



UGG/EDGAR Workshop

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Stimulus Audit Findings

CRF Audits (Rhode Island, Feb. 2021)

- Treasury OIG met with State representatives after local news story that Governor planned to withhold CRF proceeds to balance the State's budget shortfall
 - State provided assurance to Treasury OIG "that allegations of Rhode Island using funds to impermissibly resolve a government revenue shortfall are untrue."
 - Report issued "to advise your office that the use of [CRF] proceeds to cover revenue shortfalls remains an unallowable use of funds."

CRF Audits (Iowa, Dec. 2020)

- Returned \$20.1 million in payments to Workday; vendor that provided technological upgrades to Iowa's HR and finance accounting systems.
 - (Iowa): Allowed gov't employees to access systems remotely; facilitated telework; response efforts.
 - (OIG): Contract was entered in Oct. 2019
 - (OIG): HR upgrades would not go live until July 2021; Finance upgrades in June 2022

CRF Audits (Iowa, Dec. 2020)

“While the new and modern Workday system may provide additional functionalities through a cloud-based environment, the timeline for achieving them is nearly two years away and the system upgrades were contemplated well before the pandemic began. As such, the Workday system is not available to meet the State’s urgent needs during the covered period. Accordingly, we maintain our position that funding the Workday contract with Coronavirus Relief Fund proceeds is not a reasonable, allowable use of funds related to address the COVID-19 health pandemic.”

CRF Audits (American Samoa, July 2020)

- Recovered stipends for telework for staff that were already teleworking prior to COVID-19
- Questioned pre-payment of one-year leased facilities for staff

HEERF Audit – Remington College

- Guidance vs. Law
 - Auditors disagree with ED's guidance on allowability for computers with CARES HEERF:
 - "The Department's guidance, which is seemingly more permissive in terms of allowable costs than the statute itself, impacts our ability to assess whether the school improperly used \$64,985 of its Institutional grant funds for this purpose."

HEERF Audit – Remington College

- Procurement Finding: College failed to follow federal procurement for its contracts with HEERF
- Corrective action:
 - "Determine whether the \$639,400 that Remington College charged to its Institutional grant for contracts awarded without a competitive procurement process was reasonable when compared to the quality and costs of suitable alternatives, and if not, require appropriate corrective actions."

HEERF Audit – Remington College

- Period of Availability
 - Auditors argue that online subscription costs could not extend past the close of the grant, even just to finish the semester:
 - “However, to comply with 2 C.F.R. § 200.309, Remington College should have charged to the Institutional grant only those subscription costs through May 19, 2022. Subscription costs after that date should be paid for with other (non-HEERF) school funds.”

HEERF Audit – Lincoln College

- Cash Management Finding: Lincoln failed to follow cash management requirements, including depositing funds in interest bearing accounts and remitting earned interest
- Lincoln: Revised its policies in Oct 2020, after ED guidance.
- OIG: “We acknowledge the corrective actions...” “We did not make any changes to the findings or recommendations”

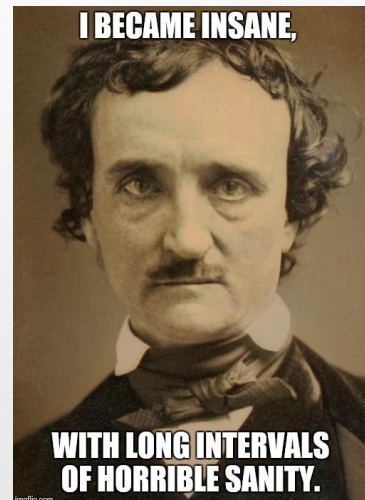
GEER - Missouri

- Finding re Monitoring of LEAs:
 - Did not include review of supporting documentation related to LEA expenditures
 - Did not require LEAs to certify their responses to self-assessment
 - Recommended including "medium-risk LEAs" for a review of supporting documentation

What Is EDGAR?

Education Department General Administrative Regulations

<https://www2.ed.gov/policy/fund/reg/edgarReg/edgar.html>



EDGAR and the UGG

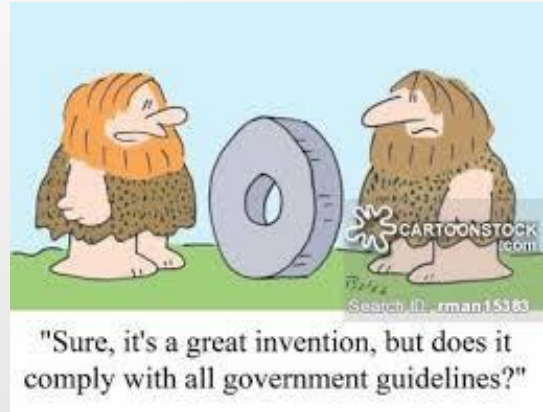
- The Education Department General Administrative Regulations (EDGAR) includes various grants management rules applicable to all federal awards issued by the U.S. Department of Education (ED).
- The Uniform Grant Guidance (UGG) are federal grants management rules that apply to all awards issued by all federal awarding agencies.
 - Created and amended by the Office of Management and Budget (OMB)
- EDGAR incorporated the UGG back in 2014
 - Parts 74 and 80 of EDGAR were replaced with 2 CFR Part 200

Key Sections of EDGAR

- Excerpts from the General Education Provisions Act (GEPA)
- Title 34
 - Part 75 – Direct Grant Programs
 - Part 76 – State-Administered Programs
 - Part 77 – Definitions
 - Part 81 – Enforcement Regulations
- Title 2
 - Part 200 – Cost/Administrative/Audit Rules
 - Part 3485 – Non-procurement Debarment and Suspension
 - Incorporates 2 CFR Part 180, OMB's Guidelines on Debarment and Suspension

EDGAR Regulations - Authority

- General Education Provisions Act
 - General authority of the Secretary, 20 USC 1221e-3
 - Authority of Secretary to adopt regulations, 20 USC 3474



ESSA/IDEA/Perkins v. EDGAR/UGG/GEPA – who wins?

Program Statutes

- Every Student Succeeds Act
- Individuals with Disabilities Education Act
- Strengthening Career and Technical Education for the 21st Century (Perkins V)

VS.

Cross-Cutting Statutes and Regulations

- Education Department General Administrative Regulations
- Uniform Grant Guidance
- General Education Provisions Act

***What about State law?*

State-administered programs

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EDGAR Part 76 – Covered programs

- Any state-administered program from the US Department of Education. 76.1 (pg. 38)
 - Title I, Title II, Title III, IDEA, 21st Century, Adult Ed, Perkins/CTE, etc.
- Statutes determine eligibility / whether subgrants are made. 76.50 (pg. 38)
 - Two options - 76.51 (pg. 38):
 - Formula
 - Competition
- Disapproval of an application – opportunity for a hearing 76.401 (pg. 45)

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EDGAR Part 76 – Allowability

- General cost principles. 76.530 (pg. 47)
- Use of funds for religion prohibited. 76.532 (pg. 57)
- Acquisition of real property; construction. 76.533 (pg. 57)
- Indirect Costs Rates (pgs. 48-50)
- Participation of Students Enrolled in Private Schools (pgs. 50-54)
- Compliance with statutes, regs, State plan and applications. 76.700 (pg. 54)
- Fiscal control and fund accounting procedures. 76.702 (pgs. 54-55)

EDGAR Part 76 – State requirements

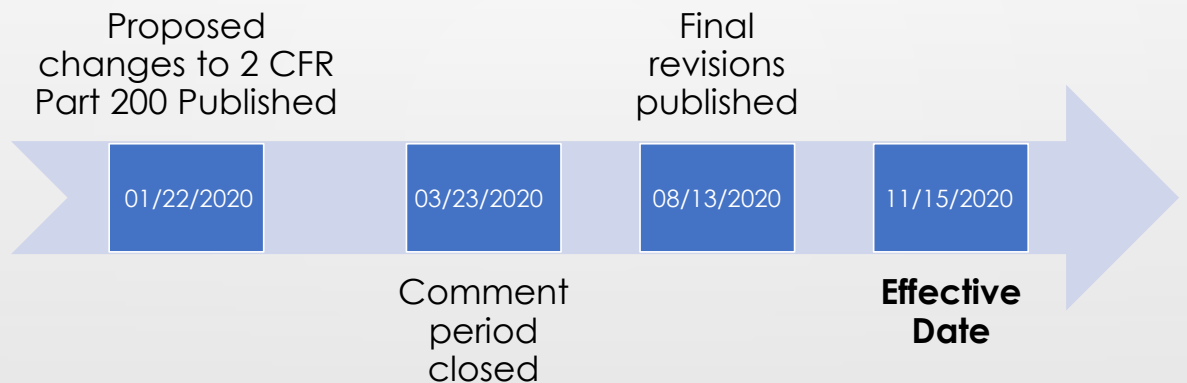
- State procedures to ensure compliance. 76.770 (pg. 60)
- SEA final action, subgrantee opportunity for hearing. 76.783 (pg. 60)
 - Hearing procedures. 76.401(d) (pg. 45)
- Charter Schools (pgs. 61-63).

