

# ***Administrative Rules under EDGAR***

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**January 2019**

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# Test Time!

# 1. Time and effort policies and procedures must:

- a. Be in writing.
- b. Be supported by only policies.
- c. Include Personnel Activity Report (PAR) and semi-annual certification examples.
- d. a & c only



**2. Pursuant to EDGAR, an inventory of equipment purchased in whole or in part with Federal funds must be conducted:**

- a. Once every two years
- b. Yearly
- c. Once every six months
- d. Whenever you feel like it

**3. If there is a conflict of interest with a vendor, you are prohibited from contracting with that vendor.**

a. Absolutely!

b. Maybe

c. Go ahead, jail isn't so bad!

#### 4. A cost is reasonable if:

- a. It is on sale.
- b. It does not cause the grantee or subgrantee to exceed its total award.
- c. The cost is of a type generally recognized as ordinary.

**5. The micro-purchase method of procurement allows for the acquisition of supplies and services under an established threshold without soliciting competitive quotations, provided the non-federal entity considers the cost reasonable.**

a. True

b. False

**6. Generally, the salaries of administrative and clerical staff must be treated as indirect costs.**

a. True

b. False



**7. For a cost to be allowable to a Federal grant award, it must meet the following criteria:**

- a. Necessary and reasonable.
- b. Allocable to the Federal grant award.
- c. Determined in accordance with generally accepted accounting principles.
- d. All of the above

## **8. Gratuities, favors, or anything of monetary value may be accepted from contractors provided:**

- a. They fall under the \$500 micro-gratuity threshold.
- b. They meet the non-federal entity's standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value.
- c. The non-federal entity has already awarded the contract.
- d. The UGG states that gratuities, favors, or anything of monetary value may never be accepted from contractors.

**9. You purchase a computer lab with Perkins funds that meets the threshold for equipment under the State rules.**

**Occasionally, students in another federal program use the computer lab as well. This is permissible as long as:**

- a. The shared use is minimal and does not interfere with the CTE students' ability to use the computer lab.
- b. The activities of the other program's students are allowable under Perkins.
- c. Such use is not permissible.
- d. Other programs are permitted to use the programs as well.

**10. You are attending the most amazing conference in Washington, D.C. You book the trip on July 7<sup>th</sup>. It is charged to your account on July 12<sup>th</sup>. The conference starts on November 2<sup>nd</sup> so you are flying there on November 1<sup>st</sup>. The airplane ticket obligates to the Federal grant award:**

- a. July 7<sup>th</sup>
- b. July 12<sup>th</sup>
- c. November 1<sup>st</sup>
- d. November 2<sup>nd</sup>

## 11. A nonfederal entity may keep records in the “cloud” provided:

- a. They are subject to periodic quality control reviews.
- b. They remain readable.
- c. They provide reasonable safeguards against alteration.
- d. All of the above.
- e. None of the above. A nonfederal entity may never store records in the “cloud”.

**12. A cost or price analysis must be performed in connection with every purchase.**

a. True

b. False

**13. You entered into a contract with Science Today, LLC 3 months ago and found out on the news that the vendor was debarred yesterday for EPA violations to the wetlands. What must you do re: your contract?**

- a. Terminate the Contract immediately.
- b. Continue with the Contract, their services are great.
- c. Terminate it and enter into a new agreement as long as the vendor has a plan to get off the debarred list.
- d. Write a nasty Yelp review . . . Destroying the environment! Horrible!
- e. a or b.

**14. Pre-award costs are allowable to the extent they would have been allowable if incurred after the effective date and:**

- a. There is a public emergency that will not permit delay
- b. Only with written approval from the federal award agency
- c. Nothing else is required
- d. Do not exceed \$5,000



## 15. Procurement by sole sourcing is allowable when:

- a. The prospective vendor gives you a sole source letter
- b. Anytime
- c. There is a hurricane
- d. It is in your application
- e. All of the above

**16. A contractor is responsible for adherence to applicable Federal program requirements in the Federal award.**

a. True

b. False

**17. A non-federal entity has a credit card with a cash back reward system. Which of the following statements is true about cash back rewards?**

- a. The entity must remit any cash back reward monies in excess of \$500 to HHS.
- b. The entity may use cash back reward monies strictly for administrative costs.
- c. The entity must credit all cash back reward monies back to the federal award.
- d. The use of such credit cards is prohibited.

**18. An non-federal entity no longer needs a piece of equipment purchased for a federal ED program. Which of the following may the equipment be used with?**

- a. Other programs supported by U.S. Department of Education funds
- b. A program supported by the U.S. Department of Labor, if other programs supported with funds from the U.S. Department of Education also do not need the equipment
- c. Both a and b
- d. Neither, the equipment needs to be disposed of

## 19. Can you use Federal grant funds to pay a student's registration fee to attend an employment seminar?

- a. No.
- b. Yes, as long as the seminar is related to the grant program.
- c. Yes, as long as you received prior approval from the Federal awarding agency and the cost is allocable to the grant.
- d. Yes, as long as you obtain a receipt.

**20. A contract for services is finalized on April 11<sup>th</sup>. The contractor starts working on April 30<sup>th</sup>. The contractor is paid when his work is completed on May 25<sup>th</sup>. When does the contractor's services obligate to the federal award?**

- a. April 11<sup>th</sup>
- b. April 30<sup>th</sup>
- c. May 25<sup>th</sup>
- d. Timing is dependent on state law
- e. None of the above

**21. Regardless of cost, the grantee must maintain effective control and “safeguard all \_\_\_\_\_ and assure that they are used solely for authorized purposes.”**

- a. Equipment
- b. Computing devices
- c. Assets
- d. Supplies

**22. While at Max Office Supplies, you spend \$100 to purchase a printer to be delivered for your Federal program. Because the supplies were delivered 3 days late, Max Office Supplies gives you a \$20 refund. The Federal grant can be charged:**

- a. \$100
- b. \$80
- c. \$20
- d. Under EDGAR, printers are not an allowable cost.



