200.340, which are effective on August 13, 2020. This guidance incorporates the revised UGG, including the updated citations.

## 6. *Dear Colleague Letters from ED*

ED has increasingly used Dear Colleague letters as a way to communicate significant policy changes or flexibility options to agencies regarding federal law. Sometimes these letters notify recipients of an opportunity to request flexibility through a formal application to ED. In other cases, these letters simply grant blanket flexibility regarding a legal requirement across the board with no further action required by a grant recipient.

Like nonregulatory guidance, letters issued by ED do not have the force of law or regulations. However, because they are increasingly used to communicate important policy changes or flexibility in how ED is administering a program or interpreting a legal requirement, LEAs should ensure that they monitor these letters to keep abreast of recent developments.

## 7. *Other Communications from ED Officials*

The most informal form of federal guidance comes from other correspondence from ED officials, often addressing single programmatic or fiscal questions. While nonregulatory guidance and generally distributed Dear Colleague policy letters are much more official, individual letters, emails, or phone calls with ED officials may signal shifts in ED policy. While this correspondence is not binding, and cannot be considered official policy or guidance, personal direction from an ED official may signal the policy that ED's respective offices are following in addressing programmatic and fiscal concerns. However, if information contained in correspondence conflicts with nonregulatory guidance, regulations, or the statute itself, the more official forms of federal policy will always be controlling.

# B. **Structure of a Federal Education Grant Program**

## Types of ED Grants

ED grants may be divided into four partially overlapping types. The first two—formula grants and discretionary grants—are distinguished according to the basis on which the funds are awarded. The second two—state-administered grants and direct grant programs—are distinguished by the lines of grant oversight and accountability.

## **Formula Grants**

A formula grant program distributes funds to recipients based on a formula established by law. As a threshold criterion, eligibility for formula grants is based on the type of recipient (i.e., whether it is a State Educational Agency (SEA), LEA, Institution of Higher Education (IHE), tribe, etc.), but may involve other criteria such as population, poverty level or number of students in special populations (such as homeless students). EDGAR Part 75.200(c) describes a formula grant program as “one that entitles certain applicants to receive grants if they meet the requirements of the program. Applicants do not compete with each other for the funds, and each grant is either for a set amount or for an amount determined under a formula.” Most major formula programs, such as ESEA Title I, Part A and the Part B and Part C programs under the Individuals with Disabilities Education Act, are also state-administered programs.



## **Discretionary Grant Programs**

Discretionary grants, also known as competitive grants, permit the granting agency to exercise discretion over the selection of entities or subgrantees for funding. The criteria for applying for and receiving a discretionary grant are defined by federal education laws and, in some cases, regulations. Under certain programs, the granting agency has relatively wide discretion in establishing competitive criteria.

## **State-Administered Programs**

State-administered programs are a special category of ED formula grants and are governed by a distinct set of regulations: Part 76 of EDGAR, State-Administered Programs. Although they are relatively few in number, state-administered programs are by far the largest ED programs. Representative state-administered programs include ESEA Title I, Part A; IDEA, Parts B and C; and the Perkins Career and Technical Education formula grant program. A state-administered program may be described as one in which the state receives funds by formula from ED. The authorizing statute usually permits the state to use some funds directly, but, for the most part, as explained in 34 *CFR* 76.50, state-administered programs require the state to pass the money on to eligible grantees (generally LEAs) that will actually carry out the programs. Depending on the regulations governing the program, the state may be required to distribute the funds to its subgrantees through formula, by competition, or using a combination of the two (34 *CFR* 76.51).

## **Direct Grant Programs**

All ED grants that are not state-administered programs as defined above are considered direct grants. Direct grants are governed by Part 75 of EDGAR, Direct Grant Programs.

Almost all direct grants are discretionary grants. However, formula grants that are not state-administered programs are also considered direct grants (34 *CFR* 75.1[b]). Typically, in a direct grant program the entity receiving the funds has a direct relationship with ED; funds do not flow through another entity.

# **II. Crafting Compliant Policies and Procedures**

This document outlines how to draft policies and procedures to create a comprehensive federal grants manual. It discusses the policies and procedures that are required by the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 *CFR* Part 200 (UGG) and the Education Department General Administrative Regulations (EDGAR), as well as suggested sections for a comprehensive manual. This section is meant to be used as a guide when drafting policies and procedures that reflect the actual practices of the LEA. This document also includes some best practices for what to include in various sections of the grants manual.

## **A. Why are policies and procedures important?**

Having compliant policies and procedures leads to administering programs in accordance with grant management requirements. They are an important internal control that helps ensure programs are compliant. They set the framework for compliance by instructing

readers how programs are supposed to run and why by giving the requirements. Policies and procedures allow the organization to cultivate an environment of compliance. Specifically, a policy is *why* something is done and a procedure is *how* something is done; the policy gives the standards and the procedures give steps.

Specifically, policies and procedures are important for:

- **Single Audits:** Auditors are going to ask for policies and procedures when conducting a single audit. If the LEA does not have them, it may receive an internal control audit finding requiring it to develop and implement written policies and procedures. When the LEA has them written in advance and readily available, audits will go more smoothly than when the LEA does not have them or cannot find them. Policies and procedures are helpful to demonstrate that the LEA has internal controls in place to ensure compliance.
- **Monitoring:** Monitors also check for policies and procedures. Policies and procedures are evidence of compliance under all monitoring tools.
- **Staff Changes and Transitions:** Policies and procedures are also important as a training tool for staff. It is important to have a document where other employees or new employees can see what is done in the event of staff turnover or transitions. Having policies and procedures allows for consistency from one employee to the next in a position.

**Policies and procedures are required by the Uniform Guidance.** The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 *CFR* Part 200 (UGG) requires policies and procedures, including, but not limited to, the following:

- Written Cash Management Procedure—2 *CFR* 200.302(b)(6); 200.305
- Written Allowability Procedures—2 *CFR* 200.302(b)(7)
- Written Conflicts of Interest Policy—2 *CFR* 200.318(c)
- Written Procurement Procedures—2 *CFR* 200.318; 2 *CFR* 200.320
- Written Method for Conducting Technical Evaluations of Proposals and Selecting Recipients—2 *CFR* 200.320(b)(2)(ii)
- Written Travel Policy—2 *CFR* 200.475(b)
- Procedures for Managing Equipment—2 *CFR* 200.313(d)
- Written Procedures on Fringe Benefits—2 *CFR* 200.431
- Time and Effort—Guidance from ED and the CDE states that procedures for time and effort are essential

## **B. Process for Drafting Policies and Procedures**

When developing policies and procedures, a team consisting of both fiscal and programmatic personnel should be assembled. If individuals are involved in the process, then they will feel ownership over the project and the policies and procedures. In addition, staff will be more likely to be agreeable and buy in to the policies and procedures when they assist in the drafting process. Furthermore, this will result in more well-rounded and complete procedures that include both fiscal and programmatic perspectives.

## 1. *Process*

The following is a brief overview of the process for developing policies and procedures:

- Review existing documentation.
  - Look at existing documents (such as memos, emails, forms, job descriptions, policies and procedures from different offices) for help. It is also helpful to include forms that are frequently used as appendices.
- Identify holes or missing policies and develop questions.
- Schedule interviews with relevant staff.
  - Obtain information from staff who perform grant-related activities and schedule interviews with relevant staff members to learn the necessary information on how their job responsibilities are conducted.
- Gather information on actual practices and confirm they are consistent with legal requirements.
- Draft policies and procedures.
- Review internally with appropriate staff to confirm policies are consistent with actual staff practices.
- Review policies and procedures annually and revise as necessary
- Formally adopt and implement.
- Train staff.

## 2. *Helpful Resources*

The following are helpful resources to use when determining what should be included in policies and procedures:

- Uniform Guidance (2 *CFR* Part 200)
- EDGAR
- Authorizing statutes
- Program regulations
- Program guidance
- State and agency rules, regulations, policies, and procedures

## 3. *Suggested Topics*

Suggested sections to include in a comprehensive grants management manual include:

- Organization, Structure, and Function
- Grant Application Process
- Financial Management System
- Allowability (including travel)
- Procurement
- Inventory and Property Management
- Time and Effort
- Recordkeeping and Record Retention
- Monitoring
- Audit Resolution

- Programmatic Fiscal Requirements
- Programmatic Requirements
- Frequently Asked Questions

### **C. Organization, Structure, and Function**

A grants manual should include an organizational chart of the different offices and departments that work on grants-related activities. This will help everyone in the organization see who is responsible for what throughout the entire grant process.

Best practices for the organization and structure section include providing a solid overview of the organization that includes information on all offices and the responsibilities of various employees, as well as a description of any grant responsibilities of outside entities.

### **D. Grant Application Process**

The grants manual can include a section on the grant application process that describes how the LEA decides to apply for a grant and the steps that are involved in applying for one. In general, this section should describe the planning process that occurs when deciding which grants to apply for: Are there meetings about the applications? Who attends those meetings? Who drafts the application? Who has to approve it?

This section should standardize how the LEA determines which grants to apply for and the application process itself. In addition, it should outline the process for grant acceptance and what appropriate parties need to meet to be certain the LEA wants to accept the grant.

After a grant is awarded, the LEA may want to hold an initial grants management meeting to review specifics of the grant and make sure everyone is on the same page. Topics to discuss could include the budget, any required documentation, time and effort, etc.

### **E. Financial Management System**

The UGG includes seven requirements for a sound and compliant financial management system that should be included in the grants manual:

- (1) Identification of Awards
- (2) Financial Reporting
- (3) Accounting Records (source documentation)
- (4) Internal Controls
- (5) Budget Controls
- (6) Written Cash Management Procedures
- (7) Written Allowability Procedures (2 *CFR* 200.302[b][7])

Among the seven requirements are two requirements that all nonfederal entities spending federal dollars must have written cash management procedures and written allowability procedures. An LEA should have more comprehensive procedures for these; separating these procedures from the general procedures on the financial management system is recommended.

This section should describe the financial management and accounting systems used by the LEA. What is the system's name? Does this system interface with the procurement and inventory systems? At what point is the budget loaded onto the system? How are budgets loaded and tracked in the system? What position or office is responsible for managing budgets and accounts payable? Under 2 *CFR* 200.302, a recipient must track the Catalog of Federal Domestic Assistance title and number, federal award identification number and year, name of the federal agency, and, if applicable, name of the pass-through entity. How are the funds identified within the financial management system?

It should also discuss what position or office will be responsible for compiling timely and accurate financial reports, subject to whose review and approval. The reports should be prepared and submitted as specified by the financial reporting clause of each grant or contract award document. These reports must include monthly and cumulative expenditures, project budgets, and a balance remaining column.

In addition to identifying the award and the offices and positions that complete required financial reporting, addressing the following areas within the overview procedures on financial management is suggested: budgeting processes, accounting records, classification of direct and indirect costs, and best practices or internal controls related to the financial management system.

### *1. Budgeting*

The budgeting section should outline the budgeting process including:

- Planning phase before receiving the Grant Award Notice (GAN)
  - Describe any initial budget discussions and meetings that take place prior to receiving the GAN
- After receiving the GAN
  - Describe any initial grant budget meetings
- Process for amending the budget (2 *CFR* 200.308)
  - Describe the process for amending the budget and who is involved. Include any notification, formal approval, and documentation that must be maintained. For state-administered programs, CDE program offices set out the requirements for budget amendments.
- Budget control
  - Describe how the LEA monitors its financial performance by comparing and analyzing actual results with budgeted results.

### *2. Accounting Records*

This section should describe how accounting records are kept. What are the definitions of each type of account (e.g., assets, liabilities, revenues, and expenses)? To the extent appropriate, the manual could cross-reference the California School Accounting Manual (CSAM). What office is responsible for maintaining accounting records, subject to whose review and approval? How are journal entries made (e.g., is program approval required)? Are there any recurring journal entries? Is there a chart of accounts that provides the

framework for the accounting system and identification of federal grants? If so, an excerpt as it relates to federal grants may be inserted, or included as an appendix.

### 3. *Direct and Indirect Costs*

LEAs should keep in mind the classification of direct and indirect costs (2 *CFR* 200.413; 200.414). If the LEA has an indirect cost rate, this section can describe the rate and negotiation process, including what type of documentation is required to be included within the proposal and the time frame and positions associated with this process. In addition, it should also include the requirements for applying the indirect cost rate (34 *CFR* 75.564; 76.569).

