



The
Administrator's
Handbook on
EDGAR
5th Edition



EDGAR Workshop

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Recent OIG Investigations



Former President of Madison District Public Schools Board and Local Contractor

Indictment of bribery scheme in which contractor paid \$560,000 in bribes to school board president in exchange for \$3.1 million in school contracts.

- Bribery payments covered vacations to FL, boat slip

Contracts were for maintenance and construction projects in the district; “pay to play” policy

Faces up to 10 years prison for each of 3 bribery charges; restitution payment

Former Athens City Schools Administrator – Alabama Virtual Education Fraud Scheme

Fraudulently enrolled students in virtual public education school;
reported students to AL State Dept of Ed

Ordered to pay restitution in the amount of \$1,303,514

Sentenced to 66 months in federal prison



Recent Audit Findings

ED OIG HEERF Audit: Lincoln College

Findings:

1. Did not adequately document eligibility determinations for a small number of students.
2. Improperly applied \$700K of institutional grant funds to credit 461 students' accounts for rent the students paid to third party landlords during campus closure*.
3. Improperly used \$9K for software subscriptions that extended beyond the 1-year period of performance*.
4. Did not follow cash management requirements—did not minimize time between drawing down and disbursing HEERF funds, nor deposit excess funds in an interest-bearing account.

*Note: After the Department presented its findings, Lincoln reallocated the questioned costs to other expenditures they believed were eligible.

Lincoln College: Period of Availability Finding

Questioned a software subscription that extended past the grant performance period:

“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.”

ED OIG HEERF Audit: Remington College

Findings:

1. Improperly used \$80K of institutional funds to purchase multiyear software subscriptions that extend beyond the grant period.
2. May have improperly used \$64K of institutional grant funds to cover costs associated with its purchase of student computers.
3. Did not always use a competitive procurement process for institutional grant purchases over \$10K.
4. Did not follow cash management requirements—did not minimize time between drawing down and disbursing HEERF funds, nor deposit excess funds in an interest-bearing account.

Remington College: Period of Availability Finding

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.”

Remington College: Procurement Finding

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.”

ED OIG GEER Audit: Oklahoma

Findings:

1. OK did not award all of its GEER funds in accordance with the CARES Act.
2. GEER monitoring process needs strengthening as it did not include a review of supporting documentation for information contained in weekly statute reports resulting in unallowable costs of a GEER initiative including TVs, air conditioners, and Christmas Trees.
3. Did not follow cash management requirements—drew down its entire GEER award without any immediate cash need at the time of the draw down. .

ED OIG GEER Audit: Oklahoma OIG Recommendations

Examples of OIG recommendations:

- Monitoring procedures for reviewing supporting documentation for GEER grant expenditures
- Return \$652,720 in questionable expenditures or provide show that the expenditures are education-related
- Perform a 100-percent review, or review a statistical sample, of the \$5,473,894 to determine whether the expenditures were allowable, and if applicable, return the funds for any unallowable expenditures to ED

ED OIG GEER Audit- 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

Finding re calculation of “most impacted” by coronavirus

- OIG determined a calculation error that resulted in a re-ranking of most-impacted LEAs, and reallocation of GEER funds

ED OIG GEER Audit – Missouri OIG Recommendations

Examples of OIG recommendations:

- Provide the formulas used to calculate the reallocation amount (without the info, OIG indicated it wasn't able to determine if reallocations were correct)
- Include “medium-risk LEAs” for a review of supporting documentation of expenditures
- Written procedures for monitoring process, including detail of internal controls to monitor expenditures of grant-funded initiatives

What Is EDGAR?

Education Department General Administrative Regulations

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



New Book, Same Regs? [Not exactly]

NEW! Fifth Edition

- Updated introduction
- Includes GEPA excerpts
- 2020 Revisions - 2 CFR Part 200 (Uniform Guidance)
- Updated Guidance section

The
Administrator's
Handbook on
EDGAR
5th Edition



What's in this EDGAR Book?

- (p. 1) – General Education Provisions Act (GEPA) (excerpts)
- (p. 27) – Direct Grant Programs – 34 CFR Part 75
- (p. 60) – State-Administered Programs – 34 CFR Part 76
- (p. 92) – GEPA Enforcement Provisions – 34 CFR Part 81
- (p. 104) – Uniform Guidance – 2 CFR Part 200
- (p. 230) – Non-procurement Debarment and Suspension – 2 CFR Part 3485
- (p. 236) – Selected Guidance



Direct Grant and State Administered Programs

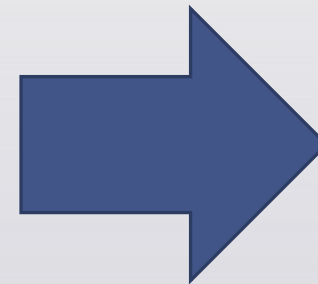
34 CFR Part 75 – (p. 27)

34 CFR Part 76 – (p. 60)

Direct Grant Programs 34 CFR Part 75

- Applicability and eligibility 75.1, 75.60 (p. 30, 32)
- Group applications and legal responsibilities of group members 75.127, 75.129 (p. 36)
- One-year extension, no approval 75.261 (p. 47)
- Use of consultants 75.515 (p. 49)
- Use of a grant for construction 75.600 (p.53)

-
- Eligibility of faith-based organizations 75.52 (p. 30)
 - Nondiscrimination Requirements 75.500 (p.48)
 - General costs principles 75.530 (p. 50)
 - Compliance with statutes, regs 75.700 (p. 55)
 - Obligation of funds 75.703 – 75.707 (p. 56)
 - Record retention 75.730 – 75.731 (p. 58)



**Same
Requirements
as Part 76**



State-Administered Programs 34 CFR Part 76

- Applicable Programs 76.1 (p. 63)
- Statutes Determine Eligibility for Subgrants 76.50 (p.63)
- Eligibility of faith-based organizations 76.52 (p. 63)
- LEA general application 76.301 (p. 70)
- Disapproval of an application 76.401 (p. 70)
- Nondiscrimination Requirements 76.500 (p. 72)
- Records related to grant funds and compliance 76.730, 76.731 (p. 87)



State-Administered Programs 34 CFR Part 76 (cont.)

- General cost principles 76.530 (p. 73)
- Acquisition of real property; construction 76.533, 76.600 (p. 74, 76)
- Funds not to benefit a private school 76.658 (p. 78)
- Compliance with statutes, regs 76.700 (p. 81)
- When obligations are made 76.707 (p. 84)
 - Pre-award costs 200.210 (p. 127); 200.458 (p. 178)
- When certain subgrantees may begin to obligate funds 76.708 (p. 84)
- Funds may be obligated during a “carryover period” 76.709 (p. 85)
- Obligations made during a carryover period 76.710 (p. 85) / GEPA Sec. 421(b) (p. 4)

Uniform Grant Guidance

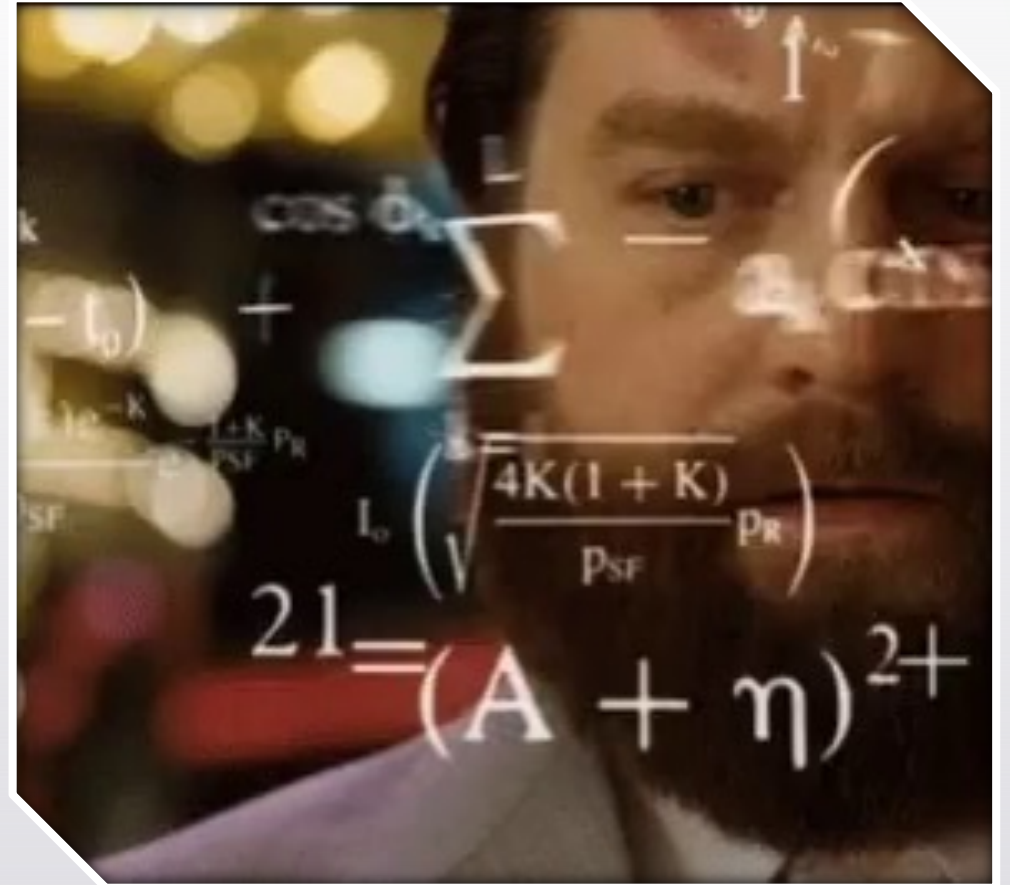
2 CFR Part 200 – (p. 105)

Uniform Grant Guidance – (p. 105)

- Subpart A – Acronyms and Definitions (p. 108)
 - Examples changes: added “budget period”, “renewal award”, revised period of performance, etc.
- Subpart B – General Provisions (p. 118)
- Subpart C – Pre-federal Award Requirements and Contents of Federal Awards (p. 123)
- Subpart D – Post Federal Award Requirements Standards for Financial and Program Management (p. 130)
- Subpart E – Cost Principles (p. 153)
- Subpart F – Audit Requirements (p. 184)

Financial Management

2 CFR 302(b)
(p. 130)





Standards for Financial and Program Management

- Financial Management 2 CFR 200.302 (p. 130)
 - 200.302(a) States
 - 200.302(b) Everyone else
 - (1) Identification of awards;
 - (2) Financial reporting per 200.328 and 200.329 (p. 145);
 - (3) Accounting records;
 - (4) Internal controls 200.303 (p. 131);
 - (5) Budget controls, 200.308 (p. 135);
 - (6) Written cash management procedures 200.305 (p. 131);
 - (7) Written allowability procedures 200.403 (p. 154)
- Federal Payment 2 CFR 200.305 (p. 131)

Procurement

2 CFR 200.317 – 200.327
(p. 140)



Procurement Standards

- Procurement by states 200.317 (p. 140)
- General Procurement Standards 200.318 (p. 140)
- Competition 200.319 (p.141)
- Methods of procurement 200.320 (p. 142)
 - Informal procurement methods 200.320(a);
 - Micro-purchase 200.1 (p.115)
 - Formal procurement methods 200.320(b);
 - Simplified acquisition threshold (p.117)
 - Noncompetitive procurement 200.320(c)



Procurement Standards and Reporting

- Domestic Preferences 200.322 (p.144)
- Awards to responsible contractors 200.318(h) (p. 141)
- Suspension and Debarment 200.214 (p. 129)
 - 2 CFR 180.300; 180.220
 - (a) Checking SAM Exclusions; or
 - (b) Collecting a certification; or
 - (c) Adding a clause or condition to the contract.
 - 34 CFR 3485.310 – (p. 231)

Inventory Management

2 CFR 200.313
(p. 138)



Inventory Management – (p. 137)

- Definitions 200.1
 - Equipment (p. 111)
 - Supplies (p. 118)
 - Computing devices (p. 110)
- Equipment 200.313 (p. 138)
 - Use 200.313(b)-(c)
 - Management and inventory 200.313(d)
 - Disposition 200.313 (e)
- Supplies 200.314 (p. 139)
 - Disposition 200.314(a)


Allowability

2 CFR 200.403
(p.154)



Cost Principles – (p. 153)

- Factors affecting allowability 200.403 (p. 154)
- Applicable credits 200.406 (p. 155)
- Prior written approval 200.407 (p. 156)
- Direct and Indirect (F&A) Costs 200.413 (p. 157); 200.414 (p. 158)
 - Restricted indirect cost rate information 34 CFR Part 76 (p. 74)
- Selected Items of Costs – (p. 161)
 - (Time and Effort) 200.430(i) (p. 164)
 - Cost Allocation Guide – Policies and procedures required (p. 264)
 - Telecommunications and video surveillance costs 200.471 (p. 182)
 - Travel 200.475 (p. 183)

A television test pattern featuring a grid of five colored squares: yellow, cyan, magenta, green, and red. A black rectangular box is superimposed over the center of the grid, containing white text. Below the grid, there is a black bar on the left and a grayscale gradient bar on the right.