**23. Travel paid with federal funds must be charged on a per diem basis.**

a. True

b. False

## 24. All contract solicitations must:

- a. Include the brand name you want.
- b. Be specific enough for the vendor to know what the work is, timeline, etc.
- c. Award points, including points for being a local business.
- d. Be distributed only to vendors that you've successfully worked with.
- e. All but d.

**25. Which of the following would be an allowable travel cost (if not further restricted in your state/district)?**

- a. Valet parking.
- b. Flight seat upgrade (6 more inches of legroom!)
- c. Arnold Palmer drink at lunch.
- d. None are allowable costs.

**26. If the federal regulations define equipment as a per-unit acquisition cost of \$5,000 or less, and your State sets the dollar threshold for equipment at \$500, you still must follow the federal dollar threshold of \$5,000.**

a. True

b. False

**2 C.F.R. §  
200.430(i)(1)(viii)**

**27. Budget estimates alone are appropriate support for salary charges to a Federal award as long as you follow the budget and do not require an amendment.**

a. True

b. False

**28. To meet equipment management requirements, a non-federal entity must:**

- a. Take physical inventory every six months.
- b. Maintain property records including photographs of all items.
- c. Investigate all incidents of loss, damage, or theft.
- d. All of the above.

## 29. Interest earned on cash advances:

- a. Must always be remitted to HHS, no matter the amount.
- b. Must be remitted to HHS when the amount exceeds \$500.
- c. Must be remitted to ED when the amount exceeds \$500.
- d. No earned interest must be remitted to HHS or ED. All interest may be kept by the grantee or subgrantee

**30. Recipients that expend over \$750,000 in total federal funds in a year must arrange for an annual single audit of those funds. The cost of the single audit can be charged to your largest grant award.**

- a. True, the de minimus rule specifically allows this.
- b. False.



# Agenda

- The Importance and Structure of EDGAR
- Part 76
- Part 200
  - Financial management
  - Allowability
  - Procurement
  - Inventory
- Questioned Costs
- 21<sup>st</sup> CCLC Fiscal Issues





# EDGAR



# Key Parts of the EDGAR

## ■ **Title 34**

- Part 75 – Direct Grant Programs
- Part 76 – State-Administered Programs
- Part 77 – Definitions
- Part 81 – General Education Provisions Act (GEPA)

## ■ **Title 2**

- Part 200 – Cost/Administrative/Audit Rules
- Part 3474 – USDE Exceptions – Adopts Part 200
- Part 3485 – Nonprocurement Debarment and Suspension
  - Incorporates 2 CFR Part 180, OMB's Guidelines on Debarment and Suspension

# Prior Rules (Incorporated Into the Updated EDGAR)

- A-21 – Cost Rules – Rules – IHEs
- A-87 – Cost Rules – State / Local Gov't
- A-122 – Cost Rules – Nonprofit
- A-102 – Administrative Rules State / Local Gov't
- A-110 – Administrative Rules IHEs
- A-133 – Audit Rules



# Part 76 State- Administered Programs

**34 CFR Part 76**

# Allowable Costs

## 76.530 (pg 47)



- The general principles to be used in determining costs applicable to grants is 2 CFR Part 200 Subpart E
  - Prohibited:
    - Use of funds for religion 76.532
    - Real property and construction (unless authorized) 76.533

# Obligations

## 200.71 (pg 94)



- Obligation = Means orders placed for property and services, contracts and subawards made and similar transactions during a given period that require payment during the same or a future period.
  - Cash Advance Payment Process
    - Obligation
    - Liquidation
    - Drawdown
    - Payment
- ↩ This would be switched in a Reimbursement Payment Process.

# When Obligations Are Made

## 76.707 (pg 57)

Type of Obligation	When Obligation Occurs
Acquisition of Property	Date of binding written commitment
Personal Services by Employee	When services are performed
Personal Services by Contractor	Date of binding written commitment
Travel	When travel is taken
Approved Pre- Agreement Cost	On the first day of the grant or subgrant performance period.



# When May Begin to Obligate 76.708 (pg 57)



- Formula Grants:
  - Grantees and subgrantees may begin to obligate funds when:
    - When the awarding agency approves application; or
    - Awarding agency determines application is “substantially approvable”
  - Reimbursement subject to final approval.
- Discretionary Grants:
  - When subgrant is made. However, pre-agreement costs are permissible (reference to 2 CFR Part 200)

# Records

76.730 0 76.731 (pg 59)



- A State and subgrantee shall keep records that fully show:
  - The amount of funds;
  - How funds were used;
  - Total cost of the project;
  - Share of the cost provided from other sources; and
  - Other records to facilitate an effective audit.



# **Part 200 Uniform Administrative Req, Cost Principles, and Audits for Federal Awards**

**Formerly know as the “Uniform Grants  
Guidance”, the “Omni Circular” and the “Super  
Circular”**

# 2 CFR Part 200

- Subpart A – Definitions
- Subpart B – General Provisions
- Subpart C – Pre Award Requirements
- Subpart D – Post Award Requirements
- Subpart E – Cost Principles
- Subpart F – Audit Requirements

# Compliant Written Policies and Procedures

- Written policies and procedures required by the UGG
  - Written Cash Management Procedure - § 200.302(b)(6) & § 200.305
  - Written Allowability Procedures - § 200.302(b)(7)
  - Written Conflicts of Interest Policy - § 200.318(c)
  - Written Procurement Procedures - § 200.319(c)
  - Written Method for Conducting Technical Evaluations of Proposals and Selecting Recipients - § 200.320(d)(3)

# Additional Policies & Procedures

- Written Travel Policy - § 200.474(b) & (d)
  - Otherwise, non-federal entity is held to the rates and amounts established under 5 U.S.C. 5701-11
- Inventory Management - § 200.313(d)
  - Although written procedures are not expressly required by the rules, the UGG makes references to such procedures
  - Lacking such procedures has also resulted in audit exceptions

# Time & Effort Procedures

- The ED's draft Cost Allocation Guide suggests that all non-federal entities should maintain written procedures on time & effort documentation.
- 2 CFR § 200.430(i)(1)(i): Time distribution records must be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated.
  - ED has often considered written policies & procedures to be a strong internal control.