### 4. *Best Practices*

- Include information on:
  - Accounting systems
  - How budgets are loaded onto the system
  - Process for comparing budgets to expenditures
  - Process and authorizations for budget revisions
- Incorporate state and agency requirements

## **F. Cash Management**

LEAs must keep written procedures to implement the requirements of 2 *CFR* 200.305 Payment, in accordance with 2 *CFR* 200.302(b)(6). Recipients of federal funds are required to minimize the time that elapses between receipt and expenditure of funds in accordance with 2 *CFR* 200.305. As a result, LEAs receiving formula-based allocations under Title I, Part A; Title I, Part D, Subpart 2; Title II, Part A; Title III English Learner (EL); Title III Immigrant; and Title IV, Part A programs under the ESEA of 1965, as amended by the ESSA of 2015, are required report the cash balance for each of these programs on a quarterly basis to the CDE through the Cash Management Data Collection (CMDC) system. LEAs must submit cash management data each reporting period to be eligible to receive funds in that period. In addition, all LEAs receiving federal advances are required to calculate, report, and remit interest earned to the CDE.

### **Cash Management Data Collection**

LEAs receiving allocations with cash management requirements, including the programs noted above, must report the cash balance for each of these programs on a quarterly basis to the CDE in order to receive their apportionments for those programs. The LEAs report the data through the web-based federal CMDC system. Only one CMDC report will be submitted for a quarter; the CMDC report will have a separate line on which to report the cash balance for each of the programs. The programs and lines shown for a particular LEA's CMDC will correspond to the programs for which that LEA is receiving funding.

The CDE will use the reported cash balance to determine the apportionment to release in each reporting period. The apportionment will be equal to 25 percent of the LEA's annual program entitlement minus the cash balance it reported for that period. Calculations will be

done for each of the programs. Apportionment for a particular fiscal year grant award will be paid after the entitlements for any prior year grant awards have been fully paid, unless the authority to obligate those funds has expired.

LEAs must submit cash management data each reporting period to be eligible to receive funds in that period. The data must be submitted by midnight on the reporting deadline. No late submissions will be accepted. If the cash balance is zero, a CMDC report must still be submitted in order to receive an apportionment.

LEAs may log on to the CMDC system at any time within the reporting window for each period to submit cash management data. Changes may be made to submitted data up to the reporting deadline.

Important deadlines and reporting windows to submit federal cash management data through the CMDC are as follows:

Reporting Period	Reporting Start Date	Reporting Deadline
1	July 10	July 31
2	October 10	October 31
3	January 10	January 31
4	April 10	April 30

Please note that the data submitted under the CMDC system does not affect how program entitlements are calculated, only how much of the LEA's entitlement will be paid each quarter.

For additional information on the CMDC, please see the CDE's Federal Cash Management Instructions located at

<https://www.cde.ca.gov/fg/aa/cm/fcmdcinstructions.asp>.

### **Interest Earned on Federal Funds**

All LEAs receiving federal advances are required to calculate, report, and remit interest earned to the CDE.

### **Calculating**

The CDE requires LEAs to calculate interest earned on federal advances on a quarterly basis. If federal funds are maintained in a manner which enables the county treasurer or county office of education to specifically determine the amount of interest earned on federal funds for a particular period (at least quarterly), then that is the interest amount that should be reported and remitted to the CDE. The interest due on federal cash balances should reflect the actual amount of interest earned on the unspent federal program funding advances. Therefore, interest calculations should be based on applicable interest rates applied to actual federal cash held in the grantee's bank or the county treasury.

If federal funds are pooled with nonfederal funds in the LEA's bank or the county treasury, then the LEA must reasonably determine the federal portion of total earned interest for the period. Since the amount of federal cash available for program costs can change daily, the LEA should apply applicable interest rates to the reporting period's average daily federal cash balances. Average daily federal cash balances can be calculated by combining all federal program cash, both negative and positive, for each day of the reporting period, using federal program resource codes, then dividing by the actual number of days in the reporting period. If the combined federal cash available under this approach is negative for any day during the period, the LEA must record the average daily federal cash balance as zero to avoid reducing or offsetting federal interest earnings for the temporary use of nonfederal cash resources for federal programs.

If the LEA includes nonfederal match funding in the federal program resource codes, the grantee may reduce the daily federal cash balances by the corresponding proportionate share of required cash match for each program. For example, if federal program Title XYZ has a 20 percent match requirement and the grantee accounts for the nonfederal programs match in the Title XYZ federal program resource code, then the 20 percent proportionate share of match may be excluded from the calculated daily and average daily balances.

## **Reporting**

The CDE requires LEAs to report interest on a quarterly basis by email to [cashmanagement@cde.ca.gov](mailto:cashmanagement@cde.ca.gov). The information must specify the reporting period and amount of interest due, or zero, if no interest is due. The report should also include the following:

1. Documentation of the county treasurer's interest rates utilized in the interest calculations
2. The LEA's interest calculations, including the specific resource codes
3. The County-LEA-School code and the time period(s) of the interest calculation (e.g., October 1, 20XX through December 31, 20XX)

## **Remittance**

LEAs should remit to the CDE only the interest earned on federal program advances administered by the CDE; interest earned on non-CDE-administered program advances should be calculated separately and remitted to the US Treasury via the appropriate state or federal agency. In addition, the cash balances of federal reimbursement programs should be omitted in calculating federal interest due to the US Treasury. LEAs may retain interest amounts up to \$500 each year in total for related administrative expenses.

If an LEA has questions as to whether the federal program funding is received in advance or on a reimbursement basis, the LEA should look to the grant award notification or apportionment letter for clarification. Also, a list of reimbursable programs typically not included in federal interest calculations is located at

<https://www.cde.ca.gov/Fg/ac/co/reimbursableprograms.asp>.





Remittances must be sent to the following address:

Attention: Cashier's Office  
California Department of Education  
P.O. Box 515006  
Sacramento, CA 95851

Please note that interest remitted to CDE is immediately forwarded to the ED. Therefore, LEAs must ensure calculations and payments are accurate prior to submission as refunds or credit are not permitted.

Guidance regarding federal administrative requirements related to interest earned on federal advances can be found at

<https://www.cde.ca.gov/fg/ac/co/intfedfunds.asp>.

## **G. Allowability**

LEAs must have written procedures for determining allowability (2 *CFR* 200.302[b][7]). The allowability requirements and cost principles are located in Subpart E of the UGG. Also, the cost must be allowable under the terms and conditions of the federal award.

Allowability policies and procedures should do more than simply restate the rules. Instead, they should make policies and procedures like a blueprint or roadmap of how to determine whether a cost is allowable. This can also be used as a training tool for employees. They can simply pick up the document and read the policy to learn what the general criteria are for allowability and how to apply them to expenditures.

Under 2 *CFR* 200.403, all costs must be:

- Necessary, reasonable, and allocable
- In conformance with federal law and grant terms
- Consistent with state and local policies
- Consistently treated
- In accordance with Generally Accepted Accounting Principles (GAAP)
- Not included as a matching or cost sharing requirement
- Adequately documented
- Incurred during the approved budget period
- Net of applicable credits (2 *CFR* 200.406)

In the written allowability policy, the UGG's selected items of cost section, which contains 55 specific items of cost and their allowability rules, can be referenced (see 2 *CFR* 200.420–200.475). It is recommended to include a chart of the 55 selected items of cost with the citation and whether it is an allowable cost. Some of these items have certain conditions that need to be met in order to be allowable, so it is important to instruct staff to review the regulations in full. An example of such a chart is included below.

Item of Cost	Citation of Allowability Rule	Allowable, Unallowable, Allowable with Restrictions, or Unallowable with Exceptions
Advertising and public relations costs	2 <i>CFR</i> § 200.421	Allowable with Restrictions
Advisory councils	2 <i>CFR</i> § 200.422	Allowable with Restrictions
Alcoholic beverages	2 <i>CFR</i> § 200.423	Unallowable
Alumni/ae activities	2 <i>CFR</i> § 200.424	Unallowable
Audit services	2 <i>CFR</i> § 200.425	Allowable with Restrictions
Bad debts	2 <i>CFR</i> § 200.426	Unallowable
Bonding costs	2 <i>CFR</i> § 200.427	Allowable with Restrictions
Collection of improper payments	2 <i>CFR</i> § 200.428	Allowable
Commencement and convocation costs	2 <i>CFR</i> § 200.429	Unallowable with Exceptions
Compensation—personal services	2 <i>CFR</i> § 200.430	Allowable <i>with specific criteria</i>
Compensation—fringe benefits	2 <i>CFR</i> § 200.431	Allowable with Restrictions
Conferences	2 <i>CFR</i> § 200.432	Allowable with Restrictions
Contingency provisions	2 <i>CFR</i> § 200.433	Unallowable with Exceptions
Contributions and donations	2 <i>CFR</i> § 200.434	Unallowable
Defense and prosecution of criminal and civil proceedings, claims, appeals, and patent infringements	2 <i>CFR</i> § 200.435	Unallowable with Exceptions
Depreciation	2 <i>CFR</i> § 200.436	Allowable with Restrictions
Employee health and welfare costs	2 <i>CFR</i> § 200.437	Allowable with Restrictions
Entertainment costs	2 <i>CFR</i> § 200.438	Unallowable with Exceptions
Equipment and other capital expenditures	2 <i>CFR</i> § 200.439	Allowable with Restrictions
Exchange rates	2 <i>CFR</i> § 200.440	Allowable with Restrictions
Fines, penalties, damages, and other settlements	2 <i>CFR</i> § 200.441	Unallowable with Exceptions
Fund raising and investment management costs	2 <i>CFR</i> § 200.442	Unallowable with Exceptions
Gains and losses on disposition of depreciable assets	2 <i>CFR</i> § 200.443	Allowable with Restrictions
General costs of government	2 <i>CFR</i> § 200.444	Unallowable
Goods and services for personal use	2 <i>CFR</i> § 200.445	Unallowable
Idle facilities and idle capacity	2 <i>CFR</i> § 200.446	Idle facilities: Unallowable with Exceptions Idle capacity: Allowable with Restrictions
Insurance and indemnification	2 <i>CFR</i> § 200.447	Allowable with Restrictions

<b>Item of Cost</b>	<b>Citation of Allowability Rule</b>	<b>Allowable, Unallowable, Allowable with Restrictions, or Unallowable with Exceptions</b>
Intellectual property	2 CFR § 200.448	Allowable with Restrictions
Interest	2 CFR § 200.449	Allowable with Restrictions
Lobbying	2 CFR § 200.450	Unallowable with Exceptions
Losses on other awards or contracts	2 CFR § 200.451	Unallowable
Maintenance and repair costs	2 CFR § 200.452	Allowable with Restrictions
Materials and supplies costs, including costs of computing devices	2 CFR § 200.453	Allowable with Restrictions
Memberships, subscriptions, and professional activity costs	2 CFR § 200.454	Allowable with Restrictions
Organization costs	2 CFR § 200.455	Unallowable with Exceptions
Participant support costs	2 CFR § 200.456	Allowable with Restrictions
Plant and security costs	2 CFR § 200.457	Allowable
Pre-award costs	2 CFR § 200.458	Allowable with Restrictions
Professional services costs	2 CFR § 200.459	Allowable with Restrictions
Proposal costs	2 CFR § 200.460	Allowable with Restrictions
Publication and printing costs	2 CFR § 200.461	Allowable with Restrictions
Rearrangement and reconversion costs	2 CFR § 200.462	Allowable with Restrictions
Recruiting costs	2 CFR § 200.463	Allowable with Restrictions
Relocation costs of employees	2 CFR § 200.464	Allowable with Restrictions
Rental costs of real property and equipment	2 CFR § 200.465	Allowable with Restrictions
Scholarships and student aid costs	2 CFR § 200.466	Allowable with Restrictions
Selling and marketing costs	2 CFR § 200.467	Unallowable with Exceptions
Specialized service facilities	2 CFR § 200.468	Allowable with Restrictions
Student activity costs	2 CFR § 200.469	Unallowable with Exceptions
Taxes (including value-added tax)	2 CFR § 200.470	Allowable with Restrictions
Telecommunication costs and video surveillance costs	2 CFR § 200.471	Allowable with Exceptions
Termination costs	2 CFR § 200.472	Allowable with Restrictions
Training and education costs	2 CFR § 200.473	Allowable
Transportation costs	2 CFR § 200.474	Allowable
Travel costs	2 CFR § 200.475	Allowable with Restrictions
Trustees	2 CFR § 200.476	Allowable

## 1. Travel

Travel costs are also included in the selected items of cost section in the UGG (see 2 *CFR* 200.475). Travel costs charged directly to the federal award must include documentation to justify that participation of the individual is necessary to the federal award and costs are reasonable and consistent with established travel policy. It is recommended to have a customized written travel policy, otherwise the UGG directs that federal rates can apply to select travel costs. A travel policy should cover things like applicable state and local rules, agency rules, and any documentation that is required to be maintained. Generally state and local travel rules are more restrictive than federal rules. Make sure that the policy reflects all the rules that apply to it, for example, whether there are certain per diem rates for food or hotels. Also include the type of documentation that is required, such as whether the LEA requires receipts for meals or boarding passes for flights.