WE INTERRUPT THE
REGULARLY SCHEDULED
PROGRAM TO BRING YOU
THIS IMPORTANT MESSAGE

Time and Effort
Deep Dive



Salary Allowability

- Must meet the general allowability rules and be necessary, reasonable, allocable to the federal award.
- Reasonable = compensation is consistent with that paid for similar work in the nonfederal entity or comparable to the labor market. 2 CFR 200.430(b)
- Allocable = time and effort documentation

Incentive Pay

- Allowable to the extent that the total compensation is determined to be reasonable AND
- Costs are paid or accrued pursuant to an agreement entered into good faith before the services were rendered or follow an established plan that is followed consistently. 2 CFR 200.430(f)

Why is time and effort documentation necessary? 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

Who is required to keep time and effort?

Are they an employee?			
Yes		No (e.g. contractors)	I don't know
Are they paid with federal funds?		No T&E Required	Ask HR
Yes	No		
T&E Required	Salary used for match?		
	No	Yes	
	No T&E Required	T&E Required	

Standards for Documentation of Personnel Expenses 200.430(i)(1)

Time and effort records MUST:

1. Be supported by a system of internal controls which provides reasonable assurance charges are accurate, allowable and allocable;
2. Be incorporated into official records;
3. Reasonably reflect total activity for which employee is compensated;
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.

1. Supported by a System of Internal Controls


What are the best controls?

- Anything that will go towards the veracity and accuracy of documentation supporting salaries
 - Signatures (not required but a good control)
 - Electronic signatures are allowable!
 - Documentation from person with first-hand knowledge
 - Periodic review and testing
- T&E Policies & Procedures
 - NEW: Required under ED's Cost Allocation Guide



2022 Compliance Supplement - Control Activities

- Supervisors review and approve efforts of personnel for allowability, adherence to cost principles, accuracy, and completeness.
- The information system configuration is set up such that invoices, payroll authorization forms and time sheets are only routed to personnel who have the authority to approve them for coding and payment.



2022 Compliance Supplement - Time and Effort Policies

- Written policies/procedures exist outlining processes and control activities for personnel costs coded to federal awards
- Management establishes responsibility and accountability for control activities with management (or other designated personnel) of the unit or function in which the relevant risks reside.
- Responsible personnel perform control activities in a timely manner as defined by policies and procedures.
- Management periodically reviews control activities to determine their continued relevance and refreshes them, as necessary.

ED's Cost Allocation Guide (Sept 2019)

- “Department grantees that do not adhere to these parameters in documenting personnel expenses charged to federal grants could face questioned costs in audit findings”
- “Written policies and procedures are essential to implementing an effective time reporting system.”

ED's Cost Allocation Guide (cont.)

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





Common Pitfall – Internal Control

1. Organization does not have time and effort policies and procedures
2. Practice diverges from policy
 - A. Missing signatures
 - B. Inconsistent record keeping
 - C. Lack of standardized forms
3. Using real time software and exhausting federal resources prior to the end of the funding period

2. Incorporated Into Official Records

- No federal standard
- However, YOUR non-federal entity maintains documentation, time distribution records **MUST** conform
- For subrecipients, may have specific requirements from pass-through



Common Pitfall – Official Records

1. Executing records prior to the end of the reporting period
2. Not appreciating the scope of the False Claims Act
 1. Northwestern Univ – \$5.5 million
 2. Johns Hopkins University - \$2.6 million
 3. Harvard University - \$3.3 million

3. Reasonably Reflect Total Activity

- Total activity includes all time and is not based on a 40hr workweek
- E.g. if your week is 60 hours total activity covers all 60 hours.



**"I always give 110% to my job —
40% on Monday, 30% on Tuesday, 20% on
Wednesday, 15% on Thursday and 5% on Friday."**

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

- All necessary adjustments must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated.
- Cannot overcharge the federal program!



Common Pitfall – Budgets

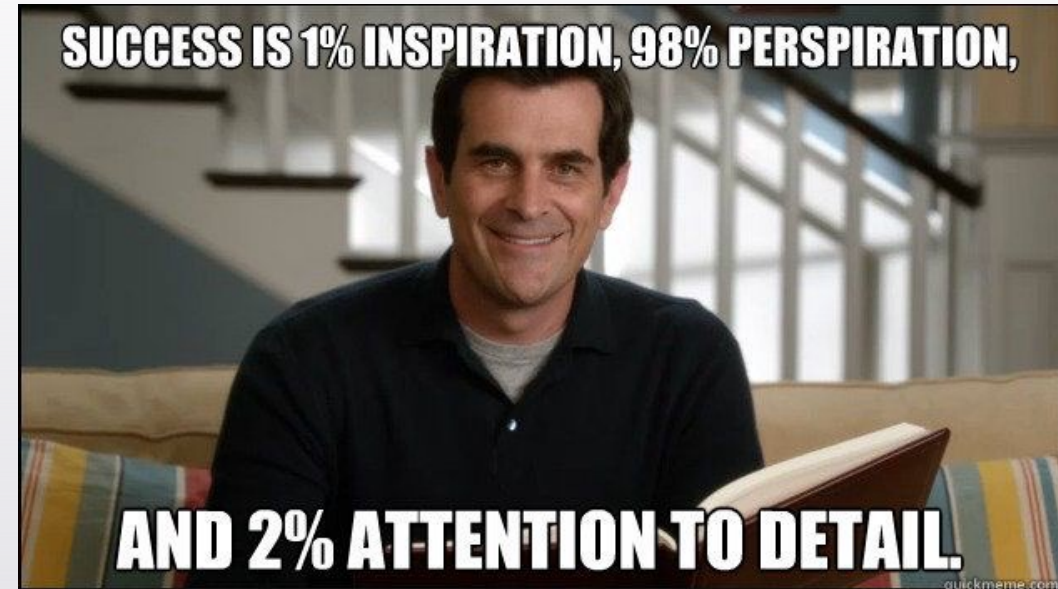
1. Time is allocated by percent of funding available or paid on budgets
 - E.g. 27.9% Grant A, 31.1% Grant B, 3.2% Grant C, 37.8% Grant D
2. Failing to reconcile based on actual effort
 - You can undercharge the federal program, but you cannot overcharge!

“Payroll costs were allocated to programs based on percentages provided by management and allocations were not supported by approved time samples or updated cost allocation methods/plans, or reconciled to actual time spent on various programs. Employee timesheets did not record the actual labor efforts expended on grants.”

- FTA Audit Management letter, sustaining single audit finding for City of Madera, CA, August 5, 2020

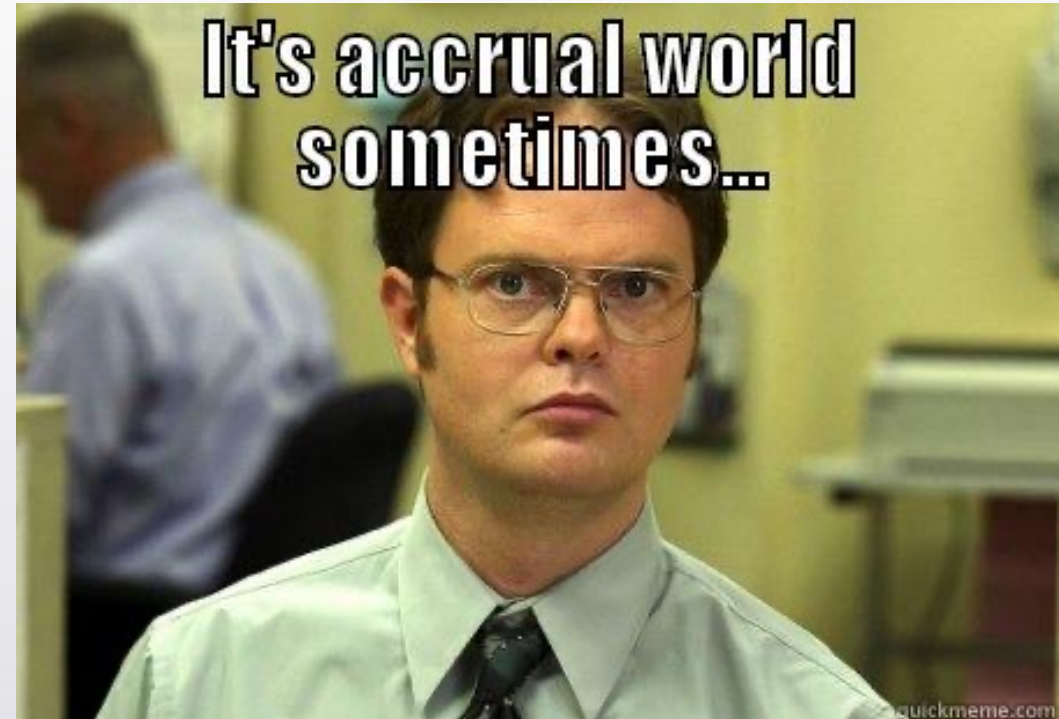
4. Encompass ALL Activities

- All 100% of effort must be recorded, regardless of federal vs. non-federal time.
- Salaries used for match must keep time and effort!



5. Comply With Established Accounting Policies and Practices

- Salary expenses, tracking and reconciliation should all follow the entity's standard accounting practices.
- Anomalies are red flags to auditors.



6. Track Time By Cost Objective

Cost Objective 200.1

- Program, function, activity, award, organizational subdivision, contract, or work unit for which cost data are desired ...
 - Examples: set-asides, mandatory spending caps, etc.

Pitfall – Not Understanding Cost Objectives

Correct

- Title I Admin
- Title I Program
- Title I Parent and Family Engagement
- Title I Equitable Services Admin
- Title I Equitable Services Program

Incorrect

- Title I
- Title II
- IDEA
- Perkins

Noncompliance 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)).



What about the OMB Circulars?

No longer apply! (But still are acceptable under the UGG)

- × OMB Circular A-87 (state and local gov't)
- × OMB Circular A-122 (nonprofits)
- × OMB Circular A-21 (institutions of higher education)

If using old circular standards...



**Do not cite to the old OMB
Circulars**



**Show how your current process
meets the UGG requirements.**

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



ESSER/GEER Time and Effort (April 2022)

- “The requirements in the Uniform Guidance apply to expenditures of ESSER funds, including the requirements related to documenting personnel expenses in 2 CFR section 200.430(i).
- “An LEA must maintain time distribution (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.”
- “However, there are very few situations when an employee of an LEA would perform multiple activities that are not allowable under ESSER or GEER, and thus would be required to maintain time distribution records, given that an LEA is authorized to use funds on “activities that are necessary to maintain the operation of and continuity of services in [an LEA] and continuing to employ existing staff of the [LEA]” in order to “prevent, prepare for, and respond to” the COVID-19 pandemic (Section 18003(d)(12))

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.”

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).