Uniform Grant Guidance

2 CFR Part 200

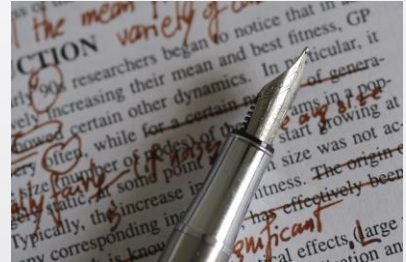


OMB Revises the UGG



OMB Revises the UGG – August 2020

- Proposed changes to 2 CFR Part 200
Published January 22, 2020
- Comments closed March 23, 2020
- Final Revisions published August 13, 2020
- **OMB FAQs published May 2021**
- https://www.cfo.gov/assets/files/2CRF-FrequentlyAskedQuestions_2021050321.pdf



OMB Revisions to the UGG – Effective Dates

- Effective as of **November 12, 2020**
 - Except for 200.216 and 200.340, effective August 13, 2020
- **200.216**: Prohibition on certain telecommunications and video surveillance services or equipment
 - Prohibits grantees from entering into contracts with certain covered entities
- 200.340: Termination
 - Allows awards to be terminated **“if an award no longer effectuates the program goals or agency priorities”**
 - Previously: “For cause”

OMB Revisions - Summary

- Procurement Changes to Better Target Areas of Greater Risk and Conform to Statutory Requirements
- Strengthen Merit Review and Improve Governmentwide Approach to Performance and Risk
- Standardize Terminology, Data Elements and Alignment with Other Authoritative Source Requirements
- Emphasize Machine Readable Information Format
- Eliminate References to Non-Authoritative Guidance
- Change Closeout to Reduce Burden and Support the GONE Act
- Expanded Use of De Minimis Rate
- Clarify Areas of Misinterpretation



2 CFR Part 200

- Subpart A – Definitions – **Section Numbers Removed!**
- Subpart B – General Provisions
- Subpart C – Pre- Federal Award Requirements
- Subpart D – Post Federal Award Requirements
- Subpart E – Cost Principles
- Subpart F – Audit Requirements

Financial Management

2 CFR 200.302(b)

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Financial Management 200.302

(a) States – follow their own rules!

(b) Everyone else – seven standards.

1. Identification in accounts
2. Financial reporting
3. Accounting records (**financial** obligations)
4. Internal controls, internal controls, internal controls
5. Budget control
6. Written procedures for cash management
7. Written procedures for determining allowability

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Internal Controls 200.303

MUST:

- Comply with requirements (**U.S. Constitution**)
- Evaluate and monitor compliance
- Take prompt action to correct noncompliance
- Safeguard personally identifiable information (PII)
- Compliance Supplement, Internal Controls: "Control activities are the policies and procedures that help ensure the management's directives are carried out."
 - Clearly written and clearly communicated

Federal Payment 200.305(b)

Written procedures must describe whether non-federal entity uses:

1) Advance Payments

- Limited to minimum amounts needed to meet immediate cash needs
- Subject to cash management requirements

2) Reimbursement

- Pass through must make payment within 30 calendar days after receipt of the billing
- Initial payments made with state/local funds

Cash Management 200.305 (a) and (b)

- For non-federal entities, payments must minimize time elapsing between draw down and disbursement (not obligation)
- Cash advances must be maintained in insured accounts
 - Accounts must be interest bearing unless:
 - Aggregate federal awards under \$120,000
 - Account not expected to earn in excess of \$500 per year
 - Bank require minimum balance so high, that such account not feasible
- Interest earned must be remitted annually to HHS Payment Management System (updates to this process)
 - Interest amounts up to \$500 may be retained by non-federal entity for administrative purposes.

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Financial Management

- Cost share/ matching – 2 CFR 200.306
 - Unrecovered indirect costs require prior approval
 - For donated/in kind contributions, must document assigned value
- Program income – 2 CFR 200.307
 - Deduction vs Addition method
 - Defined 200.1

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Timely Spending



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The Requirements

- Definitions: 2 CFR 200.1
- Obligations: 34 CFR 76.707; 76.708
- Modifications to Period of Performance: 2 CFR 200.309
- Pre-award Costs: 2 CFR 200.458
- Carryover (Tydings): GEPA Sec. 421(b); 34 CFR 76.709; 76.710
 - Program restrictions, ESSA Sec. 1126(c) (limits TI-A carryover to 15%); Perkins V, Sec. 133(b) (requires states to redistribute unobligated balances at the end of academic year; no carryover at local level)
 - Tydings does not apply at local level if funding distributed by competition
 - 21st CCLC; Adult Ed
- Liquidation: 2 CFR 200.344(b)

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Period of Performance 200.1

The total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions, or budget periods. Identification of the period of performance in the Federal award ... does not commit the awarding agency to fund the award beyond the currently approved budget period.



“ED and the EAB have consistently held that ‘expended’ as used in the Statute means ‘obligated’.”

Appeal of the State of Michigan, Dkt. No. 8(272)88 (Nov. 27, 1987)

ED Approval of Late Liquidations (2005, 2007, 2011, 2016)

- Defines Obligations Period as the period of availability

CRF Guidance (Treasury) – Dec. 2021

- “Treasury previously determined that, for a cost ... to be considered to have been incurred within the covered period, performance or delivery must have occurred during the covered period.”
- “Treasury is now revising the guidance to provide that a cost associated with a necessary expenditure incurred due to the public health emergency shall be considered to have been incurred by December 31, 2021, if the recipient has incurred an **obligation** with respect to such cost by December 31, 2021.”
- “Recipients are required to expend their funds received from the CRF to cover these obligations by September 30, 2022.”

Financial Obligations (2 CFR 200.1)

- “when referencing a recipient's or subrecipient's use of funds under a Federal award, means orders placed for property and services, contracts and subawards made, and similar transactions that require payment.”

When Obligations Are Made

34 CFR 76.707

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.

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When Subgrantees may begin to Obligate funds

34 CFR 76.708

- Formula programs: Later of...
 - Date the state may begin to obligate; or
 - Submission of substantially approved application
- Discretionary programs:
 - Once the subgrant is made



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Budget Period, Renewal

- New definitions! May have more than one budget period within period of performance; renewal starts a new period of performance. 2 CFR 200.1
 - Budget Period: period during which the recipient is authorized to expend the funds awarded, including carryover
 - Renewal: an award made subsequent to an expiring federal award, which begins a distinct period of performance

Revisions to 2 CFR 200.309: Modifications to Period of Performance.

- If a Federal awarding agency or pass-through entity approves an extension, or if a recipient extends under §200.308(e)(2), the Period of Performance will be amended to end at the completion of the extension. If a termination occurs, the Period of Performance will be amended to end upon the effective date of termination. If a renewal award is issued, a distinct Period of Performance will begin.

Pre-Award Costs



Period of Performance 2 CFR 200.309 (OMB Proposed deletion)

- ❖ (Previous language: allowed pre-award costs “authorized by the federal awarding agency or pass-through entity”)
- ❖ Comments: Do not delete!
 - “It was not OMB's intention to remove the pass-through entities' authority to allow pre-award costs to subrecipients. OMB recognizes these concerns and added language to 2 CFR 200.458 for clarification in response to commenters.”

