



**EDGAR  
ADMINISTRATIVE PROCEDURES MANUAL  
2025-2026**

**EFFECTIVE DATE: JULY 1, 2025**

*Pursuant to Board Policy BP (Local), The Superintendent and administrative staff shall be responsible for developing and enforcing procedures for the operation of the District. These procedures shall constitute the administrative regulations of the District and shall consist of guidelines, handbooks, manuals, forms, and any other document defining standard operating procedures.*

  
Dr. Jack Lee

Superintendent of Schools

11/14/2025  
Date Signed



Elizabeth Banks

Chief Financial Officer

11/13/25  
Date Signed

# TABLE OF CONTENTS

## Introduction

### Approval/Adoption of Manual

## Organizational Information

## Conflict of Interest and Mandatory Disclosures

### Conflict of Interest

### Mandatory Disclosures

### Waste, Fraud, and Abuse

#### Reporting Fraud or Financial Impropriety

#### Investigating Reports of Fraud or Financial Impropriety

#### Disclosure

## Financial Management

### Financial Management Standards

#### Identification

#### Financial Reporting

#### Accounting Records

##### TEA's Accounting Requirements

##### TEA's Requirement for General Ledger

##### TEA's Requirement for Payroll Journals

#### Internal Controls

##### 17 Principles that Support the Components of the Internal Control System

#### Budget Control

#### Cash Management

#### Allowable Costs

### Budgeting and Grant Application Process

#### Budget Planning

#### Public Notification Prior to Submittal of the Grant Application

- Reviewing and Approving the Budget
- Completing and Submitting the Grant Application
- After Receiving the NOGA/GAN
- Amending the Budget and Application
- Monitoring Expenditures
- Spending Grant Funds
  - Direct and Indirect Costs
    - Indirect Cost Rate
  - Determination of Allowability of Costs
    - Factors Affecting Allowability of Costs
      - Necessary
      - Reasonable Costs
      - Allocable Costs
      - Applicable Credits
    - Selected Items of Cost
    - Helpful Questions for Determining Whether a Cost is Allowable
    - Additional Specific Cost Considerations
      - Participant Support Costs
      - Field Trips
      - Grant Writing
      - Multi-Year Contracts
      - Telecommunication costs and video surveillance costs
      - Use of Funds for Religion Prohibited

Expenditure Reporting (ER) System

Timely Obligation of Funds

When Obligations are Made

Carryover Provision

Program Income

Use of Program Income

## Procurement

General Procurement Standards

Competition

Geographical Preferences Prohibited

Competitive Solicitation Requirements

Prequalified Lists

Procurement Methods

Informal Procurement Methods

Micro-purchases

TEA Requirements for Self-Certification Notification

Requirements Applicable to Micro-purchases

TEA Requirements for the Micro-Purchase Aggregate Spending

Simplified Acquisitions

Determination of 12-Month Aggregation

Formal Procurement Methods

State Rules regarding Competitive Procurements

Federal Regulations regarding Sealed Bids

Texas Requirements for Competitive Bidding

Federal Regulations regarding Proposals

Texas Requirements for Competitive Sealed Proposals

Contractor/Vendor Selection

Noncompetitive Procurement

## Contract Cost and Price

### Additional Procurement Considerations

Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms

Domestic Preferences for Procurements

Procurement of Recovered Materials

Bonding Requirements

### Contract Prohibitions

Suspension and Debarment

Never Contract with the Enemy

State Prohibition on Contracts with Certain Companies: Iran, Sudan, or a Foreign Terrorist Organization

State Prohibition on Contracts with Companies Boycotting Israel

Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

State Enforcement of Purchase Procedures

### Purchasing Cooperatives and Interlocal Agreements

### Construction

Assessment of Environmental Impact

Preservation of Historic Sites

Grantee's Title to Site

Availability of Cost-Sharing Funds

Beginning the Construction

Completing the Construction

General Considerations in Designing Facilities and Carrying Out Construction

Areas in the Facilities for Cultural Activities

Comply with Safety and Health Standards

Access by the Handicapped

Avoidance of Flood Hazards

Supervision and Inspection by the Grantee

Relocation Assistance by the Grantee

Grantee Must Have Operational Funds

Operation and Maintenance by the Grantee

Energy Conservation

Compliance with the Coastal Barrier Resources Act

State Rules Regarding Construction Services and Maintenance Services

#### Contract Provisions

Federal Requirements for Contracts

State Required and Suggested Contract Provisions

State Guidance and Best Practices for Professional Services Contracts

State Requirements for Contracts for Construction Services

#### Oversight and Quality Control

Procurement Records

Vendor Selection

Vendor Oversight

Rationale for Procurement Method and Type of Contract

#### Purchasing Controls

Purchasing Roles

Training and Staff Development

Control Environment

Purchasing Cards and Gift Cards

#### Standards of Conduct Covering Conflicts of Interest

Purchasing Ethics Standards

Common Standards of Ethics to Govern the Conduct of Employees Involved in the Purchasing Function

Actions to be Taken for Real or Apparent Conflict of Interest

Removal from the Procurement Transaction

Vendor Gifts

Disciplinary Actions for Violations of Standards of Conduct Covering Conflicts of Interest

Definitions Pertaining to Standards of Conduct Covering Conflicts of Interest

## Property

Definitions Pertaining to Property Purchased with Federal Funds

Insurance Coverage for Property Purchased with Federal Funds

Real Property (Land and Structures)

Title to Real Property

Use of Real Property

Disposition of Real Property

## Equipment

Title to Equipment

Use of Equipment

Shared Use

Personal Use of Computing Devices Purchased with Grant Funds

Property Management

Property Records

Physical Inventory

Control System to Prevent Loss, Damage, or Theft

Maintenance of Property

Sales Procedures

Disposition

Supplies and Materials

Property Trust Relationship

Equipment or Supplies and Materials Purchased for Equitable Services for Students Enrolled in Private Schools (PNP)

## Compensation

## Compensation for Personal Services

- Funding Neutral Local Compensation and Leave Plan/Policy

- Reasonableness

- Professional Activities Outside the LEA

- Special Considerations

- Incentive Compensation

## Fringe Benefits

- Funding Neutral Local Compensation and Leave Plan/Policy

## Relocation Costs of Employees

## Standards for Documentation of Personnel Expenses

- Employees Working on a Single Cost Objective

- Time Distribution Record Required for Single Cost Objective Employees

- Employees Working on Multiple Cost Objectives

- Time Distribution Record Required for Multiple Cost Objective Employees

- Substitute System of Time and Effort Reporting

- Stipends, Supplemental Pay, Extra-Duty Pay

- Substitute Teachers and Aides who are employees of the LEA

- Reconciliation and Closeout Procedures

- Job Descriptions

## Travel Reimbursement

- Overview

- Definitions Related to Travel

- Federal Regulations Related to Travel

- State Regulations and Local Policy & Procedures for Travel Reimbursement

- Out-of-State Travel

- Transportation Expenditures: Mileage in Personal Vehicle

- Transportation Expenditures: Rental Vehicles

- Transportation Expenditures: Mass Transit, Taxis, or Limousine



Transportation Expenditures: Commercial Air Transportation

Transportation Expenditures: Parking

Transportation Expenditures: Tolls

Transportation Expenditures: Four-Per-Car Rule

Meal Expenditures

Meal Reimbursement: Non-Overnight Travel

Lodging Expenditures

Lodging: Hotel Occupancy Taxes

Travel Cancellation Charges

Discounts and Travel Expenses at No Cost

Registration Fees

Travel Requests and Approval Process

## Record Retention and Access

Records Related to Grant Funds and Compliance

Retention Requirements for Records

Requests for Transfer of Records

Methods for Collection, Transmission, and Storage of Information

Access to Records

Restrictions on Public Access to Records

## Self-Monitoring and Audit Resolution

Self-Monitoring and Reporting Program Performance

Audit Requirements

Auditee Responsibilities

TEA Guidance Regarding Single-Audit Requirements

## Considerations for Disasters or Unexpected Events

Compensation During Times of Interruption of Operations or Services

Expenditures for Canceled Services

Travel During Disasters or Unexpected Events

Accounting Records for Expenses Related to the Disaster/Stimulus Funds

Whistleblower and Anonymous Reporting Protections

Electronic Signatures

Adoption/Approval of Manual

# Introduction

This manual sets forth the policies and procedures used by Seguin ISD (referred to as the “LEA” throughout this manual) to administer Federal education awards. The manual contains the internal controls and grant management standards used by the LEA to ensure that all Federal funds are lawfully expended. The manual describes the LEA’s policies and procedures in relation to financial management standards, cash management, determination of allowable use of funds, time and effort, procurement, property management protocols, travel reimbursement, and record retention.

Although this manual is not all-inclusive and cannot address all situations, it provides general information to assist with administrative grants management procedures.

New employees of the LEA, as well as incumbent employees, are expected to review this manual to gain familiarity and understanding of the LEA’s rules and practices. All LEA personnel with financial and administrative duties, and program-specific fiscal duties, are responsible for the content.

Training is provided to all staff who request or approve authorized transactions associated with Federal funds. Training sessions are scheduled at the beginning of each school year as well as throughout the year as specific needs arise. Additionally, new employees that begin within the school year are trained within the first few weeks of starting work for the district. This manual is available on the District’s website under the department of Business Services tab (see link below).

<https://www.seguin.k12.tx.us/page/business.form>

The LEA will review the manual annually and update as needed and notate the effective date of the manual. The LEA will keep previous versions of the manual available for 5 years to ensure the applicable policies and procedures are available for audit purposes. The Purchasing Coordinator is responsible for this task.

## **Approval/Adoption of Manual:**

According to local policy, the policies and procedures described in this manual are subject to administrative approval by the Superintendent. Each year, beginning in 2021 the Superintendent formally adopts the manual.

# Organizational Information

The LEA's organization chart is available at the following link:

<https://www.seguin.k12.tx.us/upload/common/061725%20SISD%20Organizational%20Chart.png>

## Conflict of Interest and Mandatory Disclosures

### Conflict of Interest 2 CFR §200.112

#### Requirement:

The LEA must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity (TEA) in accordance with applicable Federal awarding agency policy.

#### Implementation:

Federal grant funds are to be expended for the benefit of the population that the Federal grant program serves. Conflicts of interest can arise when Federal grant funds appear to be expended for the primary benefit of some other party.

The LEA's Conflict of Interest policy will align with the USDE's Conflict of Interest policy once it has been released.

The LEA will complete and submit the "Potential Conflict of Interest Disclosure" form obtained from TEA's "Forms for Prior Approval, Disclosure, and Justification" webpage to disclose any **potential** conflict of interest concerning the expenditure of Federal grant funds.

The department of Business Services is responsible for submitting the form to TEA.

Please see the Standards of Conduct Covering Conflicts of Interest section of this manual for additional information.

## Mandatory Disclosures 2 CFR §200.113

### Requirement:

The LEA must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity (TEA) all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

Non-Federal entities that have received a Federal award including the term and condition outlined in Appendix II to 2 CFR Part 200 are required to report certain civil, criminal, or administrative proceedings to SAM (currently FAPIS).

Failure to make required disclosures can result in any of the remedies described in 2 CFR §200.339.

## **Subrecipient Risk Assessment and Monitoring (2 CFR §200.332)**

### *Requirement:*

The LEA must evaluate each subrecipient's risk of noncompliance for purposes of determining the appropriate monitoring level and must monitor the activities of subrecipients as necessary to ensure that Federal funds are used for authorized purposes and that performance goals are achieved.

### *Implementation:*

Before awarding Federal funds to a subrecipient, the District performs a Subrecipient Risk Assessment using criteria such as prior audit results, financial stability, program experience, personnel qualifications, and prior performance. Each criterion is scored using a standard risk matrix. Subrecipients are classified as low, medium, or high risk, with high-risk entities receiving additional monitoring such as site visits and documentation review. Monitoring results and corrective actions are documented and retained for five years.

### Implementation:

The LEA will complete and submit the "Mandatory Disclosure: Violation of Federal Criminal Law" form obtained from TEA's "Forms for Prior Approval, Disclosure, and

Justification” webpage to disclose any violation of Federal criminal law **potentially** affecting the Federal award.

The department of Business Services is responsible for submitting the form to TEA.

## Waste, Fraud, and Abuse

To ensure the public receives the best value, the LEA strives to ensure its administrative management of public funds is as effective and efficient as possible, with a high standard of accountability to prevent waste, fraud, and abuse.

### Requirement:

The LEA prohibits fraud and financial impropriety, as defined below, in the actions of its trustees, employees, vendors, contractors, consultants, volunteers and others seeking to maintain a business relationship with the LEA. These persons shall not seek a financial or other advantage, either personally or for the LEA, through bribery, fraud, kickbacks, misapplication of funds, malfeasance, gross mismanagement, or other criminal activities. These persons shall not offer, promise, give, request, or agree to receive or accept a bribe for any purpose. Excessive or lavish gifts or hospitality in relation to business transactions or arrangements with granting agencies, contractors, vendors, or other parties to contracts might constitute bribery.

Please see the Procurement section, Standards of Conduct Covering Conflicts of Interest section, of this manual for the LEA’s definition of nominal vs excessive gifts.

Fraud and financial impropriety include, but is not limited to:

- Forgery or unauthorized alteration of any document or account belonging to the LEA;
- Forgery or unauthorized alteration of a check, bank draft, or any other financial document;
- Misappropriation of funds, securities, supplies, or other LEA assets, including employee time;
- Impropriety in the handling of money or reporting of LEA financial transactions;
- Profiteering as a result of insider knowledge of LEA information or activities;
- Unauthorized disclosure of confidential or proprietary information to outside parties;

- Unauthorized disclosure of investment activities engaged in or contemplated by the LEA;
- Accepting or seeking anything of material value from contractors, vendors, or other persons providing services or materials to the LEA;
- Destroying, removing, or inappropriately using records, furniture, fixtures, or equipment;
- Failure to provide financial records required by state and local entities;
- Failure to disclose conflicts of interest as required by policy; and
- Any other dishonest act regarding the finances of the LEA.

Any person who suspects fraud or financial impropriety, or suspects that an illegal or unethical act has occurred, shall report the suspicions immediately to any supervisor, the Superintendent or designee, the Board President, or local law enforcement. The LEA will not retaliate against any person who, in good faith, has reported what they believe to be illegal acts by LEA employees, officers, or agents, or of other individuals or entities with whom the LEA has a business relationship, on the basis of a reasonable belief that the practice is in violation of law or clear mandate of public policy.

Implementation:

The LEA has internal controls in place to help prevent and mitigate incidents of fraud, waste, and abuse.

#### *Reporting Fraud or Financial Impropriety*

*A Public Grievance Form should be completed by the Complainant and should include the following information, if applicable or known: (1) Date of Report; (2) Type of funds, such as federal, state, local; (3) Grant Number; (4) Location of incident; (5) Date and time of incident; (6) Source of complaint (employee, vendor, etc.); (7) Description in detail of infraction.*

<https://www.seguin.k12.tx.us/page/HR.grievance>

#### *Investigating Reports of Fraud or Financial Impropriety*

The LEA will take appropriate action to investigate incidents of fraud, malfeasance, misapplication of funds, gross mismanagement, or other criminal activities in all forms, which may be prosecutable.

*The department of Human Resources will appropriately investigate, record, and report all suspected instances of fraud or financial impropriety to the Superintendent, including the initial Public Grievance Form, as well as a report indicating actions taken. If necessary, the appropriate investigative agency or law enforcement will be notified. Depending on the results of the investigation, the LEA will take appropriate action, including disciplinary actions for violations of the LEA's Code of Conduct. Appeals related to the conclusion of an investigation or disciplinary action resulting from an investigation should be made in writing to the department of Human Resources.*

### *Disclosure*

The LEA will disclose in writing to the awarding agency or pass-through entity any violation of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Please see the Mandatory Disclosure section of this manual for more information.

## **Financial Management**

The LEA maintains a proper financial management system in order to receive both direct and state-administered Federal education grants and to expend funds associated with a grant award. Certain fiscal controls and procedures must be in place to ensure that all financial management system requirements are met. Failure to meet a requirement may result in return of funds or termination of the award.

The LEA's financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, must be sufficient to permit preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award. 2 CFR §200.302(a)



## Financial Management Standards

The LEA maintains a financial management system that meets the Federal standards outlined in the Uniform Guidance 2 CFR §200.302. The required standards include:

### ***Identification 2 CFR §200.302(b)(1)***

#### Requirement:

The LEA must identify, in its accounts, all Federal awards received and expended and the Federal programs under which they were received. Federal program and award identification must include, as applicable, the Assistance Listings\* title and number, Federal award identification number and year, name of the Federal agency, and, if applicable, name of the pass-through entity [e.g., Texas Education Agency (TEA)], if any.

*\*Assistance Listings refers to the publicly available listing of Federal assistance programs managed and administered by the General Services Administration, formerly known as the Catalog of Federal Domestic Assistance (CFDA). The Assistance Listing Number is the unique number assigned to identify the program, formerly known as the CFDA Number. The Assistance Listing Program Title means the title that corresponds to the Federal Assistance Listings Number, formerly known as the CFDA Program Title.*

#### Implementation:

The Assistance Listing Title and Number (CFDA Program Title and CFDA number) are all included in the District's accounts.

The District complies with the required federal standards for financial management systems by complying with the minimum budgeting, accounting, auditing, and reporting requirements established in TEA's Financial Accounting and Reporting (FAR) Module 1 of the FASRG. Based on generally accepted accounting principles, FAR details a mandatory account code structure consisting of a minimum of 15 digits, plus five digits used at local option (for a total of 20 possible digits). The District uses all 20 digits for each accounting transactions consisting of a *fund code*, *function code*, *sub-object code*, *organization code*, *fiscal year code*, *program intent code*, *district program code* and *object code*, each serving a different purpose in designating the use of funds, campus served, and student population served.

Each accounting transaction recorded in the general ledger begins with the 3-digit fund code. For example, the 3-digit fund code for Title I, Part A is 211. The budget and all revenues and expenditures for Title I, Part A must be recorded in the accounting records using this specific fund code.

***Financial Reporting 2 CFR §200.302(b)(2)***

Requirement:

Accurate, current, and complete disclosure of the financial results of each Federal award or program must be made in accordance with the reporting requirements set forth in 2 CFR §200.328 and 2 CFR §200.329, and in accordance with the terms and conditions of the Federal award.

Implementation:

The LEA will comply with any reporting requirements established by TEA and submit the reports in the timeline and format requested by TEA. This includes any required activity/progress reports and evaluation reports, if applicable.

If the LEA hires a contracted evaluator, the LEA makes every effort to ensure the evaluator is independent and objective.

The department of Curriculum & Instruction, department of Special Education, or department of Child Nutrition as applicable is responsible for reviewing the reporting requirements for each grant and determining how and when reports will be submitted.

The department of Business Services is responsible for compiling timely and accurate financial reports, activity reports, and evaluation reports.

The departments of Curriculum & Instruction, Special Education, or Child Nutrition review and approve the applicable reports.

## ***Accounting Records 2 CFR §200.302(b)(3)***

Requirement:

The LEA must maintain records that adequately identify the source and application of funds for Federally funded activities. These records must contain information pertaining to Federal awards, authorizations, financial obligations, unobligated balances, assets, expenditures, income, and interest and be supported by source documentation (i.e., purchase orders/requisitions, invoices, receipts, travel vouchers, time and effort reports, employee payroll records, etc.).

### ***TEA's Accounting Requirements***

The LEA must comply with the accounting requirements in the Financial Accounting and Reporting (FAR) module of the Financial Accountability System Resource Guide (FASRG).

The LEA must use the accounting code structure and accounting codes specified in the FAR module, including Fund Code, Function Code, Object Code, Organization Code, Fiscal Year, Program Intent Code.

Local Option Codes are used at the discretion of the LEA for any purpose the LEA chooses. The LEA must:

- Keep a chart of locally assigned accounts;
- Use the locally assigned accounts uniformly in the accounting system throughout the fiscal year and must not change the locally assigned accounts during any fiscal year;
- Make the chart of accounts available for managerial, auditing, and other purposes; and
- Retain the chart of accounts for audit purposes for at least five years after any changes are made to the chart.

### ***TEA's Requirement for General Ledger:***

For each account code used for grant expenditures, the detailed general ledger should include the following:

- Budgeted expenditures
- Encumbrances

- Actual expenditures

Specifically, the detailed general should also include the following information for each recorded transaction:

- The reference number (e.g., check number, PO number, or journal voucher number)
- Transaction date
- Vendor name
- Transaction description
- FASRG account codes
- Commodity codes (i.e., codes to calculate aggregate costs)
- Amount encumbered or obligated
- Amount paid or unencumbered

*TEA's Requirement for Payroll Journals:*

The payroll journal should include the following information for each recorded transaction for each grant-funded employee:

- Employee first and last name, and identification number
- Gross salary and other income, deductions, and net earnings
- Pay period, check date, and check number
- Fund code to which the payroll costs were charged

Implementation of Accounting Records Requirements:

The District uses the MUNIS accounting system, which maintains all financial transactions for procurement and interfaces with a separate inventory system. The MUNIS system-software application does have the ability to accommodate the minimum 15-digit account code mandated by FASRG, generate information needed for Public Education Information Management System (PEIMS) reporting, and ensure adequate accountability of state and federal funds.