## 2. Best Practices for Allowability

- Outline approval levels for determining whether a cost is allowable.
- Add language to the grants regarding questions to ask when determining allowability, such as:
  - Is the proposed cost allowable under the relevant program?
  - Is the proposed cost consistent with an approved program plan and budget?
    - For school-level expenditures, is the cost included and identifiable in the school's School Plan for Student Achievement (SPSA) or Title I schoolwide plan?
  - Is the proposed cost consistent with program-specific fiscal rules?
    - For example, the LEA may be required to use federal funds only to supplement the amount of funds available from nonfederal (and possibly other federal) sources.
  - Is the proposed cost consistent with EDGAR?
  - Is the proposed cost consistent with specific conditions imposed on the grant (if applicable)?
- Include relevant state and local rules.
- Include a frequently asked questions (FAQ) section on common types of costs.

## H. Procurement

LEAs must have documented procurement procedures which reflect applicable federal, state, and local rules (2 *CFR* 200.318[a]). Specifically, a grants manual should include information on the following:

- Responsibility for Purchasing
- Purchase Methods
- Contract Cost or Price analysis
- Full and Open Competition
- Federal Procurement System Standards
- Conflict of Interest
- Contract Administration

## 1. *Responsibility for Purchasing*

This section should describe what office or position has the authority to initiate purchases and what office or position is responsible for processing contracts and purchase orders. It should discuss whether purchases are subject to a certain position's ultimate authority. In addition, it should mention whether a list of persons authorized to make purchases is maintained.

## 2. *Procurement Methods*

According to the UGG, the type of purchase procedures required depends on the cost of the items being purchased (2 *CFR* 200.320). The federal procurement regulations group purchase methods into three categories: informal procurement (micro- and small-purchase procedures), formal procurement (sealed bids or proposals for contracts above the simplified acquisition threshold), and noncompetitive procurement (sole source). LEAs must meet baseline requirements for procurements by micro-purchases, small-purchase procedures, sealed bids, competitive proposals, and procurement by noncompetitive proposals.

While the federal rules in 2 *CFR* 200.320 provide a basic structure for each procurement method, the LEA must have documented procurement policies which provide detail on the process by which all purchases are made. In addition to these rules, subrecipients must also follow both state and local procurement rules. State and local procurement rules are often stricter than federal requirements. Accordingly, this section should be revised to account for the appropriate thresholds and purchasing procedures within each threshold amount in accordance with any state and local procurement rules. For example, the California *Public Contract Code (PCC)* Section 20111(a) requires school district governing boards to competitively bid and award any contracts involving an expenditure of more than \$50,000, adjusted for inflation, to the lowest responsible bidder. The State Superintendent of Public Instruction is required to annually adjust the \$50,000 amount specified in *PCC* Section 20111; according to the Annual Adjustment to Bid Threshold for Contracts Awarded by School Districts letter, the bid threshold for 2020 is \$95,200. (This letter is located on the CDE website at [www.cde.ca.gov/fg/ac/co/](http://www.cde.ca.gov/fg/ac/co/).) Contracts subject to competitive bidding include:

- Purchase of equipment, materials, or supplies to be furnished, sold, or leased to the school district
- Services that are not construction services
- Repairs, including maintenance as defined in *PCC* Section 20115, that are not public projects as defined in *PCC* Section 22002(c)

Also note that public projects as defined in *PCC*, such as construction or reconstruction of publicly owned facilities, have a lower bid threshold of \$15,000 that is not adjusted for inflation. For more information on bidding requirements for all projects, refer to the *PCC*. Because California's *PCC* establishes a lower threshold for small purchase procedures than the federal simplified acquisition threshold (\$250,000), LEAs need to comply with the lower threshold set by state law. It is also worth noting that the micro-purchase

threshold was increased from \$3,500 to \$10,000 as a result of a June 2018 memorandum issued by the OMB. Nonfederal entities are authorized to request a micro-purchase threshold higher than \$10,000 based on certain conditions that include a requirement to maintain records for a threshold up to \$50,000 and a formal approval process by the federal government for a threshold above \$50,000 (2 *CFR* 200.320[a][1]).

For each procurement method, this section should provide the following detail:

- Procurement Documents
- Procurement documents should include a description of the services to be performed or goods to be delivered, a location where the services are to be performed or goods are to be delivered, and the appropriate dates of service or delivery. In addition, the following questions should be addressed:
  - What type of procurement document is used? For example, is a purchase order or a requisition used?
  - Detail how this procurement documentation is generated. If paper copies, where are those kept and who has access? If electronic, how does the LEA ensure that only certain people have access? Are the documents prenumbered? Are justification statements required for requests to use a sole-source or noncompetitive procurement process?
  - When a purchase is made what type of information must be contained on the purchase order or requisition?
  - Where is the documentation kept once the purchase is made? What other documentation is maintained with it? Are purchases recorded in a log?
  - How does the LEA monitor its contractors and what documentation is maintained to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders?
- Responsibilities
  - What position or positions can initiate purchases, whether through purchase orders, requisitions, solicitation of quotes, or competitive bidding?
  - How are vendors identified in the procurement system? Are purchase order and requisition requests reviewed centrally to determine whether to aggregate the orders, determine bidding thresholds, or take other actions?
  - What positions fill out purchase orders or requisitions and what positions provide approval?
  - If a contract, what positions write the contract? Provide approval?
  - What positions are responsible for monitoring contracts to ensure that contract terms, conditions, and specifications are met, including, for example, confirming delivery of goods and services before processing payment?
- Required Number and Types of Quotations
  - How many quotes are required for each purchase threshold?
  - Are these quotes oral or written?
  - How are they received if written?
  - What is the process to solicit quotes?

- What is the process for evaluating the different bids or quotes?
- What documentation is required and where is it maintained?

### 3. *Supplementary Texts*

While the California *PCC* provides that LEAs may purchase supplementary textbooks, library books, instructional computer software packages, and other specified items without taking estimates or advertising for bids, the federal procurement regulations do not provide a similar exception to competitive purchasing requirements for these items. LEAs should include information that, at the minimum, it will competitively bid for purchases of these items when using federal funds if the cost exceeds \$250,000.

### 4. *Contract Cost or Price Analysis*

This section should instruct the LEA to perform a cost or price analysis in connection with every procurement action supported with federal funds in excess of \$250,000, including contract modifications (2 *CFR* 200.324[a]). Furthermore, it should provide that the LEA negotiates profit as a separate element of price when performing a cost analysis and for each contract where there is no price competition (i.e., sole source).

### 5. *Full and Open Competition*

All procurement transactions using federal funds must be conducted in a manner providing full and open competition consistent with 2 *CFR* 200.319. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. This section should outline the requirements of 2 *CFR* 200.319.

### 6. *Federal Procurement Systems Standards*

This section should include general procurement standards as identified in 2 *CFR* 200.318, including:

- Avoiding acquisition of unnecessary or duplicative items
- Use of intergovernmental agreements
- Use of federal excess and surplus property
- Suspension and debarment
  - LEAs should only award contracts with federal funds to responsible contractors possessing the ability to perform successfully under the terms and conditions of the 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. An LEA may not subcontract with or award subgrants to any person or company who is debarred or suspended. For all contracts over \$25,000, an LEA verifies that the vendor with whom the LEA intends to do business is not excluded or disqualified (2 *CFR* Part 200, Appendix II[1] and 2 *CFR* 180.220 and 180.300). This section should outline how this is done: Does the LEA check the excluded parties lists on SAM.gov? If so, who is



responsible for the verification and how is that documentation maintained? It is recommended to include a clause within written contracts that certifies the vendor is not suspended or debarred.

- Maintenance of procurement records—LEAs must maintain records sufficient to detail the history of all procurements.
  - These records will include, but are not necessarily limited to, the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- Time and materials contracts
- Settlements of issues arising out of procurements
- Protest procedures to resolve disputes relating to procurement—Issues that should be addressed include, but are not limited to, how potential vendors receive notice of ability to protest, what position or office receives the protest, what position or office reviews the protest, whether a report of the review is provided to the complainant, and time frames for both making the protest and reviewing the protest. The position or office that reviews the protest should be different than the one that awarded the contract.

## 7. *Conflict of Interest*

LEAs are required to maintain a written standard of conduct including a conflicts of interest policy (2 *CFR* 200.318[c][1]). For purposes of federal procurement, a conflict of interest arises when any of the following has a financial or other interest in the firm selected for award:

- Employee, officer, or agent participating in the selection, award, and administration of the contract
- Any member of that person's immediate family
- That person's partner
- An organization that employs, or is about to employ, any of the above or has a financial interest in the firm selected for award (2 *CFR* 200.318[c][1])

This definition can be included in the policies and procedures. It would also be helpful to define some of these terms. For example, does “immediate family” mean a spouse and children or also parents? “Partner” and “financial or other interest” should be defined as well.

The officers, employees, and agents of the LEA may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts, unless the gift is an unsolicited item of nominal value. The conflict of interest section should detail whether unsolicited items of nominal value are allowed to be accepted. If so, include the dollar threshold (such as \$25) and examples of what could be considered nominal value items (food and perishables, pens or notepads from a conference, etc.).



A conflict of interest policy should also:

- Describe the process for reporting conflicts of interest, both real and potential. There should be alternative methods for reporting in case the individual receiving the report is involved in the potential conflict.
- Describe the process to remove an employee from the selection, award, and administration of a contract if there is a conflict of interest, and describe the documentation required to show that the employee has properly recused themselves.
- Detail what training is provided on conflict of interest policies and whether a signed certification is required from an employee acknowledging the policy.
- Insert a description of disciplinary actions to be taken against an individual who violates the standard of conduct.
- State that upon discovery of any potential conflict, the LEA will disclose in writing the potential conflict to the federal awarding agency in accordance with applicable federal awarding agency policy (2 *CFR* 200.112).

It is also important to review state and local conflict of interest laws to ensure that written standards of conduct are extensive enough.

If the LEA has a parent company, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the LEA must include 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 nonfederal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization (2 *CFR* 200.318[c][2]).

## 8. *Contract Administration*

The manual should outline how the LEA maintains oversight to ensure that contractors perform in accordance with the terms, conditions, and specification of their contracts or purchase orders (2 *CFR* 200.318[b]). This section should discuss what position or office receives any purchased property, how a receiving report is generated, and what information is included. The policies should ensure that there is a proper segregation of duties. For example, the person who signs the contract or issues the purchase order should be different from the person who ensures the proper goods were received. For services, this section should discuss what position or office ensures that the services are provided. Discuss how this position will do so. Again, proper segregation of duties is important.

## 9. *Best Practices*

- Ensure that there is a separation of duties.
- Specify the requirements for each procurement method, including the number of required bids or quotes, the documentation required to be maintained, and the process for entering into contracts within each threshold amount.
- Include a description of the solicitation process.
- Outline steps for contract approval.

- Include clauses and certifications required in each contract (2 *CFR* 200, Appendix II).
- Provide for process to ensure that contract terms are being met.
- Provide the process for vendor payment.

Conflict of Interest Best Practices:

- Include definitions and examples of nominal items.
- Include the recusal process and the reporting process.
- Require employees to sign a form acknowledging receipt of conflict of interest requirements.
- Train employees on conflict of interest policy.

## I. Inventory and Property Management

2 *CFR* 200.313(d) provides that there must be procedures for managing equipment.

### 1. Property Classifications

This section should include all relevant property definitions and ensure that property classifications are in accordance with state and local law. Specifically, the section should identify:

- Equipment (2 *CFR* 200.1): Tangible personal property (including information technology systems) having a useful life of more than one year and per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the nonfederal entity for financial statement purposes, or \$5,000
- Supplies (2 *CFR* 200.1): All tangible personal property other than that described in the definition of equipment in this section; a computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the nonfederal entity for financial statement purposes and \$5,000, regardless of the length of its useful life
- Computing devices (2 *CFR* 200.1): Machines used to acquire, store, analyze, process, and publish data and other information electronically, including accessories (or peripherals) for printing, transmitting and receiving, or storing electronic information

The CSAM Procedure 770—Distinguishing between Supplies and Equipment, describes the differences between whether an item should be classified as a supply or an equipment. The determination is made based on the length of time the item is serviceable and on its contribution to the overall value of the physical assets of the LEA. For example, supplies are constantly consumed and replaced without substantially increasing the value of the physical assets of the LEA. Equipment has relatively permanent value and substantially increases the value of the physical assets of the LEA.