Pre-Award Costs 2 CFR 200.458

- Those costs incurred prior to the effective date of the Federal award directly in negotiation or anticipation of the award
- Costs must be necessary for efficient and timely performance of the scope of work
- Allowable to the extent they would have been allowable if incurred after the effective date and ONLY with written approval from the Federal awarding agency

Pre-Award Costs (cont.)

But... pre-award costs still require “written approval of the Federal awarding agency.”

Instead, OMB added:

- “If charged to the award, these costs must be charged to the initial budget period of the award, unless otherwise specified by the Federal awarding agency or pass-through entity.”



Pre-Award Costs

- Federal agency or pass-through agency approval?
 - Formula programs: Neither ED nor the SEA can authorize pre-award costs (obligations) incurred before the appropriations period (July 1).
 - 200.468 states federal only; OMB preamble – did not intend to take authority away from pass-throughs



Pre-award Costs: COVID Funding

- Coronavirus funding (ESSER, GEER, HEERF): ED has authorized pre-award costs back to March 13, 2020.
- "To use ARP ESSER funds for pre-award costs, an LEA must have documentation that shows that the costs were incurred on or after March 13, 2020, are allowable uses under the ARP Act, and are consistent with the Uniform Guidance in 2 C.F.R. Part 200. An LEA should initially code its costs as it would for other State or local funds and, when ARP ESSER funds become available, deobligate the non-Federal funds and replace them with ARP ESSER funds."
 - Sept. Factsheet: <https://oese.ed.gov/files/2021/09/Pre-award-costs-F09-01-2021.pdf>



Carryover Closeout Liquidation



Carryover (Tydings Amendment) GEPA Sec. 421 (b); 34 CFR 76.709; 76.710

- Program restrictions, ESSA Sec. 1126(c) (limits TI-A carryover to 15%); Perkins V, Sec. 133(b) (requires states to redistribute unobligated balances at the end of academic year; no carryover at local level)
- Tydings does not apply at local level if funding distributed by competition (1999 OGC Memo)
 - 21st CCLC; Adult Ed

Waivers Available under ESEA, Perkins, GEPA

- Tydings Amendment (FY 2018)
 - ESSA
 - Perkins (SEA only)
 - AEFLA (SEA only)
 - IDEA
- ESSA waivers
 - Title I-A 15 percent carryover (can waive more than once every three years)
 - Title IV-A
 - Needs assessment
 - Content-area spending requirements
 - Spending limitation for technology
 - Definition of “professional development”

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Waivers Available under ESEA, GEPA

- In July 2021, ED made [additional waivers available to SEAs](#)
 - Waiver of 15 percent carryover limitation for Title I-A for LEAs FY 2020 funds
 - Regardless of whether the SEA has waived the provision for LEA within past two fiscal years
 - Extension of period of availability for SEAs for FY 2019 through September 30, 2022 (Tydings period under GEPA)
 - Applies to all ESEA programs in which SEA participates under its consolidated plan

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ESSER/GEER Period of Availability

	CARES	CRRSA	ARP
Start date	March 13, 2020	March 13, 2020	March 13, 2020
Statutory end	September 30, 2021	September 30, 2022	September 30, 2023
Tydings Period	September 30, 2022	September 30, 2023	September 30, 2024

May 2021 Guidance: Any of the ESSER funds may be used to support all of the allowable uses of funds listed in any of the ESSER Programs (A-1)
https://oese.ed.gov/files/2021/05/ESSER.GEER_FAQs_5.26.21_745AM_FINALb0cd6833f6f46e03ba2d97d30aff953260028045f9ef3b18ea602db4b32b1d99.pdf

AASA: Letter to ED to extend ARP deadlines (Jan 2022)

- Request extension through **December 2026**
- Critical need for facility improvements and renovation projects
 - “Unfortunately, the ability to utilize ARP funds for these facility upgrades under the current deadline will be nearly impossible for most districts because limited contractor availability and supply chain disruptions are substantial and expected to get worse in 2022.”

Closeout 2 CFR 200.344 (formerly 200.343)

- Subrecipients must prepare closeout reports and final accounting within 90 days after period; pass-through entities have **120 days**
- Unless federal or pass-through gives extension, all financial obligations must be liquidated no later than **120 days** after period ends
 - Effectively limit subrecipient liquidation to 90 days? YES!



If the funds are obligated within the period of availability, how long can I continue to receive services or finish the project after the period ends?

Basic Factors of Allowability 200.403

To be allowable, a cost *must*:

- Be **necessary, reasonable** and **allocable**
- Comply with the cost principles and federal award
- Be consistent with policies and procedures applying uniformly to federal and non-federal activities and costs
- Be consistently treated as either direct or indirect costs
- Be determined in accordance with GAAP
- Not be included or used to meet cost sharing / match requirements
- Be adequately **documented**
- **Be incurred during approved budget period (NEW)**

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OSERS Guidance (2017): Can total cost of a contract be obligated to a grant award even if some services will be performed after the period ends?

- Yes. Entire contract could be charged to the earlier period, even though services extend to the subsequent period.
- <https://rsa.ed.gov/sites/default/files/subregulatory/rsa-faq-period-of-performance-for-formula-grant-awards-03-21-2017.pdf>

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Obligation / Liquidation for Contracted Services

- Contract is fully obligated in the period in which the grantee has a binding, written agreement for the services (34 CFR 76.707)
- However, liquidation should happen after services are performed, as an internal control to ensure contractors perform (2 CFR 200.318(b); 200.459(c))

Liquidation Extension

- May be authorized by federal agency or pass-through entity
- ED Guidance on late liquidations:
 - Proof of valid obligation within the period
 - Generally acceptable up to 12 months

OIG HEERF Audits (Sept 2021)

- Two colleges cited for online subscriptions that extended past the period end date.
- E.g., “However, to comply with 2 C.F.R. § 200.309, Remington College should have charged to the Institutional grant only those subscription costs through May 19, 2022. Subscription costs after that date should be paid for with other (non-HEERF) school funds.”

OIG HEERF Audits (cont.)

- “While the dollar amount of costs we questioned was small, it is critical that grantees not prepay costs that extend beyond the grant performance period. Properly allocating costs to the grant performance period helps to protect taxpayer dollars; minimize the risk of fraud, waste, and abuse; and ensure Federal funds are used for allowable and intended purposes.”

Other Questions...

- When do indirect costs “obligate”?
 - Approval of late liquidation request for unclaimed indirect
- When does grant funding lapse/expire?
 - Five fiscal years after its availability for obligation by the federal government ends. E.g., any remaining balances of fiscal year 2013/2014 multiyear and 2014 annual program funds will revert to the U.S. Department of Treasury on October 1, 2019.
- When is funding drawn, but not obligated/expended, barred from recovery by the statute of limitations?
 - Five years after the end of the Tydings period

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Inventory Management

2 CFR 200.313



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200.439 Equipment & Other Capital Expenditures

- Expenditures for equipment, buildings, and land are **unallowable** as direct charges without prior written approval from pass-through
 - Includes improvements to land, building & equipment
- For equipment with per-unit cost of \$5000 or more—may be directly charged with prior written approval

Definitions

- **Capital Expenditures (200.1):** Expenditures to acquire capital assets, or expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life.
- **Capital Assets (200.1):** Land, buildings (facilities), equipment, and intellectual property (including software), whether acquired by purchase, construction, ... or through a lease-purchase arrangement

Definitions

- **Equipment (200.1):** Equipment: tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.
- **Supplies (200.1):** All tangible personal property other than equipment
- **Computing Devices (200.1):** If less than \$5,000, defined as supplies

Internal Controls – 200.302(b)(4)

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

Inventory Procedures – 200.313(d)

- 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
- Physical inventory at least every two years
- Control system to prevent loss, damage, theft
 - All incidents must be investigated
- Adequate maintenance procedures
- If authorized or required to sell property, proper sales procedures to ensure highest possible return.