AEFFA Proposed T&E Flexibility

- The Association of Education Federal Finance Administrator's (AEFFA) Proposals for New Time and Effort Systems (June 15, 2016)
- Certification of Actual Time Worked
- Blanket Certification
- Official Record of Employee Activities
- Electronic Submissions/Approvals
- Roll-up Time and Effort Tracking
- Allocation of Effort Using a Basis Other than Time





Record Retention and Access

- Retention requirements for records 200.33⁴ (p. 149)
 - GEPA 81.31 (p. 97)
 - Records related to grant funds and compliance 75.730 – 75.731 (p. 58); 76.730, 76.731 (pg.87)
- Methods of collection, transmission and storage of information 200.33⁶ (p. 149)
- Access to records 200.33⁷ (p. 150)

Subrecipient Monitoring / Audit

- Subrecipient and Contractor Determinations 200.33¹ (p.147)
- Requirements for the pass-through entities 200.33² (p.147)
- Remedies for noncompliance 200.33⁹ (p. 150)
 - Specific conditions 200.20⁸ (p. 126)
- Expending \$750,000 or more in federal funds in a year (200.501) (p. 184)

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 |
|--|--|

Test Your Knowledge

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!



Allowability



Question 2

- 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 **2 CFR 200.1**
- C. Up to the currently approved budget period and any subsequent budget period
- D. To any budget period planned by the grantee

Question 3

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 price is the market price.
- D. Whether the cost can be shared with another program. **2 CFR 200.404**



Question 4

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 and C. 2 CFR 200.405

Question 5

- 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. Unallowable because expenditures on food are generally not necessary for the performance of a federal award 2 CFR 200.403(a); 200.404 – ED Guidance letter.
- D. Unallowable because expenditures on food are always unreasonable

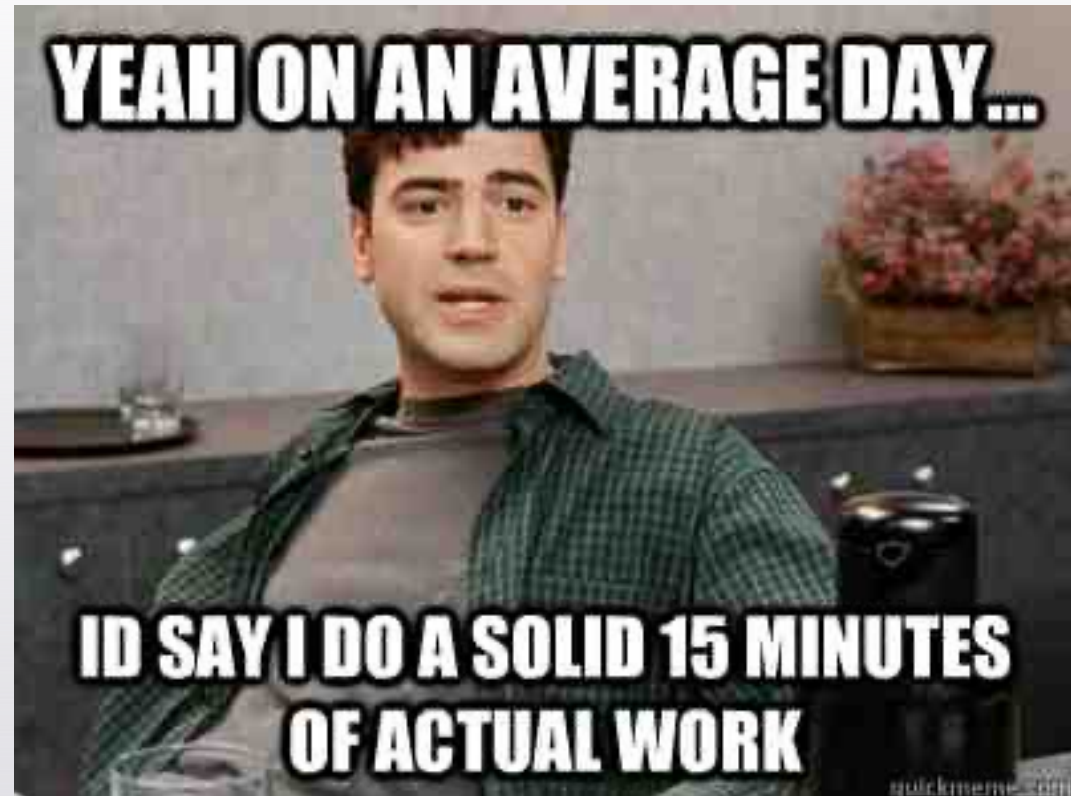
Question 6

To increase their assessment scores, Jones Elementary 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 under Title I?

- A. Yes
- B. No 2 CFR 200.403(a); 200.404 – ED Guidance letter.
- C. It Depends



Time and Effort



Question 7

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 weekly.
- C. Be supported by a system of internal controls.
- D. A & C only **2 CFR 200.430(i)(1)**
- E. None of the above. Only employees who spend 100% of their time on federal grants must keep time and effort records.



Question 8

An administrator spent 40% of his time working on IDEA administrative activities and 60% of his time working on non-federal activities. The administrator must:

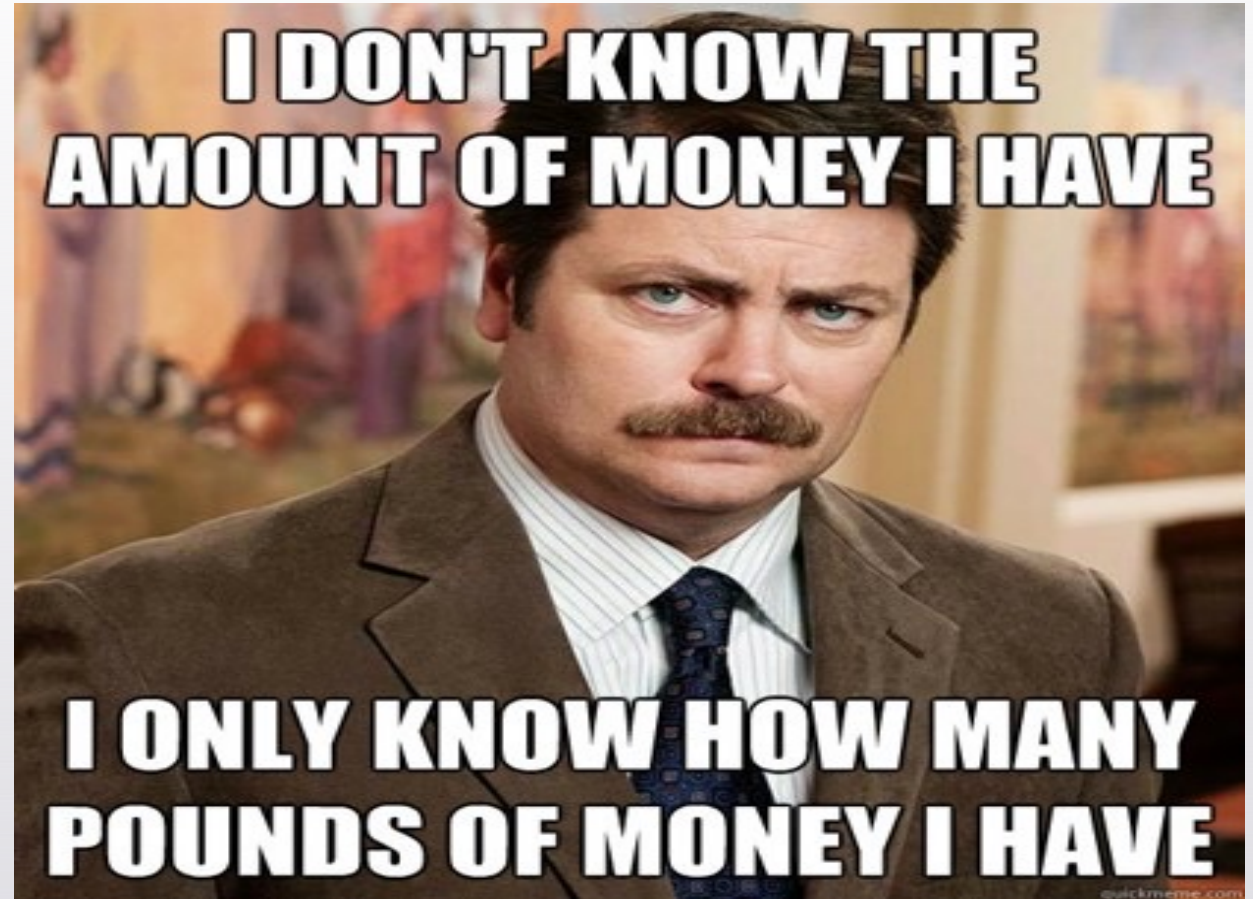
- A. Maintain time and effort documentation reflecting that he worked on one cost objective
- B. Maintain time and effort documentation reflecting that he worked on at least two cost objectives **2 CFR 200.430(i)**
- C. Does not need to maintain time and effort documentation
- D. Only needs to maintain time and effort documentation if his work is being used to match a federal contribution

Question 9

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% her time working on federal grants.
- C. A full time employee spending 50% of her time on federal grants.
- D. A and C only. 2 CFR 200.430(i)
- E. None of the above. Only employees who spend 100% of their time on federal grants must keep time and effort records.

Financial Management



Question 10

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. 34 CFR 76.707
- D. On the date services are completed.



Question 11

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 award agency. 2 CFR 200.309; 200.458
- C. Nothing else is required.
- D. The cost does not exceed \$5,000.

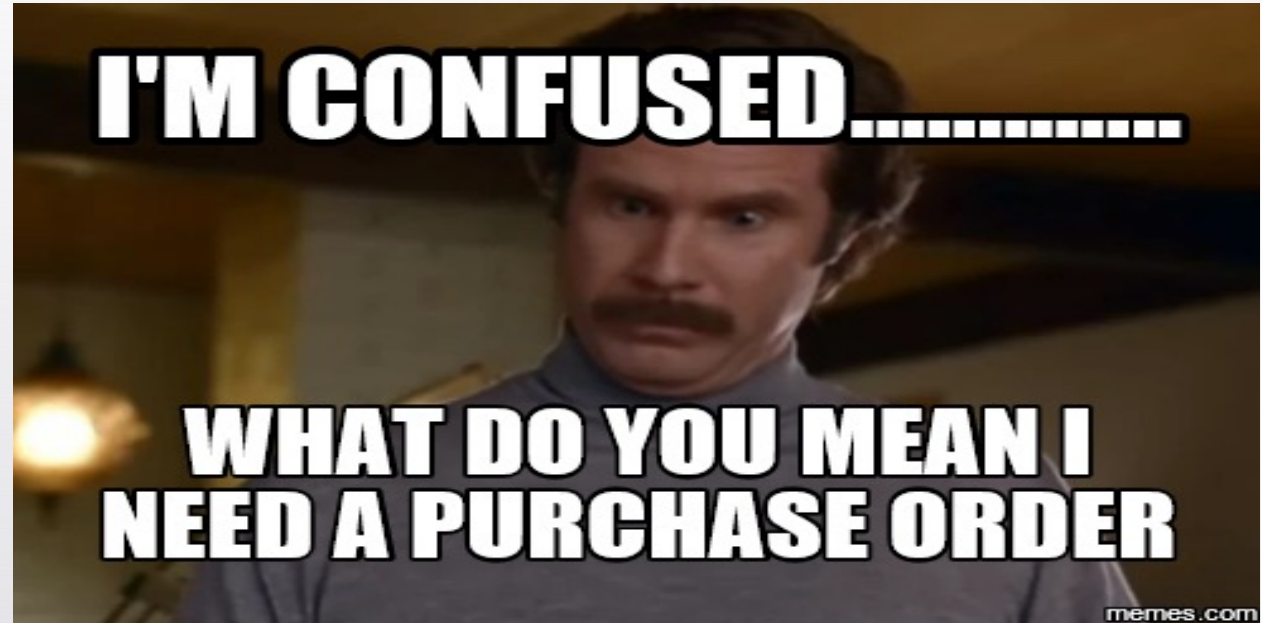


Question 12

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 2 CFR 200.329(c)(1); 200.302(b)(2)
- D. 120
- E. Request an extension from ED

Procurement



Question 13

Your state law requires competitive proposals for all purchases over \$150,000. For your Federal grant, you must:

- A. 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 over \$150,000. 2 CFR 200.318(a)
- D. Follow EDGAR and submit competitive proposals only for purchases over \$250,000.