# Financial Management Controls



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# Financial Management Rules 200.302(b) (pg 108)

1. Identification of Awards
2. Financial Reporting
3. Accounting Records (Source Docs)
- 4. Internal Control**
5. Budget Control
- 6. Written Cash Management Procedures**
- 7. Written Allowability Procedures**

# 1) Identification of Awards

## 200.302(b)(1) (pg 108)

All federal “awards” received and expended

- The name of the federal “program”
- Identification # of award
  - CFDA Title and Number
  - Federal Award I.D. #
  - Fiscal Year of Award
  - Federal Agency
  - Pass-Through (If S/A)



## **2) Financial Reporting**

### **200.302(b)(2) (pg 108)**

- Accurate, current, complete disclosure of financial results of each award in accordance with 200.327 and 200.328.

# 3) Accounting Records

## 200.302(b)(3) (pg 108)

Combined 80.20(b)(2) and 80.20(b)(6):

■ Source Documentation Must Be Kept On:

1. Federal Awards
2. Authorizations
3. Obligations
4. Unobligated balances
5. Assets
6. Expenditures
7. Income
8. Interest

***(Eliminated liabilities)***

# 4) Internal Controls

## 200.302(b)(4) (pg 108)

Essentially same as prior 80.20(b)(3):

- Effective control over and accountability for:
  1. All funds
  2. Property
  3. Other assets
- Must adequately safeguard all assets
- Use assets solely for authorized purpose

# What NOT To Do!

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From October 1, 2016 Through March 31, 2017  
the ED OIG has secured approx.

**\$60 Million**

in settlements, fines, restitutions, recoveries,  
forfeitures and savings.



# ED OIG Cases

## Puerto Rico

- A former Principal allegedly embezzled more than \$67,000 in school funds, cashed checks written to him from the school bank account to pay for various personal bills including his fitness club membership and online shopping.

# ED OIG Cases (cont.)

## California

- Former bookkeeper created a sham business then created and submitted phony invoices to the school for supplies that were never purchased or received. The school paid more than \$85,000 to the sham company.
- Sentenced to 6 months in prison, 36 months supervised released pay more than \$35,400 in restitution



# ED OIG Cases (cont.)

## Hawaii

- Executive director used the agency's debit card for personal charges and unauthorized cash withdrawals. He also issued reimbursement checks to himself based on false claims that they were business expenses.
- He embezzled more than \$153,600.

# ED OIG Cases (cont.)

## Louisiana

- The executive director of a 21<sup>st</sup> CCLC after school program used grant funds for her personal benefit.
- 6 months home detention, 5 years probation and restitution was more than \$149,000 for theft.

# Other OIG Findings

## District of Columbia

- The owner of a private transportation company was charged with giving himself contracts while employed by the school, improperly earning more than \$163,000.
- After he was discharged, he schemed to obtain student lists and crated false invoices and supporting documentation for payments to his company claiming he provided transportation services to named students. He was paid over \$300,000 in error.

# ED OIG Cases (cont.)

## Wisconsin

- A former School District administrative assistant was sentenced to prison for stealing more than \$310,000 in Federal special education funds.
- Over a 13-year period, the administrative assistant created bogus purchase orders to use school district funds for vacations and household items.
- The woman was sentenced to serve a year and a day in prison and 2 years of supervised release, and she was ordered to pay more than \$310,000 in restitution.

# ED OIG Cases (cont.)

## Pennsylvania

- The former executive director pled guilty to program fraud.
- During her tenure, the former executive director charged more than \$71,000 on the agency's American Express card on questionable purposes, including restaurant meals, DVD rentals, and department store purchases that she misrepresented were business-related, when in fact they were not.

# Internal Controls

## 200.303 (pg 108)

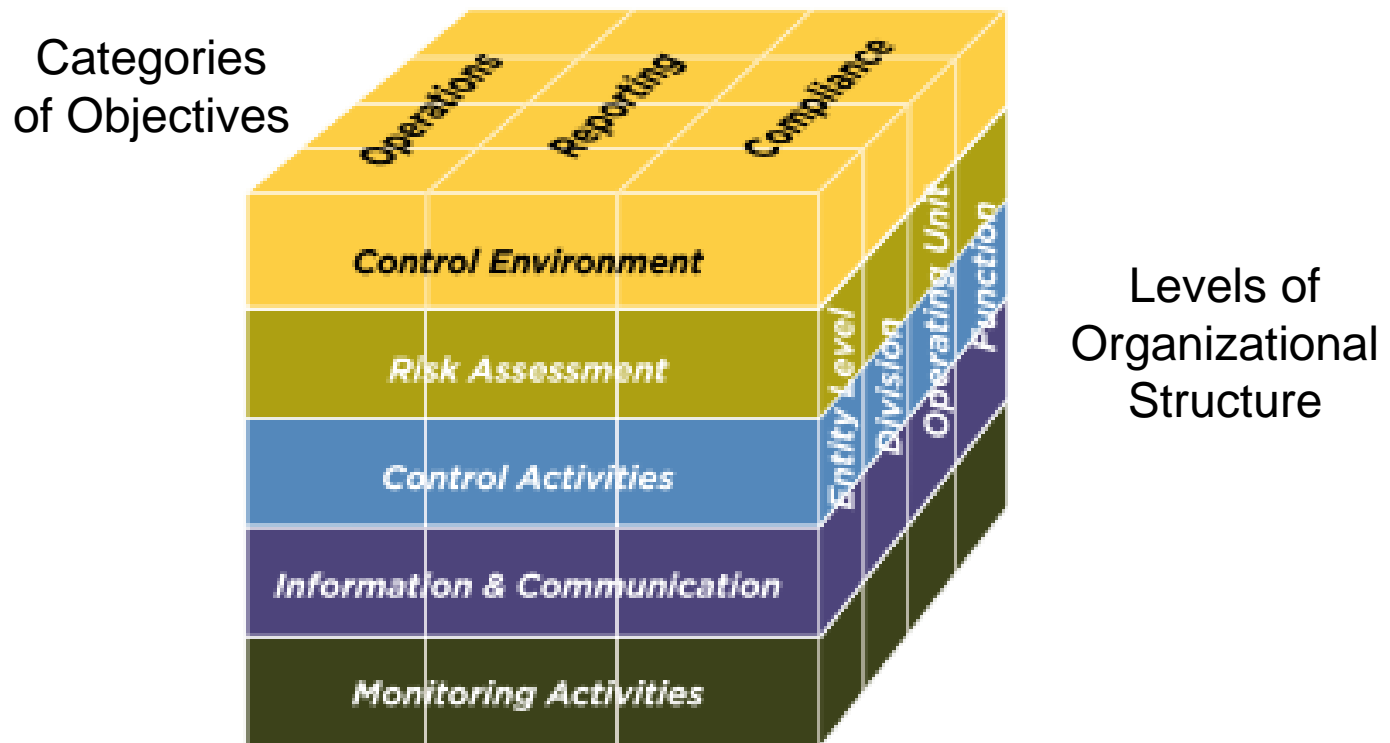
- Internal controls “should” be in compliance with:
  - The U.S. Comptroller General’s Standards for Internal Control in the Federal Government (Green Book); and
  - Internal Control Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO)