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Use of Equipment – 200.313(c)

- Equipment must be used by the Non-Federal entity in the program or project for which it was acquired if needed, **whether or not the project or program continues to be supported by the Federal award.**
- When used it must be shared, provided such use will not interfere with work on the original projects/programs, and it follows this order of priority:
 - First by other programs from same agency
 - Then open to other federal programs
 - Non-federal programs



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Replacement Equipment 200.313(c)(4)

May use sale price of old equipment towards purchase price of replacement equipment

- Calculate new federal share!

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Disposition – 200.313(c)(1) & (e)

- When no longer needed, may be used in other activities with the following priority:
 - Projects supported by Federal awarding agency
 - Project funded by other Federal agencies
- When property is no longer needed in any current or previously Federally-funded supported activity, must follow disposition rules:
 - Fair market value > \$5,000 = pay federal share back to awarding agency
 - Fair market value of \$5,000 = no money owed back to feds
- Supplies (200.314): Depends on value of residual inventory of unused supplies

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Question

A non-federal entity sells a piece of equipment no longer needed for its federal programs at its fair market value of \$1,000. Does the entity need to remit the federal share?

- a. Yes
- b. No

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Question

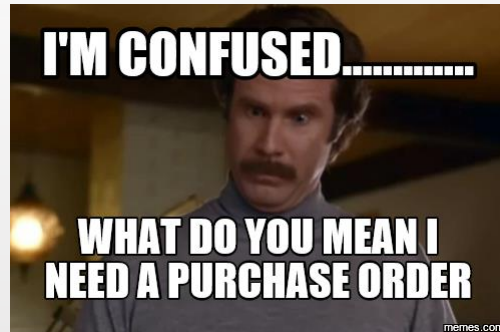
Which of the following pieces of property may a recipient use a lower threshold than what is federally required?

- a. Capital assets and computing devices
- b. A non-federal entity may use a lower threshold than what is federally required for any piece of property
- c. Only equipment and supplies
- d. Only equipment

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Procurement

2 CFR 200.317 – 200.327



Procurement Standards 200.318

- All non-federal entities must have documented procurement procedures which reflect applicable Federal, State, and local laws and regulations.
 - Open and Full Competition (Maximum Extent Possible)
 - Specific Thresholds for Purchasing
 - Prohibited In-State and Local Preferences
 - Contract Administration System
 - Conflict of Interest Rules
 - Mandatory Disclosures

Contract Administration 200.318(b)

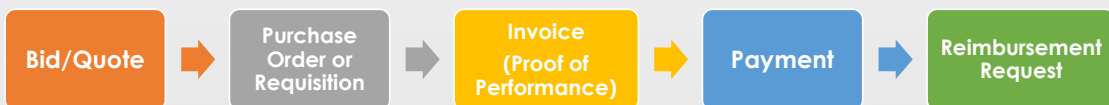
- Non-federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of the contract

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Contract Administration (200.318)

- ✓ Includes procedures that ensure contracts are fully performed before payment.

Process



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Conflict of Interest 200.318(c)(1)

- 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
- Organizational Conflict (applies to non-gov entities)

Conflict of Interest 200.318(c)(1) (cont.)

- 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 200.112 Mandatory Disclosures 200.113

- 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.
- Must disclose to federal or pass-through agency "all violation of federal criminal law involving fraud, bribery or gratuity violations potentially affecting the federal award."

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Competition 200.319

(a) All procurement transactions **for the acquisition of property or services required under a Federal award** must be conducted in a manner providing full and open competition consistent with the standards of this section and §200.320.

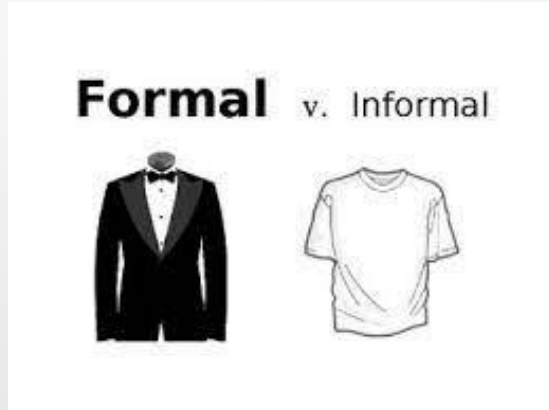
...

(f) Noncompetitive procurement can only be awarded in accordance with 200.320(c).

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Methods of Procurement 200.320

- Grantee must have and use documented procurement procedures for the following methods:
 - a) **Informal procurement methods**
 - Micro-purchase
 - Small purchase procedures
 - b) **Formal procurement methods**
 - Competitive sealed bids
 - Competitive proposals
 - c) Noncompetitive proposals



Informal Procurement 200.320(a)

- Use when value does not exceed \$250,000 (simplified acquisition threshold), or a lower threshold established by a non-federal entity
- Procurement of property or services required under federal award
- Purpose: to expedite completion and minimize administrative burden and cost

Informal Procurement, 200.320(a)(1) Micro-purchases

- Distribution. "To the maximum extent practicable, the non-federal entity should distribute ... among qualified suppliers."
- Awards. May be awarded without price or rate quotes if non-federal entity "considers the price to be reasonable based on research, experience, purchase history or other information and documents its files accordingly."

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Informal Procurement, 200.320(a)(1) Micro-purchases (cont.)

- Thresholds. Determined and documented by grantee, based on internal controls, risk, and procedures. Authorized by state, local laws. May be higher than threshold in FAR (\$10,000).
 - Nonfederal entity may self-certify threshold up to \$50,000, if:
 - Low-risk auditee for most recent audit (200.520)
 - Annual internal institutional risk assessment to identify, mitigate and manage financial risks; or
 - For public institutions, a higher threshold consistent with state law
 - Over \$50,000, must have approval of cognizant agency indirect costs

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Informal Procurement, 200.320(a)(2) Small Purchases

- Used when for purchases greater than micro-purchase threshold, but less than simplified acquisition threshold (\$250,000).
- Price or rate quotations from "adequate number of qualified sources" **as determined appropriate by non-federal entity**
- Thresholds. Established based on internal controls, risk and procedures, and documented. Cannot exceed the threshold in FAR (\$250,000) but may be lowered.

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Formal Procurement, 200.320(b)

- Used for purchases that exceed small purchase threshold (\$250,000, or lower, if set by the non-federal entity)
 - Require documented procedures
 - Require public advertising
- Two options:
 - (1) Sealed bids
 - (2) Proposals



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Noncompetitive Proposals; 200.320(c)

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



With COVID, can we procure items under “public emergency” exception in 200.320(c)(3)?

- Considerations:
 - Policies and procedures
 - Online shopping and quotes
 - **Timeframe required for items**
 - **ESSER FAQs: LEA should consult with SEA before using this flexibility**



Previously planned projects/ contracts – can ESSER pay part?

- It depends...
 - Prior approval, 200.439 (permitted later if no reimbursement);
 - contract terms and conditions;
 - **Davis-Bacon Wage requirements**; *ED email: must comply with Davis-Bacon*;
 - project timelines;
 - “necessary, reasonable and allocable”; and
 - Must “prevent, prepare for and respond to the coronavirus”??
 - https://oese.ed.gov/files/2021/12/Fact-Sheet_COVID_connection_12.29.21_Final.pdf

Cost Price Analysis – 200.324

- Required for every procurement action over \$250,000
 - “[A]s a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.”
- Profit must be negotiated as a separate element of the price
 - Complexity of the work; risk borne by contractor; contractor's investment; amount of subcontracting; quality of record; industry rates
- “Cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.”

Domestic Preferences for Procurements 200.322



- “To the greatest extent practicable” must provide a preference for the purchase of goods and materials produced in the U.S.

What does produced in the United States mean?

- Iron/Steel—initial melting stage through application of coatings
- Manufactured products– items and materials composed in whole or in part of non-ferrous metals (aluminum, plastics, polymer products)
- Must include this section in all subawards, contracts and purchase orders

Suspension and Debarment, 200.214 2 CFR 180.300

- For contracts over \$25,000 (“covered transaction” 3485.220) 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.