The budget for each federal award is recorded in the general ledger in accordance with FAR using the designated 3-digit fund code. Obligations/encumbrances and expenditures are also recorded in the general ledger for each federal award. Monthly, the Budget & General Ledger Coordinator and CFO compare actual *expenditures* or outlays with *budgeted* amounts for each federal award. Additionally, budgets submitted for grant programs are verified to the NOGA. Exceptions identified are brought to the attention of

the grant administrator and the departments of Curriculum & Instruction, Special Education, or Child Nutrition, as applicable, and adjustments are requested and posted promptly. The Federal Programs Coordinator, Director of Special Education Services, or Director of Child Nutrition, as applicable, will review federal budgets on a monthly basis to ensure budgets have not been exceeded. Budgets nearing the maximum amount will be reviewed with the appropriate departments.

Journal entries are prepared by the CFO, the Comptroller, or the Budget & General Ledger Coordinator. Once the entry is prepared, it is initialed by the preparer and then reviewed by one of the other three individuals authorized to prepare journal entries. No one person is able to prepare, review, and enter a journal entry. Once the entry is reviewed, it is initialed by the reviewer and then sent to the Budget & General Ledger Coordinator for entry into the MUNIS system.

The hard copy of the approved journal entry along with any appropriate backup documentation is maintained by the Comptroller.

Source documentation for procurement related transactions is scanned and maintained along with the payment records in the MUNIS system. The Purchasing Coordinator is responsible for ensuring that all source documentation is scanned into MUNIS. The Accounts Payable Specialist is responsible for ensuring that subsequent invoices are scanned and attached electronically to the payment record.

The CFO reviews the FASRG and implements the accounting requirements.

The Budget & General Ledger Coordinator and the CFO ensure new account codes initiated by TEA are included in the financial management and accounting system.

The Budget & General Ledger Coordinator and the CFO determine locally defined ledger account codes to further identify and distinguish revenue or expenditures for which more detailed information is needed, beyond the required account codes.

The Budget & General Ledger Coordinator, the CFO, and the departments of Curriculum & Instruction, Special Education, or Child Nutrition as applicable work together to identify Federal programs with required set-asides or reservations in which local option codes are needed to appropriately track expenditures tied to the set-asides or reservations.

The departments of Curriculum & Instruction, Special Education, or Child Nutrition as applicable along with the Budget & General Ledger Coordinator monitor the expenditures to ensure the required amount was expended.

The District chart of accounts which lists all general ledger account codes, in accordance with TEA's Financial Accountability System Resource Guide (FASRG), including all locally defined general ledger account codes in effect for each fiscal year is provided as follows:

## **SEGUIN INDEPENDENT SCHOOL DISTRICT CHART OF ACCOUNTS**

### **CODE STRUCTURE AND OVERVIEW**

A major purpose of the following accounting code structure is to establish the standard school district fiscal accounting system required by law. Although certain codes within the overview may be used at local option, the sequence of the codes within the structure, and the funds and chart of accounts, are to be uniformly used by all school districts in accordance with generally accepted accounting principles.

### **BASIC SYSTEM CODE COMPOSITION:**

#### **Fund Code**

A mandatory 3-digit code is to be used for all financial transactions to identify the fund group and specific fund. The first digit refers to the fund group, and the second and third digit specifies the fund.

#### **Function Code**

A mandatory 2-digit code applied to expenditures/expenses that identify the purpose of the transaction. The first digit identifies the major class, and the second digit refers to the specific function within the area.

#### **Optional Codes 1 and 2 – Sub-object**

A 2-digit code for optional use to provide special accountability at the local level.

#### **Organization Code**

A mandatory 3 digit code that identifies the organization, i.e., High School, Middle School, Elementary School, Superintendent's office, etc. An organization code does not necessarily correspond with a physical location. The activity, not the location, defines the organization. Campuses are examples of organization codes and are specified for each school district in the Texas School Directory.

#### **Fiscal Year Code**

A mandatory single digit code that identifies the fiscal year of the transaction or the project year of inception of a grant project. This code will remain zero except for grant funds.

#### **Program Intent Code**

A 2-digit code used to designate the intent of a program provided to students. These codes are used to account for the cost of instruction and other services that are directed toward a particular need of a specific set of students. The intent (the student group toward which the instructional or other service is directed) determines the program intent code, not the demographic makeup of the students served.

Optional Codes 3, 4 & 5 – District Program Group Code

A three-digit code that is used at the local option.

**Object Code**

A mandatory 4-digit code that identifies the nature and object of an account, a transaction, or a source. The first of the four digits identifies the type of account or transaction, the second digit identifies the major area, and the third and fourth digits provide further sub-classifications. Although listed in the middle of the TEA account structure, the object code is listed last for Seguin ISD effective July 1, 2014.

**CURRENT YEAR FUND CODES:**

206	TEXAS EDUCATION FOR HOMELESS CHILDREN AND YOUTH
211	TITLE I PART A-IMPROVING BASIC PROGRAMS
211	SCHOOL ACTION FUND PLANNING GRANT
224	IDEA-B FORMULA
225	IDEA-B PRESCHOOL
226	IDEA-B DISCRETIONARY (HIGH COST RESIDENTIAL)
240	NATL SCHOOL BREAKFAST & LUNCH
242	SUMMER FOOD SERVICE PROGRAM
244	PERKINS V: STRENGTHENING CTE FOR THE 21ST CENTURY
255	TITLE II, PART A
263	TITLE III, PART A LEP
263	TITLE III, PART A IMMIGRANT
265	NITA M LOWEY 21ST CENTURY CCLC
288	TITLE I PART D
289	TITLE IV PART A
289	STRONGER CONNECTIONS GRANT
429	LEARNING ACCELERATION SUPPORT OPPORTUNITIES (LASO CYCLE 3)
429	SCHOOL SAFETY STANDARDS FORMULA GRANT
429	SAFETY & FACILITIES ENHANCEMENT GRANT (SAFE), CYCLE 2
429	INTERACTIVE ONLINE LEARNING GRANT

***Internal Controls 2 CFR §200.302(b)(4)***

Requirement:

The LEA must maintain effective control over, and accountability for, **all** funds, property, and other assets. The LEA must adequately safeguard **all assets** and assure that they are used solely for authorized purposes.

“Internal controls” are processes that help program and financial managers achieve results and safeguard the integrity of their program. As described in 2 CFR §200.1, internal controls are processes designed and implemented by non-Federal entities to provide reasonable assurance regarding the achievement of objectives in the following categories:

- Effectiveness and efficiency of operations;
- Reliability of reporting for internal and external use; and
- Compliance with applicable laws and regulations

According to 2 CFR §200.303, the LEA must establish and maintain effective internal control over the Federal award that provides reasonable assurance that the LEA 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 (a.k.a. the “Green Book”) or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

Additionally, the LEA must:

- Comply with the U.S. Constitution, Federal statutes, regulations, and the terms and conditions of the Federal awards.
- Evaluate and monitor the LEA’s compliance with statutes, regulations, and the terms and conditions of Federal awards.
- Take prompt action when instances of noncompliance are identified, including noncompliance identified in audit findings.
- Take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity (TEA) designates as sensitive, or the LEA considers sensitive consistent with applicable Federal, State, and local laws regarding privacy and responsibility over confidentiality.

Implementation.

The District Internal Controls processes include:

- Develop and maintain policies, procedures, and effective practices to ensure federal funds are properly administered and spent and federal property is safeguarded against loss and from unauthorized use or disposition. The District annually reviews the EDGAR Administrative Procedures Manual and the Purchasing Manual. The LEA also ensures all employees who deal with federal funds are aware of the policies and procedures and are properly trained in the use of them. The departments of Curriculum & Instruction, Special Education, or



Child Nutrition as applicable are responsible for training program staff while the CFO oversees the training on accounting procedures for the District.

- Ensures employees comply by regularly and frequently evaluating and monitoring their compliance with the policies and procedures, statutes, regulations, and the terms and conditions of the award. The departments of Curriculum & Instruction, Special Education, or Child Nutrition are responsible for ensuring compliance as applicable.
- Take prompt action when instances of noncompliance are identified, including noncompliance identified in audit findings, and take the appropriate disciplinary action for employees who do not comply.
- Take reasonable measures to safeguard protected personally identifiable information and other information designated as sensitive consistent with applicable federal, state, and local laws regarding privacy and obligations of confidentiality. The District uses the following, at least in part, to determine if internal controls are effective:
  - Only valid or authorized transactions are processed.
  - Transactions occur during the grant period and are processed timely.
  - Transactions that are not proper are rejected and not processed.
  - Transactions appear reasonable relative to other data.
  - Property (including supplies and equipment) is tracked and used only for authorized purposes.
  - Property is properly disposed of.
  - Grant expenditures are reviewed monthly by the Budget & General Ledger Coordinator and annually by the District's external auditor. Any deficiencies in internal controls identified are addressed immediately.
- Ensure reasonable segregation of duties by requiring the submission of a request for any given transaction be authorized and approved by an appropriate level of administrator within a budgetary unit or federal program. The approval must be documented by initial or signature (hard-copy or electronic) before it is processed by the department of Business Services for payment to vendor or staff member.

### ***Budget Control 2 CFR §200.302(b)(5)***

Requirement:

Actual expenditures must be compared with budgeted amounts for each Federal award.

Implementation:

Please see the Budgeting and Grant Application Process section of this manual for the LEA's procedures for monitoring expenditures.

### ***Cash Management 2 CFR §200.302(b)(6)***

Requirement:

The LEA must maintain written procedures to implement the cash management requirements of 2 CFR §200.305.

Implementation:

Please see the Federal Cash Management section of this manual for the LEA's cash management procedures.

### ***Allowable Costs 2 CFR §200.302(b)(7)***

Requirement:

The LEA must maintain written procedures for determining allowability of costs in accordance with 2 CFR Part 200 Subpart E Cost Principles, and the terms and conditions of the Federal award.

Implementation:

Please see the Determination of Allowability of Costs section of this manual for the LEA's procedures.

## **Budgeting and Grant Application Process**

## ***Budget Planning***

### Requirement:

Federal grant programs are unique and have different program and fiscal requirements. Therefore, specific program budgets are prepared for each grant. The grant budget is based on how the grant funds can best aid in the implementation of the program plan. The LEA will take into consideration the statutory and regulatory requirements that affect how grant funds can be used.

If the grant program has a “Supplement, Not Supplant (SNS)” requirement, the entire funding picture for the program is examined to ensure that grant funds are not being used to supplant other fund sources, as applicable to the specific grant’s SNS requirements.

If grant-specific requirements stipulate certain types of expenditures that must be tracked, such as set-asides or reservations, the LEA must designate a method for tracking such expenditures, such as the use of local option codes within the accounting code structure.

If a grant program has a provision for carryover of unused funds, in most cases, the LEA should plan for expenditures of funds to occur within the original grant period and use the carryover period to expend remaining funds due to unforeseen circumstances.

### Implementation:

***Before Developing the Grant Budget and Submitting the Application:*** The grant budget must be based on the proposed activities planned and described in the grant application. Prior to developing the budget, the program manager must know the intent of the federal program and the activities that are allowable to be conducted with grant funds. The program manager must coordinate with other District staff as appropriate to conduct the appropriate needs analysis using the appropriate data to determine the goals and objectives for the program and the activities that will be implemented to accomplish the goals and objectives. Once the goals, objectives, strategies, and activities are outlined, then the budget to carry out the identified strategies and activities should be developed.

Prior to completing the application, the program manager develops a detailed budget in a document (such as in an Excel spreadsheet) separate from the application. The program manager coordinates with the department of Business Services in preparing the

budget to ensure budgeted items are categorized according to the proper class/object code. This detailed budget, which serves as the guide for expenditures and becomes part of the “working papers” maintained by the program manager, is used to complete the application. In most instances, particularly for formula grants, the budget entered into the grant application will not be as detailed. The detailed budget is to be modified or revised as necessary to accommodate changes, which may result in an amendment to the application prior to incurring certain expenditures.

If the grant program will be implemented on a Title I schoolwide campus, the planned activities and expenditures must be identified in the schoolwide plan. Conducting activities and expending funds that are not included in the schoolwide plan could result in an audit exception or monitoring finding for the District. Therefore, the program manager is responsible for coordinating with the Title I program director and for ensuring the activities and anticipated expenditures are described in the schoolwide plan.

The budgeting process begins with a comprehensive needs assessment, which occurs in the spring semester with the District Educational Improvement Council (DEIC). Needs are assessed, goals and objectives are set, and activities are aligned to goals and objectives. Based on these activities, the budget is determined.

### ***Public Notification Prior to Submittal of the Grant Application***

Requirement:

In accordance with the General Education Provisions Act (GEPA), the LEA will provide reasonable opportunities for the participation by teachers, parents, and other interested agencies, organizations, and individuals in the planning for and operation of each program. Any application, evaluation, periodic program plan, or report relating to each program will be made readily available to parents and other members of the general public. 20 USC 1232(e)(5-6); TEA’s General Provisions and Assurances.

The Public Notice Requirement is applicable to **all** Federal education grants and should be provided prior to submission of the grant application.

Furthermore, 34 CFR §76.304 requires that a subgrantee shall make any application, evaluation, periodic program plan, or report relating to each program available for public inspection.

#### Implementation:

The LEA will review the program guidelines, guidance, and terms and conditions of the specific grant to determine:

- Whether public notice made available before the LEA submits its application, plan, evaluation, or report to TEA is sufficient in meeting the Public Notification requirement, or
- Whether the LEA must also provide an opportunity for public comments on the LEA's proposed use of grant funds and give consideration to the comments
- The required stakeholders who should be given an opportunity to provide input into the development of the plan for use of funds, based on the specific grant's requirements.

The LEA provides the plan in an understandable and uniform format, to the extent practicable, written in a language that parents can understand, or if not practicable, or orally translated, or provided in an alternative format accessible to the parent, upon request.

The LEA consistently follows its local policy on providing public notice and providing public comment, when applicable. Please review the LEA's local policy available at: <https://www.seguin.k12.tx.us/page/business.grants>

The Federal Programs Coordinator is responsible for reviewing all public comments.

#### ***Reviewing and Approving the Budget***

#### Requirement:

The LEA has internal controls in place to ensure segregation of duties in relation to budget planning and approval.

#### Implementation:

By the end of March, the Federal Programs Coordinator, Director of Special Education Services, or Director of Child Nutrition as applicable reviews the items in the proposed budget with the departments of Curriculum & Instruction, Special Education, and Child Nutrition as applicable and the CFO to ensure budgeted items are listed in the correct class/object code according to FAR and the District's classification chart and to ensure the items are allowable. The budget is also reviewed to ensure that any costs requiring

specific or prior approval are specifically identified and listed. See *II. Financial Management System, E. Expending Grant Funds*, for a discussion on performing compliance determinations. If it is determined that a cost is not allowable, then the budget is returned to the relevant staff member to be revised before seeking final approval.

Once the Federal Programs Coordinator, Director of Special Education Services, or Director of Child Nutrition as applicable determines that all budgeted items are allowable and are budgeted in the proper class/object code according to FAR, the budget is sent to the CFO for final review and approval. Generally, the budget receives final approval by the end of March. The assigned program manager then enters the final approved budget into the appropriate budget schedules of the grant application.

### ***Completing and Submitting the Grant Application***

Requirement:

Grant writing (completing and submitting the grant application) is not an allowable expenditure with federal grant funds. 2 CFR §200.460 describes proposal costs as the costs of preparing bids, proposals, or applications on potential Federal and non-Federal awards or projects, including the development of data necessary to support the non-Federal entity's bids or proposals. Whereas 2 CFR §200.460 indicates that proposal costs should be treated as indirect costs, the **USDE guidance is more restrictive and deems the cost unallowable with federal funds.**

TEA's grant application contains sections or schedules that must be completed for the applicant to be eligible for grant funding. All grant applications must include any requested attachments, in addition to contact information, program forms, budget forms, and provisions, assurances, and certifications.

All the legal provisions and assurances that apply to the grant program are identified with the Provisions, Assurances, and Certifications applicable to the grant.

The General and Fiscal Guidelines apply to all grants administered by TEA and describe the application process and submission procedures and provide general directions regarding the process to be used for distribution and management of grant funds.

The General Provisions and Assurances apply to all applicants for all grants administered by TEA and include a summary of the terms of the subaward between TEA and the subgrantee and a list that includes, but is not limited to, the Federal rules, laws, and regulations that apply to all State and Federal programs.

The Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion is a set of provisions and assurances applicable to all applicants for Federally funded programs, regardless of the dollar amount of the award. The regulations in 2 CFR §200.214 restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. By certifying and submitting the grants application to TEA, the applicant certifies that neither it nor its authorized officials are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the transaction by any Federal department or agency.

The Lobbying Certification applies to Federal grants in excess of \$100,000 or in which a subcontract to another organization exceeds \$100,000. Disclosure of lobbying activities is required for Federally funded grants in excess of \$100,000 when the organization pays or agrees to pay a lobbying entity to influence or attempt to influence a member of Congress, its employees, or a Federal agency employee. If applicable, the disclosure must be submitted with the initial grant application and at the end of each calendar quarter after a material change occurs, as described in the application instructions. Any organization that fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Program Guidelines provide information about the specific grant program, including the purpose of the grant, eligibility criteria, program description, statutory and TEA program requirements, any specific application review criteria, and critical dates. The Program Guidelines also contain specific information regarding the allowability of certain types of costs as related to the specific grant program. Items requiring specific approval through the grant application, or a required attachment to the application, must be included in the application and approved. Expending funds for these items without including them in the grant application and receiving approval is unallowable and will result in questioned costs.

The Program-Specific Provisions and Assurances are applicable to the specific grant program identified.

The grant application must be certified and submitted by an individual who has been authorized to enter the organization into a legally binding contractual agreement. The “Authorized Official” is the individual who will represent the applicant in the event any legal disputes arise. This person is usually the superintendent or executive director.

By certifying and submitting the grant application, the authorized official indicates that the subgrantee has read and agrees to comply with all the terms outlined in the applicable schedules, including the General and Fiscal Guidelines, General Provisions and Assurances, Program Guidelines, Program Specific Provisions and Assurances, and certifications applicable to the grant.

In accordance with TEA’s General and Fiscal Guidelines, in order to ensure compliance with required accounting procedures, LEA staff who submit grant applications are strongly encouraged to consult with their business office about assignment of budgeted items to the proper class/object codes before completing and submitting the grant application. Advance coordination with the business office may help expedite negotiation and processing of the application and may assist in avoiding or minimizing audit exceptions.

All fiscal and programmatic documentation must be maintained locally and be available to provide to TEA or auditors upon request.

The grant application, after being approved by TEA, is considered effective on the date the application was received by TEA in substantially approvable form, unless the submittal occurred prior to the begin date of the grant, in which case the effective date is the begin date of the grant. All applications are subject to negotiation.

#### Implementation:

Once the grant application is submitted to the awarding agency, the designated program contact, usually the Program or Project Director assigned to the grant program, is available via phone and/or e-mail in the event that the awarding agency needs to negotiate the application. The assigned Program/Project Director will seek guidance, if needed, from appropriate District personnel and will respond to any inquiries from the awarding agency within 24 hours. A delay in contacting the awarding agency delays final approval of the grant application, which delays grant program implementation and providing services to intended beneficiaries of the grant.



The department of Curriculum & Instruction will ensure that all grant application deadlines are met.

The Federal Programs Coordinator works with the Chief Academic Officer to complete the ESSA grant application. The Federal Programs Coordinator is responsible for saving the grant application.

### ***After Receiving the NOGA/GAN***

#### **Requirement:**

Throughout the grant period, the budget is used as a control measure. The budget is monitored as expenditures are incurred.

#### **Implementation:**

All grant budgets are entered into the accounts of the District in the general ledger as approved in the application by submission of the grant budget to the CFO. The Budget & General Ledger Coordinator verifies that the submitted budget agrees to the NOGA prior to entry into the financial accounting system.

In addition, the following steps are taken to ensure the District is prepared to implement the grant on the beginning date of the grant to maximize the effectiveness of the grant. The Federal Programs Coordinator meets with the appropriate staff members to review the NOGA and the requirements outlined in the grant, including ensuring practices and procedures are in place to regularly and frequently report to management; coordinating with other federal and state grant programs to maximize effectiveness and efficiency of grant services and expenditures; ordering supplies and equipment needed to implement the grant; monitoring program activities daily to ensure that they are being conducted in accordance with the approved application and requirements; monitoring the approved budget closely to determine when and if an amendment is required; and preparing and submitting the required program reports and expenditure reports.

## ***Amending the Budget and Application***

### **Requirement:**

As described on TEA's Amending an Application webpage, after receiving a NOGA, the grantee may realize a need to make modifications to planned allowable activities or estimated budget costs. Some changes are within the grantee's power to make without seeking TEA approval. Other changes, however, require the grantee to amend the approved grant application and receive approval of the changes.

The LEA refers to TEA's "When to Amend the Application" chart, located on TEA's Amending an Application webpage, to determine whether a grant amendment should be submitted to TEA, or whether changes may be made to local records only. Required amendments must be submitted to TEA by the Last Amendment Due Date listed on the TEA Grant Opportunities webpage for the specific grant program.