# Required Certification

## 200.415 (pg 136)

- An official authorized to legally bind the non-federal entity must certify on annual and final fiscal reports or vouchers requesting payment:
  - “By signing this report, I certify to the best of my knowledge and belief that the report is true, complete and accurate and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the federal award. I am aware that any false, fictitious, or fraudulent information or the omission of any material fact, may subject me to criminal civil or administrative penalties for fraud, false statements, false claims, or otherwise.”

# The COSO “Cube”





# Control Environment Principles

1. A commitment to integrity and ethical values;
2. Independent oversight over the development and performance of internal controls;
3. Clearly defined organizational structure, clear reporting lines, appropriate authorities;
4. A commitment to attract, develop and retain competent individuals Clearly defined organizational structure; and
5. Maintain a level of competence that allows personnel to accomplish their assigned duties (and holding individuals accountable)

Maintaining a good relationship with oversight agencies (like ED and OIG for example!)

# Control Environment Examples

- Well-written policies and procedures manuals
  - Addressing employee responsibilities, limits to authority, performance standards, hiring practices, whistleblower policies, conflict of interests, etc.
- Organizational chart (clear lines of authority and responsibility)
- Clear job descriptions
- Adequate training programs and performance evaluations.

# Risk Assessment Principles

1. Clear objectives to enable the identification and assessment of risks;
2. Identify risks to achievement of objectives across the entity and analyze risks as a basis for determining how the risks should be managed;
3. Consider the potential for fraud; and
4. Identify and assess changes that could significantly impact the system.

# Risk Areas (Examples)

**Risks are not stagnate; they increase and change as laws and operational environments change.**

Examples:

- ▶ New personnel
- ▶ Experienced personnel
- ▶ Lack of personnel
- ▶ Reorganizations
- ▶ Cost Reduction Strategies

More Examples:

- ▶ Change in Laws and Regulations
- ▶ New Technology
- ▶ New Grants
- ▶ Competition
- ▶ Rapid growth

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# Risk Mapping (cont.)

Impact	Extreme					
	Very High					
	Medium					
	Low					
	Negligible					
		Rare	Unlikely	Moderate	Likely	Almost Certain
		Likelihood				

# Control Activities Principles

1. Select and develop control activities that contribute to the mitigation of risk and achievement of objectives to acceptable levels;
2. Select and develop general control activities over technology to support the achievement of objectives; and
3. Deploy control activities through policies that establish what is expected and ***procedures that put policies into action.***

# Types of Control Activities

## ■ **Preventive Controls:**

Prevents the occurrence of a negative event in a proactive manner

- Approval for purchase > \$5,000
- Passwords
- Petty cash held in lockbox
- Security and surveillance systems
- Pre-numbered checks

## ■ **Detective Controls:** Identify undesirable "occurrences" after the fact.

- Supervisor review & approval
- Report run showing user activity
- Reconcile petty cash
- Physical inventory count
- Review missing/voided checks



# Control Activity Examples

- Segregating Key Responsibilities
- Restricting Access to Systems and Records (Authorizations / Passwords)
- Implementing Clear Written Policies in Key Areas
- Maintaining Physical Control Over Valuable Assets (Security)
- Maintaining Appropriate Documentation (Approvals, Record Retention)
- Accurate and Timely Recording of Information
  - Check for accounting of transactions in numerical sequence

# Information and Communications

Goal: Ensure personnel receive relevant, reliable and timely information that enables them to carry out their responsibilities.

**or**

To **communicate** the **right information** to the **right people** at the **right time!**

# Information and Communication Principles

1. Obtain or generate or use relevant, quality information to support the functioning of the entity;
2. Internally communicate info, including objectives and responsibilities necessary to support the entity; and
3. Communicate with external parties regarding matters affecting the functioning of the entity.
4. Develop procedures for identifying pertinent information and distributing it in a form and timeframe that permits people to perform their duties efficiently.
5. All personnel must receive a clear message from top down that responsibilities must be taken seriously.

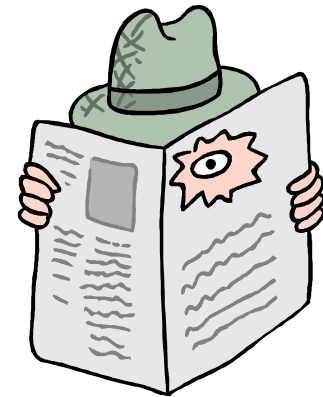
# Monitoring Principles

Goal: Assess the quality of internal controls over time and ensure any findings are promptly resolved.

- ▶ Select, develop and perform ongoing and/or separate evaluations to ascertain whether the components of internal controls are present and functioning;
- ▶ Evaluate and communicate internal control deficiencies in a timely manner to parties responsible for taking corrective action.