Reporting on Real Property 200.330

- Must report to the pass-through on the status of the property acquired with federal funds annually (unless different time period established) for 15 years
 - Equipment is inventoried according to 2 CFR 200.313.

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Question

A district's policies and procedures require the district to receive three quotes for all contracts \$5,000 or more. The district wants to purchase ~\$7,000 of computers from a vendor using federal funds. It must:

- A. Get three quotes
- B. Get two quotes
- C. Get zero quotes and use the micro-purchase exception

96

Question

A district plans on running a new program to help address student's lost learning in school year 2023. Because of COVID, can the district use the public emergency exception to sole source its services?

- A. Yes
- B. No
- C. It depends



UGG Contract Provisions – Appendix II

2 CFR 200.327/ Appendix II to Part 200

- Contracts *must* contain applicable provisions in Part 200 Appendix II
- What's in appendix II?
 - Davis-Bacon Act
 - Contract Work Hours and Safety Standards Act
 - Clean Air Act
 - Federal Water Pollution Control Act
 - Byrd Anti-lobbying Amendment

Question: Are contracts for indirect costs subject to federal procurement regulations?

- No. The Uniform Guidance procurement standards apply to only procurements for goods and services that are directly charged to a Federal award.
 - OMB FAQs May 2021 https://www.cfo.gov/assets/files/2CFR-FrequentlyAskedQuestions_2021050321.pdf

The UGG'ly Truth About Allowability



101

Basic Factors of Allowability 200.403

To be allowable, a cost *must*:

- Be **necessary, reasonable** and **allocable**
- Comply with the cost principles and federal award
- Be consistent with policies and procedures applying uniformly to federal and non-federal activities and costs
- Be consistently treated as either direct or indirect costs
- Be determined in accordance with GAAP
- Not be included or used to meet cost sharing / match requirements
- Be adequately **documented**
- **Be incurred during approved budget period (NEW)**

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Necessary 200.404

Cost is “generally recognized as ordinary and necessary for the operation of the non-federal entity or the proper and efficient performance of the federal award.”

- ❖ Is the cost included in your plan / grant application?
- ❖ Is it aligned with the goals of the program / grant?
- ❖ Does your agency have the capacity to use what you are purchasing?
- ❖ Is the staff knowledgeable regarding the program?

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Reasonable 200.404

Consideration must be given to:

- 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;
 - Arms length bargaining (hint: procurement processes);
 - Federal, state and local laws; and
 - Terms of the grant award.
- Market Prices for comparable goods or services in the geographical area
- Whether the individuals acted with prudence under the circumstances
- No significant deviation from established prices.

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Allocable 200.405

- ❖ 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.

Applicable Credits 200.406

- ❖ 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

Direct vs. Indirect 200.413(c)

- Salaries of administrative and clerical staff should be treated as “indirect” unless all of following are met:
 - Such services are integral to the activity
 - Individuals can be specifically identified with the activity
 - Such costs are explicitly included in the budget
 - Costs not also recovered as indirect

OMB Revisions to Indirect Costs

- Expanded use of de minimis rate (includes grantees that have previously negotiated a rate)
 - Unavailable for restricted rate programs and certain state/local gov'ts
 - 200.414(f)
- Rate agreements must be available on OMB-designated website
 - 200.414(h)
- Adds program evaluation costs as a direct cost example
 - 200.413(b)

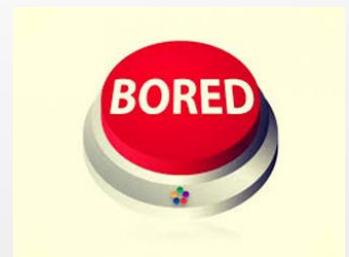
OMB Revisions to Indirect Costs – Pass-throughs

- If subrecipient does not have approved rate, pass through must accept:
 - Negotiated indirect rate between pass-through and subrecipient;
 - Negotiated rate between different pass-through and subrecipient; or
 - De minimis rate
 - 200.331 (a) (4)
- *SEAs must negotiate rates with LEAs: 34 CFR 76.561 (b)
 - May offer flat 8% restricted rate to IHEs and nonprofit subrecipients, 34 CFR 76.564

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Indirect Cost (cont.)

- Direct and Indirect costs: 2 CFR 200.413; 200.414
- Restricted Rates: 34 CFR 76.560 – 76.569
- Cost Allocation Guide:
 - <https://www.bruman.com/wp-content/uploads/2020/01/Cost-Allocation-Guide-2019.pdf>



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Selected Items of Cost

56 Selected Items of Cost

- ❖ Allowable
 - E.g., collection of improper payments (200.428); training and education costs (200.473)
- ❖ Allowable with special conditions
 - E.g., only as an indirect charge (leave payout, 200.431; advisory councils, 200.422); only with necessary documentation (compensation – personal services, 200.430)
- ❖ Allowable with prior approval
 - E.g., equipment and capital expenditures (200.438); entertainment (200.439); participant support costs (200.456)
- ❖ Unallowable
 - E.g., alcohol (200.423); bad debts (200.426)

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Selected Items of Cost Examples

Alcohol 200.423

- Not allowable

Entertainment 200.438

- Not allowable UNLESS Prior Written Approval of Federal Awarding Agency.
- Field Trips & Holiday Parties are common examples
- Field trips may be allowed where:
 - They have a clear programmatic purpose
 - And are authorized by the federal awarding agency

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Advertising/Public Relations 200.421

- **Allowable for programmatic purposes including:**

- Recruitment
- Procurement of goods
- Disposal of materials
- Program outreach
- Public relations (in limited circumstances)

113

Conferences 200.432

- **Generally Allowable**

- To be a conference, must disseminate technical information beyond the non-federal entity
- 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 a manner that minimizes costs to federal award

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Travel 200.475 (new citation)

- ❖ 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 is necessary for the project

115

Telecommunication costs and video surveillance costs 200.471

- Telecommunication and video surveillance services or equipment are allowable, *except*:
 - "Covered" telecommunications and surveillance under 200.216
 - Applies to new contracts, services, equipment, and any renewals or extensions

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Food

- **While Part 200 does not prohibit food, ED generally does not allow for the purchase of food:**

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

Department of Education Guidance on Food, 2014

Food - Cont.

Proposed change to UGG:

- Federal agencies cannot reference non-binding guidance as part of the terms and conditions of an award. 2 CFR 200.210

Final change to UGG:

- Agencies may impose legally binding requirements on recipients only through the notice and public comment process through an approved agency process. **2 CFR 200.105(b)**
- Will this change restrictions on food?



Time and Effort



Personnel Documentation 200.430(i)(1)

Time and effort records must accurately reflect the work performed and:

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.

Requires Time By Cost Objective

- What is a cost objective? 200.1
 - Activities
 - Mandated set-asides
 - Mandatory minimums
 - Anything that requires separate cost accounting
- Examples 200.430(vii):
 - More than one Federal award, a Federal award and a non-Federal award, an indirect and direct cost activity, etc.
 - 10% administrative set-aside, 1% mandatory minimum, etc.



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Use of Budget Estimates - 200.430(i)(1)(viii)



- Budget estimates alone do not qualify as support for charges to Federal awards.
- May be used for interim accounting purposes if:
 - Produces reasonable approximations
 - Significant changes to the corresponding work activity are identified in a timely manner
 - Internal controls in place to review after-the-fact interim charges based on budget estimates

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What to do when effort does not match budget?

- Two Options:
- (1) Change job duties to ensure more time is spent on funded cost objectives
- (2) Change budget to ensure it is aligned with job duties



Question:

If a federally paid teacher works on a single cost objective but also has limited other responsibilities, such as cafeteria or bus duties. This teacher must keep:

- A. Must keep records that distribute his / her effort on limited other activities
- B. Does not have to account for time on limited other responsibilities



De Minimis Benefit

- Limited work on another cost objective does not need to be captured in time and effort records.
- E.g. Employees may work 5% or less on another cost objective.
- The work performed on these limited duties cannot deprive a benefit from the intended beneficiaries.

The Montana Compact on Time Distribution, at p. 8, Q11.

