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### Introduction to Overview of Federal Requirements

Local educational agencies (LEAs) and other entities that receive federal grants must follow certain federal rules for managing their grant funds. These rules are developed primarily by the federal Office of Management and Budget (OMB), and apply to U.S. Department of Education (U.S. ED) grant programs, such as Title I, Title II, and IDEA.

LEAs are welcome to contact DDOE for more information about this guidance, or to request individualized technical assistance. Please contact Eulinda Gallagher at [Eulinda.Gallagher@doe.k12.de.us](mailto:Eulinda.Gallagher@doe.k12.de.us) or call at 735-4016.

### OMB Grant Management Rules and Their Relationship to U.S. ED Programs

OMB is the federal entity responsible for developing uniform rules for managing federal grant funds. These rules apply to all federal grant programs—including U.S. ED programs—and apply *in addition to* U.S. ED rules.

- Example 1: Many U.S. ED grant programs permit LEAs to purchase materials to benefit eligible students. OMB rules require LEAs to follow certain procedures for purchasing and managing those materials; therefore, part of spending U.S. ED dollars appropriately is following OMB procurement and inventory management rules.
- Example 2: Under OMB rules, entertainment costs are unallowable. Therefore, paying for a recognition banquet for teachers would not be a permissible use of U.S. ED funds.

In December 2014, OMB updated its grant management rules, which are now called **the Uniform Guidance**. These rules can be found in Title 2 of the Code of Federal Regulations, Part 200:

[http://www.ecfr.gov/cgi-bin/text-idx?SID=fecf95fee4590925cf5312e8cc6c6206&tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?SID=fecf95fee4590925cf5312e8cc6c6206&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl).

U.S. ED technical assistance on the Uniform Guidance is available here:

<http://www2.ed.gov/policy/fund/guid/uniform-guidance/index.html>.

OMB technical assistance on the Uniform Guidance is available here: <https://cfo.gov/cofar/>.

### ***Putting the Uniform Guidance in Context***

U.S. ED grant programs are governed by many rules, which can be challenging to find and navigate. Here is a general overview of the rules that apply to U.S. ED programs and where to find them:

- Program-specific rules: Each U.S. ED grant program is governed by a program statute. For example, Title I is Title I, Part A of the Elementary and Secondary Education Act. Some U.S. ED programs also have program-specific regulations, like IDEA, Part B. For many programs, U.S. ED issues non-regulatory guidance to clarify statutory and regulatory requirements. A list of U.S. ED grant programs, that provides links to program statutes, regulations and guidance, is available here: <http://www2.ed.gov/programs/find/title/index.html?src=ov>
- U.S. ED administrative rules: U.S. ED has a set of regulations called the Education Department General Administrative Regulations (EGDAR), which is available here: <http://www2.ed.gov/policy/fund/reg/edgarReg/edgar.html>. EDGAR covers administrative grant issues, such as applying for U.S. ED funds, addressing non-compliance with federal requirements, and privacy protections for student information.
- Uniform Guidance: As discussed above, these rules apply to all federal grant programs, including U.S. ED programs. These rules apply **in addition** to the U.S. ED-specific rules described in the bullets above: [http://www.ecfr.gov/cgi-bin/text-idx?SID=fecf95fee4590925cf5312e8cc6c6206&tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?SID=fecf95fee4590925cf5312e8cc6c6206&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl).

## **General Federal Grant Spending Rules**

The Uniform Guidance includes cost principles, which are general spending rules that apply to all federal grants, including U.S. ED programs. These cost principles cover:

- Costs that may never be charged to federal grants;
- General principles for evaluating whether an otherwise permissible cost can be charged to federal funds; and
- Specific considerations for certain costs.

### ***Costs That May Never Be Charged to Federal Grants***

The following costs may not be charged to U.S. ED programs:<sup>1</sup>

- Advertising and public relations costs such as promotional items and memorabilia, including models, gifts, and souvenirs (with limited exceptions)<sup>2</sup>
- Advisory councils unless permitted by the grant or federal awarding agency<sup>3</sup>
- Alcoholic beverages<sup>4</sup>
- Bad debts<sup>5</sup>

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<sup>1</sup> This list is not exhaustive, other cost restrictions may apply