Question 14

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 2 CFR 200.320(c)

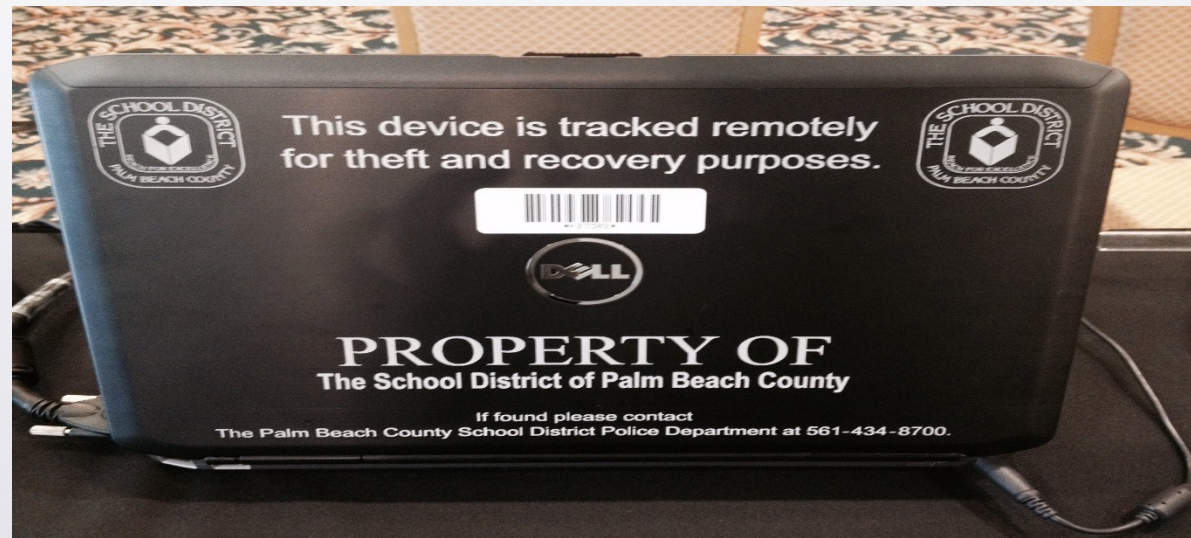


Question 15

A district wants to use “Numbers R Us” for all its Title I math needs (valued over \$257,000) and has no interest in bidding it, this is allowable as long as:

- 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 the noncompetitive selection. **2 CFR 200.320(c)**
- E. All of the above are allowable.

Equipment Management



Question 16

To meet equipment management requirements, a nonfederal entity must:

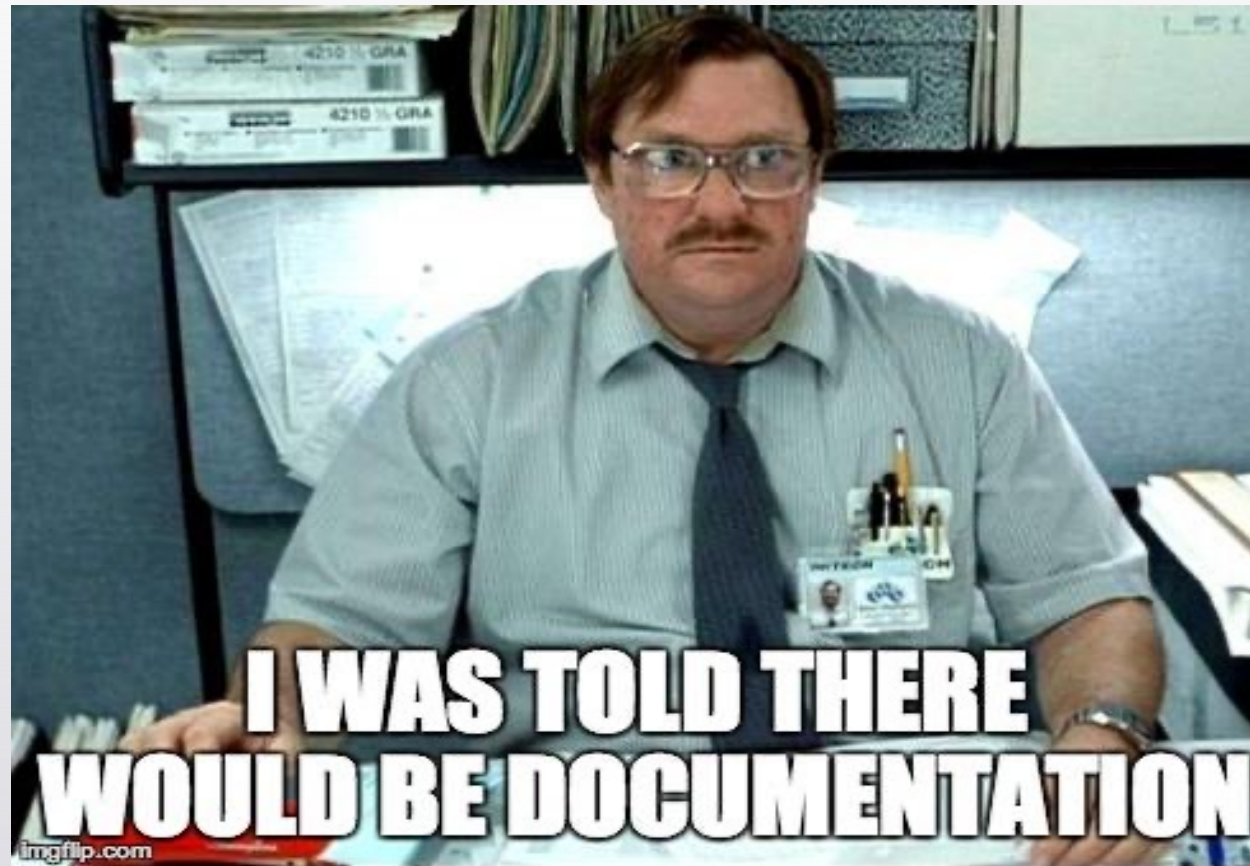
- A. Take physical inventory every two years.
- B. Investigate all incidents of loss, damage, or theft.
- C. Maintain property records that include a description of the property, a serial or other identification number, the source of funding, acquisition date and cost.
- D. All of the above **2 CFR 200.313(d)**
- E. None of the above. Equipment management is left to the discretion of the nonfederal entity through its policies and procedures.

Question 17

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. Retain the iPads in storage for a future project, if ever needed.
- B. Sell the iPads and if valued over \$5,000 pay federal share. 2 CFR 200.314(a)
- 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.

Record Retention



Question 18

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

A. True 2 CFR 200.336

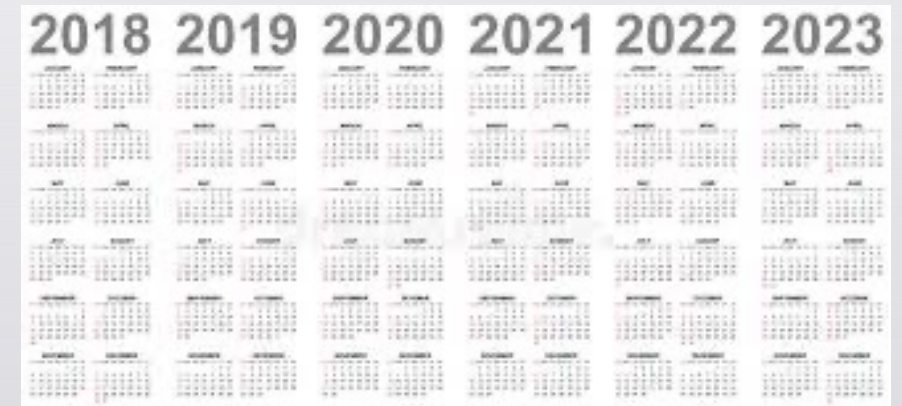
B. False



Question 19

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

- A. 1
- B. 3
- C. 5 2 CFR 200.334; GEPA 34 CFR 81.31
- D. 7



Question 20

How are you feeling about your EDGAR and UGG knowledge?

- A. Great! I'm now an expert!
- B. Much better, but I still have some things to learn.
- C. Good, my head is still spinning though.
- D. Who is EDGAR?



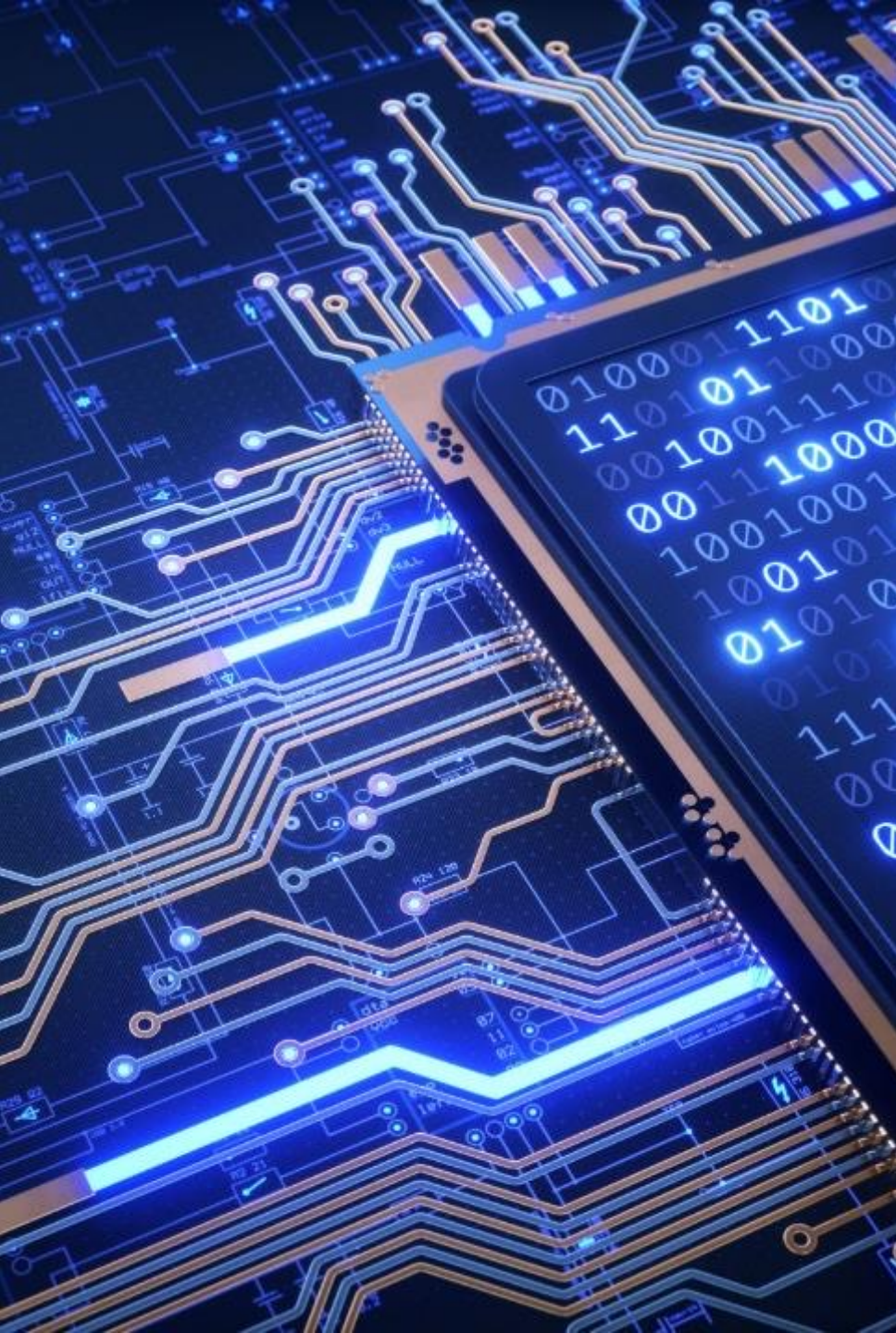


Cross Cutting Issues



Conducting Self-Assessment

<https://oese.ed.gov/offices/education-stabilization-fund/elementary-secondary-school-emergency-relief-fund/esser-comprehensive-monitoring-protocols/>



Why?