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Reconciliation - 200.430(i)(1)(viii)(C)

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



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Why? 2 CFR 200.403(a); 2 CFR 200.430(i)

- Any employee funded by federal grants must maintain documentation showing that their time is allocable to a federal program.
- That documentation must be based on records that **accurately reflect the work performed.**
 - Everything else feeds back into this standard

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Allocable Costs 2 CFR 200.405(d)

If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost should be allocated to the projects based on proportional benefit.

If proportions cannot be determined, the costs may be allocated or transferred to benefited projects on any reasonable documented basis.

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Is time and effort required for employees working on a single cost objective?

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A-87 Standards

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 Reports (PARs)

- 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

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T&E For Single Cost Objective Employees?

Lean Yes

- “Charges ... must be based on records that reflect the work performed” and “budget estimates ... alone do not qualify as support”, which continue to support the idea of having after-the-fact confirmation of an employee’s work, even if that work is on a single cost objective. 2 CFR 200.430(i)(1).

Lean No

- Additional time and effort documentation is only needed to “support the distribution of the employee’s salary or wages among specific activities or cost objectives [plural]...”. 2 CFR 200.430(i)(1)(vii) (emphasis added).

T&E For Single Cost Objective Employees?

- Compliance Supplement 2021:
 - “For an employee who works solely on the consolidated administrative cost objective, an SEA or LEA is not required to maintain records reflecting the distribution of the employee’s salary and wages among the programs included in the consolidation.”
 - “For an employee who works solely on a single cost objective (e.g., a single federal program whose funds have not been consolidated or federal programs whose funds have been consolidated but not with state and local funds), an LEA is not required to maintain records reflecting the distribution of the employee’s salary and wages, including among the federal programs included in the consolidation, if applicable.”

ESSER/GEER Time and Effort

- “[A]uditors should note that SEAs, LEAs, IHEs, and other subrecipients will not need to maintain time distribution records.” – 2020 Compliance Supp.
 - 2 CFR 200.430(i) applies to ESSER/GEER funds, but notes that there are “very few situations” in which this would apply
- “[A]uditors should note that SEAs, LEAs, IHEs, and other subrecipients **must maintain time distribution records** for all employees including when an individual employee is splitting their time between activities that are allowable and unallowable under all ESF programs.” - Aug 2021 Comp. Supp.

ESSER/GEER Time and Effort (Dec. 2021)

- Subject to 200.430(i)
- “[A]n LEA must maintain time distribution records (sometimes called “time and effort” reporting) if an individual employee is splitting their time between activities that may be funded under ESSER or GEER and activities that are not allowable under ESSER or GEER.”
 - “Very few situations” when this would be required

CCSSO Memo on T&E (Jan. 2022)

- Concludes no T&E beyond payroll necessary for single cost objective employees:
- "The first of the UGG's five criteria listed above can usually be satisfied through payroll, accounting, and related systems."
- "Time distribution records are not needed when an employee works on one 'cost objective.'"
- "State educational agencies (SEAs) and local educational agencies (LEAs) must keep records that meet certain federal standards to support the use of ESSER funds for employee compensation. In general, SEAs and LEAs can use existing payroll, accounting, and related systems to meet these requirements."

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Is T&E Documentation Required for Single Cost Objective Employees?

- To be determined...
- Unclear whether ED /Auditors will accept the argument that payroll documentation meets the requirements of 2 CFR 200.430(i)(1)(i)-(v).
- ED putting together cross-departmental workgroup to respond to CCSSO memo, as well as **AEFFA letter** (from 2016).

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AEFFA Proposed T&E Flexibility

The Association of Education Federal Finance Administrator's (AEFFA) Proposals for New Time and Effort Systems (June 15, 2016)

1. Certification of Actual Time Worked
2. Blanket Certification
3. Official Record of Employee Activities
4. Electronic Submissions/Approvals
5. Roll-up Time and Effort Tracking
6. Allocation of Effort Using a Basis Other than Time



Certification of actual time worked

If an employee works on a single cost objective:

Semi-Annual Certifications

- After the fact;
 - Account for the total activity;
 - Signed by employee or supervisor; and
 - Every six months (at least twice a year).
- AEFFA Proposals
 - Annual Certification*

Certification of actual time worked

If an employee works on multiple cost objectives:

A-87 Rule: Personnel Activity Report (PAR)

- After the fact;
- Account for total activity;
- Signed by employee;* and
- Prepared at least monthly and coincide with one or more pay periods.**

AEFFA Proposals

- Signed by employee or supervisor with knowledge*
- PARs are Monthly or Quarterly**

Blanket certification

- A-87 Permissible Blanket Certification:
- Supervisor has firsthand knowledge of work performed by several employees:
 - He/she used a single certification listing all employees and the cost objective that they worked on and the time period covered

AEFFA Proposals:

- The above certification still acceptable documentation
- Additionally, supervisor with knowledge could sign a single certification attesting that the named employees all worked in accordance with their stated job descriptions

Official Record of Employee Activities (OREA)

- Requirements:
 - Clearly identifies all cost objectives at beginning of the year
 - Clearly identifies position and/or accounting codes
 - Single Cost Objective: OREA is sufficient documentation
 - Multiple Cost Objective: On an annual basis, employee or supervisor with knowledge certifies that the employee worked in accordance with the OREA
 - A position/activity change form is used to track changes in an employee's job or activities and ensure proper reconciliation/allocability

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Electronic submissions/approvals

Types of Electronic Submissions Include:

- On-line or electronic form submission where employee logs in and completes their time using a "check the box" system
- Email submissions from employee
- Electronic timesheets
- MUST have internal controls in place (passwords, records, etc.)

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Roll up time and effort tracking

Tracking Supervisors, Clerical, and Support Staff

- This was permissible under A-87 with permission (as a substitute system).
- AEFFA Proposal: This is permissible under the new standard (and would not be a substitute system so no permission needed).
- Time spent by a supervisor on purely supervisory activities may be allocated based on the average time allocations of the supervised employees.

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Allocation of effort using a basis other than time

Allocability

- When an employee benefits multiple cost objectives in a way that is indistinguishable, may determine the allocability of time using "any reasonable basis".
- If proportions cannot be determined because of the interrelationship of the work involved, costs may be allocated on "any reasonable documented basis".
- **Meaning – you can use a measure other than time!**

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ED Response? Cost Allocation Guide 2019

- “More flexible and less burdensome time and effort reporting systems could be implemented”
- “Would not need cognizant agency approval to use these approaches”

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Cost Allocation Guide (cont.)

- “The uniform guidance elevated the role of internal controls”
- “[I]t also establishes critical parameters within which that flexibility must be exercised”
- “[Charges] must be based on records that accurately reflect the work performed, must be supported by system of internal controls, and meet the other general requirements in 2 CFR 200.430(i)”
- “Department grantees that do not adhere to these parameters in documenting personnel expenses charged to federal grants could face questioned costs in audit findings”

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Cost Allocation Guide (cont.)

- Time and Effort Procedures
 1. Completion of time and attendance reporting
 2. Approval cycle that is required
 3. Processing of personnel charges to federal awards; and
 4. Internal review process that will be established to ensure effective internal control over the award

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Compliance 2 CFR 200.430(i) (2)

- 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).

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Noncompliance 2 CFR 200.430(i) (8)

- ED may require **personnel activity reports (PARs)**, including prescribed certifications or equivalent documentation that support the records as required in this section (200.430(i)).



In the meantime...

- Follow your existing policies and procedures
- Work with cognizant agency for indirect (SEA / ED) if interested in implementing flexibilities
- Keep an eye out for ED's guidance

Documentation & Internal Controls



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Allowability Documentation

- ❖ Retention Requirements For Records – **2 CFR 200.334** (new citation!)
 - Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a **period of three years** from the date of submission of the final expenditure report.
 - Watch Statute of Limitations! (Example, USDE = 5 years under the General Education Provisions Act)

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Written Procedures: Must or Should?