All amendments are subject to negotiation and must adhere to the guidelines, regulations, provisions, and assurances of the grant program.

An amendment, after being approved by TEA, is considered effective on the date the amendment was received by TEA in substantially approvable form. All amendments are subject to negotiation.

In general, an amendment must be approved by TEA before any activities occur, such as purchase orders issued, funds encumbered or expended, goods received, or services rendered, that are affected by the amendment. If the LEA chooses to implement such changes prior to the amendment being approved by TEA, the LEA will be responsible for paying from other fund sources, any costs not approved during negotiations.

Local accounting records provide a complete record of the approved grant budget and all amendments, as well as transactions that do not require an official amendment submission to TEA.

#### Implementation:

The District consults and complies with the guidelines and procedures provided by TEA or other awarding agency as it pertains to when and how to submit an amendment to an approved application. TEA publishes its requirements for when to amend the application online. Specific deadlines for submitting amendments are published in the corresponding RFA and/or in the *Critical Events* calendar on the TEA Grant Opportunities Page for the specific grant program. Procedures are in place to ensure the District does not exceed any maximum allowable variation in the budget.

In the event that an application must be amended, the Federal Programs coordinator will submit the amendment in eGrants.

### ***Monitoring Expenditures***

#### Requirement:

The LEA must compare actual expenditures with budget amounts for each Federal award and make adjustments, as necessary.

The LEA must perform a reconciliation of any variances between the total expenditures recorded in the payroll journal and the total expenditures recorded in the detailed general ledger.

The LEA must perform a reconciliation of any variances between the total expenditures recorded in the detailed general ledger and the total expenditures reported to TEA via expenditure reporting.

The LEA must monitor expenditures to ensure compliance with the Maintenance of Effort requirements for ESSA and IDEA-B.

#### Implementation:

***Monitoring and Amending the Budget:*** The Federal Programs Coordinator, Director of Special Education Services, or Director of Child Nutrition as applicable will closely monitor campus and program budgets on a monthly basis to ensure that expenditures remain within the budget. If it is determined that a budget amendment must be made, the Federal

Programs Coordinator, Director of Special Education Services, or Director of Child Nutrition as applicable will ensure that the budget change will not exceed the maximum allowable budget variation. If deemed necessary, the budget amendment will go through the District Educational Improvement Council for approval before submission. The District Improvement Plan will be adjusted, as necessary.

*Monitoring and Amending the Program Description:* The Federal Programs Coordinator, Director of Special Education Services, or Director of Child Nutrition as applicable will meet with principals and program managers at the beginning, middle, and end of year to review program activities. If it is determined that changes to the approved grant application are recommended, the changes will be reviewed by the appropriate team, such as the District Educational Improvement Council, for approval. Upon approval, the Federal Programs Coordinator, Director of Special Education Services, or Director of Child Nutrition as applicable will submit the grant amendment.

## Spending Grant Funds

Grant expenditures must be aligned with approved budgeted items.

While developing and reviewing the grant budget, the departments of Curriculum & Instruction, Special Education, and Child Nutrition as applicable and the department of Business Services should keep in mind the difference between direct costs and indirect costs, as well as the Federal Cost Principles for determination of allowability of costs.

### ***Direct and Indirect Costs***

According to 2 CFR §200.412 Classification of Costs, there is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the Federal award or other final cost objective. Therefore, **it is essential that each item of cost incurred for the same purpose be treated consistently in like circumstances either as a direct or an indirect cost in order to avoid possible double-charging of Federal awards.**

*Cost Objective* means a program, function, activity, award, organizational subdivision, contract, or work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capital projects, etc. A cost objective may be a major function of the non-Federal entity, a particular service or

project, a Federal award, or an indirect (Facilities and Administrative) cost activity. 2 CFR §200.1.

*Direct costs* are those costs that can be identified specifically with a particular final cost objective, such as a Federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy. 2 CFR §200.413(a).

In accordance with 2 CFR §200.413(b), identification with the Federal award rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect costs of Federal awards.

Typical costs charged directly to a Federal award are:

- The compensation of employees who work on that award,
- Their related fringe benefit costs,
- The costs of materials and other items of expense incurred for the Federal award.

If directly related to a specific award, certain costs that otherwise would be treated as indirect costs may also be considered direct costs. Examples include extraordinary utility consumption, the cost of materials supplied from stock or services rendered by specialized facilities, **program evaluation costs**, or other institutional service operations.

*Indirect costs* means those costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. 2 CFR §200.1.

*Administrative Costs* generally are costs that are normal and customary expenses of administration. Some administrative costs are considered indirect costs, while other administrative costs are considered direct costs, as described in 2 CFR §200.413(c). Some program statutes include information related to the definition of the term as it applies to the program-specific grant. TEA's General and Fiscal Guidelines provide examples of direct administrative costs.

Some grant programs do not allow direct administrative costs to be charged to the grant. Some grant programs place a limitation on the percentage of administrative costs, both direct and indirect, that can be charged to the grant for any fiscal year.

In accordance with 2 CFR §200.413(c), the salaries of administrative and clerical staff should normally be treated as indirect costs. However, direct charging of these costs may be appropriate **only if all of the following conditions are met**:

- Administrative or clerical services are integral to a project or activity;
- Individuals involved can be specifically identified with the project or activity;
- Such costs are explicitly included in the budget or have prior written approval of the Federal awarding agency; and
- The costs are also not recovered as indirect costs.

#### *Indirect Cost Rate:*

##### Requirement:

The Texas Education Agency (TEA) is the authoritative entity that issues Indirect Cost Rates for Independent School Districts (ISDs) and Open-Enrollment Charter Schools. TEA's [Indirect Cost Rates webpage](#) describes the process involved in requesting an Indirect Cost Rate (ICR). The process varies for ISDs and Open-Enrollment Charter Schools.

Grantees that choose to participate in the Indirect Cost Rates process must request and receive a new Indirect Cost Rate annually. The rates are effective July 1 through June 30<sup>th</sup>.

Grantees that do not request an Indirect Cost Rate for the specific year are prohibited from recovering a percentage of their indirect costs from their Federal awards for that year.

Grantees that receive Federal education awards are prohibited from using a de minimis indirect cost rate in lieu of a current negotiated rate.

Grantees that receive their Indirect Cost Rate from TEA may use the rates to recover their organization-wide administrative costs of managing Federal grants, including costs related to accounting, budgeting, purchasing, auditing, and payroll processing.

TEA issues two Indirect Cost Rates, a Restricted rate, and an Unrestricted rate.

*Restricted Rate:* The Restricted Indirect Cost Rate is used for grant programs where the Supplement, Not Supplant (SNS) requirement applies. The majority of the grants that TEA administers are subject to Supplement, Not Supplant.

*Unrestricted Rate:* The Unrestricted Indirect Cost Rate is applied to grants not subject to the Supplement, Not Supplant requirement.

Once the LEA has an approved indirect cost rate, the percentage is multiplied against the actual expenditures declared in the Expenditure Reporting (ER) system (excluding certain distorting items such as equipment, contracts in excess of \$25,000, pass-through funds, etc.) incurred under a particular grant to produce the dollar amount of indirect costs allowable to that award.

The grantee with an Indirect Cost Rate may claim Indirect Costs via the ER system, regardless of whether Indirect Costs were budgeted in their grant application. Indirect costs are calculated and reimbursed based on actual expenditures when reported in the ER system.

When a Federal program has a specific cap on the percentage of administrative costs that may be charged to a grant, that cap includes all direct administrative charges as well as any recovered indirect charges.

In accordance with OMB's 2 CFR FAQ document, unallowable costs must not be charged either directly or indirectly to Federal awards.

Implementation:

TEA approves federal indirect cost rates for school districts, ESCs, and open-enrollment charter schools in Texas. The rates are calculated using costs specified in the District's indirect cost plan/proposal submitted to TEA and are effective July 1 through June 30 of each year.

Two indirect cost rates are approved by TEA and are used by the District. The *restricted* rate is used for federal grants containing the *supplement, not supplant* requirement. The *unrestricted* rate may be used for federal grants that do *not* contain the supplement, not supplant requirement. The District charges indirect costs to grants only as allowed by the granting agency and using the rates authorized by TEA or the grant. The Budget & General Ledger Coordinator and the CFO monitor the proper allocation of indirect costs

to federal grants. In addition, the Budget & General Ledger Coordinator and CFO are responsible for any submission required to apply for an indirect cost from TEA.

*Applying the Indirect Cost Rate:* The District has a current, approved federal indirect cost rate and uses the percentage to multiply against the *actual* direct costs (excluding distorting items specified by TEA or other awarding agency, such as the portion of each contract in excess of \$25,000, subgrants, capital outlay, debt service, etc.) incurred under a particular grant to produce the dollar amount of indirect costs allowable to that award. Once the District applies the approved rate, the funds that may be claimed for indirect costs have no federal accountability and may be used as if they were non-federal funds. For *Direct Grants*, reimbursement of indirect costs is subject to the availability of funds and statutory or administrative restrictions.

Indirect costs are part of *administrative* costs (vs. *program* costs). Where a federal program has a specific cap on the percentage of *administrative* costs that may be charged to a grant, that cap must include all *direct administrative* charges as well as any recovered *indirect* charges. If *administrative* costs are limited to 5%, for example, the total *direct administrative* costs plus *indirect* costs claimed for the grant cannot exceed 5%.

Indirect costs are budgeted in the grant application in the corresponding line item. Although the maximum allowable indirect costs may be budgeted in the application, indirect costs can only be *charged* to the grant based on *actual* expenditures of *direct* costs. Therefore, if the District does not expend all of its funds during the grant period, the *maximum* amount of indirect costs budgeted based on the total grant award is not charged to the grant. Prior to finalizing expenditures for the grant and submitting the final expenditure report to TEA or other awarding agency, the District adjusts the final amount charged to indirect costs based on the *actual* expenditures.

#### *Requirement:*

The LEA must establish written policies describing the treatment of indirect costs, including whether the District uses a negotiated indirect cost rate or the de minimis rate allowed under §200.414(f).

#### *Implementation:*

The District elects to use the negotiated restricted indirect cost rate approved annually by the Texas Education Agency (TEA). The rate is applied to the appropriate modified total direct cost (MTDC) base, excluding capital outlay, subawards over \$25,000, and participant support costs. Indirect costs are calculated monthly in the financial management system. If the de minimis rate (10%) is used, this will be documented in



writing and applied consistently. The CFO ensures indirect costs are applied only to allowable expenditures and are not double charged as direct costs.

### ***Determination of Allowability of Costs***

Requirement:

The LEA is responsible for the efficient and effective administration of the Federal award through the application of sound management practices and administers the Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Federal award. 2 CFR §200.400(a-b).

All costs supported by Federal education funds must meet the standards outlined in 2 CFR Part 200, Subpart E Cost Principles.

### ***Factors Affecting Allowability of Costs*** 2 CFR §200.403

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards:

- **Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.**
- **Conform to any limitations or exclusions set forth in these principles (2 CFR Part 200 Subpart E) or in the Federal award as to types or amount of cost items.**
- **Be consistent with policies and procedures that apply uniformly to both Federally financed and other activities of the LEA.**
- **Be accorded consistent treatment.** A cost cannot be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- **Be determined in accordance with generally accepted accounting principles (GAAP), except as otherwise provided in 2 CFR Part 200.**
- **Not be included as a cost or used to meet cost sharing or matching requirements of any other Federally financed program in either the current or a prior period.** (Some Federal program statutes require the non-Federal entity to contribute a certain amount of non-Federal resources to be eligible for the Federal program. Refer to 2 CFR §200.306(b) for information related to cost-sharing or matching.)
- **Be adequately documented.** (See also 2 CFR §§200.300 – 200.309.)

- **Cost must be incurred during the approved budget period.**

*Necessary:*

While the Federal Cost Principles do not provide specific descriptions of what satisfies the “necessary” element beyond its inclusion in its reasonableness analysis, “necessary” is determined based on the needs of the program. Specifically, the expenditure must be necessary to achieve an important program objective. A key aspect in determining whether a cost is necessary is whether the LEA can demonstrate that the cost addresses an existing need and can prove it.

When determining whether a cost is necessary, consideration may be given to:

- Whether the cost is needed for the proper and efficient performance of the grant program.
- Whether the cost is identified in the approved budget or application.
- Whether there is an educational benefit associated with the cost.
- Whether the cost aligns with identified needs based on results and findings from a needs assessment.
- Whether the cost addresses program goals and objectives and is based on program data.

*Reasonable Costs 2 CFR §200.404:*

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.

In determining reasonableness of a given cost, consideration must be given to:

- Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the LEA or the proper and efficient performance of the Federal award.
- The restraints or requirements imposed by such factors as: sound business practices; arm’s-length bargaining; Federal, state, and local laws and regulations; and the terms and conditions of the Federal award.
- Market prices for comparable goods or services for the geographic area.

- Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the LEA, its employees, its students, or membership where applicable, the public at large, and the Federal Government.
- Whether the LEA significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.

*Allocable Costs 2 CFR §200.405:*

A cost is allocable to a particular Federal award or other cost objective if the goods or services involved are chargeable or assignable to that Federal award or cost objective in accordance with relative benefits received. This standard is met if the cost:

- Is incurred specifically for the Federal award;
- Benefits both the Federal award and other work of the LEA and can be distributed in proportions that may be approximated using reasonable methods; and
- Is necessary to the overall operation of the LEA and is assignable in part to the Federal award in accordance with the cost principles in 2 CFR Part 200 Subpart E.

Any cost allocable to a particular Federal award under the cost principles of 2 CFR Part 200 Subpart E may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or terms and conditions of the Federal award, or for other reasons. However, this prohibition would not preclude the LEA from shifting costs that are allowable under two or more Federal awards in accordance with existing Federal statutes, regulations, or the terms and conditions of the Federal awards.

*Direct Cost allocation principles:* If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost must be allocated to the projects based on the proportional benefit. If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, the costs may be allocated or transferred to benefitted projects on any reasonable documented basis.

Where the purchase of equipment or other capital asset is specifically authorized under a Federal award, the costs are assignable to the Federal award regardless of the use that may be made of the equipment or other capital asset involved when no longer needed for the purpose for which it was originally required. See also Property Standards in 2 CFR §§200.310-200.316 and 200.439.

*Applicable credits 2 CFR §200.406:*

“*Applicable credits*” refer to those receipts or reduction-of-expenditure-type transactions that offset or reduce expense items allocable to the Federal award as direct or indirect costs. Examples of such transactions are purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds or rebates, and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to or received by the LEA relate to allowable costs, they must be credited to the Federal award, either as a cost reduction or a cash refund, as appropriate.

*Selected Items of Cost 2 CFR §§200.420-200.476:*

The Selected Items of Cost section of 2 CFR Part 200 Subpart E Cost Principles provides **principles** to be applied in establishing the allowability of certain items involved in determining cost, in addition to the factors affecting allowability of costs. These principles apply whether or not a particular item of cost is properly treated as a direct cost or indirect cost.

Failure to mention a particular item of cost in this section is not intended to imply that it is either allowable or unallowable; rather, determination as to allowability in each case should be based on the treatment provided for similar or related items of cost, and based on the principles described in 2 CFR §§200.402-200.411. **In case of a discrepancy between the provisions of a specific Federal award and the provisions in the Selected Items of Cost section, the Federal award governs.** Criteria outlined in 2 CFR §200.403 must be applied in determining allowability.

LEA personnel responsible for spending Federal grant funds and for determining allowability must be familiar with the 2 CFR Part 200 Selected Items of Cost provisions. The LEA must follow these rules when determining whether to charge specific expenditures to a Federal grant. In addition, Federal program-specific regulations, State rules, and local policy, may deem a specific cost unallowable, even though identified as allowable in the Selected Items of Cost provisions. LEA personnel must follow the most restrictive.

Cost items may be unallowable for a number of reasons, including: the express language of the regulation states the item is unallowable; the terms and conditions of the grant deem the item unallowable; or State/local restrictions dictate that the item is unallowable.

The item may also be unallowable because it does not meet one of the Federal cost principles. For example, an item that typically might be allowable may be deemed unallowable, if the price is considered unreasonable. If an item is unallowable for any of these reasons, Federal funds cannot be used to purchase the item.

The Selected Items of Cost addressed in 2 CFR Part 200, applicable to all Federal awards (some cost items may not be applicable to Federal education awards) includes the following:

<b>Item of Cost</b>	<b>Citation of Allowability Rule</b>
Advertising and public relations	<u>2 CFR § 200.421</u>
Advisory councils	<u>2 CFR § 200.422</u>
Alcoholic beverages	<u>2 CFR § 200.423</u>
Alumni/ae activities	<u>2 CFR § 200.424</u>
Audit services	<u>2 CFR § 200.425</u>
Bad debts	<u>2 CFR § 200.426</u>
Bonding costs	<u>2 CFR § 200.427</u>
Collection of improper payments	<u>2 CFR § 200.428</u>
Commencement and convocation costs	<u>2 CFR § 200.429</u>
Compensation – personal services	<u>2 CFR § 200.430</u>
Compensation – fringe benefits	<u>2 CFR § 200.431</u>
Conferences	<u>2 CFR § 200.432</u>
Contingency provisions	<u>2 CFR § 200.433</u>
Contributions and donations	<u>2 CFR § 200.434</u>
Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements	<u>2 CFR § 200.435</u>
Depreciation	<u>2 CFR § 200.436</u>
Employee health and welfare costs	<u>2 CFR § 200.437</u>
Entertainment costs	<u>2 CFR § 200.438</u>
Equipment and other capital expenditures	<u>2 CFR § 200.439</u>
Exchange rates	<u>2 CFR § 200.440</u>
Fines, penalties, damages, and other settlements	<u>2 CFR § 200.441</u>
Fund raising and investment management costs	<u>2 CFR § 200.442</u>
Gains and losses on disposition of depreciable assets	<u>2 CFR § 200.443</u>
General costs of government	<u>2 CFR § 200.444</u>
Goods or services for personal use	<u>2 CFR § 200.445</u>
Idle facilities and idle capacity	<u>2 CFR § 200.446</u>
Insurance and indemnification	<u>2 CFR § 200.447</u>
Intellectual property	<u>2 CFR § 200.448</u>
Interest	<u>2 CFR § 200.449</u>
Lobbying	<u>2 CFR § 200.450</u>
Losses on other awards or contracts	<u>2 CFR § 200.451</u>

Maintenance and repair costs	<u>2 CFR § 200.452</u>
Materials and supplies costs, including costs of computing devices	<u>2 CFR § 200.453</u>
Memberships, subscriptions, and professional activity costs	<u>2 CFR § 200.454</u>
Organization costs	<u>2 CFR § 200.455</u>
Participant support costs	<u>2 CFR § 200.456</u>
Plant and security costs	<u>2 CFR § 200.457</u>
Pre-award costs	<u>2 CFR § 200.458</u>
Professional services costs	<u>2 CFR § 200.459</u>
Proposal costs	<u>2 CFR § 200.460</u>
Publication and printing costs	<u>2 CFR § 200.461</u>
Rearrangement and reconversion costs	<u>2 CFR § 200.462</u>
Recruiting costs	<u>2 CFR § 200.463</u>
Relocation costs of employees	<u>2 CFR § 200.464</u>
Rental costs of real property and equipment	<u>2 CFR § 200.465</u>
Scholarships and student aid costs	<u>2 CFR § 200.466</u>
Selling and marketing costs	<u>2 CFR § 200.467</u>
Specialized service facilities	<u>2 CFR § 200.468</u>
Student activity costs	<u>2 CFR § 200.469</u>
Taxes (including Value Added Tax)	<u>2 CFR § 200.470</u>
Telecommunication costs and video surveillance costs	<u>2 CFR § 200.471</u>
Termination costs	<u>2 CFR § 200.472</u>
Training and education costs	<u>2 CFR § 200.473</u>
Transportation costs	<u>2 CFR § 200.474</u>
Travel costs	<u>2 CFR § 200.475</u>
Trustees	<u>2 CFR § 200.476</u>

#### Implementation:

When determining how the LEA will spend its grant funds, departments of Curriculum & Instruction, Special Education, and Child Nutrition as applicable will review the proposed cost to determine whether it is an allowable use of Federal grant funds *before* budgeting, obligating, and spending those funds on the proposed good or service.

LEA personnel consult the following when determining if a cost is allowable with Federal funds:

- 2 CFR Part 200, Subpart E – Cost Principles, including the Basic Considerations and the General Provisions for Selected Items of Cost
- Program-specific statutes and regulations for the specific Federal award
- TEA's Program Guidelines and other guidance/rules for the specific Federal program

- TEA's general guidance and rules related to the administration of Federal awards
- Terms and conditions of the award
- USDE guidance
- Local policy and procedures

When determining how the District will spend grant funds, the Federal Programs Coordinator, Director of Special Education Services, or Director of Child Nutrition as applicable and the CFO will review the proposed cost to determine whether it is an allowable use of federal grant funds *before* obligating and spending those funds on the proposed goods or services. All expenditures made with federal education funds must meet the standards outlined in EDGAR.