# Monitoring Examples

- ▶ Ongoing program and fiscal monitoring
- ▶ Regular oversight by supervisors
- ▶ Record reconciliation
- ▶ Formal program reviews/audits
- ▶ Annual single audits



Include policies and procedures for correcting any findings in a timely manner

# **5) Budget Control**

## **200.302(5) (pg 108)**

- Same as old rule 80.20(b)(4)
- Comparison of expenditures with budget amounts for each award

# **6) Written Cash Management Procedures**

## **200.302(6) (pg 108)**

- Written Procedures to implement the requirements of 200.305

# Payment

## 200.305 (a) and (b) (pg 109)

- For states, payments are governed by Treasury – State CMIA agreements 31 CFR Part 205
  - No Change
- For all other non federal entities, payments must minimize time elapsing between draw from G-5 and disbursement (not obligation)



# Payment (cont.)

## 200.305(b)(1)-(4) (pg 109)

- Written procedures must describe whether non-federal entity uses:
  - 1) Advance Payments (preferred)
    - Limited to minimum amounts needed to meet immediate cash needs
  - 2) Reimbursement
    - Pass through must make payment within 30 calendar days after receipt of the billing
  - 3) Working Capital Advance
    - The pass through determines that the nonfederal entity lacks sufficient working capital. Allows advance payment to cover estimated disbursement needs for initial period

# Payment (cont.)

## 200.305(b)(7)-(8) (pg 110)

- Advances must be maintained in insured accounts
- Pass through cannot require separate depository accounts
- Accounts must be interest bearing unless:
  1. Aggregate federal awards under \$120,000
  2. Account not expected to earn in excess of \$500 per year
  3. Bank require minimum balance so high, that such account not feasible
  4. A foreign gov't or banking system prohibits or precludes interest bearing accounts.

# Payment (cont.)

## 200.305(b)(9) (pg 110)

- Interest amounts up to \$500 may be retained by non federal entity for administrative purposes
- Interest earned must be remitted annually to HHS Payment Management System.

# 7) Written Allowability Procedures 200.302(b)(7) (pg 108)

- Written procedures for determining allowability of costs in accordance with Subpart E – Cost Principles
  - Procedures can not simply restate the Uniform Guidance Subpart E
  - Should explain the process used throughout the grant development and budget process
    - Training tool and guide for employees

# Subpart E – Cost Principles

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# Factors Affecting Allowability of Costs

## 200.403 (pg 131)

All Costs Must Be:

1. Necessary, Reasonable and Allocable
2. Conform with federal law & grant terms
3. Consistent with state and local policies
4. Consistently treated
5. In accordance with GAAP
6. Not included as match
7. *Net of applicable credits (moved to 200.406)*
8. Adequately documented

# Reasonable 200.404 (pg 131)

- Consideration must be given to:
  - a. Whether cost is a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award;
  - b. The restraints or requirements imposed such as:
    - Arms length bargaining (hint: procurement processes);
    - Federal, state and local laws; and
    - Terms of the grant award.
  - c. Market Prices for comparable goods or services in the geographical area;
  - d. Whether the individuals acted with prudence under the circumstances considering their responsibilities; and
  - e. No significant deviation from established prices.

# Reasonable (cont.)

- Practical Questions
  - Do I really need this?
  - Is the expense targeted to valid programmatic/administrative need?
  - Is this the minimum amount I need to spend to meet my need?
  - Do I have the capacity to use what I am purchasing?
  - Did I pay a fair rate?
  - If I were asked to defend this purchase, would I be able to?



# Allocable

## 200.405 (pg 132)

- A cost is allocable to a Federal award or cost objective if the goods or services involved are chargeable or assignable in accordance with relative benefits received.
  - Incurred specifically for the award;
  - Benefits both award and other work and can be distributed in proportions that may be approximated using reasonable methods; and
  - Necessary to the overall operation of the entity and assignable to the award in accordance with this Part.
- Can only charge in proportion to the value received by the program
  - Example: Agency purchases a computer to use 50% on the Federal grant program and 50% on a state program – can only charge half the cost to the grant.

# Factors Affecting Allowability of Costs (cont.)

## 200.403 (pg 131)

- Be consistent with policies and procedures that apply uniformly to both federally- financed and other activities of the non-Federal entity.
- Be accorded consistent treatment
  - Can not charge cost as both direct and indirect
- Be determined in accordance with GAAP
- Not be included as a cost or used to meet cost sharing or matching

# Factors Affecting Allowability of Costs (cont.)

## 200.403(g) (pg 131)

### Adequately documented

- Amount of funds under grant
- How the funds are used
- Total cost of the project
- Share of costs provided by other sources
- Records that show compliance and performance
- Other records to facilitate an effective audit (see 76.730 and 76.731 page 68)



# Methods for Collection, Transmission and Storage of Information

## 200.403(g) and 200.335

- EDGAR says to keep records for 3 years (200.333)
- **BUT Keep records for 5 years** because... of Statute of Limitation under GEPA Section 81.31(c) (page 74)
- When original records are electronic and cannot be altered, there is no need to create and retain paper copies.
- When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided they:
  - Are subject to periodic quality control reviews,
  - Provide reasonable safeguards against alteration; and
  - Remain readable.

# Applicable Credits

## 200.406 (pg 132)

- Those receipts or reduction-of-expenditure type transaction that offset or reduce expense items – must be credited to the Federal award as either cost reduction or cash refund, as appropriate.
  - Examples: purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds or rebates, adjustments of overpayments



# Selected Items of Cost

**There are 55 specific items of cost!**  
**Listed on page 85.**  
**Starts at 200.420 (pg 138)**

# Selected Items of Cost Examples

- **Advertising/PR 200.421** (pg 138)
  - Allowable for programmatic purposes including:
    - Recruitment
    - Procurement of goods
    - Disposal of materials
    - Program outreach
    - Public relations (in limited circumstances)

# Selected Items of Cost Examples (cont.)



- **Alcohol 200.423** (pg 139)
  - Not allowable
- **Collections of Improper Payments 200.428** (pg 139)
  - The costs incurred by the non-Federal entity to recover improper payments are allowable as either direct or indirect costs, as appropriate.
- **Entertainment 200.438** (pg 149)
  - Not allowable UNLESS Prior Written Approval of Federal Awarding Agency.