<sup>2</sup> 2 CFR § 200.421

<sup>3</sup> 2 CFR § 200.422

<sup>4</sup> 2 CFR § 200.423

<sup>5</sup> 2 CFR § 200.426

- Contributions and donations<sup>6</sup>
- Entertainment, including amusement, diversion, and social activities and any associated costs, except where specific costs that might otherwise be considered entertainment have a programmatic purpose and are authorized either in the approved grant or by the federal awarding agency<sup>7</sup>
- Fines, penalties, damages, and other settlements (with limited exceptions)<sup>8</sup>
- Fund raising and investment management costs (with limited exceptions)<sup>9</sup>
- General costs of government, such as the salaries and other expenses of a school board, or the costs of the school district's chief executive (superintendent)<sup>10</sup>
- Goods or services for personal use<sup>11</sup>
- Lobbying<sup>12</sup>
- Organizing activities, such as incorporation fees, brokers' fees, fees to promoters, organizers or management consultants, attorneys, accountants, or investment counselors, in connection with establishment or reorganization of an organization, except with prior approval of the federal awarding agency<sup>13</sup>
- Selling and marketing<sup>14</sup>
- Student activity costs (such as costs incurred for intramural activities, student publications, student clubs, and other student activities) unless specifically allowed under the grant<sup>15</sup>

### ***General Principles for Evaluating Costs***

All costs charged to federal grants, including U.S. ED programs, must meet several key criteria including that costs must be:

- Necessary and reasonable for the performance of the federal award
- Allocable
- Adequately documented<sup>16</sup>

In general, **necessary and reasonable** means an objective observer would understand the decision to spend funds on an activity considering the amount of money being spent, the needs of the program, and other relevant circumstances. Factors to consider include:

- Whether the cost is needed to carry out the grant program properly and efficiently;
- Whether the LEA followed sound business practices;
- The cost of the good, service, or activity being supported and whether the cost is consistent with market prices;
- Whether the LEA acted prudently considering its responsibilities to the LEA, its students, the public, and the federal government; and

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<sup>6</sup> 2 CFR § 200.434

<sup>7</sup> 2 CFR § 200.438

<sup>8</sup> 2 CFR § 200.441

<sup>9</sup> 2 CFR § 200.442

<sup>10</sup> 2 CFR § 200.444

<sup>11</sup> 2 CFR § 200.445

<sup>12</sup> 2 CFR § 200.450

<sup>13</sup> 2 CFR § 200.455

<sup>14</sup> 2 CFR § 200.467

<sup>15</sup> 2 CFR § 200.469

<sup>16</sup> 2 CFR § 200.403

- Whether the LEA generally followed its internal practices and policies.<sup>17</sup>

In general, **allocable** means the grant supporting the cost benefits in proportion to the amount charged.<sup>18</sup> For example, if an LEA uses IDEA, Part B funds to pay for 100% of a teacher's salary, that teacher should spend 100% of her time working on IDEA, Part B activities. LEAs must also be able to track items purchased with federal funds in order to demonstrate they are being used for program purposes, and must be able to link each item purchased with federal funds to a transaction/cost in the financial management system.

In general, a cost is **adequately documented** if the LEA has records to show how funds were spent (not just how they were budgeted), that the program benefitted from the cost, and that the LEA complied with any grant-related requirements (such as ensuring participants are eligible for program services, etc.).

### ***Specific Considerations for Certain Costs***

Subpart E of the Uniform Guidance contains special rules for certain kinds of costs—for example, how to charge audit costs to federal grants, the circumstances under which federal grant funds can be used for conferences, and the like. These rules are available here: [http://www.ecfr.gov/cgi-bin/text-idx?SID=0b8b61af3172d6bed650dc218ecd26dc&node=sg2.1.200\\_1419.sg16&rqn=div7](http://www.ecfr.gov/cgi-bin/text-idx?SID=0b8b61af3172d6bed650dc218ecd26dc&node=sg2.1.200_1419.sg16&rqn=div7).

### **Special Considerations for Personnel Costs**

LEAs should continue to maintain their current time and effort documentation. DDOE guidance is located here: <http://www.doe.k12.de.us/domain/314>.

### **Taking Steps to Safeguard U.S. ED Funds (Internal Controls)**

As stewards of taxpayer money, LEAs have an important responsibility to protect the integrity of federal funds. The systems and processes required to meet this responsibility are sometimes called “internal controls”.

The Uniform Guidance specifically addresses the concept of “internal controls”.<sup>19</sup> As OMB makes clear, having strong internal controls throughout the grant process is a way to maximize program performance and minimize the risk of federal funds being spent inappropriately. A good system of internal controls should cover a broad range of activities throughout the lifecycle of the grant.

Ultimately, LEAs must decide what activities to undertake in order to manage their federal grants properly, but part of an LEA's internal control system must address these three key areas:

- Financial Management – refers to the systems and controls needed to ensure the costs charged to federal grants are appropriate including budgeting, accounting, and reporting.
- Procurement – refers to the systems and controls needed to ensure goods and services purchased with federal funds are delivered by competent vendors and acquired at reasonable prices.
- Inventory Management –refers to the systems and controls needed to ensure items purchased with federal funds are used for federal programs.