In addition to the cost principles and standards described above, LEA fiscal and program staff may refer to this section as a useful framework when performing an analysis of allowability. In order to determine whether Federal funds may be used to purchase a specific cost item, it is helpful to ask the following questions:

- 1) Is the cost reasonable and necessary?
- 2) Does the cost meet the intent of the Federal program's statute and regulations?
- 3) Does the cost align with an allowable activity in the Federal program's statute and regulations?

Additional questions to consider when determining allowable use of funds:

- Is the proposed cost allowable under the relevant program?
  - Am I familiar with the program-specific statutes and regulations?
  - Have I reviewed the Program Guidelines issued by TEA for the particular grant program?
- Is the proposed cost consistent with an approved program plan and budget?
  - Is the cost identified in the applicable program plan?
  - Is the cost item budgeted in our internal budget documents, or does it need to be added?
  - Is the cost item budgeted in the grant application, or does it need to be added?
  - Does the cost item require specific approval from TEA?
  - If so, has the cost item been approved by TEA?
- Is the proposed cost consistent with program-specific fiscal rules?
  - Does the grant program have a supplement, not supplant rule?
  - Are there other program-specific fiscal rules that affect this cost item?

- Is the proposed cost consistent with specific conditions imposed on the grant (if applicable)?
  - Does the proposed cost item conform to any limitations or exclusions set forth in the terms and conditions of the award?
  - Have I reviewed the NOGA for the grant award to determine specific terms and conditions?
- Is the proposed cost consistent with the Federal Cost Principles in 2 CFR Part 200?
  - Is the proposed cost reasonable and necessary?
    - Is it a type generally recognized as ordinary and necessary for the operation of the LEA?
    - Is it needed for the proper and efficient performance of the specific Federal program?
    - Does it address program-specific goals and objectives?
    - Is it aligned with identified needs based on program data?
    - Have I reviewed the Campus Improvement Plan and/or District Improvement Plan and Comprehensive Needs Assessment?
    - Is there an educational benefit associated with the cost?
    - Are sound procurement practices, such as arms-length bargaining, and full and open competition standards followed, if applicable?
    - Are we significantly deviating from our locally established practices and policies?
    - Is the price consistent with market prices for comparable goods or services for the geographic area?
    - Are we required to perform a cost/price analysis?
    - Did we perform a lease vs purchase analysis, if applicable?
    - Did we perform an appropriate analysis to determine the most economical approach for the purchase?
    - Did we consider the option of used or surplus property in lieu of purchasing new equipment or property?
    - Is this the minimum amount I need to spend to meet the need?
    - Is this a more expensive model/version than what I really need?
    - Do we really need this, or is it just nice to have?
    - Do we have the capacity to use what I am purchasing?
    - Would this be a duplicative item of something we already have? Have I checked our inventory?
    - Would this purchase pass the prudent person test?
    - If I were asked to defend his purchase, would I be able to?
  - Is the proposed cost allocable to the Federal award?
    - Is the cost incurred specifically for the Federal program?
    - Will the program benefit in proportion to the costs charged to the Federal award?
  - Is the proposed cost item consistent with policies and procedures that apply uniformly to both Federally financed and other activities of the LEA?
    - Does the proposed cost item adhere to local policy?
  - Is the proposed cost item accorded consistent treatment?



- Is the cost a direct cost or indirect cost?
  - Is the determination consistent with like costs in like circumstances?
- Will the accounting treatment of the proposed cost item conform with the generally accepted accounting principles (GAAP)?
- Will the proposed cost item be used as a match or cost-share?
- Are any credits being extended that should reduce the amount being allocated to the Federal award?
- Have I reviewed the Selected Items of Cost in 2 CFR Part 200?
- Have I reviewed the TEA Program Guidelines and Terms and Conditions for the specific Federal award, and any TEA guidance, such as FAQs for the specific award?
- Have I reviewed TEA's General and Fiscal Guidelines, and General Provisions and Assurances, applicable to all Federal education awards, as well as program-specific provisions and assurances?
- Do I have a system in place to adequately document the entire procurement cycle for the purchase?
- Do I have a system in place to ensure the obligation and expenditure occur during the grant program performance period?
- Do I have a system in place to ensure that once the item is purchased and received, personnel who use the item are made aware of its fund source and intended purpose and intended beneficiaries?
- Are there any State or local rules applicable to this cost item that are more restrictive than Federal rules?

*Additional Specific Cost Considerations:*

The following costs are noteworthy of additional information and guidance to ensure compliance with allowable use of funds.

*Hosting conferences, field trips (entertainment), and out-of-state travel* are generally unallowable under TEA policy, unless they are specified as allowable in the TEA Program Guidelines for the specific grant program.

**State travel reimbursement rules are more restrictive than the Federal rules.** Please see the Travel section of this manual for the LEA's travel reimbursement procedures.

*Participant Support Costs* means direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but **not employees**) in connection with conferences, or training projects. 2 CFR §200.1

The LEA will follow the instructions for “Prior Approval Requests for Participant Support Costs” located on TEA’s website “Forms for Prior Approval, Disclosure, and Justification”:

<https://tea.texas.gov/finance-and-grants/grants/grants-administration/forms-for-prior-approval-disclosure-and-justification>

*Field trips* generally fall under the category of entertainment. Costs of entertainment, including amusement, diversion, and social activities and any associated costs are unallowable, except where specific costs that might otherwise be considered entertainment have a programmatic purpose and are authorized either in the approved budget for the Federal award or with prior written approval of the Federal awarding agency. 2 CFR §200.438

The LEA will follow TEA’s guidance in the Program Guidelines specific to the Federal grant program to determine if an activity is considered an **educational** field trip and whether the activity is allowable. If so, the cost must be budgeted in the grant application. The LEA must complete the “Justification for Educational Field Trips” form and maintain locally. The form is located on TEA’s website “Forms for Prior Approval, Disclosure, and Justification”:

<https://tea.texas.gov/finance-and-grants/grants/grants-administration/forms-for-prior-approval-disclosure-and-justification>

*Grant writing* is an unallowable use of Federal funds. Please see the “Completing and Submitting the Grant Application” section of this manual for more information.

*Telecommunication costs and video surveillance costs* are costs incurred for telecommunications and video surveillance services or equipment, such as phones, internet, video surveillance, and cloud servers. 2 CFR §200.471 These costs are allowable **except** for the circumstances described in 2 CFR §200.216.

The LEA will ensure it complies with the prohibitions described in 2 CFR §200.216. Please see the Contract Prohibitions section of this manual for more information.

*Use of Funds for Religion Prohibited* 34 CFR 76.532

No State or subgrantee may use its grant or subgrant to pay for any of the following: (1) Religious worship, instruction, or proselytization; (2) Equipment or supplies to be used for any of the activities specified in (1).

## ***Federal Cash Management 2 CFR §200.305***

### ***Requirement:***

The LEA must maintain written procedures to implement the cash management requirements of 2 CFR §200.305, ensuring that funds are drawn down only as needed and disbursed in a timely manner to minimize the time elapsing between the transfer of funds and disbursement.

### ***Implementation:***

The District follows the reimbursement method for Federal drawdowns. Funds are requested only after allowable expenditures have been incurred and recorded in the financial management system. Drawdowns are requested monthly through TEA's Expenditure Reporting (ER) system and supported by documentation verifying allowable, approved, and paid expenditures. The CFO or designee reviews and approves all reimbursement requests prior to submission. Federal cash balances are monitored monthly to ensure drawdowns do not exceed current needs. Any interest earned in excess of \$500 annually on Federal funds will be remitted to the U.S. Department of Education, as required under §200.305(b)(9). Program and Business Services staff collaborate to ensure expenditure timing and reporting are accurate and compliant with award terms.

Payments methods must minimize the time elapsing between the transfer of funds from the United States Treasury or the pass-through entity (e.g., TEA) and the disbursement by the LEA, whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means.

There are two payment methods available to a subgrantee: reimbursement and cash advances.

### ***Reimbursement:***

#### **Requirement:**

In a reimbursement method, the LEA draws down Federal grant funds from the U.S. Treasury or pass-through entity (e.g., TEA) **after the LEA has already paid out the funds**. In an effort to allow subgrantees with additional flexibility, TEA has defined

reimbursement as drawing down funds from the TEA Expenditure Reporting (ER) System on, or after, the day the LEA has mailed, delivered, or submitted an electronic payment for the Federal program purpose.

All reimbursements are based on actual disbursements, not on obligation.

For audit purposes, the LEA must track the date it mailed, delivered, or submitted an electronic payment as proof for the reimbursement method.

Implementation:

The LEA will initially charge Federal grant expenditures to non-Federal funds.

In general, reimbursement from state or federal grants for employees on travel is limited to the following:

- the *actual* cost of meals incurred by the employee per day, not to exceed the maximum allowable federal per diem rate
- the *actual* cost of lodging, not to exceed the current federal rate in the locale to which the employee is travelling
- the actual cost of coach airfare
- actual mileage in a personal vehicle using the most efficient route
- the cost of a rental car and gasoline

Although *Temporary Dependent Care Costs* are allowable, the District does not reimburse employees for temporary dependent care costs. In addition, travel costs for dependents are unallowable.

*Documentation that Travel Costs are **Reasonable** and **Justifiable**:* Additionally, costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, must be deemed by the District to be *reasonable* and otherwise allowable only to the extent such costs do not exceed charges normally allowed by the District in its regular operations as the result of its written travel policy.

Documentation must be maintained that *justifies* that (1) participation of the particular *individual* is *necessary* to the federal award; and (2) the costs are *reasonable* and *consistent* with the District's established policy. Determination of travel costs as necessary and reasonable is made by the Program Manager and the Federal Programs

Coordinator, Director of Special Education Services, or Director of Child Nutrition as applicable via their written approval on the District's Out of District Travel Voucher. The purpose of the travel is also documented on the form. Travel policy and allowable costs are documented in the Business Services Procedures and posted on the District web site.

#### *Out of District Travel Voucher*

Employees who plan to travel must complete an *Out of District Travel Voucher* **prior** to travel, detailing the dates of the proposed travel, purpose of the travel, how it will benefit the grant program, and *estimated* travel expenses. The *Out of District Travel Voucher* must be approved by the employee's supervisor, grant administrators and the department of Business Services. The grant administrator will verify that the travel by the particular *individual* is necessary to accomplish the objectives of the grant program. The department of Business Services will verify that costs are reasonable and consistent with the District's travel policies and that sufficient funds are budgeted and available for travel in the appropriate grant program prior to the employee incurring any travel expenditures. The employee must also document actual travel costs *after* the travel has occurred by submitting a reconciliation on the *Out of District Travel Voucher*.

The Travel Voucher for advance, reimbursement, and reconciliation must include the following:

- Name of the individual claiming travel reimbursement
- Destination and purpose of the trip, including how it was necessary to accomplish the objectives of the grant program
- Dates of travel
- Actual mileage (not to exceed reimbursement at the District's maximum allowable rate). Travelers are required to calculate mileage using Google Maps. the traveler must print out the driving directions provided by the site and attach them to the travel voucher.
  - Travelers are required to select the shortest and most economical route but may justify the selection of another route if it was chosen for safety reasons and specific justification of the selection is given.
- *Actual amount* expended on lodging per day, with a receipt attached (may not exceed the federal rate for the locale)

- *Actual amount* expended on meals per day (must not exceed the federal rate for the locale; tips and gratuities are not reimbursable). Receipts for meals are required.
- Actual amount of airfare (receipt must be attached; a printed copy of an online receipt is acceptable)
- Actual amount expended on public transportation, such as taxis and shuttles. Receipts are required.
- Actual amount expended on a rental car, with receipt attached and justification for why a rental car was necessary and how it was more cost effective than alternate transportation; receipts for any gasoline purchased for the rental car must be attached (*mileage* is not reimbursed for a rental car – only the *actual cost for gasoline* is reimbursed)
- Actual cost of parking. Receipts are required.
- Actual amount expended on incidentals, such as copying of materials, and other costs associated with the travel. Receipts are required.
- 
- The amount of any cash advance paid to the employee prior to the travel.
- Total amount to be reimbursed to the employee or refunded to the District.
- The signature and date of the employee
- The signature and date of the supervisor or other manager

Travel costs that are not supported by proper documentation as described above are not allowable.

#### *Cash Advance:*

#### Requirement:

Under the cash advance method, the LEA draws down Federal grant funds **in advance of when the funds will be paid out**. The payment date is the actual date of disbursement, not the date encumbered or scheduled for payment according to the accounting treatment.

The use of this payment method requires the LEA to have written procedures that minimizes the time elapsing between the drawdown and when the LEA will issue the payment.

Advance payments of Federal funds must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements in carrying out the purpose of the approved program or project. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements for direct program or project costs and the proportionate share of any allowable indirect costs.

#### Implementation:

The LEA utilizes the reimbursement payment method. However, to the extent the LEA receives advance payments of Federal grant funds, the LEA will strive to expend the Federal funds on allowable expenditures within 72 hours of receipt.

The LEA will hold Federal advance payments in interest-bearing accounts.

#### *Payroll Considerations:*

##### Requirement:

Payroll accruals are wages, salaries, the related payroll taxes, TRS and IRS payments, and benefits that have been earned by an organization's employees but have not yet been paid by the organization. The payroll accruals should not be claimed for reimbursement until they are reversed and paid out as payroll expenditures.

If the LEA draws down only the amount to be paid to the employees on the date the employees are paid, leaving an accrual balance in the accrued wages payables account in the LEA's accounting system, then the drawdown is a reimbursement.

If liabilities, such as TRS or IRS payments, are drawn down at the same time the LEA draws down the employee's paycheck amount but are not paid to these entities until a later date, these liability amounts are a cash advance. If instead, the liabilities are drawn

down on the date the payments are submitted to these entities, the payment would be a reimbursement.

#### Implementation:

The LEA draws down payroll liabilities, such as TRS and IRS payments, on the same day the payments are submitted to these entities, or shortly thereafter, thereby being a reimbursement. The District submits drawdown requests once per month only for wages, benefits, and taxes that have been remitted to the applicable employee or entity. No drawdown requests associated with employee payroll are submitted prior to the actual expenditure being incurred.

#### *Interest Earned on Cash Advances:*

##### Requirement:

Advance payments of Federal funds must be deposited and maintained in insured accounts whenever possible. 2 CFR §200.305(b)(7)(ii)

In accordance with 2 CFR §200.305(b)(8), the LEA must maintain advance payments of Federal awards in interest-bearing accounts, unless the following apply:

- The subgrantee receives less than \$250,000 in Federal awards per year
- The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per fiscal year on Federal cash balances
- The depository (bank) would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources
- A foreign government or banking system prohibits or precludes interest-bearing accounts

Interest begins to accrue (is calculated) from the date the Federal funds are deposited into the LEA's bank account until the date of disbursement for the grant expenditure (the date the payment is mailed, delivered, or electronically submitted).

Interest earned amounts up to \$500 per year may be retained by the LEA for administrative expense. Any additional interest earned on Federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of



Health and Human Services Payment Management System (PMS) through an electronic medium using either Automated Clearing House (ACH) network or a Fedwire Funds Service payment. Details for returning interest are described in 2 CFR §200.305(b)(9).

Interest is NOT remitted to TEA.

Implementation:

The District takes strict measures to avoid requesting advance payments of Federal funds. Instead, the District will fund any such cash advance with local dollars and will seek reimbursement from the applicable Federal program once goods and or services have been rendered for said payment.

Consultants and contractors will not be paid without having a properly signed and dated contract or other written agreement in place which clearly defines the scope of work to be performed, the beginning and ending dates of the contract, and the agreed-upon price. The contract should also include a description of the payment procedures.

Upon performance of services (monthly or upon completion of services), the contractor is required to submit an *invoice* to the District that contains at a minimum the following:

- a clear identification of the contractor/consultant, including name and mailing address
- a corresponding purchase order number,
- the dates during which the services were performed
- a description of the services/activities completed during the billing period
- the total amount due to the contractor for the billing period

By submitting a properly prepared invoice, the contractor is certifying that it is true and correct.

### **Verification of Receipt of Goods and Services Provided by Contractors**

If the purpose of the contract or purchase order is to deliver goods, the requisitioner will verify that the quantity and quality of goods were received as specified in the contract/purchase order. The receipt is documented via the on-line finance system for all other state/local purchases as well as for all federal purchases. See the Purchasing Manual and department of Business Services Step-By-Step Guide receiving instruction.

For real property, the approval of the Chief Academic Officer is required related to federal contract. If the purpose of the contract is to purchase services, the grant administrator will verify that the quality and scope of services were received as specified in the contract and authorize the completion of the receiving procedure in the finance system.

### **Prompt Payment to Vendors/Contractors**

The District pays all vendors/contractors within 30 days of receipt of a proper invoice and the receipt of the goods or services in accordance with the Texas Prompt Payment Act, Government Code, Chapter 2251, Subchapter A, for all contractors, and Property Code, Chapter 28 for Construction Contractors.

### ***Expenditure Reporting (ER) System***

Requirement:

An LEA in good standing is required to use TEA's expenditure reporting (ER) system to record expenditures and request payment. Grantees should request payment regularly to indicate to TEA that grant funds are being spent and that grant activities are being implemented according to the established timelines, provided such payments conform to the rules pertaining to cash management. Final and Revised Final Expenditure Reports must be submitted by the deadline established by TEA for each specific grant.

When reporting expenditures by class/object code, the ER system will not permit the subgrantee to submit an expenditures report with the following criteria:

- Where the subgrantee is claiming expenditures in a class/object code not budgeted in the approved application
- When the total amount exceeds the total amount in the grant

Revised Final Expenditure Report:

- If the LEA discovers expenditures that are greater than the amount initially reported, it must file a revised final expenditure report by the deadline established by TEA in order to claim those expenditures. In the event that the ER system is closed, the LEA must contact the Cash Management/Fund Control Unit in TEA's Grants Administration Division for further instructions.
- If the LEA discovers expenditures that are less than the amount initially reported, it must submit a revised final expenditure in the ER system immediately. Refunds

must then be submitted to TEA within 30 days, according to TEA's Refund processes.

The ER system is designed to accommodate a segregation of duties between the staff member who enters the drawdown into the ER system and the authorized official who certifies and submits the request. Failure to have such segregation of duties could be a sign of insufficient internal controls indicating risk of inadequate fund management. TEA strongly recommends the segregation of duties and may impose additional specific conditions on subgrant awards when risk is identified. The LEA is responsible for ensuring the Grantee Manager and/or Grantee Official has been authorized by the LEA to enter the organization into legally binding agreements for grant payment purposes. This authorized official must certify request for payment as described in Uniform Guidance 2 CFR §200.415(a): *"By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."*

Supporting documentation (such as an accounting ledger) that lists the individual expenditures by object code, as well as invoices, receipts, travel vouchers, and other expenditure documents must be maintained locally and provided to TEA or auditors upon request.

Implementation:

The General Provisions and Assurances that accompany every grant application funded by or through TEA contains an assurance that grantees agree to comply with expenditure reporting requirements. The District will submit expenditure reports in the time and manner requested by TEA.

Reports are submitted electronically through the automated Expenditure Reporting (ER) system by class/object code. The District submits expenditure reports in accordance with *Program Guidelines* for each RFA published by TEA and/or the *Critical Events* calendar provided on the TEA Grant Opportunities page. However, even though dates for submitting interim expenditure reports may not be specified, the District will submit monthly expenditure reports to assure expenditures are occurring as planned and there are no major delays in the project.

Final expenditure reports are generally due 30 days after the end date of the grant. If the grant program has a cost share or matching funds requirement, the District must also report the total cost share or matching funds in ER.

The Budget & General Ledger Coordinator submits the expenditure reports that are certified by the CFO. Both employees must have authorized access to the TEASE reporting system. The District reports cumulative expenditures to date in ER, and the system automatically calculates the amount already paid to the District and the amount owed and generates a payment to the District.

When filing interim reports, the District only reports actual expenditures. In addition, the District complies with the cash management procedures described in this manual.

Fiscal reports requesting payment include a certification signed/certified by an official who is authorized to legally bind the District.

The TEA ER system automatically rejects expenditure reports if the District is claiming expenditures in a class/object code not budgeted in the application or if the total amount reported exceeds the total amount awarded.

TEA (or other agency administering the grant on behalf of TEA) reserves the right to require supporting documentation (such as an accounting ledger) that lists the individual expenditures by object code, as well as invoices, receipts, travel vouchers, and other expenditure documents for expenditures at any time during or after the grant period for as long as the records are retained according to requirements for record retention. The District may be required to reimburse all expenditures that are unsupported by appropriate documentation or found to be unallowable under the grant. Depending upon the severity of noncompliance with allowable cost principles, additional sanctions may be imposed, up to and including termination of the grant and refund of all unallowable costs.

Failure to submit the expenditure reports according to the required reporting dates could cause the District to be identified as high risk and could result in additional sanctions.

### ***Timely Obligation of Funds***

Requirement:

All obligations and encumbrances for Federal grant programs must occur on or after the effective date of the grant application (the date the application was received by TEA, or the first day of the grant availability period, whichever date is later) unless pre-award costs

are expressly permitted for the specific grant program and within the grant beginning and ending dates listed on the NOGA.