The Uniform Guidance defines equipment as tangible personal property having a useful life of more than one year and an acquisition cost of at least \$5,000. California *Education Code* Section 35168 requires LEAs to maintain records that properly account for

equipment whose market value exceeds \$500. To meet this requirement, the LEA must keep records containing the following information about the item: description, name, identification number, cost, date of acquisition, location of use, and time and mode of disposal. A reasonable estimate of the original cost may be used if the actual original cost is unknown. LEAs may have an even more restrictive equipment threshold, but this threshold should be included in the policies and procedures.

## 2. *Inventory Procedures*

This section should describe the process that is performed when inventory is received. For example, where is new inventory received? What position inspects the property to make sure it is in good condition and that it matches what is listed on the purchase order and invoice? Is a receiving report produced? What information is included? Who logs in to the property management system? Where is the receiving report kept and with what other documentation?

Next, describe what type of property is tagged and what position or office performs the tagging. All equipment must be tagged and computing devices, such as laptops, smartphones, and tablets, should also be tagged. Describe what positions are responsible for configuring or installing certain types of equipment and computing devices.

## 3. *Inventory Records*

For equipment purchased with federal funds, the following information must be maintained (2 *CFR* 200.313[d][1] and California *Education Code* Section 35168):

- Description of the property; name
- Serial number or other identification number
- Source of funding for the property
- Who holds the title
- Acquisition date and cost of the property
  - The total cost of the merchandise should include sales tax, postage, freight, and other charges.
- Percentage of federal participation in the project costs for the federal award under which the property was acquired
- Location, use, and condition of the property
- Any ultimate disposition data, including the date of disposal and sale price of the property (2 *CFR* 200.313[d][1])

LEAs should also inventory computing devices, consistent with internal control requirements (2 *CFR* 200.302[b][4]). This section should describe where this information is maintained. It should also describe the process to adjust the inventory records in the event the property is sold, lost or stolen, or cannot be repaired.

## 4. *Physical Inventory*

A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years (2 *CFR* 200.313[d][2]). The purpose

of taking a physical inventory is to verify the physical existence of the property and equipment that appear in the LEA's records and to check the accuracy of the inventory control system. For a strong internal control system, CSAM recommends that a physical inventory of the LEA's property and equipment be taken at least annually.

There are three major stages in taking the physical inventory: the precount, the actual count, and the recount. Under the precount procedures, the coordinator should clearly instruct the persons who will do the counting. During the counting procedures stage, the actual count is performed. This process involves matching the inventory number affixed to each piece of equipment with the inventory number listed on the count sheet. Ideally, the inventory count should be taken by a person who is not primarily responsible for the inventory's safekeeping; however, it should be taken by the person who is the most knowledgeable about the type of property and equipment being inventoried. For substantiation of the validity of the inventory, a recount (second count) should be taken. A recount is the process of verifying the differences between the actual count (first count) and the LEA's inventory record to correct differences or affirm discrepancies. Suggested procedures for the precount, the actual count, and the recount stages can be found in the CSAM 2019 edition under Procedure 410—Conducting a Physical Inventory.

#### *5. Maintenance*

LEAs must develop adequate maintenance procedures in order to keep property in good condition (2 *CFR* 200.313[d][4]). For example, what restrictions are in place on the use of equipment and computing devices? What position or office is contacted if an item appears to be broken?

#### *6. Loss, Damage, or Theft*

LEAs must maintain a control system that ensures adequate safeguards are in place to prevent loss, damage, or theft of property (2 *CFR* 200.313[d][3]). In addition, all incidents must be investigated. This section should outline the reporting process in the event an item is lost, damaged, or stolen. For example, is a police report filled out? It should also note that an investigation will be performed.

#### *7. Use of Equipment*

2 *CFR* 200.313(c) outlines the requirements for use of equipment purchased with a federal award and the order of preference for shared use and use when the equipment is no longer needed for the original program or project. This section should have procedures for the transfer of equipment between programs or projects. For example, if a school no longer needs equipment purchased with a federal grant, how are other LEA schools participating in that grant alerted to the possibility that equipment is available?

#### *8. Disposal*

Generally, disposition of equipment is dependent on fair market value (FMV) at the time of disposition. If an item has a current FMV of \$5,000 or less, it may be retained, sold, or otherwise disposed of with no further obligation to the federal awarding agency. If the

item has a current FMV of more than \$5,000, the federal awarding agency is entitled to the federal share of the current market value or sales proceeds, although the LEA may deduct its selling and handling expenses (2 *CFR* 200.313[e][2]). In addition, if the LEA is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return (2 *CFR* 200.313[d][5]).

If acquiring replacement equipment, the LEA may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property (2 *CFR* 200.313[c][4]).

This section should include the position or office responsible for disposition, a description of the sales procedures, and whether a certain number of offers must be received.

#### 9. *Best Practices*

- Define property classifications as well as the internal controls for each classification.
- Review inventory records to ensure all required categories are maintained.
- Make sure there is a policy regarding lost, stolen, or damaged items.
- Have clear disposition procedures.

#### **J. Time and Effort**

In general, for salaries and wages to be allowable under all federal grant programs, all employees who are paid with federal funds must maintain time and effort records (2 *CFR* 200.430[i]). These are also referred to as time distribution records.

It is important to understand that the standards regarding time distribution exist in addition to the standards for payroll documentation. LEAs must document both time and attendance—reflecting the time period for which the employee worked, as documented in the payroll system, as well as time and effort—reflecting the federal programs on which the employee spent effort during the workday (2 *CFR* 200.430[a][3]). Each LEA needs to determine its time documentation requirements based on its own circumstances, and each LEA must ensure that its timekeeping efforts comply with the requirements of the Uniform Guidance and with any additional requirements established for particular programs.

ED has noted that time and effort procedures are essential to implementing an effective time reporting system. Further, CSAM Procedure 905 requires LEAs to develop a time documentation process (e.g., forms, employee training, internal controls, and compliance checks) that meets their particular needs. The general rule is that time and effort documentation must be maintained for all employees paid in whole or in part with federal funds (2 *CFR* 200.430[i][1]). Additionally, all employees whose salaries and wages are used in meeting cost sharing or matching requirements must keep time distribution records (2 *CFR* 200.430[i][4]).

Part 200 makes clear that charges to federal awards for salaries and wages must be based on records that accurately reflect the work performed (2 *CFR* 200.430[i][1]).

The time and effort documentation must:

- Be supported by a system of internal controls which provides reasonable assurance that charges are accurate, allowable, and properly allocated
- Be incorporated into official records
- Reasonably reflect total activity for which the employee is compensated
- Encompass all activities (federal and nonfederal)
- Comply with established accounting policies and practices
- Support distribution among specific activities or cost objectives

Time and effort records should reflect the number of cost objectives an employee works on. A cost objective is defined as “a program, function, activity, award, organizational subdivision, contract, or work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capital projects, etc. A cost objective may be a major function of the nonfederal entity, a particular service or project, a federal award, or an indirect (Facilities & Administrative) cost activity” 2 *CFR* 200.1. In other words, a cost objective is a set of work activities allowable under the terms and conditions of a particular funding source. A cost objective is any cost data element, such as a set-aside or cap, that needs to be tracked separately to prove a legal requirement is being met. It is not just tracking by federal program. For example, if an LEA has a 10 percent administration cap, the LEA has to track all administration costs for the grant separately from the program costs. The parental involvement 1 percent set-aside is another example of a cost data element that would be its own cost objective.

The determination as to how many cost objectives an employee works on can be difficult. Under the UGG (and the prior OMB Circular A-87), multiple cost objectives include:

- More than one federal award
- A federal award and a nonfederal award
- An indirect cost activity and a direct cost activity
- Two or more indirect cost activities which are allocated using different allocation bases
- An unallowable activity and a direct or indirect cost activity (2 *CFR* 200.430[i][1][vii])

It is important to note that the number of cost objectives an employee is working on is based on the employee’s workload and activities, not how the employee is funded. It is possible that an employee is split funded (for example, funded by Title I, Part A and state funds), but working on a single cost objective (for example, as a resource teacher in a schoolwide program school). Conversely, an employee may be paid in full with Title I, Part A funds but work on multiple cost objectives (for example, a district employee working on Title I, Part A—Administration and Title I, Part A—Parent Engagement).

The time and effort section should describe what type of documentation is maintained for employees paid in whole or in part with federal funds, and the requirements for that documentation. For example, who is responsible for completing the time and effort documentation? Who has to sign that documentation? How often must the certifications be completed? Can these documents be completed electronically? It should also establish whether a supervisor must review the documentation. Sample certifications should be included as appendices. Additional information can be found in the CSAM Procedure 905,

including monthly personnel activity reports (PARs), periodic (semiannual) certifications, and the substitute system for time accounting.

Although the federal regulations do not require a certain time frame in which time and effort documentation must be maintained, it is recommended that employees with variable schedules who are working on multiple cost objectives keep time and effort documentation more frequently than employees who have set schedules or are working on a single cost objective.

### *1. Reconciliation/Closeout*

It is critical for payroll charges to match the actual distribution of time recorded on the periodic certification documents. Part 200 authorizes an LEA to use budget estimates or other distribution percentages determined before the services are performed for interim accounting purposes. Budget estimates alone do not qualify as support for charges to federal awards. However, if such estimates are used, the system for establishing the estimates must produce reasonable approximations of the activity actually performed, any significant changes in the corresponding work activity must be identified and entered into the records in a timely manner, and the system of internal controls must include processes to review after-the-fact interim charges made to a federal award based on budget estimates (2 *CFR* 200.430[i][1][viii]). Frequently an LEA will look to time distribution records from the prior year to get a reasonable budget estimate for the future period. Therefore, this section should describe the process to reconcile actual costs to budgeted distributions, including who is responsible and how frequently it is done (such as quarterly). It should indicate how large a difference between the actual costs and the budgeted distributions there must be before adjustments are made.

This section should also include a description of any closeout procedures at the end of the fiscal year. Are all of the time and effort documents and certifications collected and reviewed for accuracy and the appropriate signatures and dates?

### *2. Training*

Employee compensation is often the largest expense on any grant. Accordingly, compliant time and effort reporting and documentation is essential to ensure these charges are allowable and allocable to the award. To this end, employees should be trained on the district's time and effort procedures so that they understand the controls in place and the documentation required to support their salaries being charged to a grant. Time and effort procedures should include when and how this training will be provided. For example, will employees be trained on the time and effort procedures annually? Will training be provided only for new employees or employees being moved to grant funds? Who will manage the training—program offices, grant or fiscal offices, human resources?

### *3. Extra Service Compensation*

In addition to base salaries and benefits, district employees may earn supplemental pay for activities or effort in addition to their normal schedules. For example, teachers may



earn extra compensation for attending a Saturday professional development workshop. If the extra-service compensation (supplemental pay) will be charged to federal funds, it must be adequately documented as allocable to the award. Accordingly, districts should consider forms and procedures to substantiate the extra-service compensation, such as sign-in/sign-out sheets and agendas or a description of the training, that demonstrate the allowability of the extra-service compensation charged against the federal funding source.

#### 4. *Best Practices*

- Outline how time and effort are documented and whether they differ based on single or multiple cost objectives.
- List who must sign and complete the forms.
- State the due dates and location for when and where the forms are collected and reviewed.
- Outline the process for review and reconciliation.
- Include sample forms in the appendices.

### K. **Recordkeeping**

The UGG requires records to be kept for a three-year period after the submission of the final expenditure report (see 2 *CFR* 200.334). However, under GEPA, an entity is liable for most education program funds for five years (34 *CFR* 81.31). As such, it is generally recommended that documents be maintained for at least five years. It is also important to review state and local law regarding record retention. There are additional requirements for record retention at 2 *CFR* 200.334.

This section should state what records are maintained and for how long, including the process of how and when the records are destroyed.