- | | |
|--|---|
| <ul style="list-style-type: none"> ▪ Cash Management Procedures - 200.302(b)(6) & 200.305 ▪ Allowability Procedures - 200.302(b)(7) ▪ Managing Equipment – 200.313(d) ▪ Conflicts of Interest Policy - 200.318(c) ▪ Procurement Procedures - 200.320 <ul style="list-style-type: none"> ▪ Method for Conducting Tech Evals of Proposals ▪ Establishment of thresholds ▪ Travel Policy - 200.475(b) (new citation) | <ul style="list-style-type: none"> ▪ Time and Effort Procedures - "essential" ED, Cost Allocation Guide (agency specific) ▪ Subrecipient Monitoring Procedures – required by Compliance Supplement ▪ Grant Application Procedures ▪ Record Retention Procedures ▪ Audit Resolution Procedures ▪ Program-specific Procedures |
|--|---|

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How to Maintain Documentation?

- ❖ When original records are electronic and cannot be altered, there is no need to create and retain paper copies. (UGG Section 200.336 (new citation))
- ❖ 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.

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Single Audit Requirements

Subpart F of Part 200

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Annual Single Audits

- Expending \$750,000 or more in federal funds in a year (200.501)
 - Must have single audit
 - Follow procurement rules in selecting auditor
 - Implement Corrective Action Plans
 - Major Programs (200.518)
- Report any material weaknesses in internal controls or questioned costs greater than \$25,000 (200.516)
- Cooperative Audit Resolution (200.1 & 200.513)
- Pass-Through Management Decisions (200.521)
 - Within six months of report being uploaded to FAC

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Question

When must a non-federal entity have a single audit?

- A. It receives \$300,000 or more in a fiscal year
- B. It expends \$300,000 or more in a fiscal year
- C. It receives \$750,000 or more in a fiscal year
- D. It expends \$750,000 or more in a fiscal year

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2021 Compliance Supplement

- https://www.whitehouse.gov/wp-content/uploads/2021/08/OMB-2021-Compliance-Supplement_Final_V2.pdf
- Released on August 13, 2021
- 1,788 Pages



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OMB Compliance Supplement Compliance Requirements

- | | |
|--|--|
| 1. Activities Allowed or Unallowed | 7. Period of Performance |
| 2. Allowable Costs/Costs Principles | 8. Procurement and Suspension & Debarment |
| 3. Cash Management | 9. Program Income |
| 4. Eligibility | 10. Reporting |
| 5. Equipment & Real Property Management | 11. Subrecipient Monitoring |
| 6. Matching, Level of Effort, Earmarking | 12. Special Tests & Provisions |



ESSER Allowable Costs/ Cost Principles

- Defers to general cross-cutting allowability requirements.
- For ESSER I, ESSER II, ESF-SEA, ESF II-SEA Funds, auditors should refer to the Cost Principles for States, Local Governments, and Indian Tribes.
 - SEAs, LEAs, IHEs and other subrecipients must maintain time distribution records for all employees including when an individual employee is splitting their time between activities that are allowable and unallowable under all ESF programs.
- CARES and CRRSA authorize grantees to continue to pay employees and use funds to protect education-related jobs; including paying staff who are on leave because schools are closed due to COVID-19.
 - Accordingly, ESSER and GEER funds may be used for that purpose even in the absence of a policy that specifically addresses these circumstances.

ESSER Allowable Costs/ Cost Principles (cont.)

- Determine whether the organization complied with the provisions of 2 CFR Part 200) as follows: Direct charges to federal awards were for allowable costs.
 - Costs did not consist of improper payments, including (1) payments that should not have been made or that were made in incorrect amounts (including overpayments and underpayments); (2) payments that do not account for credit for applicable discounts; (3) duplicate payments; (4) payments that were made to an ineligible party or for an ineligible good or service; and (5) payments for goods or services not received (except for such payments where authorized by law).
 - Costs were necessary and reasonable for the performance of the federal award and allocable under the principles of 2 CFR Part 200, Subpart E.
 - Costs were adequately documented.

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ESSER Equipment/Real Property Management

- For capital equipment or improvements to land, buildings, or equipment that were purchased with grant funds, the governor or SEA pass-through agency must provide prior approval to subrecipients.
- For construction, the pass-through entity must have considered applicable ED construction requirements as part of the pass-through entity's prior approval process for construction.
 - Approved construction projects must comply with all other applicable Uniform Guidance requirements, as well as the ED's regulations regarding construction, as applicable, at 34 CFR section 76.600.
 - For construction contracts over \$2,000 must meet Davis-Bacon prevailing wage requirements

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ESSER Equipment/Real Property Management

- Defers to cross-cutting section on requirements.

Non-federal entities other than states must follow 2 CFR sections 200.313(c) through (e)

- Determine whether the non-federal entity maintains proper records for equipment and adequately safeguards and maintains equipment.
 - Identify equipment acquired and trace selected purchases to the property records. Verify that the property records contain the required information.
 - Verify that the required physical inventory of equipment was performed. Test whether any differences between the physical inventory and equipment records were resolved.
- Determine whether disposition is in accordance with federal requirements and that the federal awarding agency was properly compensated for its portion of any property, as required.

ESSER Reporting

- Recipients who make first-tier subawards of \$30,000 or more are required to register in the Federal Funding Accountability and Transparency Act (FFATA) Subaward Reporting System (FSRS) and report subaward data through FSRS.
 - Auditors should review the compliance of the direct recipient with the reporting requirements of 2 CFR Part 170 and the accuracy of the amount reported by the recipient.

ESSER Special Tests and Provisions

- Equitable services – follow equitable services under Title I,A
 - Determine whether (1) the LEA, SEA, or other agency receiving ESEA funds has conducted timely consultation with private school officials to determine the kind of educational services to provide to eligible private school children, (2) the planned services were provided, and (3) the required amount was used for private school children.
 - Review meeting minutes, expenditures, allocation amounts, third party contracts (as applicable),
- EANS

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Test Time!

166

Question 1

What does EDGAR stand for?

- A. Education Department Grant Award Rules.
- B. Education Department Grantees Administrator's Rights.
- C. Education Department General Administrative Regulations.
- D. Every Darn Grant Administrator Rocks!

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Question 2

A federal grants administrator cannot be personally liable if they are doing what their boss tells them to do?

- A. True
- B. False



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Allowability



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Question 3

Identification of the period of performance in a federal award commits the awarding agency to fund the award ____?

- A. Beyond the currently approved budget period.
- B. Only to the currently approved budget period.
- C. Up to the currently approved budget period and any subsequent budget period.
- D. To any budget period planned by the grantee.

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Question 4

When determining whether a cost is necessary a grantee should consider:

- A. Whether they want to charge the cost to the grant.
- B. Whether or not they can prove the expenditure addresses or fulfills a requirement of the federal program in question.
- C. Whether or not they already have the item they plan to purchase.
- D. B and C

171

Question 5

Which of the following is **not** something to consider when determining whether a cost is reasonable?

- A. Whether the purchase deviates significantly from established practices.
- B. Whether the cost is generally recognized as ordinary and necessary for the performance of the award.
- C. Whether the price is the market price.
- D. Whether the cost can be shared with another program.

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Question 6

A district shares the use of a printer amongst its Title I, Title II, and IDEA programs. The district should document the use of the printer by:

- A. Assigning a print code to each program.
- B. The district does not need to document the use of the printer by each program.
- C. Develop a system that reflects each program's use of the printer.
- D. A or C

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Question 7

Expenditures on food using ED grants are _____

- A. Allowable because ED guidance prohibiting expenditures on food did not go through the formal rulemaking process.
- B. Unallowable because expenditures on food are prohibited by ED guidance.
- C. Generally unallowable because expenditures on food are usually not necessary for the performance of the award.
- D. Unallowable because expenditures on food are always unreasonable.

174

Question 8

A District uses a credit card with cash back rewards. What does the District have to do with the rewards?

- A. All rewards over \$500 must go back to the grant.
- B. The cash back must be used for any District-level administrative costs.
- C. All cash back must be credited back to the appropriate grant.
- D. The use of such credit cards is prohibited.