The LEA must receive the benefit and liquidate (record as an expenditure) all obligations incurred under the award no later than the Revised Final Expenditure Report due date. An encumbrance cannot be considered an expenditure or accounts payable until the goods have been delivered and the services have been rendered.

Obligations that are liquidated and recognized as expenditures must meet the allowable cost principles of the 2 CFR Part 200, Subpart E, and be in compliance with the program rules, regulations and guidelines contained in the program-specific statute and regulations, and TEA's general and program-specific guidelines, provisions, and assurances.

*When Obligations are Made 34 CFR §76.707*

The following table, applicable to state-administered Federal education grants (grants received by the LEA from the pass-through entity [e.g., TEA], illustrates when Federal education funds are determined to be obligated, depending upon the expenditure type:

<b>If the obligation is for:</b>	<b>The obligation is made:</b>
Acquisition of real or personal property	On the date on which the LEA makes a binding written commitment to acquire the property
Personal services by an employee of the LEA	When the services are performed
Personal services by a contractor who is not an employee of the LEA	On the date on which the LEA makes a binding written commitment to obtain the services
Performance of work other than personal services	On the date on which the LEA makes a binding written commitment to obtain the work
Public utility services	When the LEA receives the services
Travel*	When the travel is taken
Rental of real or personal property	When the LEA uses the property

A pre-agreement cost that was properly approved by the Secretary under the cost principles in 2 CFR part 200, Subpart E- Cost Principles.	On the first day of the subgrant performance period
---	---

The Obligation Chart for Federal education awards received directly from the U.S. Department of Education, rather than received as pass-through from TEA, is located at 34 CFR §75.707.

\*TEA provides flexibility for LEAs to categorize registration fees as either Travel, or Personal Services by a Contractor, provided the determination is **consistently applied**. Please see the Travel section of this manual for the LEA's procedures regarding registration fees for professional development.

*Carryover Provision:* As a general rule, **state-administered** Federal funds are available for obligation within the year that Congress appropriates the funds for. However, given the unique nature of educational institutions, the period of availability is 27 months for many Federal education grants. This period of availability typically consists of an initial grant period of 15 months (i.e., July 1 through September 30 of the following year), plus a 12-month carryover period authorized by the "Tydings Amendment" (cited in the General Education Provisions Act (GEPA), 20 U.S.C. 1225(b)). In accordance with 34 CFR §76.709, if a subgrantee does not obligate all of its subgrant funds by the end of the fiscal year for which Congress appropriated the funds, it may obligate the remaining funds during a carryover period of one additional fiscal year. The LEA shall use carryover funds in accordance with the Federal statutes and regulations that apply to the program and are in effect for the carryover period. 34 CFR §76.710

Some education grant programs do not allow carryover; some place a limit on the percentage of unused funds that can be carried forward to the next year; and some place no limitation on the carryover percentage. The LEA must review the Program Guidelines for the specific grant program to determine the carryover provisions applicable to the specific program.

During some grant years, rather than use the carryover provision, TEA will extend the original budget period from the initial 15-month period to the full 27 months, thereby negating the need for carryover.

Grantees receiving **direct grants** from the Federal government are not covered by the 12-month Tydings Amendment period. However, a provision in the Uniform Guidance 2 CFR §200.309 allows the Federal awarding agency or pass-through entity (e.g., TEA) to approve extensions to grants that don't fall under the Tydings Amendment.

Regardless of whether unspent funds carryover or whether the initial budget period is extended, the LEA should exercise proper grant management and internal control and have processes in place to fully spend the funds during the initial budget period and use the carryover provision for unexpected situations that prevent the LEA from spending all the grant funds during the current grant period. An exception to this general rule is the IDEA-B grant, in which the LEA may choose to carryover the required 25% Residential Set-Aside to ensure the funds will be available if needed.

Implementation:

### **When Obligations are Made**

“Obligations” are defined as *orders placed for property and services, contracts and sub awards made, and similar transactions during a given period that require payment by the non-Federal entity during the same or a future period.* (This does *not* mean obligations for which goods and services will be delivered in a future *grant* period.) Essentially, an obligation is a *commitment to pay*.

All obligations for all goods and services must occur during the grant period (i.e., between the beginning and ending dates as stated on the NOGA), and those goods and services must be delivered during the grant period in sufficient time to provide substantial benefit to the grant to be considered *necessary* to carry out the objectives of the grant.

Per TEA’s General and Fiscal Guidelines, in some instances, goods or services delivered near the end of the grant period may be viewed by TEA as not necessary to accomplish the objectives of the current grant program. TEA will evaluate such expenditures on a case-by-case basis. Please note that a TEA monitor or an auditor may disallow those expenditures if the District is unable to (1) document the need for the expenditures, (2) demonstrate that program beneficiaries receive benefit from the late expenditures, or (3) negate the appearance of “stockpiling” supplies or equipment.

The following table illustrates when funds are determined to be *obligated* under federal regulations:

If the obligation is for:	The obligation is made:
---------------------------	-------------------------

Acquisition of property	On the date which the District makes a binding written commitment to acquire the property
Personal services by an employee of the District	When the services are performed
Personal services by a contractor who is not an employee of the District	On the date which the District makes a binding written commitment to obtain the services
Public utility services	When the District receives the services
Travel	When the travel is taken
Rental of property	When the District uses the property
A pre-agreement cost that was properly approved by TEA prior to the obligation	On the first day of the grant project period.

In addition, TEA's *FAR* requires *encumbrance* accounting. The amount *committed (or obligated)* must also be known to avoid over-expenditure of budgeted funds. The District's financial accounting system provides an *encumbrance* accounting system which ascertains the availability of funds and then reserves funds to cover outstanding obligations.

The District requires the issuance of purchase orders for the purchase of goods and services to be received during the grant period. At the time these commitments or obligations are made, the appropriate account is checked for available funds. If an adequate balance exists, the amount of the order is immediately charged to the account to reduce the available balance for control purposes. The encumbrance account does not represent an expenditure for the period, only a commitment to expend resources.

### **Period of Availability of Federal Funds**

All obligations must occur on or between the beginning and ending dates of the grant project. This period of time is known as the *period of availability*. The *period of availability*, or the period between the beginning and ending dates of the grant, are dictated by statute and will be indicated on TEA's NOGA or other awarding agency's GAN. Further, certain grants have specific requirements for carryover funds that must be adhered to.



*TEA Grants:* As a general rule, federal funds administered by TEA are available for obligation within the fiscal year for which Congress appropriated the funds. However, given the unique nature of educational institutions, for many formula education grants, pursuant to provisions in the *General Education Provisions Act* (GEPA), the *period of availability* is 27 months. This consists of an initial grant period of 15 months (i.e., July 1 – September 30 of the following year), plus a 12-month carryover period authorized by the “Tydings Amendment.” For example, funds awarded on July 1, 2015, would remain available for obligation by TEA through September 30, 2017.

July – September (Forward Funding)	3 months
October – September (Federal fiscal year)	<u>12 months</u>
Total	15 months

Federal education formula grant funds are typically awarded on July 1 of each year. While funds not obligated during the initial 15-month grant period remain available as carryover in the subsequent 12-month period, the District will always plan to spend to the best of its ability all current grant funds within the year for which the funds were initially appropriated. Per TEA, excess carryover and lapsing of funds may be an indicator in TEA’s risk assessment process.

TEA calculates and manages the carryover process each year after final expenditure reports from the prior year are processed. Any carryover funds from the prior year are added to the application and NOGA for the subsequent year. Carryover funds must be used in accordance with the federal statute and regulations in effect for the carryover period and with any approved state plan or application.

*Direct Grants:* In general, the *period of availability* for funds authorized under *direct* grants is identified in the GAN.

### **Liquidation of Obligations**

The District *liquidates* (i.e., make the final payment because the goods or services were received during the grant period, or *cancels* the obligation because the goods or services were *not* received during the grant period) all obligations incurred under the award in accordance with the requirements of TEA or other awarding agency. For TEA formula grants, this is usually within 30 calendar days after the ending date of the formula grant to coincide with submittal of the final expenditure report to TEA. For *direct* grants from the Department of Education, this may be not later than 90 days after the end of the funding period unless an extension is authorized.

Any funds not obligated within the period of availability or not liquidated within the appropriate timeframe *lapse* and must be returned to the awarding agency. Lapsing of funds is usually considered by TEA to be an indicator of poor planning and may cause the District to be identified as high risk. Consequently, the District closely monitors grant spending throughout the grant cycle.

Year-end or grant period end are monitored closely by the Budget & General Ledger Coordinator and CFO in conjunction with the accounts payable staff and program administrator to assure proper cut-off for expenditures incurred during the grant period. Since grant expenditure reports are prepared monthly, the Budget & General Ledger Coordinator in the Business Office works closely with the grant administrator to assure funds are used in a timely manner to avoid loss of funds.

### **Carryover**

*TEA Grants:* As previously described, the Tydings Amendment typically extends the period of availability for formula grants for an additional 12 months. Accordingly, the District may have multiple years of grant funds available under the same program at the same time.

Usually, TEA *discretionary* grants do not have a carryover period, as any unobligated and unexpended funds are carried over at the *state* level and are used to issue NOGAs for the subsequent funding period. TEA discretionary grantees must request to extend the ending date of the project/NOGA directly from TEA if such an extension is allowable pursuant to the guidelines related to a particular grant.

*Direct Grants:* Grantees receiving direct grants are not covered by the 12-month Tydings period. However, direct grantees enjoy unique authority to expand the period of availability of federal funds. The District is authorized to extend a direct grant automatically for one 12-month period. Prior approval is not required in these circumstances; however, in order to obtain this extension, the District must provide written notice to the federal awarding agency at least 10 calendar days before the end of the period of performance specified in the award. This one-time extension may not be exercised merely for the purpose of using unobligated balances.

The District will seek written prior approval from the federal agency when the extension will not be contrary to federal statute, regulation or grant conditions and when:

- The terms and conditions of the Federal award prohibit the extension;
- The extension requires additional Federal funds; or

- The extension involves any change in the approved objectives or scope of the project.

Program extensions will be requested only after it has been determined by the departments of Curriculum & Instruction, Special Education, and Child Nutrition as applicable and the Federal Programs Coordinator, Director of Special Education Services, or Director of Child Nutrition as applicable, in conjunction with relevant stakeholders, have determined that an extension is necessary. The Superintendent of Schools will provide the final approval. The Federal Programs Coordinator, Director of Special Education Services, or Director of Child Nutrition as applicable will write the notice to include the reasons for the extension as well as the revised period of performance.

***Program Income* 2 CFR §200.307**

Requirement:

In accordance 2 CFR §200.400(g), the LEA may **not earn or keep** any profit resulting from Federal financial assistance, unless explicitly authorized by the terms and conditions of the Federal award.

2 CFR §200.307 encourages LEAs to earn income to defray program costs where appropriate. However, the LEA must not generate more program income than it expends in the program. If it does, the NOGA must be reduced to prevent the LEA from unallowably generating or keeping profit from the Federal grant award.

*Program income* means gross income earned by a non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance. 2 CFR §200.1

Program income, as indicated in 2 CFR §200.1, includes, but is not limited to:

- Income from fees for services performed,
- The use or rental of real or personal property acquired under Federal awards,
- The sale of commodities or items fabricated under a Federal award,
- License fees and royalties on patents and copyrights, and
- Principal and interest on loans made with Federal award funds

Program income is not:

- Interest earned on cash advances of Federal funds 2 CFR §200.1

- Rebates, credits, discounts, and interest earned on any of these, except as otherwise provided in Federal statutes, regulations, or the terms and conditions of the Federal award 2 CFR §200.1
- Taxes, special assessments, levies, fines, and other such revenues raised by a non-Federal entity, unless the revenues are specifically identified in the Federal award or Federal awarding agency regulations as program income 2 CFR §200.307(c)
- Proceeds from the sale of real property, equipment, or supplies 2 CFR §200.307(d)

#### *Use of Program Income:*

If the Federal awarding agency does not specify in its regulations or the terms and conditions of the Federal award or give prior approval for how program income is to be used, the Deduction method for program income applies. 2 CFR §200.307(e)

*Deduction method:* Ordinarily program income must be deducted from total allowable costs to determine the net allowable costs. Program income must be used for current costs unless the Federal awarding agency authorizes otherwise. Program income that the non-Federal entity did not anticipate at the time of the Federal award must be used to reduce the Federal award and non-Federal entity contributions rather than to increase the funds committed to the project. The LEA must notify TEA of any program income earned from products or activities funded from the Federal grant award.

*Addition method:* With prior approval of the Federal awarding agency, program income may be added to the Federal award by the Federal agency and the non-Federal entity. The program income must be used for the purposes and under the conditions of the Federal award.

The LEA must submit the “Request to Add Program Income to Federal Grant Award and Expand Delivery of Programmatic Services” form to TEA for approval. The form is located on TEA’s website “Forms for Prior Approval, Disclosure, and Justification”:

<https://tea.texas.gov/finance-and-grants/grants/grants-administration/forms-for-prior-approval-disclosure-and-justification>

While the deduction method is the default method, the LEA must refer to the NOGA/GAN to determine the appropriate use of program income.

*Income after the period of performance:* There are no Federal requirements governing the disposition of income earned after the end of the period of performance for the Federal award unless the Federal awarding agency regulations or the terms and conditions of the Federal award provide otherwise. See 2 CFR §200.344 Closeout.

#### Implementation:

The District will describe in the applicable grant application any program income it wishes to earn, including a description of the activity(ies) that will be conducted to earn program income and how the activity(ies) will further the objectives of the grant program. The departments of Curriculum & Instruction, Special Education, and Child Nutrition as applicable will make the final determination if the activity that is proposed to generate program income is suitable for the program and whether it is permissible to proceed with requesting it in the application.

#### **Use of Program Income**

*Deduction Method:* Per federal regulations, the default method for the use of program income for the District is the *deduction* method. Under the *deduction* method, program income is *deducted* from *total* allowable costs to determine the *net* allowable costs. Thus, prior to submitting the expenditure report, the amount of program income must be deducted from total expenditures. Program income will only be used for current costs unless the District is otherwise directed by TEA or other awarding agency.

*Addition Method:* The District may also request written prior approval from the TEA Chief Grants Administrator (or other awarding agency) to use the *addition* method. Under the *addition* method, program income may be *added* to the Federal award. The program income must then be used for the purposes and under the conditions of the Federal award.

While the *deduction* method is the default method, the District always refers to the NOGA/GAN prior to determining the appropriate use of program income. If the NOGA/GAN does not address the use of program income or does not authorize districts to use the *addition* method, the District must determine if it needs to request authorization from TEA or other awarding agency to apply the *addition* method if it is in the best interest of the District.

The District currently has no grants with program income. Procedures for handling any future grants with program revenue will be established as needed.

#### **Reporting Program Income**

If the District earns any program income, all program income will be reported on the expenditure report, even when the District has been given permission in the application to retain the program income and add it to the grant funds.

### **Earning Program Income after the Grant Period**

There are no federal requirements governing the disposition of program income earned after the end of the grant period unless the terms of the agreement or the program-specific federal regulations provide otherwise. After the ending date of the grant, the District is no longer required to report any program income generated for the grant. For multi-year discretionary grant projects, this means at the end of the multi-year grant project.

## **Procurement**

This manual describes **Federal** procurement rules from the Uniform Guidance 2 CFR Part 200, applicable to procurement with Federal funds.

**Whenever State rules or local policy are more restrictive than Federal regulations, the most restrictive must be followed.**

### **General Procurement Standards 2 CFR §200.318**

Requirement:

- The LEA must have and use documented procurement procedures, consistent with State and local laws and regulations and the general procurement standards of 2 CFR §200.318, for the acquisition of property or services required under a Federal award or subaward. The LEA's documented procurement procedures must conform to the procurement standards identified in 2 CFR §§200.317 through 200.327.
- The LEA must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
  - Implementation: Please see the Oversight and Quality Control section of this manual for the LEA's procedures.
- The LEA must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts. Additionally, if the LEA has a parent, affiliate, or subsidiary

organization that is not a State or local government, the LEA must also maintain written standards of conduct covering organizational conflicts of interest.

- Implementation: Please see the Standards of Conduct Covering Conflicts of Interest section of this manual for the LEA's procedures for this requirement.
- The LEA's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. When appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.
  - Implementation: Please see the Helpful Questions for Determining Whether a Cost is Allowable section of this manual for a list of considerations toward more economical and prudent purchases.
  - The LEA ensures that breaking out procurements to obtain a more economical price does not violate the State rules regarding component purchases, separate purchases, or sequential purchases as outlined in TEC §44.032. Please see more information under the Contract Prohibitions section of this manual.
- To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.
  - Implementation: Please see the Purchasing Cooperatives and Interlocal Agreements section of this manual for the LEA's procedures.
- The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

Implementation:

- The District considers the use of federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

- *Procurement of Recovered Materials*: In addition, the District complies with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The requirements apply to state and local governments, including school districts, and include the purchase of everyday items such as paper products, non-paper office products, office furniture, floor mats, and awards and plaques, as well as many other items, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000. Requirements also include
  - procuring solid waste management services in a manner that maximizes energy and resource recovery and
  - establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Pursuant to section 6002, the decision *not* to procure recovered materials must be based on a determination that such procurement items—

- are not reasonably available within a reasonable period of time;
  - fail to meet the performance standards set forth in the applicable specifications or fail to meet the reasonable performance standards of the District; or
  - are only available at an unreasonable price. Any determination under subparagraph (B) shall be made on the basis of the guidelines of the Bureau of Standards in any case in which the material is covered by the guidelines.
  - It is the responsibility of the Purchasing Coordinator to determine if any item being purchased is on the EPS's list of recovered materials, and to follow any necessary procedures.
- The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.



## Implementation:

Unless otherwise more restrictive in federal law for procurement with federal funds, the District complies with the purchasing methods prescribed in TEA's FASRG and in state law for all purchases regardless of the funding source (i.e., state, local, or federal).

District Policies CH (Legal) and CH (Local) complies with Texas Education Code § 44.031 (a) which states that all school district contracts for the purchase of goods and services valued at \$50,000 or more in the aggregate, for each 12-month period are to be made by the method that provides the best value to the district. This does not apply to contracts for the purchase of produce or vehicle fuel.

District policy enumerates the following options for competitive procurement that are available. One of these options must be used for contracts expected to equal or exceed \$50,000 regardless of the funding source (i.e., state, local, or federal):

- (1) competitive bidding
- (2) competitive sealed proposals
- (3) request for proposals, for services other than construction services
- (4) interlocal contracts
- (5) design-build contracts
- (6) contract to construct, rehabilitate, alter, or repair facilities that involve using a construction manager
- (7) a job order contract for the minor construction, repair, rehabilitation, or alteration of a facility
- (8) reverse auction procedure as defined by Section 2155.062(d), Government Code; or
- (9) the formation of a political subdivision corporation under Section 304.001, Local Government Code."

The Purchasing Coordinator, the CFO, and the Director of Facilities and Maintenance work together to ensure that the District recommends the "best value" to the Board of Trustees for each construction contract.

- The LEA must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
  - Implementation: Please see the Suspension and Debarment section of this manual for the LEA's procedures in compliance with 2 CFR §200.214. Please see the Oversight and Quality Control section of this manual for contractor selection.
  
- The LEA must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: Rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
  - Implementation: Please see the Oversight and Quality Control section of this manual for the LEA's procedures.
  
- The non-Federal entity may use a time-and-materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Detailed information regarding the Federal requirements regarding time-and materials type contracts is available at 2 CFR §200.318(j).

Implementation:

Time and materials contracts are a hybrid of fixed-price and cost-reimbursement contracts. They present the highest risk to the government and the lowest risk to the contractor. Therefore, they are the least desirable for the federal or state government and are rarely awarded and are generally not used by the District.

Time and materials type contract means a contract whose cost to the District is the sum of the actual costs of materials, and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency it is only used by the District in a very controlled setting where the District establishes and monitors the time allowed and in accordance with federal regulations, only after a determination is made that no other contract is suitable and only if the contract includes a ceiling price that the contractor exceeds at its

own risk. Further, the District must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

The District may use a time and materials type contract paid with federal funds in accordance with the above and only (1) after a determination that no other contract is suitable; and (2) if the contract includes a ceiling price that the contractor exceeds at its own risk. Determination of use of a time and materials contract will be made on a case-by-case basis and must be approved by the Superintendent of Schools.

The Purchasing Coordinator and the CFO review these types of contracts to ensure that all time and materials contracts set a ceiling price, beyond which the contractor is responsible for all costs.

See the Oversight and Quality Control section in this manual for information on ensuring the contractor's methods and controls are efficient and effective.

- The LEA alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the LEA of any contractual responsibilities under its contracts. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

#### Implementation:

The Purchasing Coordinator in cooperation with the CFO is the primary position responsible for handling and coordinating the settlement of any contractual and administrative issues arising out of procurements.

The District maintains protest procedures to handle and resolve disputes relating to procurements made with federal funds and, in all instances, discloses information regarding the protest to TEA or other awarding agency. The protestors must exhaust all administrative remedies with the District before pursuing a protest with a federal agency. The Purchasing Coordinator is the primary office responsible for handling and coordinating any disputes relating to procurements. Additionally, the department of Human Resources facilitates the grievance process for employees and the general public. Information regarding the grievance process

in available on the District website as explained in the “Conflict of Interest and Mandatory Disclosures” section of this handbook.