# Selected Items of Cost Examples (cont.)

## ■ **Conferences 200.432** (pg 145)

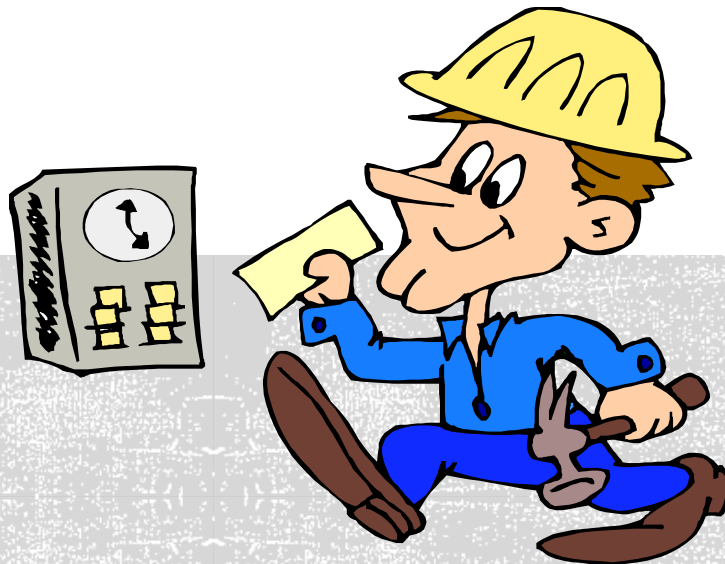
- Prior Rule: Generally allowable
- Includes Meals / Conferences / Travel and Family Friendly Policies
- Allowable conference costs include rental of facilities, costs of meals and refreshments, transportation, unless restricted by the federal award
- Costs related to identifying, but not providing, locally available dependent-care resources
- Conference hosts must exercise discretion in ensuring costs are appropriate, necessary and managed in manner than minimizes costs to federal award

# Selected Items of Cost (cont.)

- **Travel Costs 200.474** (pg 161)
  - Travel costs may be charged on actual, per diem, or mileage basis
  - Travel charges must be consistent with entity's written travel reimbursement policies
  - Allows costs for “above and beyond regular dependent care”
  - Grantee must retain documentation that participation of individual in conference is necessary for the project



# Time and Effort Documentation



# Documentation for Personnel Expenses

## 200.430(i) (pg 141)

- Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed.
  - How staff demonstrate allocability
    - If employee paid with federal funds, then must show that the employee worked on that specific federal program cost objective
- 200.403(a)

# Who must participate?

- Must be maintained for all employees whose salaries are:
  - Paid in whole or in part with federal funds
  - Used to meet a match/cost share requirement
  - NOT contractors



# The Prior A-87 Rule (SEAs and LEAs)

## Semi-Annual Certifications

- If an employee works on a single cost objective:
  - After the fact
  - Account for the total activity
  - Signed by employee **or** supervisor
  - Every six months (at least twice a year)

## Personnel Activity Report (PAR)

- If an employee works on multiple cost objectives:
  - After the fact
  - Account for total activity
  - Signed by employee
  - Prepared at least monthly and coincide with one or more pay periods

# Documentation for Personnel Expenses (cont.)

## 200.430(i)(1) (pg 141)

These records MUST:

1. Be supported by a system of internal controls which provides reasonable assurance charges are accurate, allowable and properly allocated;
2. Be incorporated into official records;
3. Reasonably reflect total activity for which employee is compensated;
  - Not to exceed 100%
4. Encompass all activities (federal and non-federal);
5. Comply with established accounting policies and practices; and
6. Support distribution among specific activities or cost objectives.

# Percentages

## 200.430(i)(1)(ix) (pg 142)

- Because practices vary as to the activity constituting a full workload, records may reflect categories of activities expressed as a percentage distribution of total activities.



# Compliance

## 200.430(i)(2) (pg 142)

- For records which meet the standards, the non-federal entity will not be required to provide additional support or documentation for the work performed.
- DOL regulations for Fair Labor Standards Act must still be met (i.e. charges must be supported by records indicating the total number of hours worked each day).

# Noncompliance

## 200.430(i)(8) (pg 143)

- For a non-Federal entity where the records do not meet these standards:
  - USDE may require personnel activity reports (PARs), including prescribed certifications or equivalent documentation that support the records as required in this section.
    - PARs are not defined!!

# Reconciliation

## 200.430(i)(1)(viii)(C) (pg 142)

- All necessary adjustment must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated.

# AEFFA/BruMan Time and Effort Letter to USDE

## **Proposes Time and Effort Documentation Flexibility**

- Annual Certification for staff working on a single cost objective
- Quarterly or Semi-Annual Certification for staff working on multiple cost objectives
- Use of Employee Records to certify time work by employees
  - Example: Job Description clearly identifies cost objectives with recertification only if multiple cost objectives
- Use of Electronic submissions
  - Via Email or System
- Letter: <http://www.bruhuman.com/wp-content/uploads/2010/10/AEFFA-letter-to-Dept-of-Education-June-2016-Final.pdf>

# Procurement



# Procurement by States

## 200.317 (pg 118)

- Still provides flexibility for States
- All other nonfederal entities follow policies and procedures under Section 200.318-200.326.

# General Procurement Standards

## 200.318(a) (pg 118)

- All nonfederal entities must have documented procurement procedures which reflect applicable Federal, State, and local laws and regulations.

# Contract Administration

## 200.318(b) (pg 118)

- Nonfederal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of the contract



# Conflict of Interest

## 200.318(c)(1) (pg 118)

- Must maintain written standard of conduct, including conflict of interest policy.
- 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
  - Any member of that person's immediate family
  - That person's partner
  - An organization which employs, or is about to employ, any of the above or has a financial interest in the firm selected for award

# Conflict of Interest (cont.)

## 200.318(c)(1) (pg 118)

- Must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors/subcontractors.
- However, may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value.
- Standards of conduct must include disciplinary actions applies for violations.