- 2 CFR 200.303
- 2 CFR 200.329(a)
- **GEER and ESSER Monitoring Reports**
<https://oese.ed.gov/offices/american-rescue-plan/performance-and-reporting/>
- **Required Action Internal Controls:** Lack of internal risk identification and assessment process, and a process for monitoring the operation of an organization's internal controls.
 - 60 days to create a process to identify and review internal controls of the agency.

How? SEA/LEA: Fiscal Self-Assessment and On-site/Desk Review Protocol

A. Accounting Systems and Fiscal Controls

B. Cash Management and Payment Systems

C. Period of Availability and Carryover

D. Internal Controls

E. Audit Requirements

F. Records and Information Management

G. Personnel

H. Procurement

I. Equipment and Supplies Management

J. Indirect Costs

K. Charter School Authorization and Oversight

SEA Self-Evaluation



How? LEA: ESSER Program Fiscal and Program Requirement Domains – Comprehensive Monitoring Subrecipient Self-Assessment

- **A. Budgeting and Subawards**

- Subtopics:
- Support for Development of LEA (OR OTHER SUBRECIPIENT) Budgets/Plans
- Budget Development Process

- **B. Award Process**

- Subtopics:
- Grant Award Notice
- Subaward Information Submission

- **C. Subrecipient Monitoring**

- Subtopics:
- Pre-Monitoring Process
- Monitoring Activities
- Post-Monitoring Process

- **D. Maintenance of Equity (MOEq)**

- Subtopics:
- MOEq Calculation/Review Process

- **E. Equitable Services – ESSER I only (for LEAs only)**

- Subtopics:
- Provision of Equitable Services
- Equitable Services Oversight and Guidance

Single Audit Review 200.501

- **2022 Compliance Supplement:**
https://www.whitehouse.gov/wp-content/uploads/2022/05/2022-Compliance-Supplement_PDF_Rev_05.11.22.pdf
- Released April 2022
- 1,968 Pages





OMB Compliance Supplement Compliance Requirements

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



So... how can
we prevent
being a news
story!???

How Do I Know If We Have Problems?

- “Because We’ve Always Done It That Way!”
- Magical Letters
- “I signed off on it because Joe did”
- Attempts to Circumvent Procedures or No procedures
- Missing Property
- Employees in the News!

Communication is Key

What you said...

- “Our policies are being drafted.”
- “We have a small staff, and many people have collateral duties.”
- “I need to check around to find that document.”
- “You can use my logon to review system records.”

What the Auditor Heard...

- The program may not be administered effectively. Let's increase our testing sample.
- No segregation of duties, potential for fraud.
- There is no document management system. The records are not accurate.
- There are no controls over systems. There is potential error, fraud and unauthorized use.

Test Your Internal Controls!! 200.303

The non-Federal entity **must**:

a. Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award.

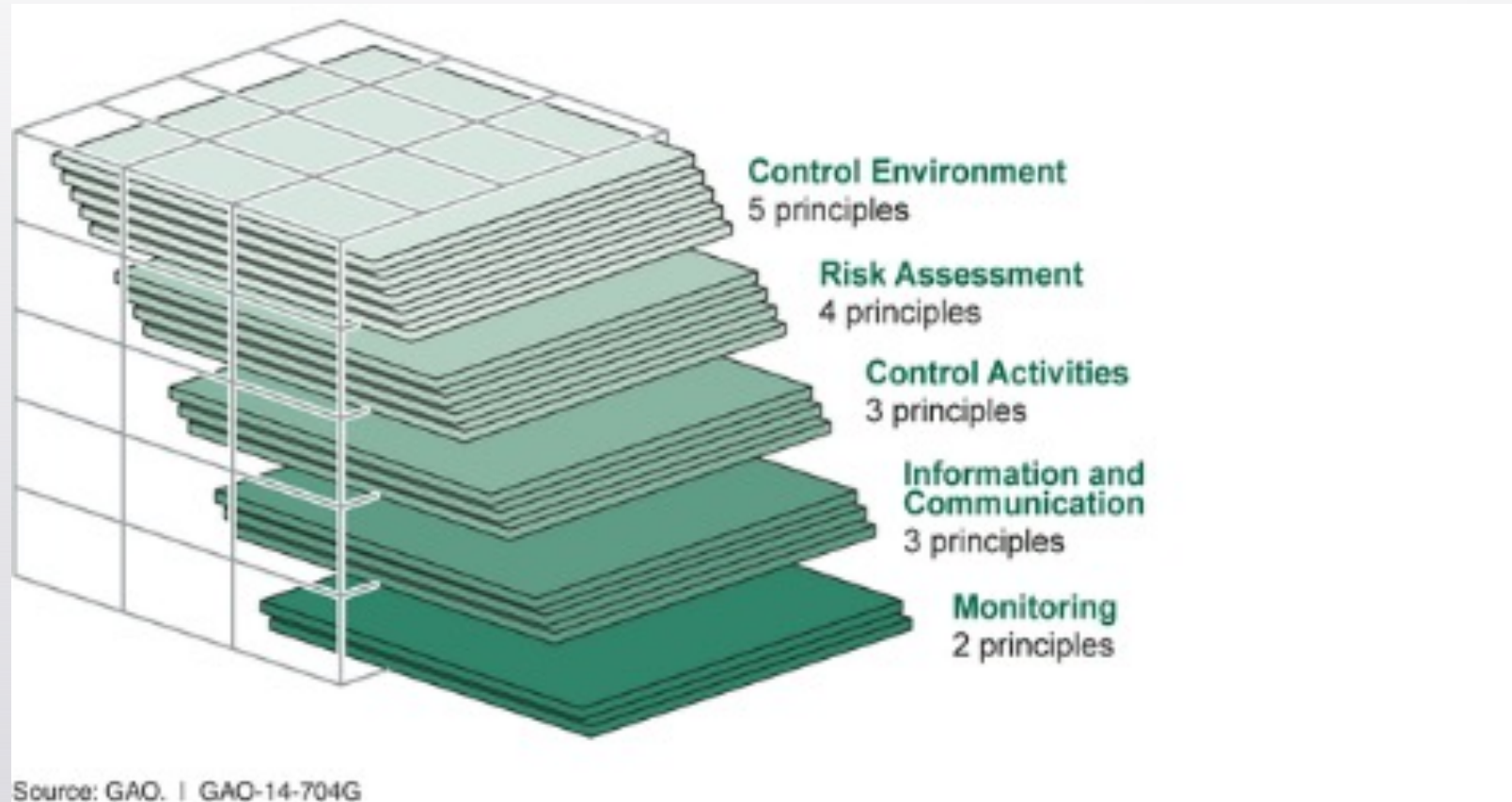
These internal controls should be in compliance with guidance in:

- “Standards for Internal Control in the Federal Government”, issued by the Comptroller General of the United States, or
- The “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

Internal Controls 200.303 (cont.)

- b. Comply with Federal statutes, regs, and the terms and conditions of the Federal awards.
- c. **Evaluate and monitor the non-Federal entity's compliance** with statutes, regs and the terms and conditions of Federal awards.
- d. **Take prompt action when instances of noncompliance are identified including in audit findings.**
- e. Take reasonable measures to safeguard protected personally identifiable info (PII) and other information designated or deemed sensitive

The 5 Components and 17 Principles of Internal Controls





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; and
5. Maintain a level of competence that allows personnel to accomplish their assigned duties (and holding individuals accountable)



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
- Accurate Job descriptions
- Adequate training programs and performance evaluations



Risk Assessment Principles

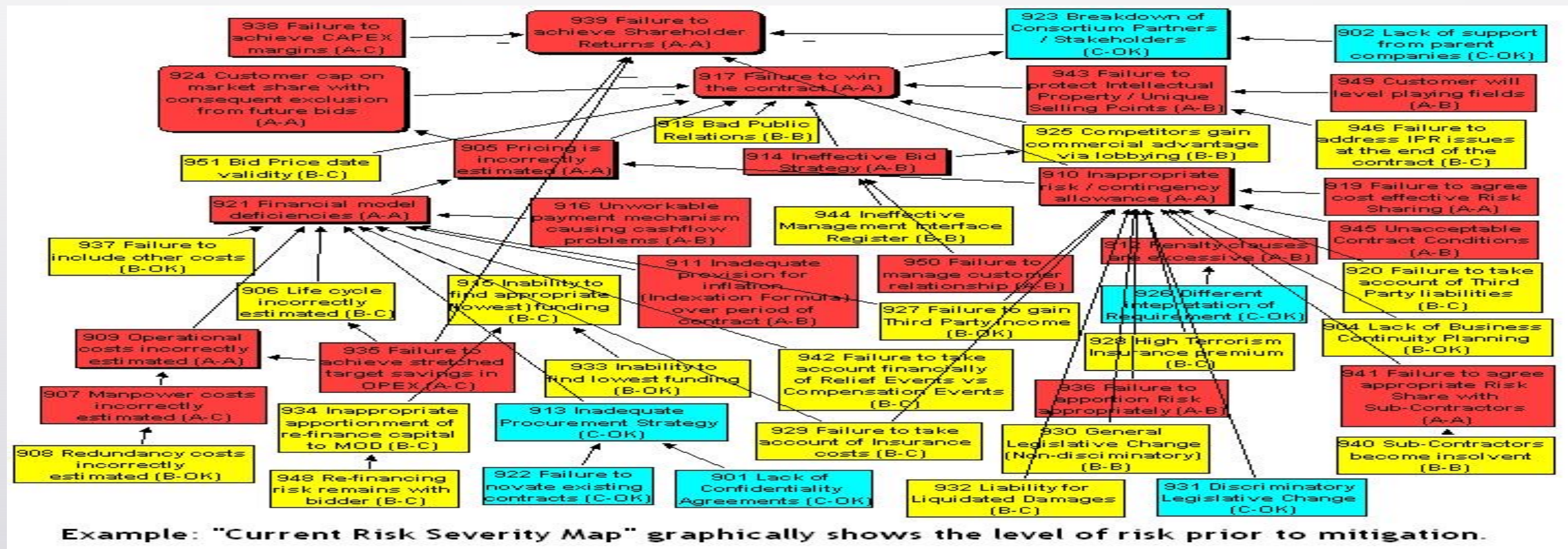
1. Clear objectives to enable the identification and assessment of risks;
2. Identify risks to achievement of objectives across the entity and analyze risks as a basis for determining how the risks should be managed;
3. Consider the potential for fraud; and
4. Identify and assess changes that could significantly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

Risk Areas (cont.)