- TEA is responsible for judging only those contract matters that are primarily of Federal concern.
- The Purchasing Coordinator has the primary responsibility of reporting any potential or realized conflicts of interest to TEA and implementing the appropriate sanctions or disciplinary actions for employees who fail to comply with the policies and procedures.

## Competition 2 CFR §200.319

### Requirement:

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 2 CFR §200.319 Competition and 2 CFR §200.320 Procurement Methods. Noncompetitive procurements can only be awarded in accordance with 2 CFR §200.320(c).

In order to ensure **objective** contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements.

Some of the situations considered to be restrictive of competition include but are not limited to:

- Placing unreasonable requirements on firms in order for them to qualify to do business;
- Requiring unnecessary experience and excessive bonding;
- Noncompetitive pricing practices between firms or between affiliated companies;
- Noncompetitive contracts to consultants that are on retainer contracts;
- Organizational conflicts of interest;
- Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
- Any arbitrary action in the procurement process.

#### Implementation:

In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals (RFPs) are excluded from competing for such procurements. The District does not engage in the following situations that may restrict full and open competition, including but not limited to:

- placing unreasonable requirements on firms in order for them to qualify to do business;
- requiring unnecessary experience and excessive bonding;
- noncompetitive pricing practices between firms or between affiliated companies;
- noncompetitive contracts to consultants that are on retainer contracts;
- organizational conflicts of interest;
- specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
- any arbitrary action in the procurement process.
- Holding pre-bid meetings to assure all interested bidders have an opportunity to ask any questions to clarify the bid request. Questions and corresponding answers are sent to all interest bidders and are posted on the Business Services page of the District website.
- It is the responsibility of the Purchasing Coordinator to assure the requirements for full and open competition are followed.

The District also complies with the following requirements in 2 CFR 200 to ensure full and open competition when purchasing with federal funds.

#### ***Geographical Preferences Prohibited 2 CFR §200.319(c):***

##### Requirement:

The LEA must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference.

Nothing in this section preempts state licensing laws.

When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

**The most restrictive requirement of applicable Federal and State laws and regulations and local policy must be followed.**

In accordance with Texas Education Code (TEC) §44.042, a school district that purchases agricultural products shall give preference to those produced, processed, or grown in Texas if the cost to the school district is equal and the quality is equal. If agricultural products produced, processed, or grown in Texas are not equal in cost and quality to other products, the school district shall give preference to agricultural products produced, processed, or grown in other states of the United States over foreign products.

Implementation:

The District conducts federal procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. Accordingly, when purchasing with federal funds, the District does not give preference to a contractor/vendor which is located in Texas or the local or surrounding community simply due to the location. Nothing in this section preempts state licensing laws.

When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided an appropriate number of qualified firms, given the nature and size of the project, are left to compete for the contract.

***Competitive Solicitation Requirements 2 CFR §200.319(d):***

Requirement:

The LEA must have written procedures for procurement transactions that ensure all solicitations:

- Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured.

- Such description must not, in competitive procurements, contain features which unduly restrict competition.
- The description may include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use.
- Detailed product specifications should be avoided if at all possible.
- When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and
- Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

#### Implementation:

All solicitations will incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description will not, in competitive procurements, contain features which unduly restrict competition. The description will include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, will set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications will be avoided if at all possible.

When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers will be clearly stated and will identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

The Purchasing Coordinator is responsible for drafting bid requirements that meet this requirement along with any other requirements related to the product or service being requested.

#### ***Prequalified Lists 2 CFR §200.319(e):***

#### Requirement:

The LEA must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition.

The LEA must not preclude potential bidders from qualifying during the solicitation period.

Implementation:

The District ensures that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. The District accomplishes this by conducting internet searches, including using vendor searches available through the Texas Comptroller of Public Accounts, and by using other less technologically advanced tools such as phone book listings to locate and identify potential contractors. Advertising as required also ensures a pool of potential bidders. Also, the District will not preclude potential bidders from qualifying during the solicitation period. The Purchasing Coordinator is responsible for reviewing prequalified lists and determining if they include an adequate number of qualified sources.

## Procurement Methods 2 CFR §200.320

Requirement:

The LEA must have and use documented procurement procedures, consistent with the standards of 2 CFR §§200.317 (last sentence), 200.318, 200.319, and 200.320 for any of the following methods of procurement used for the acquisition of property or services required under a Federal award or sub-award.

The methods of procurement fall under three major categories: Informal Procurement, Formal Procurement, and Noncompetitive Procurement, each with distinctive requirements.

An LEA may design purchasing structures with requirements that are more restrictive than those mandated by the Federal government or the State. However, locally defined purchasing structures must not be less restrictive.

In Texas, the FASRG (Financial Accountability System Resource Guide), Purchasing Module describes **state** purchasing rules that must be followed, in accordance with the Texas Education Code (TEC) Chapter 44 School District Fiscal Management and other



applicable state rules. Refer specifically to TEC §§44.031-44.901 for **state laws on purchasing**.

[TEA's General and Fiscal Guidelines explain that the FASRG procurement requirements are not applicable to charter schools unless the commissioner approved otherwise in the individual contract for the charter. Generally, TEC §12.1053 provisions do not significantly limit the contracting and purchasing activities of open-enrollment charter schools. Open-enrollment charter schools should consult with their legal team to determine if certain state purchasing rules differ for their charter school, based on their charter. The FASRG Special Supplement for Charter Schools also provides information on purchasing, applicable to charter schools.]

***Informal Procurement Methods (Micro-purchases and Simplified Acquisition Purchases) 2 CFR §200.320(a):***

Requirement:

When the value of the procurement for property or services under a Federal award **does not exceed** the *simplified acquisition threshold (SAT)*, as defined in 2 CFR §200.1, **or a lower threshold established by a non-Federal entity**, *formal* procurement methods are not required.

The LEA may use *informal* procurement methods (i.e., micro-purchases and simplified acquisition purchases) to expedite the completion of its transactions and minimize the associated administrative burden and cost.

*Simplified acquisition threshold* means the dollar amount below which a non-Federal entity may purchase property or services using informal procurement methods. Non-Federal entities adopt informal purchase procedures in order to expedite the purchase of items at or below the simplified acquisition threshold. The simplified acquisition threshold for procurement activities administered under Federal awards is set by the FAR (Federal Acquisitions Regulations) at 48 CFR Part 2, subpart 2.1. The non-Federal entity is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk, and its documented procurement procedures. However, in no circumstances can this threshold exceed the dollar value established in the FAR (48 CFR part 2, subpart 2.1) for the simplified acquisition threshold. Currently, the simplified acquisition threshold established by the FAR is \$350,000. **Recipients should determine if local government laws on purchasing apply. 2 CFR §200.1**

**Texas state law is more restrictive** than Federal regulations concerning the threshold for informal purchase methods versus formal, competitive procurement for ISDs and **certain** open-enrollment charter schools.

Implementation:

In accordance with TEC §44.031 Purchasing Contracts, all school district contracts for the purchase of goods and services, except contracts for the purchase of produce or vehicle fuel, valued at \$50,000 or more in the aggregate for each 12-month period shall be made by the **competitive** method, of methods listed in the citation, that provides the best value for the district.

Therefore, the Federal simplified acquisition threshold of \$350,000 is not applicable to Texas ISDs and **certain** charter schools when determining the threshold for informal purchase procedures.

This LEA limits informal procurements to procurements under \$49,999.

*Micro-purchases* 2 CFR §200.320(a)(1):

Requirement:

*Micro-purchase* means a purchase of supplies or services, the aggregate amount of which does not exceed the micro-purchase threshold. The *micro-purchase threshold* means the dollar amount at or below which a non-Federal entity may purchase property or services using micro-purchase procedures. Generally, the micro-purchase threshold for procurement activities administered under Federal awards is not to exceed the amount set by the FAR (Federal Acquisitions Regulations) at 48 CFR Part 2, subpart 2.1, unless a higher threshold is requested by the LEA and approved by TEA. 2 CFR §200.1

Currently, the micro-purchase threshold established by the FAR is \$15,000.

The LEA is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures. The micro-purchase threshold used by the LEA must be authorized or not prohibited under State and local laws or regulations. 2 CFR §200.320(a)(1)(iii)

LEAs have the option to increase the micro-purchase threshold up to \$49,999, in accordance with the requirements of 2 CFR §200.320(a)(1)(iv). The LEA may self-certify a threshold up to \$49,999 on an annual basis and must maintain documentation to be made available to the Federal awarding agency and auditors in accordance with 2 CFR §200.334.

The self-certification must include a justification, clear identification of the threshold, and supporting documentation of any of the following:

- A qualification as a low-risk auditee, in accordance with the criteria in 2 CFR §200.520 for the most recent audit;
- An annual internal institutional risk assessment to identify, mitigate, and manage financial risks.

**Texas state law is more restrictive** than Federal regulations concerning the option to increase the micro-purchase threshold up to \$50,000. Due to TEA's Financial Accounting System Resource Guide (FASRG) rules, the LEA may only certify a micro-purchase threshold up to \$49,999, since TEC 44.031(a) requires competitive procurement for contracts valued at \$50,000 or more.

*TEA Requirements for Self-Certification Notification:*

If the LEA chooses to utilize the self-certification option to establish a micro-purchase threshold higher than the current standard \$15,000 threshold, the LEA will follow TEA's requirements for the self-certification, as outlined in the TEA To The Administrator Addressed letter dated April 22, 2021.

- The LEA must develop a written policy justifying and clearly identifying the new threshold.
- For a threshold from \$10,001 to \$25,000, the LEA must notify TEA of the micro-purchase threshold amount at <https://app.smartsheet.com/b/form/e2f879cc182e47a69a39afec56084aa5>
- For a threshold from \$25,001 to \$49,999, the LEA must notify TEA of the micro-purchase amount, using the link above, AND attach the LEA's written policy, AND attach verification of the LEA's risk level identified in the most recent federal audit OR documentation of an internal risk assessment and internal controls for mitigating and managing financial risks

*Requirements Applicable to Micro-purchases:*

Regardless of the threshold chosen for the micro-purchase method, the following applies to micro-purchases, as outlined in 2 CFR §200.320(a)(1)(i-ii):

- Micro-purchases may be awarded without soliciting competitive price or rate quotations if the LEA considers the price to be reasonable based on research, experience, purchase history, or other information, and documents its files accordingly.

- Purchase cards can be used for micro-purchases if procedures are documented and approved by the LEA.
- To the maximum extent practicable, the LEA should distribute micro-purchases equitably among qualified suppliers.

*TEA Requirements for the Micro-Purchase Aggregate Spending:*

Regardless of the threshold chosen for the micro-purchase method, the LEA must define “like-type” items for which the aggregate spending applies.

TEA’s November 29, 2018 To the Administrator Addressed letter outlines the TEA guidance regarding this requirement. The LEA may not define “like-types” as a single purchase order or a single vendor. The cost of items applicable to each “like-types” category is cumulative across the year for all federal awards and cannot exceed the established micro-purchase threshold.

Once the aggregate amount for the year is reached for the specific “like-types” category, the LEA must then follow the appropriate procurement process, such as informal purchase procedures or competitive procurement, applicable to the procurement cost.

*Implementation:*

Federal methods provide for procurement by micro-purchase as a purchase of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed \$50,000. The micro-purchase method is used in order to expedite the completion of its lowest-dollar small purchase transactions and minimize the associated administrative burden and cost. The District does follow the Micro-purchase method of procurement for like items with an aggregate annual value of less than \$50,000.

The Purchasing Coordinator maintains a database of purchases by commodity code. As the aggregate value approaches a certain threshold, adjustments to the procurement method are employed, as necessary. Before a given purchase is made, this database is reviewed to identify the current procurement method necessary for the associated commodity code.

*Micro-purchase implementation procedures applicable to any threshold amount established by the LEA:*

The Purchasing Coordinator determines “like-type” items categories applicable to the aggregate spending.

The District uses the fiscal year for the aggregate spending analysis (July 1 – June 30).

Before a request for a given purchase request is reviewed by the Purchasing Coordinator, it is reviewed by the applicable department or budget administrator for price and value reasonableness. Once the request is approved by the applicable department or budget administrator, the request is forwarded to the Purchasing Coordinator for additional review before it is approved by the Purchasing Coordinator.

*Simplified Acquisition Purchases 2 CFR §200.320(a)(2):*

Requirement:

Simplified Acquisition purchase procedures pertain to the acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold, but does not exceed the simplified acquisition threshold, or the threshold established by state rules or local policy, whichever is lesser.

The LEA is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk and its documented procedures which must not exceed the simplified acquisition threshold established in the FAR (Federal Acquisitions Regulations) at 48 CFR Part 2, subpart 2.1. The current simplified acquisition threshold is \$350,000. When applicable, a lower simplified acquisition threshold used by the LEA must be authorized or not prohibited under State or local laws or regulations.

**Texas state law is more restrictive** than Federal regulations concerning the threshold for informal purchase methods versus formal, competitive procurement for ISDs and **certain** open-enrollment charter schools.

In Texas, state law requires competition for contracts valued at \$50,000 or more in accordance with TEC §44.031 Purchasing Contracts. Therefore, micro purchase procedures may only be used for procurements under \$50,000 for ISDs and certain charter schools.

[TEA's General and Fiscal Guidelines explain that the FASRG procurement requirements are not applicable to charter schools unless the commissioner approved otherwise in the individual contract for the charter. Generally, TEC §12.1053 provisions do not significantly limit the contracting and purchasing activities of open-enrollment charter schools. Open-enrollment charter schools should consult with their legal team to determine if certain state purchasing rules differ for their charter school, based on their charter.]

If simplified acquisition purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources as determined appropriate by the LEA. 2 CFR §200.320(a)(2)

#### Implementation:

The LEA defines micro purchases as procurements with a dollar amount less than \$49,999.

The Purchasing Coordinator verifies the proposed purchase is reasonable in cost (i.e., comparable to current fair market value) by ensuring at least two, preferably three, quotes are attached to the purchase request. The program manager/director assigned to the grant must verify the proposed purchase is necessary to accomplish the objectives of the grant program and that the expenditure is vital or required for the grant program to be successful by requiring the requisition document the appropriate campus of district improvement plan. Approval for the requisition is documented in the on-line financial system. Approval of expenditures from federal programs also requires the approval of the Federal Programs Coordinator, Director of Special Education Services, or Director of Child Nutrition as applicable along with budget approval by the Budget & General Ledger Coordinator.

In all cases, a purchase order is required, and the procedures are the same for purchases with federal or non-federal funds.

#### ***Determination of 12-Month Aggregation***

##### Requirement:

TEC §44.031(a) stipulates that school district contracts valued at \$50,000 or ***more in the aggregate for each 12-month period*** should be made by competitive procurement, using the best method in the options identified in the statute.

According to the Purchasing Module of TEA's FASRG, it is the responsibility of the school district to determine the method or structure of the aggregation process. Tracking of category spending by the purchasing department is vital.

The term "aggregate" as used in the TEC §44.031(a) can be defined as the total sum of demand for desired or "like" goods and services that in normal purchasing practices would be made in one purchase over a 12-month period for all campuses and departments within the school district. The term "aggregate" is not defined with the chapter of the Texas Education Code (TEC). The definition should be based on the resources available to the district, such as the ability to track purchases within the district's finance system, either by vendor (not suggested) or by a pre-determined set of categories or commodity codes (suggested).

The 12-month period can be calendar year or fiscal year. The district is advised to select the period that best meets its tracking needs.

**Implementation:**

The District tracks spending by commodity code to determine if or when a purchasing method must be employed for a given item(s). The Purchasing Coordinator provides this information to all staff with requisition entry authority. Aggregate spending thresholds are tracked on a fiscal year basis from July 1<sup>st</sup> through June 30<sup>th</sup>.

Refer to the Micro-purchase section under the Informal Procurements section of this manual for information on aggregate spending for “like-type” items as it pertains to micro-purchases.

***Formal Procurement Methods (Sealed Bids and Proposals) 2 CFR §200.320(b):***

**Requirement:**

When the value of the procurement for property or services under a Federal financial assistance award exceeds the simplified acquisition threshold (SAT), or a lower threshold established by the non-Federal entity, formal procurement methods are required.

In Texas, state law requires competition for contracts valued at \$50,000 or more in accordance with TEC §44.031 Purchasing Contracts. Therefore, the simplified acquisition threshold, currently set at \$350,000, is not applicable for ISDs and certain charter schools.

[TEA’s General and Fiscal Guidelines explain that the FASRG procurement requirements are not applicable to charter schools unless the commissioner approved otherwise in the individual contract for the charter. Generally, TEC §12.1053 provisions do not significantly limit the contracting and purchasing activities of open-enrollment charter schools. Open-enrollment charter schools should consult with their legal team to determine if certain state purchasing rules differ for their charter school, based on their charter.]

Two types of formal procurement methods are applicable under 2 CFR §200.320(b): Sealed bids and Proposals. Formal procurement methods require following documented procedures. Formal procurement methods also require public advertising unless a non-competitive procurement can be used.

***State Rules regarding Competitive Procurements:***

The Texas Education Code, TEC §44.031, lists several methods for competitive procurement. All school district contracts for the purchase of goods and services, except

contracts for the purchase of produce or vehicle fuel, valued at \$50,000\* or more in the aggregate for each 12-month period shall be made by the method, of the following methods, that provides the best value for the district:

- Competitive bidding for services other than construction services;
- Competitive sealed proposals for services other than construction services;
- A request for proposals for services other than construction services;
- An interlocal contract;
- A method provided by Chapter 2269, Government Code, for construction services;
- The reverse auction procedure as defined by Section 2155.062(d), Government Code; or
- The formation of a political subdivision corporation under Section 304.001, Local Government Code

\*Each contract proposed to be made by a school district for the purchase or lease of one or more school buses, including a lease with an option to purchase, must be submitted to competitive bidding when the contract is valued at \$20,000 or more. TEC §44.031(l)

The Texas FASRG Purchasing Module recommends that the LEA create procedures for the use of Federal funds for professional services that are based on the following best practices:

- Advertise and receive sealed qualifications packages for professional services whenever practical
- Evaluate and rank the respondents based on their demonstrated competence
- Document in writing the “fair and reasonable price” as determined by budget, comparisons to other districts/agencies, prices previously established with same/similar professionals, historical prices, and/or established market rates.

*Federal Regulations Regarding Sealed Bids* 2 CFR §200.320(b)(1):

*Sealed bids:* A procurement method in which bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price.

The sealed bids method is the preferred method for procuring construction if the following conditions apply.

In order for sealed bidding to be feasible, the following conditions should be present:

- A complete, adequate, and realistic specification or purchase description is available;



- Two or more responsible bidders are willing and able to compete effectively for the business; and
- The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

If sealed bids are used, the following requirements apply:

- Bids must be solicited from an adequate number of qualified sources, providing them with sufficient response time prior to the date set for opening the bids. Additionally, the bids must be publicly advertised;
- The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- All bids will be opened publicly at the time and place described in the invitation for bids;
- A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- Any or all bids may be rejected if there is a sound documented reason.

*Texas Requirements for Competitive Bidding TEC §44.0351*

Except to the extent prohibited by other law and to the extent consistent with this subchapter, a school district may use competitive bidding to select a vendor as authorized by TEC 44.031(a)(1).

Except as provided by this subsection, Subchapter B, Chapter 271, Local Government Code, does not apply to a competitive bidding process under this subchapter. Sections 271.026, 271.027(a), and 271.0275, Local Government Code, apply to a competitive bidding process under this subchapter.

A school district shall award a competitively bid contract at the bid amount to the bidder offering the best value for the district. In determining the best value for the district, the district is not restricted to considering price alone but may consider any other factors stated in the selection criteria. The selection criteria may include the factors listed in TEC 44.031(b).

*Federal Regulations Regarding Proposals 2 CFR §200.320(b)(2):*

*Proposals:* A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not

appropriate for the use of sealed bids. Proposals are awarded in accordance with the following requirements:

- Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- The LEA must have a written method for conducting technical evaluations of the proposals received and making selections.
  - Please see the Contractor/Vendor Selection section of this manual for the LEA's procedures;
- Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the LEA, with price and other factors considered, and;
- The LEA may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby offerors' qualifications are evaluated, and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services through A/E firms that are a potential source to perform the proposed effort.

*Texas Requirements for Competitive Sealed Proposals TEC §44.0352*

In selecting a vendor through competitive sealed proposals as authorized by TEC 44.031(a)(2), a school district shall follow the procedures prescribed by this section.

The district shall prepare a request for competitive sealed proposals that includes information that vendors may require to respond to the request. The district shall state in the request for proposals the selection criteria that will be used in selecting the successful offeror.

The district shall receive, publicly open, and read aloud the names of the offerors and, if any are required to be stated, all prices stated in each proposal. Not later than the 45<sup>th</sup> day after the date on which the proposals are opened, the district shall evaluate and rank each proposal submitted in relation to the published selection criteria.