#### 1. *Collection and Transmission of Records*

Begin with a definition of “record” and a description of how grant records are maintained. For example, are records maintained electronically? Are they also kept as paper copies? If so, are they kept on-site or off-site? What positions are responsible for collection and maintenance of the records? How are records provided to awarding agencies to meet reporting requirements and to auditors and monitors? If the original records are kept electronically, 2 *CFR* 200.336 allows recipients to transmit them electronically, meaning there is no need to make paper copies. In accordance with California *Education Code* Section 35254, the governing board of any school district may make photographic or electronic copies of any records of the district, after which the original record may be destroyed. However, no original record that is basic to any required audit may be destroyed prior to the second July 1 succeeding the completion of the audit.



## 2. *Privacy*

This section should describe the protections the LEA has in place to ensure that the personal information of both students and employees is protected. For example, are there cybersecurity protections in place, such as password policies that require frequent changes? Are employees trained on the requirements of the FERPA? Are there any procedures in place for when a request for documentation is made to ensure that the person has the right to access or view the documentation?

## 3. *Best Practices*

- Describe methods for:
  - Collection of records
  - Storage of records
  - Disposition of records
  - Privacy procedures (or include a link to this information)

## **L. Monitoring**

This section can include several topics. For example, it can outline the procedures the LEA follows when selected for CDE Federal Program Monitoring, including identifying the main point of contact for a monitoring visit. It should describe what position or office is responsible for preparing for a monitoring, responding to any findings, and ensuring follow-up.

If the LEA has subrecipients for any of its federal grants, the LEA must also include information on how it monitors its subrecipients. It should describe what the monitoring process looks like, including an assessment of risk factors. How is it determined which subrecipients will be monitored? How frequently does monitoring occur? Are monitoring visits or desk reviews conducted remotely? What monitoring protocols are used? How does the LEA ensure findings are resolved?

## **M. Audit Resolution**

This section should outline the audit process. Who is responsible for overseeing the single audit process and resolution? How are findings resolved?

## **N. Programmatic Fiscal Requirements**

Different programs have fiscal requirements that are unique to the program. Accordingly, it may be helpful to include a section on program fiscal requirements in the crosscutting grants manual. Program fiscal requirements include rules about supplement not supplant, maintenance of effort, matching, and hold harmless. This section should describe how compliance is ensured with these fiscal rules and what kind of documentation is required to show compliance.

## O. Programmatic Requirements

If doing a program-specific manual, programmatic requirements to include would be the application process, timeline for applications and allocations, identification of eligible participants, as applicable, and any costs that are allowable or unallowable under the grant program. This section can also include a resource section with links to the program statute and regulations, and any other helpful guidance documents that program staff may need to ensure compliance.

## P. What to do after completing the policies and procedures?

Once drafting policies and procedures has been completed, it is important to:

- Train staff on the new policies and procedures to ensure everyone is on the same page.
- Review and revise the policies and procedures on a regular basis. For example, a team can be created that reviews the policies and procedures each year and figures out what is outdated, not followed, or could be revised, and makes the necessary changes.
- Make sure that all relevant staff at the LEA know where the policies and procedures are located.

# III. Supplement Not Supplant

## A. Supplement Not Supplant, Generally

The supplement not supplant (SNS) provision requires that federal funds be used to augment the regular educational program, not substitute for funds or services that otherwise would be provided during the time period in question. Under most major elementary and secondary education programs, the statute requires that SEAs and LEAs use federal funds only to supplement the amount of funds available from nonfederal sources for the education of students participating in the program. The SEA and LEA cannot use federal funds to supplant nonfederal funds that would otherwise have been used for the expenditure in question (for examples, see ESEA Section 2301 for the Title II, Part A program and ESEA Section 4110 for the Title IV, Part A program).

A handful of federal programs, including IDEA and the ESEA Title III English Language Acquisition program, require that the program funds supplement not only state and local funds, but also other federal funds (for examples, see IDEA Section 612[a][17][C] for the IDEA Part B program and ESEA Section 3115[g] for the Title III, Part A program).

Essentially, the supplanting analysis simply asks, “What would have happened in the absence of federal funds?” If, in the absence of receiving any funding under a given federal program, the LEA would still have paid for the textbook, computer, or salary in question using nonfederal funds, then it would be a supplanting violation to use the federal funding to pay for this expenditure. Federal funds are intended to provide something *extra*.

Notably, this analysis is significantly different under the ESEA Title I, Part A program, as authorized under the ESSA. Rather than looking at whether specific expenditures are supplemental, the Title I, Part A test considers whether the methodology used to distribute state and local funding to schools is done without regard to a school’s Title I status. In other

words, an LEA's methodology must be "Title I neutral" in that it allocates state and local funds to schools without regard for Title I status. The Title I, Part A analysis is discussed below in subsection B(2).

- *Tests for Supplanting*

Auditors use a more formal approach to asking: "What would have happened in the absence of the federal funds?" The 2019 OMB Compliance Supplement<sup>2</sup> provides for three tests where it is presumed that supplanting has occurred.

**Test 1—Legal mandate:** Auditors presume that supplanting has occurred if the LEA used federal funds to provide services that the LEA was required to make available under other federal, state, or local laws.

For example, an LEA used federal funds to pay for an after school program even though state law mandates that LEAs provide an after school program. Test No. 1 assumes that if the LEA is legally required to take action under state, local, or other federal law, then the LEA would meet the requirement regardless of the federal funding. Accordingly, auditors presume supplanting if using federal funds for a legal requirement.

**Test 2—Prior year nonfederal expense:** Auditors presume supplanting has occurred if the LEA used federal funds to provide services that the LEA provided with nonfederal funds (or for ESSA Title III Part A, other federal funds in addition to nonfederal funds) in the prior year.

For example, an LEA paid a teacher this year with federal funds, but last year paid the same teacher (with the same responsibilities) with nonfederal funds. For Test No. 2, the federal policy assumes that if a cost was paid for in the prior year using nonfederal funds, using that funding source to pay the same cost in the current year probably would not be continued. Last year's spending plan is viewed as good evidence of the choices one might make for the current year. So, switching a teacher from the general fund payroll to the Title II payroll without a change in duties will result in a presumption of supplanting.

**Test 3—Same service to nonparticipating children using nonfederal funds:** Auditors presume supplanting has occurred if the LEA used federal funds to provide services for participating children that the LEA provided with nonfederal funds for nonparticipating children.<sup>3</sup>

For example, the LEA used federal funds to fund an after school program in one school with participating children, while it used nonfederal funds to pay for the same after school program in another school with nonparticipating children. Test No. 3 reflects the belief that participating students are not receiving anything extra if the same service is being provided to other children using nonfederal funds.

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<sup>2</sup> Available at <https://www.whitehouse.gov/omb/office-federal-financial-management/>

<sup>3</sup> The OMB Compliance Supplement references only the Migrant Education Program for this presumption; however, other program offices at ED used the test as a basis to presume supplanting as well.

**Rebuttal**—These presumptions are rebuttable if the LEA can demonstrate that it would not have provided the services in question with nonfederal funds had the federal funds not been available.

## B. Exceptions to Traditional Supplanting Analysis

### 1. IDEA

The supplement not supplant provisions under the main IDEA, Part B program were generally implemented and enforced the same way as in most other programs—demonstrating that each expense is supplemental. However, in 2009 ED issued nonregulatory guidance in conjunction with the American Recovery and Reinvestment Act that addressed the local level supplement not supplant provision under IDEA, Part B. (See ED Nonregulatory Guidance: Funds for Part B of the IDEA Made Available Under the American Recovery and Reinvestment Act of 2009 [rev. Sept. 9, 2010]).<sup>4</sup> The guidance states that if the LEA maintained its level of local, or state and local, support for special education and related services from year to year, “the Part B funds are, in fact, supplementing those local, or state and local, expenditures” (American Recovery and Reinvestment Act [ARRA] Funds for Part B of the IDEA, Question C-6). Thus, if the LEA meets maintenance of effort, then the LEA has satisfied the supplement not supplant requirement.

### 2. ESSA Title I, Part A

Under No Child Left Behind, in order to prove that a Title I, Part A cost was supplemental, the LEA had to ensure that costs passed the above three presumptions. Under ESSA, compliance with SNS is no longer tested through individual Title I, Part A costs, so **the previous three presumptions no longer apply** for both schoolwide and targeted assistance programs. ED finalized an informational document on the supplement not supplant requirement under Title I, Part A in June 2019.<sup>5</sup>

An LEA receiving Title I, Part A funds must continue to use its Title I, Part A Title I, Part A funds only to supplement, and not supplant, the funds that would be made available from state and local sources<sup>6</sup> in the absence of such federal funds.

To demonstrate compliance, the new Title I, Part A supplanting test focuses on allocation methodology rather than identification of individual costs. According to ESEA Section 1118(b)(2), “To demonstrate compliance with [the supplement not supplant requirement], a local educational agency shall demonstrate that the methodology used

<sup>4</sup> Available at <https://sites.ed.gov/idea/files/IDEA-Part-B-ARRA-Use-of-Funds-Guidance-09-02-2009.pdf>

<sup>5</sup> See US Department of Education Supplement Not Supplant Under Title I, Part A of the Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act (SNS Guidance; June 2019; available at <https://www2.ed.gov/policy/elsec/leg/essa/snsfinalguidance06192019.pdf>).

<sup>6</sup> This means only public state and local funds. Accordingly, other nonfederal funds, such as private contributions, fundraising, and parent fees, need not be part of determining compliance with the Title I, Part A SNS requirement unless the state or LEA requires that they be included. See SNS Guidance at 9.

to allocate state and local funds to each school receiving [Title I, Part A funds] ensures that such school receives all of the state and local funds it would otherwise receive if it were not receiving [Title I, Part A funds].” LEAs are not required to identify individual costs or services as supplemental or provide services through a particular instructional method or in a particular instructional setting to demonstrate compliance.

In order to demonstrate compliance with the SNS methodology requirement, an LEA receiving Title I, Part A funds must ensure the determination is met for both school-level and LEA-level expenditures.

### **School-level expenditures**

To determine whether school-level expenditures meet SNS requirements, the LEA must be able to demonstrate that each Title I, Part A school is allocated all of the state and local funds the school would be entitled to were the school not receiving Title I, Part A. The LEA demonstrates this through the regular procedures for distributing funds—the LEA distributes state and local funds without regard to whether those schools are receiving Title I, Part A funds.

LEAs have discretion on the methodology used to allocate state and local funds to schools (ESSA Section 1118[b][4]). There are unlimited options available to an LEA as to what the methodology should be. Examples include:

- Varying per pupil allocations based on the characteristics of students in each school so that students with characteristics associated with educational disadvantage, including students living in poverty, ELs, students with disabilities, and other such groups of students the LEA determines are associated with educational disadvantage, generate additional funding for their school
  - For example, the LEA provides \$10 for all students, low-income students receive an additional \$15, students with disabilities receive an additional \$25, ELs receive an additional \$15, etc.
- A distribution based on personnel or nonpersonnel costs
  - For example, the average LEA-wide salary for each category of school personnel (e.g., teachers, principals, librarians, school counselors) is multiplied by the number of school personnel in each category assigned by the LEA-wide formula to the school, and the average LEA-wide per-pupil expenditure for nonpersonnel resources is multiplied by the number of students in the school.
- Allocations based on the grade level of the student (e.g., high school students receive more funding per pupil than elementary school students) and enrollment
  - For example, all elementary school students receive \$40 per student, middle school students receive \$45 per student, and high school students receive \$60 per student, etc.

These are examples of methodologies that would meet the SNS requirement since each example is neutral as to whether a school is a Title I school. When an LEA meets the above methodology determination, all school-level Title I, Part A expenditures are supplemental.

## **LEA-Level Expenditures**

LEAs must also meet the SNS methodology determination regarding the funds retained at the LEA level. When an LEA uses state and local funds for LEA-wide expenditures, the LEA must also demonstrate that it is allocating the state and local funds to Title I schools on the same basis as non-Title I schools.

For example, an LEA wants to start Science, Technology, Engineering, and Mathematics (STEM) enrichment programs across the LEA and plans to use state funds to fund the program in non-Title I schools and Title I, Part A funds to fund the program in the Title I schools. This would be a SNS violation because the LEA is not providing state funds to the Title I schools on the same basis as the non-Title I schools (in fact, in this example the Title I schools receive none of the state funding), which the SNS requirements prohibit. Therefore, the allocation of Title I, Part A funds for the STEM program would fail to meet SNS requirement.