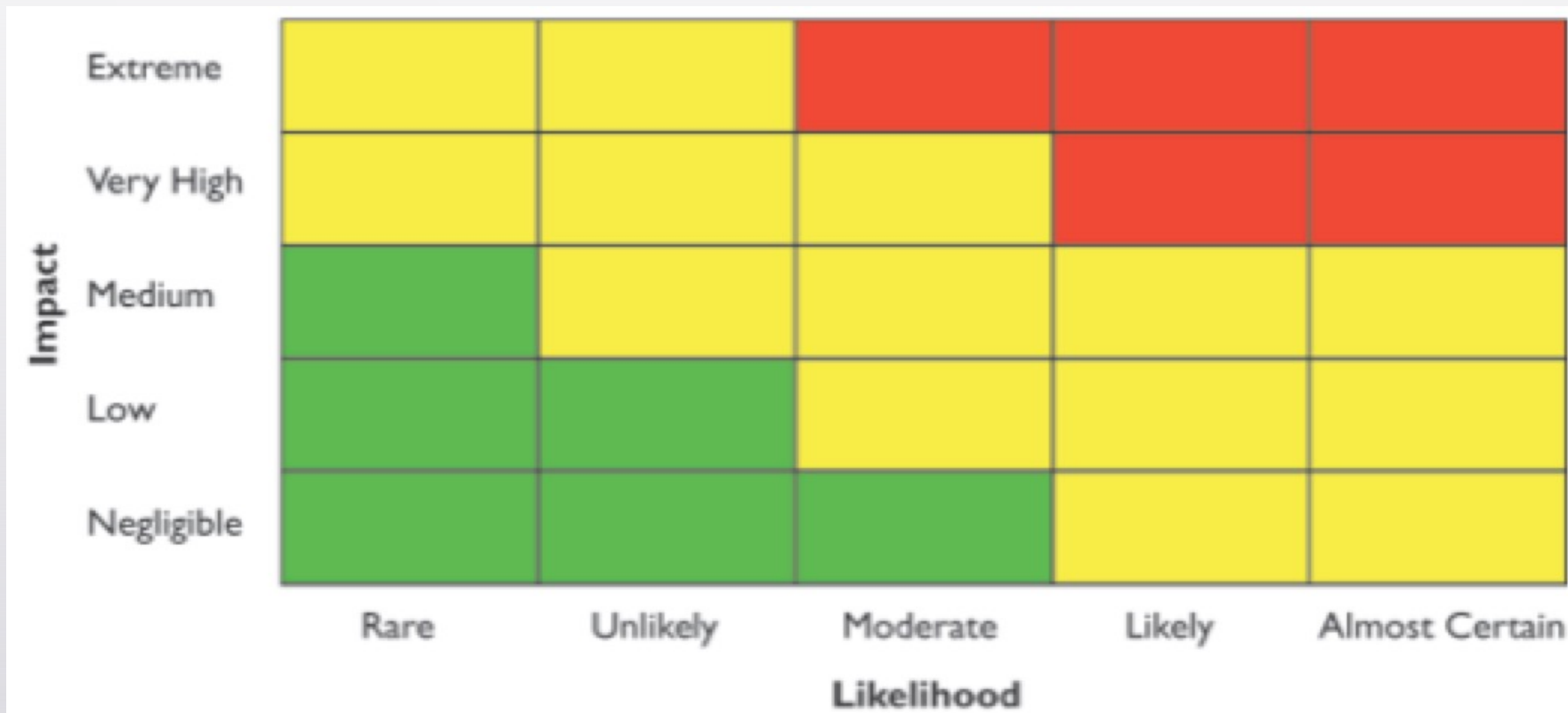
Risks are not stagnate; they increase and change as laws and operational environments change.

- New personnel
- Experienced personnel
- Lack of personnel
- Reorganizations
- Rapid growth/Changes in population
- Leadership Changes
- Change in Laws / Regulations
- New Grants
- New Technology
- High Crime Area

Risk Mapping



Let's Try That Again! Risk Mapping





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.

Control Activity Examples

- **Preventive Controls:** Control that helps management avoid issues before they occur.
 - Approval for purchases
 - Restricting Access (Passwords)
 - Training
 - Security and surveillance systems
 - Segregation of Duties
 - Safeguarding Assets
- **Detective Controls:** Control that discover issues after they occur.
 - Match receiving to POs
 - Compare actual expenditures to budgeted
 - Reconciliations
 - Physical inventory count
 - Review activity logs



Information and Communication Principles

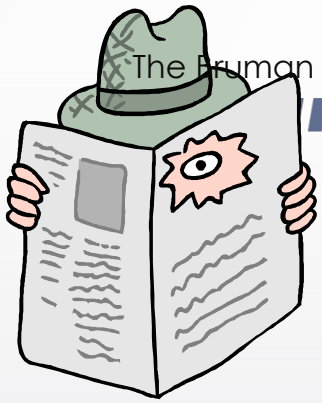
1. Obtain or generate or use relevant, quality information to support the functioning of the entity;
2. Internally communicate info, including objectives and responsibilities necessary to support the entity; and
3. Communicate with external parties regarding matters affecting the functioning of the entity.

Develop procedures for identifying pertinent information and distributing it in a form and timeframe that permits people to perform their duties efficiently.



Monitoring Principles

1. Select, develop and perform ongoing and/or separate evaluations to ascertain whether the components of internal controls are present and functioning;
2. 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

Weak Internal Controls – What Now?



- Document findings
- Discuss the results of the walkthrough with management and inform them of any deficiencies that need immediate attention.

Mitigation

Improve controls to reduce likelihood/impact

Transfer

Shift responsibility to an external party

Acceptance

Accept the risk!

Creation

Seek risk activities strategically to maximize opportunities



Program Fiscal Issues

Maintenance of Effort

- ESEA – must maintain state and local expenditures on public education in the aggregate or per pupil, by at least 90% (34 CFR 299.5)
- ARP – states must maintain “overall spending” for elementary and secondary education, and separately, for higher education, as compared to pre-pandemic proportional state spending on education (Section 2004(a))
- IDEA – must budget and expend state and local (or local only) funding for special education and related services in the aggregate, or per pupil, 100% (20 USC 1413(a)(2)(A))
- Perkins – states must maintain fiscal effort for career and technical training, in the aggregate or per pupil, 100% (Section 211(b)(1)(A))

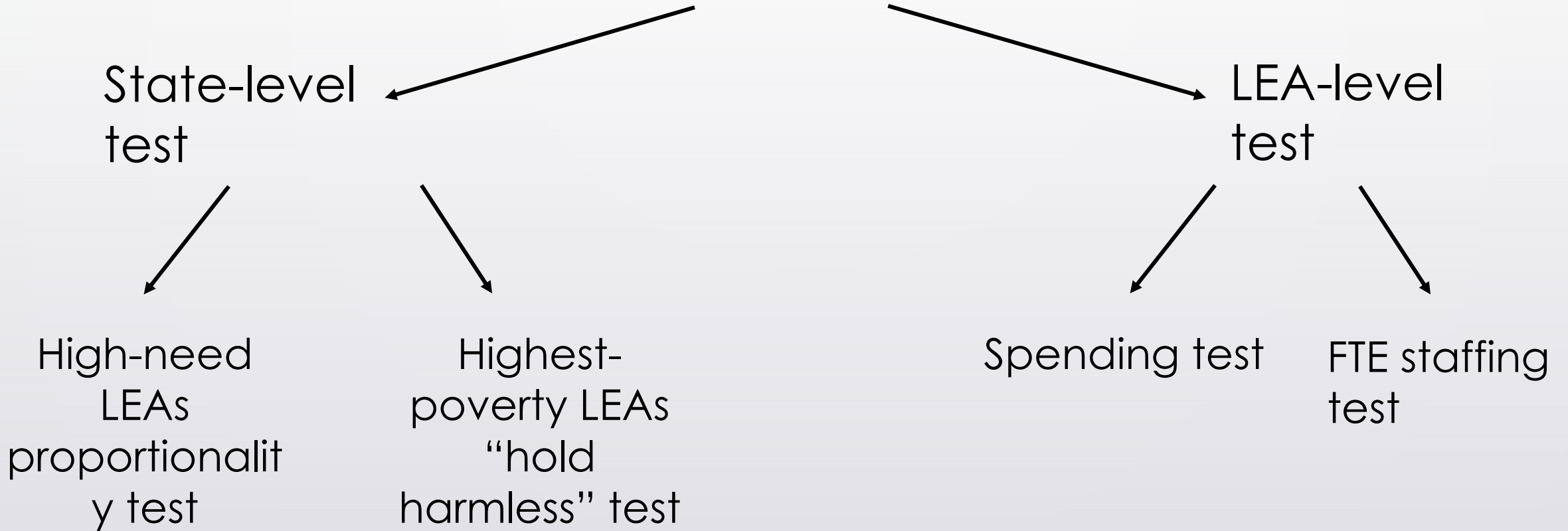
Maintenance of Equity



Maintenance of Equity – The Basics

- Only applies to ARP ESSER funds!!
 - New requirement added in third round of stimulus
- State-level test AND LEA-level test
- Intended to ensure that SEAs/LEAs do not reduce State and local resources for education
 - But different from maintenance of effort!
- Applies to fiscal year 2022 and 2023 funds
 - SY 2021-2022 (FY 22)
 - SY 2022-2023 (FY 23)

Maintenance of Equity



State-Level High-Need LEAs Test

- An SEA cannot in both FY 2022 and 2023...
 1. Reduce the per-pupil amount of State funding for any “high-need” LEA by an amount exceeding the overall per-pupil reduction in State funding (if any), across all LEAs in the State.

MOEquity Definitions (ARP Sec. 2004(d)(3))

- What is a “high-need” LEA?
 - An LEA that is one of the LEAs in the State that –
 - In rank order, have the highest percentages of economically disadvantaged students; and
 - Collectively serve at least 50 percent of the State’s total enrollment of students

State: High-Need LEAs Test

- Determine the overall per-pupil reduction, if any, for each high-need LEA:
 - Find State per-pupil amount for each high-need LEA for FY 2023
 - Find State per-pupil amount for each high-need LEA for FY 2022
 - Subtract FY 2023-FY 2022. If number is greater than zero, no issues

State: High-Need LEAs Test

- If FY 2023 amount is less than FY 2022, determine proportionality:
 - Identify overall per-pupil funding amount for FY 2023
 - Identify overall per-pupil funding amount for FY 2022
 - Find difference
 - If there is a reduction that is less than any reduction in high-need LEAs = not in compliance

State-Level Highest-Poverty LEAs Test

- An SEA cannot in both FY 2022 and 2023...
 - Reduce the per-pupil amount of State funding for any “highest-poverty” LEA below the per-pupil amount the SEA provided to such LEA in FY 2019 (SY 2018-2019).

MOEquity Definitions (ARP Sec. 2004(d)(2))

- What is a “highest-poverty” LEA?
 - An LEA that is one of the LEAs in the State that –
 - In rank order, have the highest percentages of economically disadvantaged students in the State on the basis of the most recent SAIPE data; and
 - Collectively serve at least 20 percent of the State’s total enrollment of students

State: Highest-Poverty LEAs Test

- Steps for determining equity for highest-poverty LEAs:
 - Find per-pupil amount for FY 2019 for each highest-poverty LEA
 - Find per-pupil amount for FY 2023 for each highest-poverty LEA
 - Subtract FY 2019 amount from FY 2023 amount
 - If result is less than zero = not in compliance

What happens if a State does not maintain equity?

- Guidance says though States make determination after final allocations...
- “The SEA... should verify whether it will maintain equity prior to making final State and local allocations to LEAs and schools... so that SEA... is able to modify its State and local allocations”



LEA-level Funding Test

- An LEA must maintain equity for each “high-poverty school”
- For each school identified by the LEA as “high-poverty,” the LEA cannot in FY 2022 or 2023...
 - Reduce per-pupil funding (combined State and local) by an amount exceeding the total reduction, if any, in LEA per-pupil funding for all schools served by the LEA; or
 - Reduce the number of FTE staff per-pupil by an amount that exceeds the total reduction, if any, in FTE staff per-pupil in all schools served by the LEA.

MOEquity Definitions

- A “high-poverty” school means a school served by the LEA that is in **the highest quartile of schools** served based on the percentage of economically disadvantaged students served
 - Can determine on district-wide or grade span basis
- SEA selects the measure(s) of poverty (which can be any authorized under Title I)
 - SEA can allow LEA to use same measure as rank and serve

LEA Funding Test

- What funding must LEAs include in the calculation?
 - All sources of State and local funding the LEA has available for current expenditures for free public education
- Do NOT include:
 - Dedicated funds for capital outlays and debt service;
 - Federal funds;
 - Support from private donors.
- Should be consistent from year to year

LEA-Level Staffing Test

- An LEA must maintain equity for each “high-poverty school”
- For each school identified by the LEA as “high-poverty,” the LEA cannot in FY 2022 or 2023...
 - Reduce the number of FTE staff per-pupil by an amount that exceeds the total reduction, if any, in FTE staff per-pupil in all schools served by the LEA.