# Conflict of Interest (cont.)

## 200.318(c)(2) (pg 118)

- If the non-federal entity has a parent, affiliate, or subsidiary organization that is not a state or local government the entity must also maintain written standards of conduct covering organization conflicts of interest

# Conflict of Interest (cont.)

## 200.112 (pg 101)

- The Federal awarding agency must establish conflict of interest policies for Federal awards.
- All non federal entities must establish conflict of interest policies, and disclose in writing any potential conflict to federal awarding agency in accordance with applicable Federal awarding agency policy.

# Mandatory Disclosures

## 200.113 (pg 102)

- Must disclose in writing, in a timely manner:
  - All violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.
  - Failure to make disclosures can result in remedies in 200.338 (remedies for noncompliance) including suspension and debarment.

# Vendor Selection Process

## 200.318(h) (pg 119)

- Must award contracts only to responsible contractors possessing the ability to perform successfully:
  - Contractor integrity
  - Compliance with public policy
  - Record of past performance
  - Financial and technical resources

# Competition

## 200.319(a) (pg 119)

- All procurement transactions must be conducted with full and open competition.
  - Must have protest procedures to handle disputes
- To eliminate unfair advantage, contractors that develop or draft specifications, requirements, statement of work, and invitations for bids or RFPs must be excluded from competing for such procurements.

# Competition (cont.)

## 200.319(a) (pg 119)

### ■ Situations that restrict competition:

1. Unreasonable requirements on firms to qualify to do business
2. Requiring unnecessary experience or excessive bonding
3. Noncompetitive pricing practices
4. Noncompetitive awards to consultants on retainer
5. Organizational conflicts of interest (see 200.318(c)(2))
6. Specifying a brand name instead of allowing “an equal”
7. Any arbitrary action in the procurement process



# Competition (cont.)

## 200.319(b) (pg 119)

- Must prohibit the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposal, except where applicable Federal statutes expressly mandate or encourage geographic preference.
- Does not preempt state licensing laws.
- Exception: architectural and engineering services (if provides appropriate number of qualified firms).

# Competition (cont.)

## 200.319(c) (pg 119)

- Written procedures for procurement must ensure all solicitations:
  - Incorporate a clear and accurate description of the technical requirements for materials, product or service to be procured; and
    - “Brand name or equivalent” may be used as needed, but the specific features of the named brand which must be met by the offers must be clearly states
  - Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

# Methods of Procurement 200.320 (pg 120)

- Method of procurement:
  - Micro-purchase
  - Small purchase procedures
  - Competitive sealed bids
  - Competitive proposals
  - Noncompetitive proposals

# Micro-Purchase

## 300.320(a) (pg 120)

- Acquisition of supplies and services **under \$10,000** or less.
  - “supplies and services”
  - What about equipment?
- May be awarded without soliciting competitive quotations if nonfederal entity considers the cost reasonable.
- To the extent practicable must distribute micro-purchases equitably among qualified suppliers.

# Small Purchase Procedures

## 300.320(b) (pg 120)

- Good or service that costs \$250,000 or less
  - (Simplified Acquisition Threshold was raised under NDAA 2018)
  - Organization may set lower threshold
- Must obtain price or rate quotes from an adequate number of qualified sources
- “Relatively simply and informal”

# Sealed Bids

## 300.320(c) (pg 120)



- Over \$250,000
  - Organization may set lower threshold
- Bids are publically solicited.
- Appropriate when:
  - A complete, adequate and realistic specification or description of good or service is available;
  - Two or more responsible bidders are willing and able to compete effectively for the business
  - Selection of vendor can be made principally based on price and it's a firm fixed price contract.

# Competitive Proposals

## 300.320(d) (pg 120)

- Over \$250,000
  - Organization may set lower threshold
- Award contract to responsible vendor whose proposal is most advantageous to the program, considering price and other factors.
- Generally used when sealed bid is not appropriate.



# Noncompetitive Proposals 200.320(f) (pg 121)

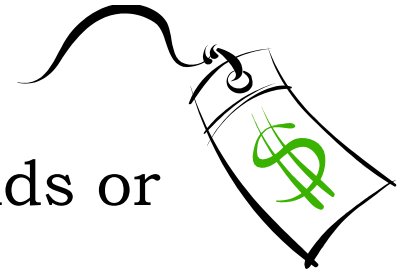


- Appropriate only when:
  - The item is only available from a single source;
  - There is a public emergency that will not permit delay;
  - The Federal awarding agency or pass-through expressly authorizes noncompetitive proposals in response to a written request from non-Federal entity;  
or
  - After soliciting a number of sources, competition is determined inadequate.



# Contract Cost and Price 200.323 (pg 121)

- Must perform a cost or price analysis in connection with every procurement action over \$250,000, including contract modifications
- Independent estimate before receiving bids or proposals.
  - Cost analysis generally means evaluating the separate cost elements that make up the total price (including profit)
  - Price analysis generally means evaluating the total price



# Suspension and Debarment

## Appendix II(H) (pg 183)

- Cannot contract with vendor who has been suspended or debarred
  - Excluded Parties List System in the System for Award Management (SAM)
  - 2 CFR Part 180 (OMB Debarment Suspension Rules) and 2 CFR 3485 (USDE Rules)

# Suspension and Debarment

## 2 CFR 180.300

- For contracts over \$25,000 you must verify that the person with whom you intend to do business is not excluded or disqualified.
- This MUST be done by either:
  - a. Checking SAM; or
  - b. Collecting a certification from that person; or
  - c. Adding a clause or condition to the covered transaction with that person.



# Property Management

# Equipment

## 200.33 (pg 89)

- Equipment: tangible, nonexpendible, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.
- Grantee may also use its own definition of equipment as long as the definition would at least include all equipment defined above.

# Supplies

## 200.94 (pg 96)

- All tangible personal property other than equipment
  - Computing devices are supplies is less than \$5,000
- Computing devices 200.20 (pg 97)
  - Machines used to acquire, store, analyze, process, public data and other information electronically
  - Includes accessories for printing, transmitting and receiving or storing electronic information

# Internal Controls

## 200.302(b)(4) (pg 108)

- Regardless of cost, grantee must maintain effective control and “**safeguard all assets** and assure that they are used solely for authorized purposes.”

# Equipment

## 200.313(a) and (c)(4) (pg 116)

- Conditional Title vests with the non-Federal entity.
- Cannot encumber the property without approval of Federal agency or Pass-through agency

But

- When acquiring replacement equipment, 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.