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<sup>17</sup> 2 CFR § 200.404

<sup>18</sup> 2 CFR § 200.405

<sup>19</sup> 2 CFR § 200.303

## Financial Management: Tracking Federal Spending to Verify the Allowable Use of Funds

LEAs must use financial management systems that:<sup>20</sup>

- Identify all federal awards received and spent, and the federal programs under which they were received. Identification must include: the CFDA title and number, the federal award identification number and year, the name of the federal agency (U.S. ED), and the name of the pass-through entity (DDOE).
- Produce accurate, current, and complete disclosure of the financial results of each federal grant.
- Produce records that identify adequately the source and application of federally funded activities. This includes information about obligations, unobligated balances, assets, expenditures, income, and interest. These records must be supported by source documentation.
- Provide effective control over, and accountability for, all funds, property, and other assets. LEAs must safeguard all assets and assure they are used only for authorized purposes.
- Compare actual spending to budgeted amounts.

In addition, OMB rules now require LEAs to develop written procedures that address allowability of costs—that is the steps LEAs will use to verify a cost is allowable before charging it to a federal grant.<sup>21</sup>

## Procurement: Purchasing Goods and Services With U.S. ED Funds

When using federal funds to purchase a good or service, LEAs must comply with the following procurement rules:<sup>22</sup>

- LEAs must follow their own documented procurement procedures that reflect applicable state and local laws and regulations, and conform to the federal standards listed below.
- LEAs must maintain oversight to ensure contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
- LEAs must maintain written standards of conduct covering conflicts of interest and governing the performance of employees engaged in the selection, award, and administration of contracts.
- LEAs must avoid acquisition of unnecessary or duplicative items.
- LEAs are encouraged to enter into intergovernmental/inter-entity agreements where appropriate for procurement or use of common or shared goods and services.
- LEAs must award contracts only to responsible contractors possessing the ability to perform successfully considering issues such as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
- LEAs must maintain records sufficient to detail the history of procurement including, but not necessarily limited to: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- LEAs may use time-and-material type contracts only after a determination that no other contract is suitable, and if the contract price is capped.
- LEAs must use good administrative practices and sound business judgment to resolve contractual and administrative issues arising out of procurements.

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<sup>20</sup> 34 CFR § 200.302(b)(1-5)

<sup>21</sup> 34 CFR § 200.302(b)(7)

<sup>22</sup> 2 CFR § 200.318

In general, all procurement transactions must be conducted with full and open competition, so LEAs should avoid:<sup>23</sup>

- Placing unreasonable requirements on firms in order for them to qualify to do business.
- Requiring unnecessary experience and excessive bonding.
- Noncompetitive pricing practices between firms.
- Organizational conflicts of interest.
- Specifying only a “brand name” product, instead of allowing an “equal” product to be offered.
- Using state or local geographic preferences, except where required or encouraged by federal law.
- Using overly restrictive lists of prequalified vendors.

In addition, LEAs must have written procedures for procurement transactions that ensure all solicitations incorporate a clear and accurate description of any technical requirements, and identify all requirements offerors must fulfill.<sup>24</sup>

## **Inventory Management: Managing Assets Purchased With U.S. ED Funds**

LEAs must take steps to safeguard the items purchased with federal funds to ensure they:

- Benefit the program that purchased the item, and
- Are safeguarded against unauthorized use or loss.

The level of control needed over an item depends on its classification.

Supplies are relatively inexpensive items with a purchase price less than \$5,000,<sup>25</sup> including computing devices. Supplies are not usually tracked individually. However, LEAs should be able to establish that supplies purchased with federal funds were received by the program, used by the program, and safeguarded from unauthorized use.

Some supplies are more vulnerable to loss or theft, such as laptops, tablets and other small items. LEAs can mitigate those risks through controls such as:

- Tracking items
- Labeling items so they are clearly identified as property of the LEA and/or a particular funding source
- Requiring employees using an item to sign it out so the LEA can identify which employee has custody of the item

Equipment is defined as more expensive items with a purchase price of \$5,000 or more. LEAs must comply with the following rules for managing equipment purchased with federal funds:<sup>26</sup>

- LEAs must maintain property records that include: a description of the property; a serial number or other identification number; the source of the funding for the property (including the federal award number); who holds title; the acquisition date; the cost of the property; the percentage of federal participation in the purchase price; the location, use and condition of the property; and any ultimate disposition data including the date of disposal.
- LEAs must take a physical inventory of the property every two years and reconcile the results with the LEA’s property records.

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<sup>23</sup> 2 CFR § 200.319(a) & (c)

<sup>24</sup> 2 CFR § 200.319(c)

<sup>25</sup> 2 CFR § 200.94

<sup>26</sup> 2 CFR § 200.313(d)

- LEAs must develop a control system to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.
- LEAs must adequately maintain the property to keep it in good working condition.
- If the LEA is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.