LEA Staffing Test

- Who to include in staffing test?
 - ALL paid staff providing school-level services (including federally-funded!)
 - Instructional and non-instructional
 - All employees and contractors
- Do not have to account for staffing changes/enrollment changes that occur after determination is made
 - LEAs do not have to recalculate

LEA MOEquity Exceptions

- An LEA is excepted from the MOEquity requirement if...
 - Total enrollment less than 1,000;
 - Operates a single school;
 - Serves all students within each grade span with a single school; or
 - Demonstrates an exceptional or uncontrollable circumstance, such as unpredictable changes in student enrollment or a precipitous decline in the financial resources of the LEA, determined by the Secretary

LEA MOEquity Exceptions

- Guidance and IFR say:
 - LEA excepted from MOEquity if it did not have an aggregate reduction in combined State/local per-pupil funding for the applicable fiscal year
- Applies to both FY 2022 and FY 2023
- LEA must certify to the State that it did not and will not have a reduction
 - Certification form provided in FAQs

What happens if an LEA does not maintain equity?

- Must make adjustments
 - If unable to make adjustments in the current year, the LEA may make required adjustments in the following year



The Timeline (For SEAs)

- **July 8, 2022** – SEAs publish LEA exceptions and identify high-poverty schools for FY 2022 and describe how the SEA will ensure that each LEA that is not excepted from the LEA-level maintenance of equity requirements is maintaining equity in its high-poverty schools.
- **November 1, 2022** – SEAs publish LEA exceptions and identify high-poverty schools for FY 2023
- **December 31, 2022** – SEAs publish applicable LEA high-poverty school data for FY 2022
- **December 31, 2023** – SEAs publish applicable LEA high-poverty school data for FY 2023

****These are SEA deadlines – SEA sets timeline for LEA****

Supplement Not Supplant

NON-REGULATORY INFORMATIONAL
DOCUMENT RELEASED: JUNE 2019

[HTTPS://WWW2.ED.GOV/POLICY/ELSEC/LEG/ESSA/SNSFINALGUIDANCE06192019.PDF](https://www2.ed.gov/policy/els/ec/leg/essa/snsfinalguidance06192019.pdf)



SNS Requirements (cont.)

- An SEA and LEA may use program funds only to supplement and, to the extent practical, increase the level of funds that would, in the absence of the federal funds, be made available from non-federal sources for the education of participating students.
- In no case may an LEA use federal program funds to supplant funds from non-federal sources.

SNS Standard	Programs									
		Title I,A	Migrant Education	Title II,A	Title III,A	Title IV,A	REA P/ SRS A	21 st CCLC	IDEA	ESSER
	State, Local Funds	Sec. 1118(b)	Sec. 1304(c)(2)							---
	Non-Federal Funds			Sec. 2301		Sec. 4110				---
	Federal, State, Local Funds		*		Sec. 3115(g)		Sec. 5232	Sec. 4204 Subs Non-federal funds	34 CFR 300.164 (a) (SEA); 300.202(a) (LEA)	---



SNS – Presumptions of Supplanting

Presumptions of Supplanting **(DOES NOT APPLY TO TITLE I,A)**

1. Used Federal funds to provide services that are required under other Federal, State or local laws.
2. Used non-federal funds in prior year.
3. Used Migrant (MEP) funds to provide services for participating children and non-federal funds for nonparticipating children.

These presumptions are rebuttable if the SEA or LEA can demonstrate that it would not have provided the services in question with non-federal funds had the federal funds not been available.



ESSA Title I,A Sec.1118(b)

- To demonstrate compliance, a LEA must demonstrate that it has a methodology (e.g., through written procedures) and uses it to allocate **state and local funds to each Title I school** [and] ensures that the school receives all of the state and local funds it would otherwise receive if it were not receiving Part A funds—i.e., the LEA’s methodology may not take into account a school’s Title I status

Applies to LEAs and Educational Service Agencies (ESAs) if the ESA obtains Title I,A funding on behalf of LEAs for allocation.

What About District-level Activities?

- If LEA reserves state and local funds for district-level activities:
- The LEA must conduct activities with those funds in a manner that does not take into account a school's Title I status.
- For example, the LEA reserves the State and local funds for a social worker at the district level.
 - The LEA deploys the social worker to different schools throughout the school year on an as-needed basis.
 - Access to or assignment of the social worker must be Title I neutral in order to comply with the general SNS requirement.

SNS Guidance Section VI.

Are there any SNS exceptions?

■ Excluded Funds:

SEA or LEA may exclude supplemental state or local funds used for program that meet the *intents and purposes* of Title I, A. SNS Guidance Q&A 7

- This also applies to the MEP program re: supplemental funds that meet MEP intents and purposes.

■ Excluded from SNS Methodology Test:

- Single School LEAs;
- LEAs with only Title I schools.
- A grade span that contains only: a single school, non-Title I schools, or Title I schools.

- SNS Guidance Q&A 26



Evidence of Compliance

The LEA must maintain documentation to demonstrate that the LEA allocated State and local funds to schools in accordance with its methodology

- An LEA must keep records to show compliance with program requirements and facilitate an effective audit. (34 C.F.R. 76.730-76.731)
- Examples: written methodology, calculations performed by the LEA to implement the methodology.

SNS Guidance Q&A 19.

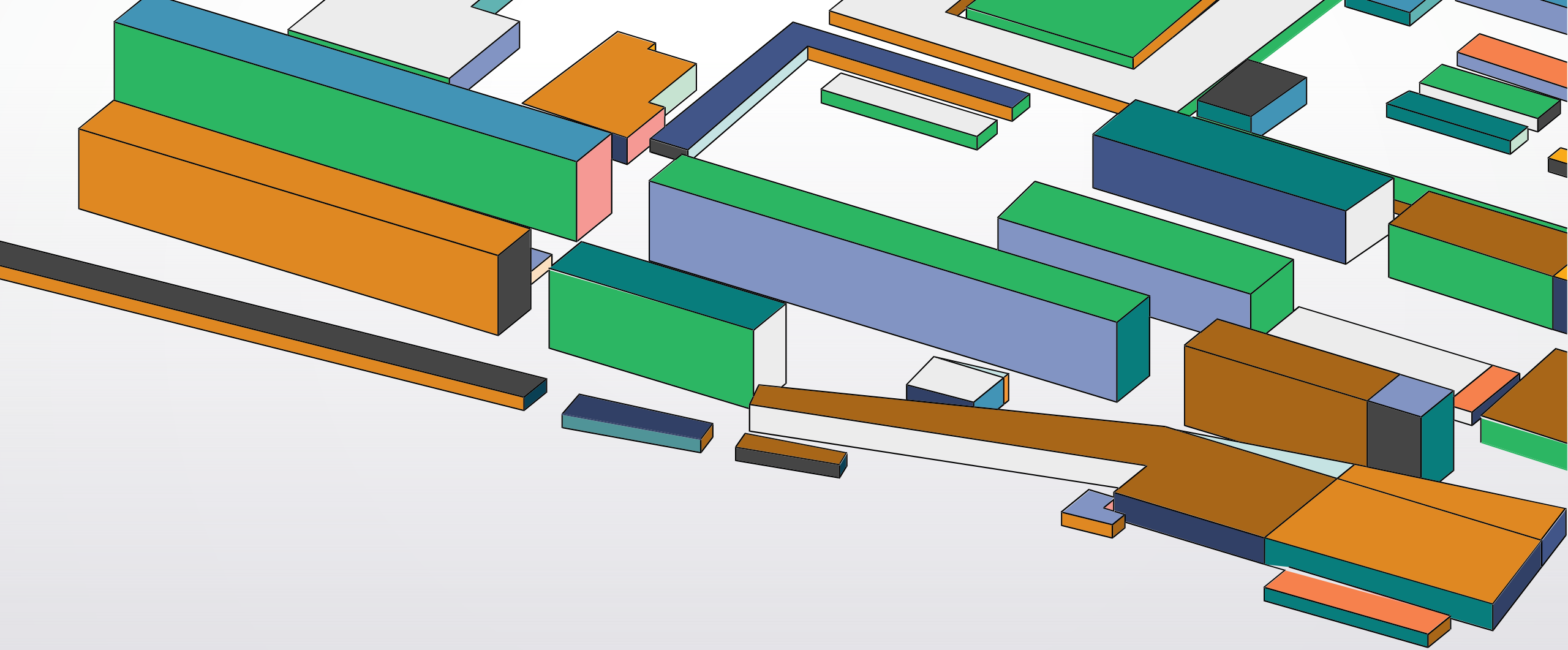
What happens if the LEA does not meet the SNS requirements?

- Audit Finding
- Update methodology
- Enforcement provisions under GEPA and the UGG (2 CFR Part 200)
 - ED's "Summary Response to Comments on Title I, Part A Supplement Not Supplant Non-Regulatory Informational Document," dated June 19, 2019



Covid Relief Funds

Heading toward the funding cliff



Timelines for Closeout

ESSER Funding Breakdown

	CARES – ESSER 1 \$13.2 Billion	CRRSA – ESSER 2 \$54.3 Billion	ARP – ESSER 3 \$122 Billion
Enacted	March 2020	December 2020	March 2021
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
Liquidation Period	No later than January 30, 2023	No later than January 29, 2024	No later than January 28, 2025

Liquidation Rule



- SEA must liquidate within 120 days of obligation date
 - Complete scope of work
 - Finish accounting
 - Finalize draw-downs
 - Can shorten it slightly for LEAs to ensure proper accounting
- LEA has 90 days to liquidate
 - 90-day deadline for the LEA final expenditure reports minimize general rule from 120 days to 90 days.

When “Obligation” Occurs

See: 34 CFR 76.707

If the obligation is for -	The obligation is made -
Acquisition of real or personal property	On the date on which the State or subgrantee makes a binding written commitment to acquire the property.
Personal services by an employee	When the services are performed.
Personal services by a contractor	On the date on which the State or subgrantee makes a binding written commitment to obtain the services.
Performance of work other than personal services	On the date on which the State or subgrantee makes a binding written commitment to obtain the work.
Travel	When the travel is taken.

Extensions to the obligation/liquidation period?

- Obligation extension? → No. (ED FAQ E-3.c, Dec. 2022)
- Liquidation extension? Possible – up to 14 months
 - Late Liquidation FAQs 12/23/22:
<https://oese.ed.gov/files/2022/12/General-and-Technical-FAQs-for-CARES-Liquidation-Extension-Requests.pdf>
 - Late Liquidation letter 9/29/22:
<https://oese.ed.gov/files/2022/09/CARES-ESSER-and-GEER-Liquidation-Extension-Request-Letter-9.29.22.pdf>
 - States must submit a required [template spreadsheet](#)

Late Liquidation: State Template

- State may submit requests on behalf of itself and/or its LEAs
 - No firm deadline for applying
 - Verify grantees are “low-risk” (as defined by the State)
 - Ensure funds were obligated in a timely way
 - Maintain supporting documentation
 - Need a reason for applying beyond just “ran out of time”

CARES Act Programs Late Liquidation Requests (From USED)

Program	Obligation deadline	(Automatic) 120-day liquidation deadline	(Up to) 14-month liquidation extension
ESSER I	Sep. 30, 2022	Jan. 30, 2023	Apr. 1, 2024
ESSER II	Sep. 30, 2023	Jan. 29, 2024	Mar. 31, 2025
ARP ESSER	Sep. 30, 2024	Jan. 28, 2025	Mar. 31, 2026
GEER I	Sep. 30, 2022	Jan. 30, 2023	Apr. 1, 2024
GEER II	Sep. 30, 2023	Jan. 29, 2024	Mar. 31, 2025
CRRSA EANS	Sep. 30, 2023	Jan. 29, 2024	Mar. 31, 2025
ARP EANS	Sep. 30, 2024	Jan. 28, 2025	Mar. 31, 2026

Late Liquidation FAQs

- Can you request an extension longer than 14 months?
 - No. Separate requests for additional time will require “significant documentation” and an “extensive review” and will only be considered in “limited circumstances.”
- Can GEER and ESSER extensions be submitted together?
 - No
- How is “low risk” defined?
 - By the state.
- 120 days for liquidation closes on CARES Act on January 28th but the G5 system says the final date is Jan 30th, why?
 - Because Jan 28th falls on a weekend, the system defaults to the next business day so Jan 30th.