# Use of Equipment

## 200.313(c)(1) and (2) (pg 116)

- Equipment must be used by the Non-Federal entity in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the Federal award.
- When no longer needed, may be used in other activities with the following priority:
  1. Projects supported by Federal awarding agency
  2. Project funded by other Federal agencies
- When used it may be shared (according to the above priorities) provided such use will not interfere with work on the original projects/programs.
- Exception – Private Schools 76.661 (page 61)

# Equipment Procedures

## 200.313 (d) (pg 116)

Procedures for managing equipment must meet the following requirements:

1. Property records
  - Description, serial number or other ID, source of funding, title, acquisition date and cost, percent of federal participation, location, use and condition, and ultimate disposition date including sale price
2. Physical inventory at least every two years
3. Control system to prevent loss, damage, theft
  - All incident must be investigated
4. Adequate maintenance procedures
5. If authorized or required to sell property, proper sales procedures to ensure highest possible return.

# Disposition of Equipment

## 200.313(e) (pg 116)

- When property is no longer needed in any current or previously Federally-funded supported activity, must follow disposition rules:
  - Nonfederal entity must request disposition instructions from the federal awarding agency if required by the terms of the grant.
  - Otherwise, may be retained, sold or otherwise disposed as follows:
    - Over \$5,000 – pay federal share
      - If equipment is sold: Federal awarding agency may permit non-Federal entity to deduct and retain \$500 or 10% of the proceeds for selling and handling instructions.
    - Under \$5,000 – no accountability (still must formally dispose)

# **Disposition of Supplies**

## **200.314 (pg 117)**

If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other federal award, must compensate the federal government for its share.



# Audit Requirements



# Audit Requirements

## 200.501

- ❑ **NEW:** Threshold increased to \$750,000
- ❑ The federal agency, OIG, or GAO may arrange for audits in addition to single audit

# Federal Agency Responsibilities

## 200.513

- ❑ **NEW:** The federal awarding agency must use cooperative audit resolution to improve federal program outcomes
- ❑ Cooperative Audit Resolution: means the use of audit follow-up techniques which promote prompt corrective action by improving communication, fostering collaboration, promoting trust and developing an understanding between the Federal agency and non-Federal entity 200.25.

# Audit Findings

## 200.516

- ❑ The auditor must report (for major programs):
  - ❑ Significant deficiencies and material weaknesses in internal controls
  - ❑ Significant instances of abuse
  - ❑ Material noncompliance
  - ❑ Known questioned costs > \$25,000
- ❑ Auditor will not normally find questioned costs for a program that is not audited as a “major program”
  - ❑ **NEW:** But if auditor becomes aware of questioned costs > \$25,000 for non-major program, must report





# Questioned Costs

# 1. Advertisement

Are costs associated with advertising in media such as newspapers, radio and television, direct mail, or email allowable?

- a) Yes
- b) No
- c) It Depends



## 2. Food

May a 21<sup>st</sup> CCLC program use federal funds to purchase light snacks and water for a parent meeting?

- a) Yes
- b) No
- c) It Depends



# 3. Food (Again)

What about for a staff meeting?

- a) Yes
- b) No
- c) It Depends



## 4. Food (YET Again)

May a 21<sup>st</sup> CCLC program use federal funds to purchase light snacks and water for a staff meeting if the meeting is all day, in the middle of the woods and its 100 degrees outside with killer mosquitoes?

- a) Yes
- b) No
- c) It Depends



# 5. Clerical Staff

Can 21<sup>st</sup> CCLC funds be used to pay for salaries of clerical support staff?

- a) Yes
- b) No
- c) It Depends



## 6. INCENTIVES

To increase their assessment scores, a 21<sup>st</sup> CCLC program wants to give students an incentive so if a student attends after school tutoring for the year, the student will receive a gift certificate for a pizza. Is this allowable?

- a) Yes
- b) No
- c) It Depends



# 7. Computer Networks

Are the costs associated with an LEA's district wide networks allowable under 21<sup>st</sup> CCLC?

- a) Yes
- b) No
- c) It Depends





# 8. School Counseling

Can a 21<sup>st</sup> CCLC program use federal funds to pay for a school counselor to provide counseling to all students?

- a) Yes
- b) No
- c) It Depends



## 9. Security Measures to Protect Equipment

Carter High School wants to purchase cameras and other related security devices to protect assistive technology and other equipment purchased with federal funds. Is this allowable?

- a) Yes
- b) No
- c) It Depends



# 10. Field Trips

Can a school use 21<sup>st</sup> CCLC funds for field trips?

- a) Yes
- b) No
- c) It Depends



# 11. Private Schools

Can a district reimburse a private school the costs of their teachers attending an academic conference related to improving student achievement?

- a) Yes
- b) No
- c) It Depends



# 12. Gifts

Can a district employee accept a gift from a contractor as long as it is below the micro-gratuity threshold?

- a) Yes
- b) No
- c) It Depends





# 21<sup>st</sup> CCLC Fiscal Issues

**Program Income & Supplanting**

# Supplanting – 4203(a)(9)

- 21st CCLC funds can be used to supplement, but in no case supplant, **Federal, State, local funds or other non-federal funds.**
- Presumptions:
  - Required under federal/state/local law
  - Paid for with non-21st CCLC funds in the prior fiscal year
- Rebutting the presumption
  - Cannot provide services without 21st CCLC funds
  - High bar for proof

# Charging Fees = Program Income

- 2003 Guidance: Must offer a “sliding scale” of fees and scholarships for those who cannot afford the program.
- June 2018 ED Presentation:
  - The fee should be the same for all students; and
  - No child can be excluded from the program even if the student’s family is incapable of paying the nominal fee.
- How to read these two pieces of guidance together?



# Program Income

- ED: For grantees and subgrantees that collect parent fees, they should understand that the income generated by the fees is considered **program income**.
  - Without prior approval, must use deduction method.
  - With prior approval: may use addition method
- 2 CFR § 200.307(e) governs the use of program income.

# QUESTIONS?



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