At the LEA level, SNS resembles a specific expenditure determination, although how the LEA is allocating its LEA-level state and local resources remains a methodology decision. Therefore, when an LEA is planning to expend or obligate state and local funds and Title I, Part A funds on an LEA-wide initiative, the LEA must look at the funding the LEA intends to use and then determine whether the Title I schools will receive their equal share of nonfederal funds.

Accordingly, when there is an LEA-wide initiative, for any purpose, the LEA must make sure that the nonfederal funds are neutrally distributed and then the Title I, Part A funds are used for supplementary purposes for the Title I schools.

## **Allowability**

Another important fact to remember is that even if a proposed use of Title I, Part A funds is not a violation of supplanting requirements, it must be allowable under both Title I, Part A programs: schoolwide and targeted assistance. Title I, Part A funds must still be used to serve the original purpose of Title I, Part A which is to provide all children significant opportunity to receive a fair, equitable, and high-quality education and to close educational achievement gaps. All charges to Title I, Part A must be necessary, reasonable, and allocable (see 2 *CFR* 200.403[a]). However, there is one important exception: if a schoolwide program school fully consolidates federal, state, and local funds, there are no federal constraints on Title I, Part A funds included in the consolidated funding pool.

## **Title I, Part A SNS Exceptions**

An LEA need not have a methodology to comply with the Title I, Part A SNS requirements if it has:

- One school
- Only Title I schools
- A grade span that contains only a single school, non-Title I schools, or Title I schools (i.e., no methodology is required for this grade span)

## IV. Frequently Asked Questions

### A. General Fiscal Questions

1. *What if an LEA does not have current written policies and procedures? What is a good way to go about writing those procedures?*

If an LEA does not have current policies and procedures, it should assemble a team of fiscal and programmatic personnel to:

- Review existing documentation
- Identify any holes or missing policies and develop questions
- Schedule interviews with relevant staff
- Gather information on actual practices and confirm consistency with legal requirements
- Draft policies and procedures
- Review internally with appropriate staff to confirm policies are consistent with actual staff practices
- Revise as necessary
- Formally adopt and implement policies and procedures
- Train staff

See section II(B) of this document for details on how to draft policies and procedures.

2. *Are separate procedures required for every restricted program?*

Many of the procedures required by federal regulations contain crosscutting provisions that will be generally applicable across all federal programs. For all these crosscutting provisions, the nonfederal entity does not need to maintain separate policies and procedures. For example, cash management, conflict of interest, travel, equipment, and time and effort apply across all federal programs. Some programs will require separate policies and procedures, or a section within a larger policy or procedure, however. For example, written allowability procedures should address allowable costs for each program. Each program may also have individual fiscal requirements that need a policy or procedure. For example, an LEA may need a written methodology that describes the allocation of Title I, Part A funds to its schools in order to meet Title I, Part A supplement not supplant requirements.

3. *Are procedures required by law? If so, what for?*

At a minimum, the Administrative Requirements, Cost Principles, and Audit Requirements, 2 *CFR* Part 200 (the UGG) requires the following policies and procedures:

- Written Cash Management Procedure—2 *CFR* 200.302(b)(6)
- Written Allowability Procedures—2 *CFR* 200.302(b)(7)
- Written Conflicts of Interest Policy—2 *CFR* 200.318(c)(1)
- Written Procurement Procedures—2 *CFR* 200.318; 2 *CFR* 200.320



- Written Method for Conducting Technical Evaluations of Proposals and Selecting Recipients—2 *CFR* 200.320(b)(2)(ii)
- Written Travel Policy—2 *CFR* 200.475(b)
- Procedures for Managing Equipment—2 *CFR* 200.313(d)
- Written Procedures on Fringe Benefits—2 *CFR* 200.431
- Time and Effort—Guidance from ED states that procedures for time and effort are essential; CSAM Procedure 905 requires LEAs to have written time and effort procedures

#### 4. *What is an adequate internal control?*

An adequate internal control provides reasonable assurance that the nonfederal entity is managing the federal award in compliance with federal statutes, regulations, and the terms and conditions of the federal award. These internal controls should follow guidance in the Standards for Internal Control in the Federal Government issued by the Comptroller General of the United States or the Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

In general, an organization with strong internal controls will be able to identify issues in its management of federal grants and take action to correct those issues. One of the best methods of identifying grants management issues is to maintain current policies and procedures that outline management responsibility and grants management requirements.

#### 5. *Can a grantee charge the salary from someone out on leave (disability, maternity leave, sabbatical, etc.) to the federal program?*

In accordance with 2 *CFR* 200.431, the costs of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job are allowable provided that they are reasonable, required by law, and documented in the agency's established written leave policies. In addition, these costs must be "equitably allocated to all related activities, including federal awards" and the agency must use the same accounting basis to record these costs. If the agency uses a substitute to replace the employee during the leave of absence, the substitute should be charged to the same goal and function as the absent employee. The substitute would also be required to maintain time and effort records to support the work that was performed when they were there.

### B. **Overview of Legal Authorities**

#### 1. *If my LEA receives funding from the CDE for a grant, does this mean my LEA still has to comply with the federal statutes and regulations?*

If the source of the funding for that grant program is federal dollars, it would be considered a state-administered federal grant program and the LEA would need to be compliant with the applicable federal statutes and regulations in addition to state and local requirements. The grant award notification will often be able to provide this information.



## C. Obligations

### 1. *How do obligating funds for travel work?*

According to 34 *CFR* 75.707 and 34 *CFR* 76.707, travel obligates when the travel is taken. This means that for booking a flight or hotel, travel does not obligate on the date of booking, but rather on the date of the flight or hotel stay. Because LEAs still need to find a way to pay for the travel when booking, it is recommended to initially charge these costs to nonfederal funding, and then, once the travel is taken, do the necessary accounting processes to move the costs to federal funds.

### 2. *When would funds for registering for a conference obligate?*

Oftentimes, it is necessary to register for a conference well in advance in order to secure a spot. In these circumstances, the registration costs would be considered to obligate on the date the LEA made the binding commitment to register for the conference.

## D. Allowability

### 1. *If my LEA's local travel policies have a different rate of reimbursement than federal government rates, must I use the lower rate?*

No, use the rates established in the LEA's policy. While the general rule of thumb is to follow the most restrictive rule, here the federal regulations specifically defer to local written travel reimbursement policies. The LEA would use federal rates only in the absence of local travel policies (2 *CFR* 200.475[d]).

### 2. *Can I use federal funds to pay for light snacks and refreshments at a staff training or conference that the LEA is hosting?*

Probably not. The ED has issued guidance stating that food is almost never considered a necessary and reasonable expense for professional meetings and conferences. There is a limited exception for working lunches, but the burden is extremely high.

### 3. *Can I use federal funds to pay for light snacks and refreshments at a parental involvement meeting? What are light snacks and refreshments?*

Yes. An LEA may justify light snacks and refreshments for parents during parent engagement activities. While ED has not offered a definition of "light snacks and refreshments," generally the focus is on the reasonableness of the cost. Snacks and refreshments should be a minimal cost in comparison to the supported activities meeting the program purposes. Any alcohol and entertainment costs, however, would not be allowable for parent engagement activities. Even light snacks for parent engagement must meet the federal government's high burden of proof to show that these costs are reasonable and necessary. The LEA must provide justification for why light snacks are needed at the parent engagement activity that has a clear description of how it benefits the program.

#### 4. *Can I pay for food using my federal grant funds?*

In 2013 the ED issued guidance on using grant funds to pay for food. ED stated:

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

For any staff meetings or professional development, an LEA usually will not be able to purchase food with federal grant funds to provide to its staff members. If an LEA considers paying for lunch a necessary component to the meeting, it must be able to provide an answer to all of the following questions:

- Is a working lunch necessary? The information must be critical to the overall agenda and be clearly stated as a working lunch.
- Is the lunch portion of the agenda a critical, substantive discussion?
- Is there a genuine time constraint to get lunch due to a topic-packed agenda prohibiting time for lunch? Or, in very rare cases, are there no meal places within a couple hours access?
- Is the lunch cost reasonable? Does it fall within the per diem guidelines?
- Has the agency carefully documented that it is reasonable and necessary?

If an LEA cannot answer all these questions affirmatively and provide documentation of the necessity of these food costs, it cannot use federal funds to pay for the food.

#### **E. Procurement**

1. *When we started the contracting process, the contract was under the bidding threshold and we used small purchase procedures to select the contractor. Now, we are halfway through the year and want to increase the contract, but it will put the total contract amount above the bidding threshold. What do we do?*

Generally, federal procurement requirements are intended to ensure the lowest price for contracted goods or services. The LEA should mitigate its potential audit exposure by obtaining as much contemporaneous documentation as possible to demonstrate that the increased contract amount is at a fair and reasonable price. There may still be a technical violation of procurement requirements, but this documentation will help reduce the harm to the federal interest. As a best practice moving forward, if a contract is close to the bidding threshold, the LEA may want to follow competitive or

sealed bidding procedures to avoid this issue should the contract eventually exceed the threshold.

2. *In my LEA, individual school buildings have purchasing power. Are the procurement thresholds applied to each purchase, or must we aggregate the purchases from the same vendor across the LEA?*

Procurement thresholds apply to the nonfederal entity, which is the LEA as a whole. Accordingly, the LEA should have procurement procedures that review individual school building purchases and aggregate purchases to the same contractor when determining what method of procurement is appropriate.

3. *If a contract will be paid with both federal and nonfederal funds, do I include the nonfederal purchases in determining which method of procurement to follow?*

The federal procurement requirements relate only to purchases with federal funds. Accordingly, nonfederal purchases to the same vendor would not be aggregated in the thresholds *unless* state or local law requirements indicate otherwise.

## **F. Equipment**

1. *If I have multiple items on a purchase order, do I aggregate those items to determine whether the purchase exceeds \$5,000 and would be considered equipment, or do I consider each item separately?*

The definition of equipment states that it is per unit. Whether multiple items are part of a unit or should be treated separately will depend on the use. For example, the costs of a smartboard and interactive clickers would be aggregated, because the interactive clickers are not independently used. However, the purchase of six laptops to be distributed to separate classrooms would not be aggregated, as each item is used separately from the others.

2. *Is prior approval necessary before purchasing equipment with federal funds?*

Yes. 2 *CFR* 200.439 requires LEAs to get prior approval from the awarding agency (generally CDE) before purchasing equipment with federal funds.

3. *Do computing devices need to be inventoried?*

Not necessarily. Only equipment must be inventoried. Computing devices that cost less than \$5,000 are not equipment. However, the California *Education Code* Section 35168 has a more restrictive equipment threshold, which requires LEAs to maintain records that properly account for equipment whose market value exceeds \$500. To meet this requirement, the LEA must keep records containing the following information about the item: description, name, identification number, cost, date of acquisition, location of use, and time and mode of disposal. In addition, auditors and monitors expect enhanced internal controls for computing devices because these items tend to get lost or stolen at a higher rate than other supplies. Accordingly, many LEAs inventory

computing devices to meet these internal control requirements. For example, LEAs should tag small and attractive or easily pilferable items, even those that fall below the equipment threshold (\$500 for California), such as tablets. The tag should consist of a physical label with an inventory number. It is also wise to include on the tag the funding source that allowed for the purchase and the name of the entity that holds title to the property. This would be an effective mechanism for demonstrating proper recordkeeping when monitors or auditors conduct onsite visits.

## **G. Time and Effort**

### *1. Can we still use PARs and semiannual certifications?*

Yes, PARs and semiannual certifications that met the standards under OMB A-87 would be compliant with the new requirements in Part 200.

### *2. Who must sign time and effort documentation?*

Part 200 does not specify signature requirements for time and effort documentation. For best practices, it is recommended to have signatures as a strong internal control. For example, to verify accuracy of the documentation, it would be helpful to have the employee or a supervisor with firsthand knowledge of the work performed sign the documentation.

### *3. How frequently must time and effort documentation be collected?*

Part 200 does not provide a time frame requirement for time and effort documentation. As such, there is some flexibility in how frequently to collect documentation. For example, an LEA may consider doing a single certification for the entire school year if there is a teacher who will have a set schedule for the whole year instead of doing a semiannual certification or PAR. The LEA is responsible for ensuring that all salaries and wages charged to the federal program are supported by a system of internal controls which provides reasonable assurance that the charges are accurate, allowable, and properly allocated. For additional guidance on time and effort documentation, see CSAM Procedure 905.