Commitments Beyond Liquidation Period

- Generally, it is not good stewardship of Federal funds or prudent business practice to prepay for services that will extend many years into the future.
- However, under limited circumstances where a grantee or subgrantee timely obligates ESSER or GEER funds, ESSER- or GEER-funded activities may continue for a reasonable time beyond the liquidation period (including an approved late liquidation period). (ED FAQ E-3.d Dec 2022)

Commitments Beyond Liquidation Period (cont.)

- ED says they should only be offered in limited situations, considering:
 - Whether the funds were properly obligated and liquidated in a timely manner;
 - Whether the activities would be allowed to extend beyond the liquidation period under applicable State and local procurement rules
 - Whether the extended activities constitute a reasonable and necessary use of Federal funds; and
 - Whether prudent business practices...would support the continued activities for the length of time proposed.
- No longer than 4 years after obligation deadline
- The SEA, LEA, or subgrantee would be responsible for returning to the Federal government the cost of any services that were paid with Federal funds but not received.

Commitments Beyond Liquidation Period (cont.)

- ARP ESSER Funds – current liquidation period Jan 28, 2025
 - Possible liquidation extension until March 31, 2026
- Factors to document:
 - Timely obligations and liquidations during approved periods.
 - That the activities would be allowed to extend beyond the liquidation period under applicable State and local rules.
 - That the activities constitute a reasonable and necessary use of Federal funds; and
 - That prudent business practices would support the continued activities for the length of time proposed.

Disposition under ESSER/GEER

- Equipment
 - Tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost that equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or \$5,000. (2 CFR 200.1)
- Supplies
 - All tangible personal property that is not equipment. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or \$5,000, regardless of the length of its useful life. (2 CFR 200.1)
 - Computing Devices

General Disposition Rule

- Equipment and supplies purchased with ESSER or GEER funds
 - may be used by States or LEAs for the authorized purpose during the period of performance
 - OR
 - until the equipment and supplies are no longer needed for the purposes of the ESSER or GEER program.
- If the equipment or supplies are no longer needed for purposes of the ESSER or GEER program, a State or LEA may:
 - continue to use the equipment and supplies to the extent they are needed for allowable purposes under another Federal education program in which the State or LEA participates,
 - OR
 - use the equipment or supplies for a Federal program of another Federal awarding agency

Disposition of Equipment by SEA

- For States that used ESSER or GEER funds to purchase **equipment** and find that the item is not needed for authorized purposes under ESSER or GEER or for any of the State's other Federal programs, a State must dispose of the equipment in accordance with State laws and procedures.
 - Includes EANS property.
 - See ED Guidance (August 2022):
<https://oese.ed.gov/files/2022/08/EANS-Disposition-Clarification-8-2-22.pdf>



Disposition of Equipment by LEA

- LEAs that used ESSER or GEER funds to purchase equipment and find that the item is not needed for authorized purposes under ESSER or GEER or for any of the LEA's other Federal programs,
 - and where the equipment has a current per unit fair market value of \$5,000 or less, may be retained, sold, or otherwise disposed of without additional responsibility to the Department.
- If an item of equipment has a current per unit fair market value in excess of \$5,000, the LEA may retain or sell the equipment.
 - In this case, USED is entitled to an amount calculated by multiplying the current fair market value or proceeds from the sale by the Department's share or proportion of the cost of the original purchase. (2 CFR 200.313(e)).
 - Plus keep up to \$500 for administrative costs.

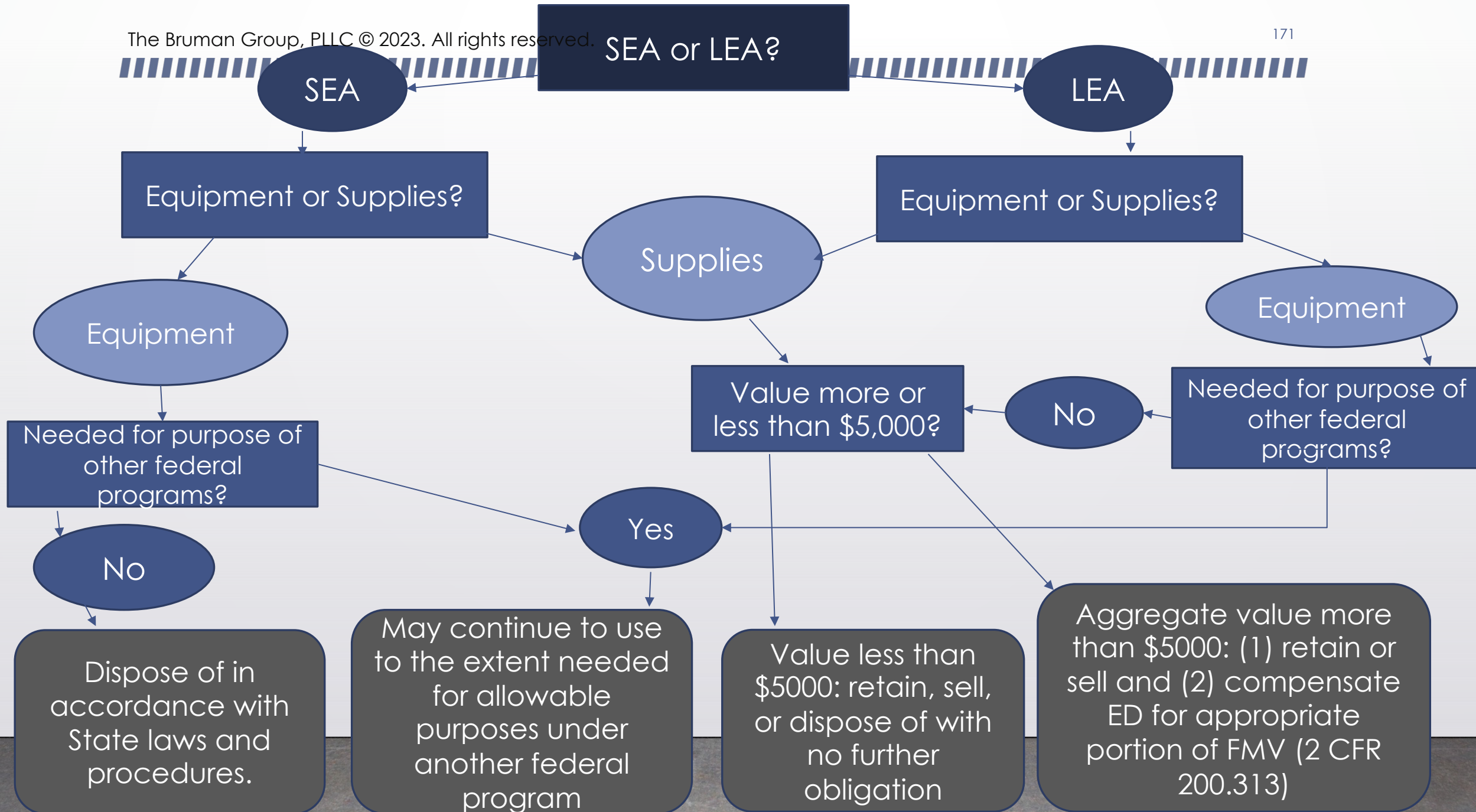
Disposition of Supplies

- If there is a residual inventory of supplies that are not needed exceeding \$5,000 in total aggregate value, the State or LEA may retain or sell the supplies but, in either case, must compensate the Department for its share per 2 CFR 200.313(e)(2).
 - A State or LEA may calculate the total aggregate value when disposition occurs - e.g., at the end of each year for which supplies are disposed
- A State or LEA must make a good faith effort to sell unneeded supplies purchased with ESSER or GEER funds in accordance with 2 CFR 200.314(a) and document its efforts. If a State or LEA cannot find a buyer and cannot use the supplies itself, the State or LEA has no further obligation to the Department.

What if Equipment or Supplies ARE Still Needed?

- Equipment
 - Equipment must be used by the State/LEA as long as needed, whether or not the project or program continues to be supported by the Federal award (2 CFR 200.313(c)(1)).
- Supplies
 - Generally – supply disposition required when “not needed”
 - Therefore, no reason to remove if documented need still exists. 2 CFR 200.313(e)(2).

SEA or LEA?



What about Items at Private Schools?

- Equipment and supplies purchased by an LEA with CARES Act funds to provide equitable services in a non-public school may be used for the authorized purposes of a CARES Act program during the period of performance (i.e., through September 30, 2022) **or until the equipment and supplies are no longer needed for the purposes of the program** (34 CFR 76.661(b); 2 CFR 200.313 and 200.314(a)).
 - If an LEA determines, in consultation, that non-public school students and teachers continue to need such equipment and supplies for the purposes of the CARES Act program beyond the period of performance, the LEA may, but is not required to, continue to permit non-public school students and teachers to use the equipment and supplies.
- If an LEA permits use to continue beyond the period of performance, the LEA must continue to maintain title to, and keep administrative control over, the equipment and supplies.

What about Items at Private Schools?

- Maybe
- If no longer needed for the CARES Act program, then the CARES Act equipment and supplies:
 - Can be used for another federally-funded program at the private school (i.e. another equitable services or applicable program);
 - Can be transferred to the LEA or other public entity for purposes of another federally funded program; or
 - Can be otherwise disposed of based on fair market value.



FERPA FAQs

34 CFR Part 99

What is FERPA?

- Family Educational Rights and Privacy Act (FERPA)
 - Protect PII in Education Records
 - Prohibition on Disclosure of Records
 - Prior Written Consent Rule & Exceptions
 - Right to Access and Inspect

Basic FERPA Responsibilities

- Educational agency or institution may not disclose personally identifiable information within education records to third-parties without prior written consent of the parent or eligible student
 - (with exceptions) – 20 U.S.C. § 1232g(b).
- Educational agency must permit the parent or eligible student to inspect and review all education records unless such right has been waived (with exceptions) – 20 U.S.C. § 1232g(a).

What Records are Subject to FERPA?

- 99.1: Education Records: Directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution.
 - Exceptions include records held by the maker for memory aid, employee records, and others.

What is PII?

- Personally identifiable information includes but is not limited to:
 - The student's name;
 - The name of the student's parent or other family members;
 - The address of the student or student's family;
 - A personal identifier, such as the student's social security number, student number, or biometric record
 - Other indirect identifiers, such as date/place of birth, mother's maiden name;
 - Information that is linked or linkable to a specific student that would allow a reasonable person in the school community, to identify the student with reasonable certainty; or
 - Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

Exceptions?

- 99.31:
 - Education Officials
 - Audit Purposes
 - Prospective Schools
 - Directory Information
 - Limited Third-Party Servicers

Other School Officials

- Educational agencies or institutions must use reasonable methods to ensure that teachers and other school officials obtain access only to education records in which they have a legitimate interest
- The approach must be a combination of appropriate physical, technical, administrative and operational controls
- If physical or technological controls are not used, policies and procedures must be effective in limiting access to appropriate staff
- Reasonableness of controls depends upon usual and customary good practices, requiring ongoing review and modification



Audit Purposes

- Authorized representatives of:
 - The Comptroller General of the United States;
 - The Attorney General of the United States;
 - The Secretary; or
 - The State and local educational authorities.
- May have access to education records in connection with an audit or evaluation of Federal or State supported education programs, or for the enforcement of, or compliance with, Federal legal requirements that relate to those programs.



Prospective Schools

- Disclosure to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer does NOT require prior written consent
- Notification must be made



Directory Information

includes, but is not limited to, the student's name; address; telephone listing; electronic mail address; photograph; date and place of birth; major field of study; grade level; enrollment status (e.g., undergraduate or graduate, full-time or part-time); dates of attendance; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors, and awards received; and the most recent educational agency or institution attended.

Third-Party Contractors

- Student information shared with providers can only be used for the specific purpose for which it was disclosed (included in the contract)
 - Not for marketing purposes, but may still have generalized, non-targeted ads.
 - Once data is no longer needed, must be destroyed.
- <https://studentprivacy.ed.gov/resources/protecting-student-privacy-while-using-online-educational-services-model-terms-service>

Annual Notification

- 99.7 – schools must still send annual notifications
 - Right to inspect/amend records and consent to disclosures
 - Any disclosures that will be made throughout the year (right to opt out)



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