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Question 9

You go to Best Buy to purchase a \$350 tablet and learn that they are offering a \$100 rebate on all tablets! You purchase the tablet and get the rebate. How much may you charge the federal grant for the tablet?

- A. \$250
- B. \$350
- C. \$450
- D. You may not purchase the tablet from Best Buy as they are not an approved vendor.

176

Question 10

A non-federal entity operates a computer skills program with a local college using federal funds. The non-federal entity wants to reimburse parents participating in this program for parking. This expenditure is allowable if:

- A. The non-federal entity included the expense in its internal budget for the program.
- B. The non-federal entity received prior approval for the expense.
- C. You cannot reimburse parents directly.
- D. All of the above.

177

Time and Effort



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Question 11

The UGG requires that time and effort records must:

- A. Reasonably reflect the total activity for which an employee is compensated.
- B. Be completed, signed, and submitted monthly.
- C. Be supported by a system of internal controls.
- D. A & C only
- E. None of the above. Only employees who spend 100% of their time on federal grants must keep time and effort records.

179

Question 12

An administrator paid with federal funds spent 40% of their time working on IDEA administration and 60% on non-federal activities. The administrator must:

- A. Maintain time and effort documentation reflecting that they worked on one cost objective.
- B. Maintain time and effort documentation reflecting that they worked on at least two cost objectives.
- C. Does not need to maintain time and effort documentation.
- D. Only needs to maintain time and effort documentation if their work is being used to match a federal contribution.

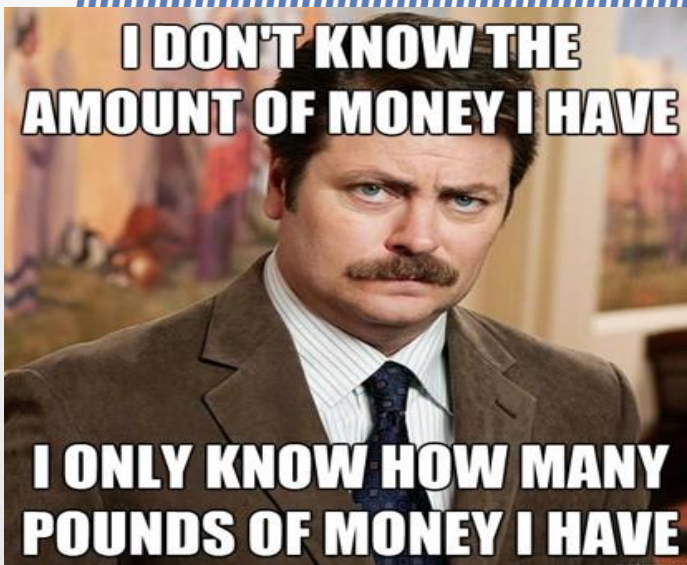
180

Question 13

Which individuals paid with federal funds need to keep time and effort records?

- A. A part time employee spending 50% of her time working on federal grants.
- B. A contractor spending 50% of her time working on federal grants.
- C. A full-time employee spending 50% of her time on federal grants.
- D. A and C only.
- E. None of the above. Only employees who spend 100% of their time on federal grants must keep time and effort records.

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Financial Management

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Question 14

A district that maintains an accurate budget complies with the financial management requirements of EDGAR.

- A. Yes
- B. Yes, because budget control is the key to grants management requirement.
- C. No, because grantees must also compare budgeted amounts to actual expenditures.
- D. No, because the budget doesn't matter.

183

Question 15

A school district contracts with a company to offer virtual instruction in its schools. The contract obligates to the federal award:

- A. On the date the services begin.
- B. On the first day of the grant.
- C. The date of the finalized contract.
- D. On the date services are completed.



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Question 16

Drawdown refers to _____ and disbursement refers to _____.

- A. Requesting and receiving funds from the federal government; giving funds to employees, vendors, and other payees to liquidate obligations.
- B. Requesting funds from the awarding agency; receiving funds from the awarding agency.
- C. Receiving funds from the awarding agency; approving costs associated with a budgeted amount.
- D. Liquidating obligations incurred by recipients to support a federal program; submitting all financial, performance, and other reports as required by the terms and conditions of the federal award.

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Question 17

The grant began on July 1st, but your district did not get their grant approved until August 1st. All charges prior to August 1st are therefore pre-award costs. Pre-award costs are only allowable to the extent they would have been allowable and:

- A. There is a public emergency that will not permit delay.
- B. With written approval from the federal awarding agency.
- C. Nothing else is required.
- D. The cost does not exceed \$5,000.

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Question 18

After an audit of a large school district, the auditor found that the district failed to keep records that identified the source of federal award money and current financial obligations and expenditures. Which of the following best captures the auditor's findings?

- A. Internal control weaknesses
- B. Inadequate accounting records
- C. Incomplete disclosure of financial results
- D. A and B

187

Question 19

A district submitted its final performance report to the state 45 days after the end of the period of performance. The state now has ____ days to submit the final performance report to ED:

- A. 45
- B. 60
- C. 75
- D. 120
- E. Request an extension from ED

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Procurement



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Question 20

Your state law requires competitive proposals for all purchases over \$50,000. For your Federal grant, you must:

- A. Only submit competitive proposals for all purchases over \$250,000 because that is what EDGAR requires.
- B. Submit competitive proposals for all purchases.
- C. Submit competitive proposals for purchases over \$50,000.
- D. Submit competitive proposals for purchases over \$10,000, the micro-purchase threshold.

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Question 21

The former spouse of a district employee runs a hardware company that the district plans to use for its next large purchase of maintenance supplies. The district's policy on conflicts addresses former spouses. May the district continue with the purchase?

- A. Yes, because former spouses automatically do not create a conflict.
- B. Yes, but only if the policy allows for it and the district should screen the employee from the procurement if necessary.
- C. Yes, but only if the interest is not detrimental to the district.
- D. No, because there is an apparent conflict that could potentially affect the award.

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Question 22

Grantees and subgrantees may sole source procurement from a vendor as long as that vendor was included in an approved application.

- A. True
- B. False



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Question 23

A district wants to use “Numbers R Us” for all its Title I math needs (valued over \$15,000) and has no interest in bidding it, this is allowable if:

- A. Numbers R Us has the best reviews.
- B. There are no other vendors in the District.
- C. The district believes they are best vendor for the job.
- D. The State allows it.
- E. All of the above are allowable.

193

Question 24

You entered into a contract with Accel History, LLC a year ago. Last month, after checking SAM.gov, you discovered they had been debarred for fraud. What must you do with 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...
- E. A or B

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Inventory Management



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Question 25

To meet equipment management requirements, a nonfederal entity must:

- A. Take physical inventory every two years.
- B. Investigate all incidents of loss, damage, or theft.
- C. Maintain property records that include a description of the property, a serial or other identification number, the source of funding, acquisition date and cost.
- D. All the above
- E. None of the above. Equipment management is left to the discretion of the nonfederal entity through its policies and procedures.

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Question 26

A local agency purchased several iPads using federal funds for a digital only design school. The school has closed, and the iPads are no longer needed in any program. The local agency should:

- A. Use the iPads in another federal education program.
- B. Sell the iPads and if valued over \$5,000 pay the federal share.
- C. Give the iPads to the staff as a going away gift.
- D. A and B
- E. None of the above. You should never buy iPads with federal funds.

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Question 27

An LEA no longer needs a piece of equipment purchased for a Perkins program. Which of the following may the equipment be used for?

- A. Other programs supported by ED funds.
- B. A school Head Start program (HHS), but only if the ED programs no longer need it.
- C. Both A and B
- D. Neither. The equipment needs to be disposed of.

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Record Retention



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Question 28

When the original records are electronic and cannot be altered, there is no need to create and retain paper copies.

- A. True
- B. False

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Question 29

The UGG mandates that records be kept for 3 years subject to certain exceptions. However, we should ignore the UGG and maintain records for ____ years.

- A. 1
- B. 3
- C. 5
- D. 7

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Question 30

Which of the following policies and procedures is not required to be in writing under EDGAR?

- A. Employee benefits
- B. Procurement
- C. Allowable costs
- D. A & B, only
- E. B & C, only

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