### *4. Are time and effort policies and procedures required?*

The CSAM requires LEAs to have written time and effort procedures. The US Department of Education Cost Allocation Guide<sup>7</sup> states that such procedures are essential to implementing effective time reporting systems and suggests such procedures should develop instructions for (1) the completion of time and effort reporting; (2) the approval cycle that is required; (3) the processing of personnel charges to federal awards; and (4) the internal review process that will be established to ensure effective internal control over the federal award. In addition, when there is an audit or monitoring, an LEA would be tested against its written procedures. This means that it is imperative that written procedures and actual practices of the LEA are in alignment.

5. *What happens if an employee is working more or less on a cost objective than originally budgeted?*

Budget estimates alone do not qualify as time and effort documentation. If an employee is not working in accordance with their budget, the LEA must make necessary adjustments so that the final amount charged to the federal award is accurate, allowable, and properly allocated. These necessary adjustments can be addressed in one of two ways. First, on the program side, the employee's responsibilities can be adjusted to be consistent with the distribution as budgeted. Second, on the fiscal side, the employee's salary can be adjusted to reflect the increase or decrease on time spent for each cost objective. It is important that programmatic and fiscal staff jointly discuss what to do. If there is de minimis or short-term fluctuation in workload categories, a reconciliation would not be required as long as the distribution of salaries and wages is reasonable over the longer term. LEA procedures should discuss what is considered de minimis time on extra duties that need not be reflected in time distribution records (e.g., less than 5 percent of the employee's normal duties).

6. *How often should reconciliation occur?*

In accordance with the CSAM, if the variance between budgeted and total actual costs are 10 percent or more, adjustments must be made at least quarterly to the LEA's financial records, including to billings made to federal grantor agencies. If the variances are less than 10 percent, the adjustments may be recorded annually. The budget estimates or other percentages must be revised at least quarterly, if necessary, to reflect changed circumstances. This should be an element of the LEA's internal controls. Internal controls should outline who (e.g., grant accountant, business officer, program director, etc.) receives and reviews time and effort documentation and compares it against budgets; how often this review is done; and the process for ensuring final charges are adjusted to reflect actual effort.

7. *If an employee is working on a single cost objective, but funded by two funding streams (e.g., a teacher is funded 90 percent with Title I and the remaining out of general funds), can that employee complete a semiannual certification?*

Yes, it would be acceptable for an employee working on a single cost objective, but funded out of multiple funding streams, to complete a semiannual certification.

8. *If an employee has an agenda or schedule for each day that does not change (e.g., a teacher with a set schedule), could the agenda or schedule be provided instead of providing other time and effort documentation?*

It could be possible that an employee's job description or schedule would be sufficient time and effort documentation. It is important that the documentation maintained clearly identify all cost objectives at the beginning of the year and the relevant position or accounting codes. For those employees, it is still recommended that at least on an annual basis, the employee or supervisor with first-hand knowledge certifies that the employee worked in accordance with their schedule. Furthermore, it must be ensured

that there are proper internal controls in place to notify the LEA if the schedule changes. For example, a position or activity change form should be used to track changes in an employee's job or activities and ensure proper reconciliation or allocability.

9. *Do LEAs have to use PARs?*

Unlike the previous OMB circulars, 2 *CFR* Part 200 does not require nonfederal entities to keep time and effort on a set monthly or semiannual schedule or keep PARS or semiannual certifications. The new standards for time and effort documentation are discussed in depth in section II(J) of this document.

10. *What happens if an employee performs a task that is not allowable under the federal program?*

If an employee performs a task that is not allowable under the federal program, the LEA cannot charge the time performing that task to the federal award. This means that the employee would need to allocate time for at least two cost objectives—the federal cost objective and the unallowable (state/local) cost objective. For example, a special education teacher typically allocates time to IDEA grant funds. If one of the LEA's special education teachers also provides services to students on 504 plans, that teacher must track both time teaching students eligible for services under IDEA, and time providing services to students on 504 plans. The teacher's salary would then be paid out of federal funds for the share of time spent on IDEA activities and out of state or local funds for the share of time spent on 504 activities.

11. *What is a substitute time and effort process?*

State and local governments may use a substitute time and effort system in place of or in addition to standard time and effort records if approved by CDE. In a substitute time and effort system, an LEA uses a quantifiable measure of work performed to allocate funds to that employee. CDE has two existing substitute systems that may be used: Substitute System Based on Sampling Method and Substitute System Based on Employee's Predetermined Schedule. See CSAM Procedure 905 for details on the requirements for the substitute time accounting systems.

12. *How often must employees working on multiple cost objectives submit time and effort documentation?*

Unlike the previous OMB circulars, 2 *CFR* Part 200 does not require LEAs to keep time and effort on a set monthly or semiannual schedule. Instead the LEA must determine an appropriate time frame for its employees that can be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated. For employees who work on multiple cost objectives, time and effort documentation must provide sufficient evidence to substantiate the accuracy of the charges.

## H. Title I

### 1. Supplement Not Supplant Title I, Part A

#### A. *How is SNS different for Title I, Part A than for other federal programs?*

For funds that are allocated to Title I schools, LEAs no longer need to apply the presumptions of supplanting. Instead, the LEA must show that the school received all the state and local funds it would have received in the absence of federal funds. For a detailed discussion of the supplement not supplant test specific to Title I, Part A, see section III of this document.

#### B. *What is a “Title I Neutral Methodology?”*

For a methodology to be “Title I neutral,” the LEA must show that each Title I, Part A school is allocated all of the state and local funds the school would be entitled to receive if it was not receiving Title I, Part A funds. For a detailed discussion and examples of allowable methodologies, see section III of this document.

#### C. *Does this mean LEAs can spend money on state-required activities if they have a Title I, Part A neutral methodology?*

Not necessarily. When an LEA uses state and local funds for LEA-wide expenditures, the LEA must also demonstrate that it is allocating the state and local funds to Title I schools on the same basis as non-Title I schools. Accordingly, when there is an LEA-wide initiative, for any purpose, the LEA must make sure that the nonfederal funds are neutrally distributed and then the Title I, Part A funds are used for supplementary purposes for the Title I schools. Assuming the state-required activity is districtwide, the LEA would not be able to spend Title I funds on that activity unless it provided additional support to the Title I, Part A schools. For a more detailed discussion on LEA-level expenditures, please see section III of this document.

Within a school building, Title I funds may be used for state-required activities or costs only if such costs are otherwise allowable (e.g., reasonable, necessary, allocable, and identified within the schoolwide program plan).

#### D. *What if all of the LEA’s school sites receive Title I, Part A funds?*

An LEA need not have a methodology to comply with the Title I, Part A SNS requirements if it has:

- One school
- Only Title I schools
- A grade span that contains only a single school, non-Title I schools, or Title I schools (i.e., no methodology is required for this grade span)



## 2. Program-Specific Requirements

### A. *What procedures must an LEA have for Title I?*

An LEA must have the following additional written policies and procedures for its Title I program:

- Procedures for transportation of foster children
- Parent and family engagement policy
- Procedures for compliance with the comparability requirement (ESEA Section 1118[c])
- All required UGG procedures (see question 3 above)

### B. *How does an LEA consolidate ESSA administrative costs?*

Before an LEA may consolidate its administrative funds, it must obtain prior approval from the CDE. If CDE approves, the LEA may consolidate the administrative portion of any programs of the Elementary and Secondary Education Act or any other programs designated by the Secretary of Education. While most federal programs do not set a cap on administration at a local level, ESSA requires the SEA to establish a limit on the amount of funds that may be consolidated. The limitation applies to both direct administrative charges and indirect cost recovery. If an LEA chooses to consolidate its administrative funds, it cannot use any other funds from programs included in consolidation for administration during that fiscal year.

### C. *What is a program cost and what is an administrative cost?*

Program costs are the costs directly associated with carrying out the program objectives. In Title I, Part A, for example, a program cost may be expenditures related to a reading intervention carried out in Title I, Part A schools. Administrative costs are those used to administer the federal program and for administrative activities designed to enhance the effective and coordinated use of funds under programs included in the consolidation. These activities may include, for example:

- The coordination of consolidated programs with other federal and nonfederal programs
- The establishment and operation of peer review mechanisms under ESEA
- The administration of ESSA Title VIII (consolidated planning and applications, administration, waivers, etc.)
- The dissemination of information regarding model programs and practices
- Technical assistance under any ESEA program
- Training personnel engaged in audit and other monitoring activities
- Implementation of fiscal support teams that provide technical fiscal support assistance that includes evaluating fiscal, administrative, and staffing functions and any other key operational function



D. *What are centralized services and how should those be accounted for?*

Many local governments may provide certain services across agencies, such as motor pools, purchasing, accounting, etc., on a centralized basis. Since these centralized services provide some benefit to the federal awards in the LEA, these costs must be identified and assigned to benefitted activities on a reasonable and consistent basis. The local government must establish a central service cost allocation plan to support the allocation of these central services costs to federal awards consistent with Appendix V of 2 *CFR* Part 200. All centralized service costs must then be billed or allocated in accordance with an approved central service cost allocation plan.

E. *What happens if I have Title I carryover?*

LEAs have the authority to carry over their grants for an additional year, for a total availability of 27 months. Title I, however, imposes a cap on this carryover authority at the local level. Absent a waiver, any LEA that receives \$50,000 or more annually in Title I funds may only carry over 15 percent of their total grant award. If an LEA carries over more than 15 percent of their total allocation, the SEA will bill the LEA.

F. *Can private schools receive carryover?*

The ESEA requires LEAs to spend funds for equitable services to private school students in the first fiscal year for which the funds are received by the LEA. This should mean that LEAs typically do not carry over funds for equitable services. If, however, an LEA does not expend its equitable services funds in the first fiscal year, it will be required to spend them in the subsequent year. If an LEA exceeds the 15 percent carryover limitation and the SEA reduces the LEA's allocation as a result, that reduction cannot come from the portion of carryover funds used to provide equitable services. For example, an LEA has a Title I grant of \$100,000 and has not spent \$20,000 of Title I funds, including \$5,000 of equitable services funds at the end of the fiscal year. The 15 percent cap limits carryover to \$15,000. Of that \$15,000 in carryover funds, the LEA must still spend \$5,000 on the provision of equitable services to eligible students in the carryover year.

G. *How do I apply the Title I carryover?*

If an LEA has carryover, it must expend those funds in the next year or risk the lapse of those funds back to ED. LEAs should use a "first in, first out" method of accounting to ensure that the LEA expends all carryover funds before the end of the 27-month period of availability.

If an LEA did not spend the total amount of a required set-aside, such as for parental involvement or equitable services, in a given year, it must carry over the unspent funds and spend them for the specific purpose in the following year. This carryover amount is in addition to the amount required to set aside in the following year.

Additionally, LEAs must follow the rules and regulations of the program as they apply in the carryover year, as opposed to any rules and regulations in place in the initial award year.

- H. *What if private schools use more services than the proportional share for equitable services established in the Consolidated Application and Reporting System (CARS)?*

An LEA is not authorized to expend more than the proportionate share on eligible students enrolled in private schools. Section 1117(a)(4)(A) of the ESEA states that “expenditures for educational services and other benefits to eligible private school children **shall be equal** to the proportion of funds allocated to participating school attendance areas....”

## I. Title III

### 1. Allowability

Please see the Title III web page at <https://www.cde.ca.gov/sp/el/t3/authorizedusesenarios.asp>.

### 2. Title III Specific

#### A. *Who is eligible to receive Title III funds?*

There are two programs in Title III:

- I. EL Student Program
- II. Immigrant Student Program

For the **EL Student Program**, LEAs (school districts, county offices of education [COE], and direct-funded charter schools) that enrolled one or more EL students during the previous fiscal year are eligible to apply.

For the **Immigrant Student Program**, LEAs must have a program of sufficient size and scope and have experienced a significant growth in eligible immigrant student enrollment in the current year compared with the average of the two preceding fiscal years. California defines sufficient size and scope as having 21 or more eligible immigrant students. Also, California uses a significant increase of 1 percent to show required growth.

#### B. *How are Title III funds allocated?*

The CDE provides formula subgrant awards to LEAs to provide supplementary programs and services for EL and immigrant students, per each program’s guidelines.

LEAs are eligible to receive EL Student Program funding directly if their preliminary allocation is \$10,000 or greater and they apply via the Consolidated Application and Reporting System (CARS). If the preliminary entitlement is under \$10,000, the LEA may still be eligible for funds by applying as a consortium via the Consortium Online Application (COA) in addition to CARS.