The district shall select the offeror that offers the best value for the district based on the published selection criteria and on its ranking evaluation. The district shall first attempt to negotiate a contract with the selected offeror. The district may discuss with the selected offeror options for a scope or time modification and any price change associated with the

modification. If the district is unable to negotiate a satisfactory contract with the selected offeror, the district shall, formally and in writing, end negotiations with that offeror and proceed to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected.

In determining the best value for the district, the district is not restricted to considering price alone but may consider any other factors stated in the selection criteria.

**The LEA must follow the most restrictive of Federal regulations, State law, and local policy.**

Implementation:

According to Texas law, one of the following competitive methods must be used for purchases of \$50,000 or more in the aggregate:

- (1) competitive bidding
- (2) competitive sealed proposals
- (3) request for proposals, for services other than construction services
- (4) interlocal contracts
- (5) design-build contracts
- (6) contract to construct, rehabilitate, alter, or repair facilities that involve using a construction manager
- (7) a job order contract for the minor construction, repair, rehabilitation, or alteration of a facility
- (8) reverse auction procedure as defined by Section 2155.062(d), Government Code; or
- (9) the formation of a political subdivision corporation under Section 304.001, Local Government Code.

Each of these competitive methods is described more thoroughly in Module 3 of FASRG.

In addition, one of the three following methods must be used, depending on the circumstances described below, when purchasing with federal funds: sealed bids (formal advertising); competitive proposals; or noncompetitive proposals (sole source).

Sealed Bids (Formal Advertising)

Bids are publicly solicited, and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction if the following conditions apply:

- A complete, adequate, and realistic specification or purchase description is available;
- Two or more responsible bidders are willing and able to compete effectively for the business; and
- The procurement lends itself to a firm fixed-price contract and the selection of the successful bidder can be made principally on the basis of price.

If sealed bids are used, the following requirements apply:

- Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids. The invitation for bids must be publicly advertised. The District typically allows at least three weeks for responses to be received before the public opening of seal bids.
- The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond.
- All bids will be opened at the time and place prescribed in the invitation for bids. The bids must be opened publicly.
- A firm fixed-price contract award must be made in writing to the lowest responsive and responsible bidder.

Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of. Any or all bids may be rejected if there is a sound documented reason.

### Competitive Proposals

A competitive proposal is normally used with more than one source submitting an offer, and either a fixed price or a cost-reimbursement type contract is awarded. (A cost reimbursement contract reimburses the contractor for actual costs incurred to carry out the contract.) Competitive proposals are generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical.
- Proposals must be solicited from an adequate number of qualified sources.
- The District must have a written method for conducting technical evaluations of the proposals received and for selecting recipients.
- Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

When using federal funds, the District may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

#### *Contractor/Vendor Selection*

##### Requirement:

In accordance with 2 CFR §200.320(b)(2)(ii), the LEA must have a written method for conducting technical evaluations of the proposals received and making selections.

In accordance with TEC §44.031(b), in determining to whom to award a contract, the LEA shall consider:

- The purchase price;
- The reputation of the vendor and of the vendor's goods or services;
- The quality of the vendor's goods or services;
- The extent to which the goods or services meet the LEA's needs;
- The vendor's past relationship with the LEA;
- The impact on the ability of the LEA to comply with laws and rules relating to historically underutilized businesses;
- The total long-term cost to the LEA to acquire the vendor's goods or services;
- For a contract for goods and services, other than goods and services related to telecommunications and information services, building construction and maintenance, or instructional materials, whether the vendor or the vendor's ultimate parent company

or majority owner: has its principal place of business in this state; or employs at least 500 persons in this state;

- Any other relevant factor specifically listed in the request for bids or proposals.

#### Implementation:

The Purchasing Coordinator and the CFO recruit specific qualified personnel from various operational areas of the District to form an evaluation team. The members of the evaluation team work together to make the recommendation to the Board of Trustees for what they determine to be the best value for the District. The best value determination is made by a points system whereby certain qualifications are ranked based on prescribed point values. The evaluation criteria and the maximum point valuation for each criterion are published in the solicitation documents for all respondents to review in advance of their submission. Proposals are opened in a public forum with the name of the respondent, and the quoted price (to a reasonable extent) are read aloud to the audience. The scoring of the proposals takes place over the course of several days after the bid opening. References are contacted during this time as well.

Please see the Oversight and Quality Control section of this manual for additional information.

#### ***Noncompetitive Procurement 2 CFR §200.320(c):***

##### Requirement:

There are specific circumstances in which noncompetitive procurement can be used.

Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:

- The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold
  - Micro-purchases qualify as noncompetitive procurement since the micro-purchase method does not require quotes or formal competitive procurement
- The item is available only from a single source
  - Sole-source must be proven and adequately documented to justify the purchase is truly only available from one source
  - An affidavit or sole-source letter from the vendor is not sufficient documentation that the item or service is only available from a single source
- The public exigency or emergency for the requirement will not permit a delay resulting from **publicizing** a competitive solicitation

- The LEA must demonstrate and document that the need was so immediate that **publicizing** through the competitive solicitation process would hinder the rapid resolution of an immediate concern.
- The Federal awarding agency or pass-through entity (TEA) expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity.
  - If the LEA **chooses** to request authorization from TEA to purchase from a vendor without engaging in full and open competition, the LEA must submit either the “Noncompetitive Procurement (Sole Source)” form or the “Other Noncompetitive Procurement (Not Sole Source) to TEA for prior approval. The forms are located on TEA’s “Forms for Prior Approval, Disclosure, and Justification” webpage.
  - The LEA is not required to request approval from TEA to enter into a noncompetitive procurement. The request for TEA approval is simply one of the circumstances allowable for noncompetitive procurement of federally funded procurement.
  - TEA provides broad, general authorization for goods and services purchased by the LEA from an Education Service Center (ESC) as a noncompetitive procurement. The LEA should annually maintain documentation of the prior written approval given to the ESC from TEA, which is typically posted to the ESC website.
- After solicitation of a number of sources, competition is determined inadequate.

#### Implementation:

Procurement by non-competitive proposals is procurement through solicitation of a proposal from only one source and may be used when using federal funds only when one or more of the following circumstances apply:

- The item is available only from a single source and an equivalent cannot be substituted. This must be documented.
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.
- TEA (or other federal awarding agency) expressly authorizes noncompetitive proposals in response to a written request from the District.
- After solicitation of a number of sources, competition is determined to be inadequate.

Additionally, state requirements related to sole source purchasing are, in some ways, more restrictive. In addition to the federal requirements above, sole source purchases must meet established criteria:

- Identification and confirmation that competition in providing the item or product to be purchased is precluded by the existence of a patent, copyright, secret process, or monopoly;
- A film, manuscript, or book;
- A utility service, including electricity, gas, or water; and
- A captive replacement part or component for equipment.

According to state requirements, sole source does not apply to mainframe data-processing equipment and peripheral attachments with a single item purchase price in excess of \$15,000.

In all cases, the District will obtain and retain documentation from the vendor which clearly delineates the reasons which qualify the purchase to be made on a sole source basis. This method of procurement is allowed only when the purchase is deemed reasonable and necessary by the program administrator and approved by the departments of Curriculum & Instruction, Special Education, and Child Nutrition as applicable.

### Contract Cost and Price 2 CFR §200.324

Requirement:

- The LEA must perform a cost and price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold, including contract modifications. The simplified acquisition threshold for procurement activities administered under Federal awards is set by the FAR (Federal Acquisitions Regulations) at 48 CFR Part 2, subpart 2.1. Currently, the simplified acquisition threshold established by the FAR is \$350,000.

The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the LEA must make independent estimates **before** receiving bids or proposals.

- The LEA must negotiate profit as a separate element of the price for each contract in which there is no price competition and, in all cases, where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's



investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

- Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the LEA under the Federal Cost Principles of 2 CFR Part 200, Subpart E. The LEA may reference its own cost principles that comply with the Federal Cost Principles.
- The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

#### Implementation:

The cost or price analysis is performed during the planning process before receiving competitive bids or proposals.

Generally, a cost analysis is different from a price analysis in that the cost analysis includes analyzing all the various components of the price, which may include labor, materials, profit, and administration. The price analysis, on the other hand, is a review of the total price offered by a vendor and an assessment of whether the price is fair and reasonable.

- Comparing prior bids or prior price quotes
- Comparing published price lists
- Comparing similar items

The analysis may include documented internet searches for such comparisons.

Regardless of the method used, the cost or price analysis must be documented in writing.

The District performs a cost or price analysis in connection with every federal procurement action in excess of \$150,000, including contract modifications, as follows:

**Cost Analysis, Non-competitive Contracts:** A cost analysis involves a review of proposed costs by expense category, and the federal cost principles apply, which includes an analysis of whether the costs are allowable, allocable, reasonable, and necessary to carry out the contracted services. In general,

- A cost analysis must be used for all non-competitive contracts, including sole source contracts.
- The federal cost principles apply.
- All non-competitive contracts must also be awarded and paid on a cost-reimbursement basis, and not on a fixed-price basis.
- In a cost-reimbursement contract, the contractor is reimbursed for reasonable actual costs incurred to carry out the contract.
- Profit must be negotiated as a separate element of the price in all cases where there is no competition.

When performing a cost analysis, the Purchasing Coordinator and the Federal Programs Coordinator, Director of Special Education Services, or Director of Child Nutrition as applicable negotiate profit as a separate element of the price. To establish a fair and reasonable profit, consideration is given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

Price Analysis, Competitive Contracts: A price analysis determines if the lump sum price is fair and reasonable based on current market value for comparable products or services. In general,

- A price analysis can only be used with competitive contracts and is usually used with fixed-price contracts. It cannot be used with non-competitive contracts.
- Compliance with the federal cost principles is not required for fixed-price contracts, but total costs must be reasonable in comparison to current market value for comparable products or services.
- A competitive contract may be awarded on a fixed-price basis or on a cost-reimbursement basis. If awarded on a cost-reimbursement basis, the federal cost principles apply and costs are approved by expense category, and not a lump sum.

Costs or prices based on estimated costs for contracts are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable costs under the federal cost principles.

## Additional Procurement Considerations

### ***Contracting with Small Businesses, Minority Businesses, Women's Business Enterprises, veteran-owned businesses, and Labor Surplus Area Firms 2 CFR §200.321***

#### Requirement:

When possible, the recipient or subrecipient should ensure that small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms (See U.S. Department of Labor's list) are considered as set forth below.

- Such consideration means:
  - These business types are included on solicitation lists;
  - These business types are solicited whenever they are deemed eligible as potential sources;
  - Dividing procurement transactions into separate procurements to permit maximum participation by these business types;
  - Establishing delivery schedules (for example, the percentage of an order to be delivered by a given date of each month) that encourage participation by these business types;
  - Utilizing organizations such as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- Requiring a contractor under a Federal award to apply this section to subcontracts.

#### Implementation:

The District takes all necessary affirmative steps to assure that historically underutilized businesses (HUBs), including small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms are used when possible. To accomplish this, the District uses the following required affirmative steps:

- placing above-referenced businesses on solicitation lists
- assuring that above-referenced businesses are solicited whenever they are potential sources

- dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by above-referenced businesses
- establishing delivery schedules, where the requirement permits, which encourage participation by above-referenced businesses
- using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce, and
- requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above.

### ***Domestic Preferences for Procurements 2 CFR §200.322***

#### **Requirement:**

As appropriate and to the extent consistent with law, the LEA should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

*Produced in the United States* means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

*Manufactured products* means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

#### **Implementation:**

The specific Program Director is responsible for ensuring that domestic products (made in America) are purchased when the funding source is federal funds. The PO includes a memo statement as follows: "If federal funds are used to make this purchase, SISD requires that all goods and materials be domestic (made in America) to the extent possible.

### ***Procurement of Recovered Materials 2 CFR §200.323***

#### Requirement:

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

#### Implementation:

The District considers the use of federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

Procurement of Recovered Materials: In addition, the District complies with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) containing the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The requirements apply to state and local governments, including school districts, and include the purchase of everyday items such as paper products, non-paper office products, office furniture, floor mats, and awards and plaques, as well as many other items, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000. Requirements also include

- procuring solid waste management services in a manner that maximizes energy and resource recovery and
- establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Pursuant to section 6002, the decision not to procure recovered materials must be based on a determination that such procurement items—

- A. are not reasonably available within a reasonable period of time;

B. fail to meet the performance standards set forth in the applicable specifications or fail to meet the reasonable performance standards of the District; or

C. are only available at an unreasonable price. Any determination under subparagraph (B) shall be made on the basis of the guidelines of the Bureau of Standards in any case in which the material is covered by the guidelines.

It is the responsibility of the Purchasing Coordinator to determine if any item being purchased is on the EPS's list of recovered materials, and to follow any necessary procedures.

### ***Bonding Requirements 2 CFR §200.326***

Requirement:

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold (currently set at \$350,000 by the FAR (Federal Acquisitions Regulations) at 48 CFR Part 2, subpart 2.1), the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected.

If such a determination has not been made, the minimum requirements must be as follows:

- A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor’s requirements under such contract.
- A payment bond on the part of the contractor for 100 percent of the contracted price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

Texas Government Code 2253.021 requires a performance bond for contracts in excess of \$100,000, and a payment bond if the contract is in excess of \$25,000.

**The LEA must follow the most restrictive of Federal regulations, State law, and local policy.**

Therefore, the LEA will follow the contract threshold requirements for performance and payment bonds required by the State.

Additional bonding requirements in Texas Government Code 2253.021 and 2253.022 will be followed by the LEA.

Implementation:

The Purchasing Coordinator ensures that each of the provisions associated with bonding requirements is adhered to as applicable.

### ***Multi-year Contracts: TEA Guidance***

Requirement:

#### ***Multi-Year Subscriptions:***

In accordance with TEA's EDGAR FAQ document, Q 7.9-7.10, multi-year subscriptions are generally treated as a contract. The subgrantee may enter into multi-year contracts if it is permissible with the vendor and the subgrantee follows TEA's Guidance and Best Practice: Professional Services Contracts recommendations. As with any multi-year contract, the subgrantee may only pay for one year of service per grant year, since the LEA cannot pay for benefits not yet received.

As long as the subgrantee receives the full benefit of the subscription (full access to the service) at the beginning of the grant year, the contract for that grant year may be paid at the beginning of the period of availability. If the subscription contains items that are not all available at the beginning of the service, such as completing one level of the software before the next level is available, then the LEA may only pay for the service that has been invoiced and received during the period of the invoice. In this example, the LEA could not pay for the entire year of the subscription at the beginning of the grant year because the LEA has not received the full benefit (full access).

Implementation:

If the purpose of the contract or purchase order is to deliver goods, the requisitioner will verify that the quantity and quality of goods were received as specified in the contract/purchase order. The receipt is documented via the on-line finance system for all other state/local purchases as well as for all federal purchases.

For real property, the approval of the Federal Programs Coordinator, Director of Special Education Services, or Director of Child Nutrition as applicable is required related to any federal contract.

If the purpose of the contract is to purchase services, grant administrator will verify that the quality and scope of services were received, or are fully available for use, as specified in the contract and authorize the completion of the receiving procedure in the finance system.

## Contract Prohibitions

### ***Suspension and Debarment 2 CFR §200.214***

Requirement:

Non-Federal entities are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR Part 180. The regulations in 2 CFR Part 180 restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

In accordance with 2 CFR §180.300, the LEA must verify that the vendor/contractor/business is not excluded or disqualified. This is done by:

- Checking SAM.gov Exclusions; or
- Collecting a certification from the vendor/contractor/business; or
- Adding a clause or condition to the covered transaction

Implementation:

The LEA awards contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

The LEA will not subcontract with or award subgrants to any person or company that is debarred, suspended, or otherwise excluded from doing business with the Federal government.

To ensure compliance, regardless of the dollar amount of the potential procurement, the LEA will search the SAM.gov website on the day the contract is to be signed to ensure the potential vendor or contractor does not have an active exclusion. The LEA will print the results of the search and keep with the procurement documentation.



The Purchasing Coordinator performs the search on SAM.gov and the Texas Comptroller's website before any requisition is approved and converted to PO in the MUNIS finance system.

Please see the Contract Provisions section of this manual for additional information.

***Never Contract with the Enemy 2 CFR §200.215***

Requirement:

Federal awarding agencies and recipients are subject to the regulations implementing Never Contract with the Enemy in 2 CFR Part 183. These regulations affect covered contracts, grants, and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

Implementation:

The LEA exercises due diligence based on information available to them to ensure none of the funds received under a Federal award are provided directly or indirectly (including through contracts) to a person or entity who is actively opposing the United States or coalition forces as stated in the regulation above.

The LEA ensures compliance with this requirement by conducting a search of the excluded parties list in SAM (www.SAM.gov) Exclusions.

Please see the Suspension and Debarment section of this manual for the LEA's procedures regarding the SAM Exclusions search.

***State Prohibition on Contracts with Certain Companies: Iran, Sudan, or a Foreign Terrorist Organization***

Requirement:

In accordance with Government Code 2252, Subchapter F, the LEA may not enter into a governmental contract with a company that is identified on a list prepared and maintained under Section 806.051 [Renumbered eff. 5/23/2017; Section 808.051, 807.051 [Tex. Govt Code §807.051 was repealed eff. 5/23/2017], or 2252.153.

Definitions according to Government Code 2252.151:

“Foreign terrorist organization” means an organization designated as a foreign terrorist organization by the United States secretary of state as authorized by 8 U.S.C. Section 1189.

“Governmental contract” means a contract awarded by a governmental entity for general construction, an improvement, a service, or a public works project or for a purchase of supplies, materials, or equipment. The term includes a contract to obtain a professional or consulting service subject to Chapter 2254.

Implementation:

Prior to award, the LEA checks the Divestment Lists maintained by the Texas Safekeeping Trust Company and posted to the www.Comptroller.Texas.Gov webpage. If the business is in violation, the LEA does not award a contract to that vendor.

### ***State Prohibition on Contracts with Companies Boycotting Israel***

Requirement:

In accordance with Government Code 2271, if a contract is (1) between a governmental entity and a company with 10 or more full-time employees and (2) have a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity, then the governmental entity may not contract with a company for goods or services unless the contract contains a written verification from the company that it (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

Definitions according to Government Code 808.001:

“*Boycott Israel*” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

“*Company*” means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit.

Implementation:

Prior to award, the LEA checks the Divestment Lists maintained by the Texas Safekeeping Trust Company and posted to the www.Comptroller.Texas.Gov webpage to determine if the potential awardee is on the list of companies that boycott Israel. If the potential awardee is on the list, the LEA does not award a contract to that vendor.

Additionally, the LEA includes in the contract the written verification described in Government Code 2271, as applicable.

***Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment 2 CFR §200.216***

Requirement:

Recipients and subrecipients are **prohibited** from obligating or expending loan or grant funds to:

- Procure or obtain;
- Extend or renew a contract to procure or obtain; or
- Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
  - For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
  - Telecommunications or video surveillance services provided by such entities or using such equipment.
  - Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country. [In OMB's 2

CFR Frequently Asked Questions, published May 03, 2021, Q-48 explains the covered foreign country is The People's Republic of China.]

In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

In accordance with OMB's 2 CFR FAQ document, as with other unallowable costs, covered (prohibited) telecommunications and video surveillance services or equipment costs must not be charged either directly or indirectly to Federal awards.

Implementation:

The LEA ensures compliance with this requirement by conducting a search of the excluded parties list in SAM ([www.SAM.gov](http://www.SAM.gov)) Exclusions.

Please see the Suspension and Debarment section of this manual for the LEA's procedures regarding the SAM Exclusions search.

### ***State Enforcement of Purchase Procedures***

Requirement:

The Texas Education Code, TEC §44.032, states that an officer, employee, or agent of a school district commits an offense if the person with criminal negligence makes or authorizes separate, sequential, or component purchases to avoid the requirements of TEC §44.031(a) or (b).

*Component purchases* means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

*Separate purchases* means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

*Sequential purchases* means purchases, made over a period of time, of items that in normal purchasing practices would be purchased in one purchase.

Implementation:

Please see the Determination of 12-Month Aggregation section of this manual for information regarding aggregated procurement expenditures.

## Purchasing Cooperatives and Interlocal Agreements

Requirement:

Grantees are encouraged to employ cooperative purchasing procedures, when possible, to achieve greater economy or efficiency when procuring common or shared goods or services. 2 CFR §200.318(e)

In accordance with Texas Local Government Code §271.102, a local government (which includes a school district) may participate in a cooperative purchasing program with another local government of this state or another state or with a legal cooperative organization of this state or another state.

In accordance with Texas Government Code §791, to increase efficiency and effectiveness, local governments are authorized to contract, with the greatest possible extend, with one another and with agencies of the state.

In accordance with TEC §44.0331, an LEA that enters into a purchasing contract valued at \$25,000 or more under certain cooperative purchasing contracts must document any contract-related fee, including management fee, and the purpose of each fee under the contract. The amount, purpose, and disposition of any fee must be presented in a written report annually as an agenda item in an open meeting of the board of trustees of the school district.

For purchases with Federal funds, the LEA must ensure the purchasing cooperative is compliant with EDGAR procurement regulations and standards and in particular with the cost or price analysis requirement for procurements that exceed the simplified acquisition threshold, currently set at \$350,000 by the FAR (Federal Acquisitions Regulations) at 48 CFR Part 2, subpart 2.1.