LEAs are eligible to receive Immigrant Student Program funding directly if an LEA reports an enrollment of 21 or more eligible immigrant students and has experienced a significant increase of 1 percent or more in eligible immigrant student enrollment in the prior year, or the current year for new and significantly expanded charter schools,

compared with the average of the two preceding fiscal years. The consortium funding option is not necessary for the Title III Immigrant Student Program.

*C. How are Title III funds distributed?*

Title III programs utilize the CDE Federal Cash Management program to apportion funds. Quarterly apportionments are based on the cash balance reported by the LEAs on the CMDC system. The apportionment will equal the difference between 25 percent of the LEA's annual entitlement and the reported cash balance, up to the entitlement amount. Apportionments for a particular fiscal year will be paid after the allocations for any prior year grant awards have been fully paid, unless the authority to obligate those funds has expired. If an LEA fails to submit a CMDC report for a particular reporting period, CDE will not apportion funds to the LEA for that period. The CDE will release funding in the subsequent period if the LEA appropriately submits cash balance data that warrants the release.

*D. What is the grant period of the Title III subgrant?*

Title III funds are awarded to the subgrantee for use within a 27-month grant period. After the 27month subgrant period ends, subgrantees have an additional 90 days to liquidate (make payment for) any obligations incurred during the period of availability. Any unexpended funds must be must returned to the CDE.

LEAs are required to keep separate bookkeeping for each funding year through the entire 27 months and do the following:

- Report cash balances on CMDC quarterly
- Report expenditure reports on CARS every six months
- Report end-of-year expenditures on CARS

*E. How should Title III funds be spent?*

An eligible entity that receives Title III EL funds must use those funds to:

- Increase the English language proficiency of EL students by providing effective language instruction programs that meet their needs and have demonstrated success in increasing English language proficiency and student academic achievement
- Provide effective professional development to teachers, principals and other school leaders, administrators, and other school or community-based organizational personnel
- Provide and implement other effective activities and strategies that enhance or supplement language instruction educational programs for EL students, which must include parent, family, and community engagement activities

An eligible entity that receives Title III Immigrant funds must use those funds to pay for activities that provide enhanced instructional opportunities for immigrant children and youth, which may include:

- Family literacy, parent and family outreach, and training activities
- Recruitment of, and support for, personnel, including teachers and paraprofessionals who have been specifically trained, or are being trained, to provide services to immigrant children and youth
- Provision of tutorials, mentoring, and academic or career counseling for immigrant children and youth
- Identification, development, and acquisition of curricular materials, educational software, and technologies to be used in the immigrant program
- Basic instructional services that are directly attributable to the presence of immigrant children and youth in the local educational agency involved
- Other instructional services that are designed to assist immigrant children and youth to achieve in elementary schools and secondary schools in the United States, such as programs of introduction to the educational system and civics education
- Activities, coordinated with community-based organizations, IHEs, private sector entities, or other entities with expertise in working with immigrants, to assist parents and families of immigrant children and youth by offering comprehensive community services

In addition to the program purposes and allowable uses outlined above, Title III funds must be used to supplement other federal, state, and local resources. In practice, this generally requires Title III funds be used for activities that go beyond the general program, as a last resort, and for the outlined activities.

*F. Is there a cap on the amount of Title III funds that can be used for the administration of the EL student program?*

An LEA may use no more than 2 percent of its Title III, Part A subgrant for direct administrative costs. Direct administrative costs include such items as salaries of project personnel, clerical support, and other costs directly incurred in the administration of the program.

*G. May LEAs charge indirect costs to Title III? If so, is the indirect recovery subject to Title III's cap on administrative costs?*

The LEA can apply its approved restricted indirect cost rate to its Title III grant expenditures. Because the 2 percent cap is on *direct* administrative costs, the LEA's indirect cost recovery will not be subject to that cap.

*H. Can Title III funds be braided with other funds?*

Yes. When a recipient braids funds, it coordinates funds from multiple grant awards to achieve a single objective or strategy, while maintaining the identity and goals of each individual award. This approach depends on good project management to meet the grantee's objective or strategy, while still complying with each award's fiscal and programmatic requirements. Braiding funds does not require specific statutory authorization.

*I. What does supplement not supplant mean for Title III?*

Title III funds shall be used to supplement the level of federal, state, and local public funds that, in the absence of such availability, would have been expended for programs for ELs and immigrant children and youth and in no case to supplant such federal, state, and local public funds. Funds must be used for **supplemental services** that enhance and are not part of the LEAs core program as part of the language instruction program for EL students and immigrant children and youth.

For example, if an activity last year was paid with nonfederal funds, the same activity this year cannot be paid with federal funds without raising a presumption of supplanting. State-mandated activities must be paid with state funds first.

**Supplement** means an addition; **supplant** means to take the place of.

*J. How does transferability apply to Title III?*

An LEA may transfer funds from Title II, Part A or Title IV, Part A into their Title III, Part A grant. If an LEA chooses to transfer its funds into its Title III, Part A grant, the LEA must notify the SEA of the transfer at least 30 days before the transfer, modify each local plan or application to account for the transfer, and submit the modified plan or application to the CDE within 30 days of the transfer.

Title III funds may not be transferred to other Title programs.

*K. How can I use Title III funds to pay for personnel?*

Title III funds can be used to pay for personnel in two ways. First, up to 2 percent of Title III funds may be used to pay for the direct costs of administering the Title III award, which includes the salaries of personnel involved in the administration.

Classroom paraprofessionals and other personnel that provide direct support to students and their teachers can be considered in the 98 percent portion of the allocation if the job duties are consistent with the program requirements.

Additionally, as discussed in question E above, Title III requires LEAs to spend EL funds to supplement effective language instruction programs to EL students; provide professional development; and provide opportunities for parent, family, and community engagement. Additionally, Title III allows LEAs to spend immigrant funds on many activities or services that would include personnel costs.

For any personnel charges, the LEA must ensure that those charges are allowable under the cost principles at 2 *CFR* Part 200, and appropriately documented. These principles are discussed in section II of this document.

**J. Title IV, Part B**

*1. Are grantees required to track Title IV, Part B grant funds and other funding sources separately?*

Yes. As background, CDE Expanded Learning Division (EXLD) oversees state and federal non-school-hour programs, including the federally funded 21st Century Community

Learning Centers (21st CCLC) Program under Title IV, Part B and the state-funded After School Education and Safety Program (ASES). The grantee must track the grant funds separately, using the state-defined Resource Code 6010 for ASES, and Resource Code 4124 for 21st CCLCs. Any additional funds generated from other sources, including program fees or the district's Local Control Funding Formula, must be tracked separately.

2. *If a grantee subcontracts Title IV, Part B program services, are they required to monitor the contracted service provider's fiscal and program operations and fiscal operations?*

Federal regulations require grantees to maintain oversight to ensure contractors, including service providers, perform in accordance with the terms, conditions, and specifications of the contract (2 *CFR* 200.318[b]). Moreover, the grantee is ultimately responsible for the award—it is in the grantee's best interest to have clear parameters included in the contract to facilitate the grantee's own compliance. Promising Practices dictates grantees must clearly state in their subcontract or a Memorandum of Understanding (MOU) the requirements, such as "Contracted service provider submits annual budget with a narrative to support expenditures, monthly or quarterly invoices, general ledger, or financial activity report upon request." The MOU should clearly state that the contracted service provider must provide access to its program and fiscal records for audits and any state or federal site visits. The MOU should also clearly state that the fiscal data, including attendance data, expenditure data, evaluation data, and any additional requested data must be accurate and provided to the grantee in a timely manner. The MOU should clearly state the consequences for not cooperating or providing the data in a timely manner, since not submitting the fiscal data in a timely manner may result in a grantee becoming a grantee that is not in good standing with fiscal implications, including withholding of payments by the EXLD or termination of the grant.

**Note:** Grantees are reminded that in the event that contracted service providers are found to have spent funds in a manner not in accordance with state or federal directives, the grantee—not the contractor—is responsible for returning incorrectly spent funds. In other words, the ultimate responsibility for the expenditure of grant funds remains with the grant recipient, not the subcontractor.

3. *What are the allowable costs for expanded learning programs?*

For expanded learning programs funded under Title IV, Part B of the ESEA (21st CCLC Programs), allowable activities may include:

- Academic enrichment learning programs, mentoring programs, remedial education activities, and tutoring services, that are aligned with:
  - The challenging state academic standards and any local academic standards
  - Local curricula that are designed to improve student academic achievement
- Well-rounded education activities, including such activities that enable students to be eligible for credit recovery or attainment
- Literacy education programs, including financial literacy programs and environmental literacy programs
- Programs that support a healthy and active lifestyle, including nutritional education and regular, structured physical activity programs

- Services for individuals with disabilities
- Programs that provide after school activities for students who are ELs that emphasize language skills and academic achievement
- Cultural programs
- Telecommunications and technology education programs
- Expanded library service hours
- Parenting skills programs that promote parental involvement and family literacy
- Programs that provide assistance to students who have been truant, suspended, or expelled to allow them to improve their academic achievement
- Drug and violence prevention programs and counseling programs
- Programs that build skills in science, technology, engineering, and mathematics (referred to in this paragraph as STEM), including computer science, and that foster innovation in learning by supporting nontraditional STEM education teaching methods
- Programs that partner with in-demand fields of the local workforce or build career competencies and career readiness and ensure that local workforce and career readiness skills are aligned with the Perkins Career and Technical Education Improvement Act and the Workforce Innovation and Opportunity Act

An important factor in determining allowability is the alignment of the proposed cost to the grantee's application. 21st CCLC subgrants are awarded on a competitive basis, and therefore must be administered consistent with the approved application and program.

4. *What happens if a grantee does not expend all grant funds, or expends less than disbursed?*

The CDE requires that a grantee return all unexpended funds. Grant payments will be made up to the lesser of the grant award or the expenditures to date. No carryover of funds is allowed. During the year-end closeout process, EXLD will determine whether an overpayment has been made and invoice the grantee accordingly (EC Section 8483.7[a][1][A]). Funds are considered expended as of the date of obligation, consistent with 34 CFR 76.707.

5. *What are the requirements 21st CCLC grant funds being allocated to direct services?*

The *Education Code* requires that a minimum of 85 percent of the grant be spent on direct services, while no more than 15 percent can be spent on administrative costs, including indirect costs. It is the expectation that the grantee allocates funds and documents expenditures to demonstrate that a minimum of 85 percent of grant funds are spent on direct services. In the first year of funding, the grantee is allowed to use 15 percent for startup costs. 21st CCLC grantees may use an additional 6 percent of the grant for evaluation costs (EC Section 8426 [c][1]).

The CDE review will be at the site level as the selected sites represent a sample of the total grant. The grantee must follow GAAP and maintain accounting data to demonstrate compliance by grant.



For more information, visit the CDE Direct Service and Administrative Cost Guidance web page located at <https://www.cde.ca.gov/ls/ex/directservguidance.asp>.

6. *Is there a minimum dollar threshold reserved for administrative costs for subcontractors?*

No. EXLD does not dictate a minimum dollar threshold reserved for administrative costs for subcontractors. Grantees and subcontractors may negotiate how much in administrative costs a subcontractor may charge to the grant.

However, subcontractors will be held to the terms, conditions, and specifications of their contracts and must bill for administrative costs in accordance with those terms and conditions.

7. *Is the cost of the site supervisor considered a direct service?*

Per EC Section 8483.9(c), the cost of a program site supervisor may be included as direct service provided that at least 85 percent of the site supervisor's time is spent at the program site.

8. *Can administrative staff time be allocated for direct services to students?*

Yes. Administrative staff may be compensated for time allocated for direct services to students.

Grantees and subcontractors may use documentation, such as timesheets or other written tracking processes to document the time spent by the administrative staff towards the direct services to the students. For a detailed discussion of applicable time and effort requirements, see section II of this document.

9. *What are the rules for disposing of equipment purchased with 21st CCLC funds if there are no other federally funded programs run by the grantee?*

If there are not any other federally funded programs run by the grantee, the following EDGAR disposition rules must be followed:

When the equipment is no longer needed for the original program or for other activities currently or previously supported by a federal agency, disposition will be as follows:

- Equipment with a current per unit fair market value **over \$5,000** may be retained or sold. In either case, the ED must receive an amount calculated by multiplying the current market value or proceeds from the sale by the percentage of ED's share of the equipment (2 *CFR* 200.313[e][2]).
- Equipment with a current per unit fair market value of **less than \$5,000** may be retained, sold, or otherwise disposed of with no further obligation to the ED. However, maintaining records describing the equipment's disposition and use after disposition is recommended (2 *CFR* 200.313[e][1]).