Implementation:

The LEA will follow the state regulations in the Texas Government Code and Texas Local Government Code notated above.

The LEA obtains confirmation that the purchasing cooperative is compliant with EDGAR procurement regulations by reviewing the applicable documentation posted on the cooperative website or contacting the cooperative directly when necessary.

If the purchasing cooperative does not meet all EDGAR procurement requirements applicable to the type of purchase, the LEA will perform the necessary action to ensure all compliance requirements are met. For example, if the procurement exceeds \$350,000 and the purchasing cooperative did not perform a cost or price analysis in compliance with 2 CFR §200.324, the LEA will perform a cost or price analysis prior to the purchase.

## Construction

### Requirement:

Although typically unallowable with Federal education awards, some Federal programs allow construction. General procurement requirements are outlined in 2 CFR §§200.318-200.327.

Construction with Federal funds requires prior written approval from TEA. For some Federal grants, this requirement for prior written approval also pertains to remodeling and renovations. The terms and conditions of the grant and program guidelines will provide information on the types of procurements that require prior written approval.

34 CFR §76.600 stipulates that an LEA that requests program funds for construction, or whose grant or subgrant includes funds for construction, shall comply with the rules on construction that apply to applicants and grantees under 34 CFR §§75.600-75.617, as outlined below.

### ***Assessment of Environmental Impact 34 CFR §75.601***

An applicant shall include with its application its assessment of the impact of the proposed construction on the quality of the environment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 and Executive Order 11514 (34 FR 4247).

### ***Preservation of Historic Sites 34 CFR §75.602***

An applicant shall describe in its application the relationship of the proposed construction to and probable effect on any district, site, building, structure, or object that is:

- Included in the National Register of Historic Places; or
- Eligible under criteria established by the Secretary of Interior for inclusion in the National Register of Historic Places (Reference 36 CFR §60.4 for these criteria)

### ***Grantee's Title to Site 34 CFR §75.603***

A grantee must have or obtain a full title or other interest in the site, including right of access, which is sufficient to ensure the grantee's undisturbed use and possession of the facilities for 50 years or the useful life of the facilities, whichever is longer.

***Availability of Cost-Sharing Funds 34 CFR §75.604***

A grantee shall ensure that sufficient funds are available to meet any non-Federal share of the cost of constructing the facility.

***Beginning the Construction 34 CFR §75.605***

A grantee shall begin work on construction within a reasonable time after the grant for the construction is made. Before construction is advertised or placed on the market for bidding, the grantee shall get approval from the Secretary of the final working drawings and specifications.

***Completing the Construction 34 CFR §75.606***

A grantee shall complete its construction within a reasonable time. The grantee shall complete the construction in accordance with the application and approved drawings and specifications.

***General Considerations in Designing Facilities and Carrying out Construction 34 CFR §75.607***

A grantee shall ensure that the construction is functional, economical, and not elaborate in design or extravagant in the use of materials, compared with facilities of a similar type constructed in the State or other applicable geographic area.

The grantee shall, in developing plans for the facilities, consider excellence of architecture and design and inclusion of works of art. The grantee may not spend more than one percent of the cost of the project on inclusion of works of art.

***Areas in the Facilities for Cultural Activities 34 CFR §75.608***

A grantee may make reasonable provision, consistent with the other uses to be made of the facilities, for areas in the facilities that are adaptable for artistic and other cultural activities.

***Comply with Safety and Health Standards 34 CFR §75.609***

In planning for and designing facilities, a grantee shall observe:

- The standards under the Occupational Safety and Health Act of 1970 (Pub. L. 91-576 (See 36 CFR part 1910); and
- State and local codes, to the extent that they are more stringent.

### ***Access by the Handicapped 34 CFR §75.610***

A grantee shall comply with the Federal regulations on access by the handicapped that apply to construction and alteration of facilities. These regulations are:

- For residential facilities: 24 CFR part 40; and
- For non-residential facilities: 41 CFR subpart 101-19.6 [Refer to 41 CFR §102-76.65]

### ***Avoidance of Flood Hazards 34 CFR §75.611***

In planning the construction, a grantee shall, in accordance with the provisions of Executive Order 11988 of February 10, 1978 (43 FR 6030) and rules and regulations that may be issued by the Secretary to carry out these provisions:

- Evaluate flood hazards in connection with the construction; and
- As far as practicable, avoid uneconomic, hazardous, or unnecessary use of flood plains in connection with the construction.

### ***Supervision and Inspection by the Grantee 34 CFR §75.612***

A grantee shall maintain competent architectural engineering supervision and inspection at the construction site to ensure that the work conforms to the approved drawings and specifications.

### ***Relocation Assistance by the Grantee 34 CFR §75.613***

A grantee is subject to the regulations on relocation assistance and real property acquisition in 34 CFR part 15

### ***Grantee Must Have Operational Funds 34 CFR §75.614***

A grantee shall ensure that, when construction is completed, sufficient funds will be available for effective operation and maintenance of the facilities.

### ***Operation and Maintenance by the Grantee 34 CFR §75.615***

A grantee shall operate and maintain the facilities in accordance with applicable Federal, State, and local requirements.

### ***Energy Conservation 34 CFR §75.616***

To the extent feasible, a grantee shall design and construct facilities to maximize the efficient use of energy.

The following standards of the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) are incorporated by reference in this section:



- ASHRAE-90 A-1980 (Sections 1-9)
- ASHRAE-90 B-1975 (Sections 10-11)
- ASHRAE-90 C-1977 (Section 12)

A grantee shall comply with ASHRAE standards listed above in designing and constructing facilities built with project funds.

***Compliance with the Coastal Barrier Resources Act 34 CFR §75.617***

A recipient may not use, within the Coastal Barrier Resources System, funds made available under a program administered by the Secretary for any purpose prohibited by 31 U.S.C. chapter 55 (sections 3501-3510).

***State Rules Regarding Construction Services and Maintenance Services***

Requirement:

According to TEA's Purchasing Module of the Financial Accountability System Resource Guide (FASRG), construction services must be procured using one of the methods set out in the Texas Government Code, Chapter 2269.

These services include both traditional construction and contracts to alter or repair a building.

Contracts for construction services are subject to state laws. Please see the Contract Provisions section of this manual for information.

Maintenance services are defined as ordinary upkeep or repairs necessary to preserve something in good condition. Maintenance services can also be to "keep up, keep from change; preserve" a building and its components, including "ordinary repairs necessary and proper from time to time for that purpose. Maintenance services may be procured using one of the methods set forth in TEC §44.031(a), or through the Job Ordering Contracting (JOC) method set forth in the Texas Government Code, Chapter 2269. JOC is a procurement method used for maintenance, repair, alteration, renovation, remediation, or minor construction of a facility when the work is of a recurring nature by the delivery times, and type and quantities of work required are indefinite. If a specific project utilizing the JOC method is \$500,000 or greater, it must be approved by the district's board. The district should establish the maximum aggregate contract price when it advertises the proposal.

Implementation:

1. All contracts paid from state or federal grants administered by TEA must retain copyright for the Texas Education Agency (TEA) and for the federal government (if a federally funded contract) unless otherwise negotiated in writing with TEA. Title to intangible property vests in the District as long as such property is used for authorized purposes. However, TEA and the federal awarding agency reserve a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the work for federal purposes, and to authorize others to do so.
2. All contracts greater than \$150,000 must address administrative, contractual, or legal remedies.
3. All contracts greater than \$10,000 must address termination for cause and for convenience.
4. All construction contracts must include the Equal Employment Opportunity clause.
5. All prime construction contracts in excess of \$2,000 must include a provision for compliance with the Davis-Bacon Act and its implementing regulations.
6. All contracts in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with the Contract Work Hours and Safety Standards Act and its implementing regulations.
7. All contracts that meet the definition of “funding agreement” and where the District wishes to enter into a contract with a small business firm or nonprofit organization must include a provision for compliance with the Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements.
8. All contracts and subgrants greater than \$150,000 must contain a provision for compliance with the Clean Air Act and the Federal Water Pollution Control Act and their implementing regulations.
9. All contracts must include compliance with the Energy Policy and Conservation Act pertaining to mandatory standards and policies relating to energy efficiency contained in the state energy conservation plan.
10. A contract or subcontract must not be made to any party that is debarred or suspended from receiving federal funds.

11. Lobbying Certification and Disclosure of Lobbying (Byrd Anti-Lobbying Amendment) – All contractors that apply or bid for an award of \$100,000 or more must file the required Lobbying Certification that it has not and will not use any federal funds to lobby. If *non*-federal funds are used to lobby, the contractor must complete the Disclosure of Lobbying and forward the disclosure to the next tier, who must forward it through each tier to the federal awarding agency.

All contracts greater than \$10,000 must include compliance with section 6002 of the Solid Waste Disposal Act and its implementing regulations. 2 CFR § 200.

## Contract Provisions

Requirements:

### ***Federal Requirements for Contracts***

In accordance with 2 CFR §200.327, the LEA's contracts must contain the applicable provisions described in Appendix II in CFR Part 200.

- Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. The current simplified acquisition threshold is \$350,000.
- All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity, including the manner by which it will be affected [executed] and the basis for settlement.
- Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR §60.1-4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p.339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
- Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by

non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)**. Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies, materials, or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- **Rights to Inventions Made Under a Contract or Agreement**. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or

subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

- Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- See 2 CFR §200.323 Procurement of recovered materials
- See 2 CFR §200.216 Prohibition on certain telecommunications and video surveillance services or equipment

- See 2 CFR §200.322 Domestic preferences for procurements. According to TEA's FAQ – ESSER I, ESSER II, ESSER III document, GR-Q10, the LEA must include this domestic preference in all subawards, contracts, and purchase orders.

***State Required and Suggested Contract Provisions: FASRG Purchasing Module***

Texas law mandates that certain contract provisions be included in some, if not all, vendor contracts. Additional provisions that are in the best interest of the LEA should be included as well. An LEA should review all solicitations to ensure that its best interest is covered within all provisions.

Verbal agreements are not binding. If a particular requirement is necessary for the delivery of goods or performance of a service, the LEA should include the requirements as part of the written agreement. Note that all agreed to provisions are enforceable in a court of law or binding in arbitration as a waiver of immunity. Something as simple as an email between both parties can be binding.

The LEA should consult with legal counsel all provisions before they become formal through an executed agreement.

Refer to the following for additional information and requirements:

- TEC §44.034
- Texas Government Code §808.001(2)
- Texas Government Code §2270.002
- Texas Business and Commerce Code, Chapter 322
- Texas Government Code §§2252.152-2252.154
- FASRG Purchasing Module, sections 3.26 through 3.28

Please see Contract Prohibitions section of this manual for additional provisions to include in contracts.

***State Guidance and Best Practices for Professional Services Contracts***

The Texas Education Agency requires all professional services contracts be effective only during the period of availability of the funds identified in the Notice of Grant Award (NOGA). However, subgrantees may negotiate contracts prior to the effective date of the contract.

This guidance is provided solely to assist the subgrantee in identifying key issues to consider regarding allowable uses of funds as it relates to professional services contracts. This guidance does not replay the advice of a subgrantee's legal counsel. Implementing

best practices outlined below will assist grantees in avoiding potential audit/monitoring findings. For specific clarifications, subgrantees should contact their legal counsel.

- A letter of intent to contract with a third party may be signed prior to the issuance of a NOGA
  - The letter of intent should contain a provision that the future contract is contingent upon receipt of the specific NOGA
  - Execute the contract after the NOGA is issued
- When negotiating to sign a contract before the receipt of the NOGA, the contract should contain the following provisions:
  - The contract is only effective upon receipt by the subgrantee of the NOGA from the awarding agency
  - The contract period is aligned to the grant period of availability as stated on the NOGA from the awarding agency (period of availability)
  - All services will be completed during the effective dates of the contract
  - All services will be invoiced monthly after services are received (rather than paid lump sum at the beginning of the period of availability before services are rendered) and paid upon verification of receipt of services
  - The regulations for procurement in 2 CFR part 200 are followed in issuing the contract
  - All professional services provided under the contract will follow the provisions of 2 CFR §200.459 Professional service costs
  - The contract identifies the funding sources that will be charged for the services provided, including the specific amount and/or percentage of the total contract amount to be charged to each funding source
  - The contract identifies and lists only reasonable, necessary, and allocable services to be provided during the period of availability of the funding sources listed in the contract
  - The administrative costs charged to the grant in the contract must comply with any limitations for administrative costs for funding sources (if applicable)
  - The contract specifies that the invoice provided by the contractor will include the list of services provided, dates of services, and location(s) where services were provided during the billing period

### ***State Requirements for Contracts for Construction Services***

Contracts for construction services are subject to laws applicable to public works, including but not limited to:

- Prevailing wages (Texas Government Code, Chapter 2258);
- Payment and performance bonds (Texas Government Code, Chapter 2253);
- Mandatory workers' compensation coverage for laborers (Texas Labor Code, §406.096); and
- Requirements related to the use of licensed architects and engineers (e.g., Texas Occupations Code, §§1001.407, 1001.053, and 1051.703)

## Oversight and Quality Control

### ***Procurement Records***

Requirement:

The LEA must maintain records sufficient to detail the history of procurement. 2 CFR §200.318(i)

Implementation:

The LEA maintains the following procurement records:

- Rationale for method of procurement
- Required documentation related to the specific method of procurement
- Selection of contract price
- Contractor selection or rejection
- Basis for contract price
- Detailed ledger including at a minimum:
  - Reference number (e.g., check number, PO number, Journal voucher number)
  - Transaction Date
  - Vendor Name
  - Transaction Description
  - FASRG account codes
  - Commodity codes (i.e., codes to calculate aggregate costs)
  - Appropriations, encumbrances, final balances
- Transaction records, including at a minimum:
  - Copy of the internal accounting records (PO)
  - Complete itemized third-party documents (invoices, receipts, billing statements, etc.)
  - Contracts, agreements

Procurement records are maintained, electronically, in the MUNIS Financial Application. Hard copies are generally maintained, as well, in the department of Business Services.



## ***Vendor Selection***

### **Requirement:**

The LEA awards contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. 2 CFR §200.318(h)

### **Implementation:**

The LEA considers the following when determining contractor selection:

- Reputation for responsibility and integrity
- Reputation of the vendor's goods or services
- Ability to meet the terms and conditions of the procurement
- Compliance with public policy
- Record of past performance
- Vendor's past relationship with the LEA
- Financial and technical resources
- Not suspended or debarred or otherwise excluded from or ineligible for participation in federal assistance programs or activities

Please see the Contractor/Vendor Selection section under Formal Procurement Methods, Proposals section for additional information on criteria for vendor selection.

Please see the Contract Prohibitions section for information on prohibited contracts and suspension and debarment.

## ***Vendor Oversight***

### **Requirement:**

The LEA must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. 2 CFR §200.318(b)

### **Implementation:**

The LEA will consider the following when performing oversight over the vendor's performance:

- Review of compliance with contractual terms for prices
- Analysis of timeliness and accuracy of product delivery
- Service availability

- Completeness and accuracy of order
- Responsiveness to problems
- Quality and reliability of products or services received

Whenever problems are encountered with a vendor (i.e., a vendor fails to deliver certain items or delivery does not meet specifications), the LEA documents the problem, noting the date and including an accurate description of the problem. The vendor is then contacted and told specifically how the LEA wants the problem corrected. The LEA keeps a record of all contact, including the dates and what was discussed. If the problem is not resolved or continues, written notification to the vendor states the problem, the corrective action required, and that the vendor's failure to correct the problem will be considered a breach of contract and could result in the cancellation of the contract. (Seek legal advice for this step.) This record of information about vendor performance is very important in the evaluation of the vendor. If significant problems are encountered with the vendor, the LEA consults with legal counsel concerning the removal of the vendor from the contracted vendor list and discontinuing any business with the vendor for a legally allowable period of time.

### ***Rationale for Procurement Method and Type of Contract***

Requirement:

Procurement records must include Rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. 2 CFR §200.318(i)

Implementation:

#### ***Rationale for method of procurement:***

The Purchasing Coordinator and the CFO make the final determination of the type of procurement to be used in a given situation. If a cooperative or formal solicitation is used, the purchase order will disclose the applicable reference information for the cooperative vendor or the bid recommendation.

#### ***Selection of contract type:***

#### ***Contractor selection or rejection:***

Please see the Vendor Selection and Vendor Oversight section of the manual.

#### ***Basis for contract price:***

The Purchasing Coordinator evaluates price for reasonableness based on experience with related items and pricing as well as current market conditions.

Please also see the Determination of Allowability of Costs section and the Contract Cost and Price section of this manual for additional information.

### *Ensuring Availability of Funds*

The Budget & General Ledger Coordinator confirms available budgeted funds before any requisition is converted to a purchase order.

### *Miscellaneous Assurances*

The Purchasing Coordinator works along with the applicable operational administrator to ensure that contract services are rendered according to agreement.

## **Purchasing Controls**

### **Requirement:**

The LEA needs a strong control environment in which to perform the purchasing function.

Roles and related responsibilities must be clearly defined in policies and procedures and adapted to meet the unique operating environment of the LEA. Purchasing staff and users should be trained in the procurement standards and procedures and must adhere to the requirements. Segregation of duties is a vital component of internal control to assist in the prevention and mitigation of error, fraud, waste, and abuse. The LEA should perform oversight and monitoring to ensure processes are followed and implemented.

### ***Purchasing Roles***

### **Requirement:**

Segregation of duties is a vital component of internal control to assist in the prevention and mitigation of error, fraud, waste, and abuse.

### **Implementation:**

A purchase requisition is entered by the assigned and authorized clerical / secretary of a given campus or department. This clerical / secretary is responsible for entering purchase requisitions in the MUNIS financial software for any staff member who desires to make a purchase using that campus or department's available budget dollars.

Once the requisition is entered by the clerical / secretary, the applicable supervisor, generally the campus principal or department administrator approves the requisition in the MUNIS financial software.

Once the requisition is approved at the campus or department level, it is electronically routed to the department of Business Services for additional review by the assistant to the Purchasing Coordinator, the Budget & General Ledger Coordinator, and finally the Purchasing Coordinator.

The Purchasing Coordinator gives final approval of all purchase requisitions and converts them into a formal purchase order (if approved).

The Budget & General Ledger Coordinator determines if a purchase is allowable with Federal funds and determines compliance with the program statutes, regulations, and terms and condition of the award.

### ***Training and Staff Development***

Requirement:

The LEA should provide purchasing training and staff development. This training should extend beyond the professional staff to include other staff who are often involved either directly or indirectly in the purchasing process.

Training should be ongoing and relevant to the role of the employee and provide updates to changes in relevant statutes and purchasing practices.

### **Purchasing Module of TEA's FASRG**

Implementation:

The Purchasing Coordinator, the Budget & General Ledger Coordinator, and the CFO receive regular training from the Education Service Center and Texas Association of School Business Officials. The Business Department and Federal Programs Coordinator provide purchasing training to professional staff and other staff who are involved either directly or indirectly in the purchasing process.

### ***Control Environment***

Requirement:

Expenditure of public money requires a strong control environment.

The following items described in the Purchasing Module of TEA's FASRG should be present in the purchasing control environment:

- Supervision of purchasing process. Vigilance in the supervision of the entire purchasing function on a daily basis is essential.
- Approval of purchase requisitions at the campus and departmental levels. The campus or department administrator should review for need and approve purchase requisitions before they are submitted to the centralized purchasing department for processing. If available, the budget manager should verify if funds are available before any procurement action is taken.
- Approval of purchase orders. The purchasing director or other designated official should review for compliance before approving purchase orders for issuance to vendors. If a purchase is to be federally funded, approval should first be obtained from a special programs administrator.
- Segregation of duties among purchasing and accounting personnel. The purchasing director, finance director, and superintendent are responsible for ensuring that duties among purchasing and accounting personnel are properly segregated (to the degree possible) to provide an environment with checks and balances.
- Maintenance of purchasing files and records. Purchasing clerks should be trained and supervised so that purchasing files and records are complete and maintained in an orderly fashion for the period required by law.
- Control over incoming merchandise. Receiving personnel (either centralized or decentralized) should be trained and monitored to ensure that the proper procedures are followed with incoming merchandise (i.e., the counting and inspection of merchandise received, and the completion of receiving reports).
- Verification of invoices with purchase orders and receiving reports. Although receiving personnel are responsible for the initial verification of invoices, accounting personnel verify that the invoice, purchase order, and receiving report match before presenting the invoice for approval for payment.
- Verification of delivery. The requesting campus or department is responsible for ensuring that the order agrees with its original purchase order.
- Internal review of the purchasing process. An internal review of the purchasing process should be performed periodically. This review is usually made by the district's

internal audit department and ensures that purchasing policies and procedures are followed by district personnel.

- Vendor Relations. The district must ensure all potential conflicts of interest are identified prior to any purchases involving a district employee and vendor. All vendors should be handled at arm's length, so no impression of improprieties exists.

Implementation:

The Accounts Payable Specialist ensures that online receiving is conducted for all goods and services. The receiving process must be completed by the clerk / secretary for the given department or campus that submits the original purchase request. Once receiving is complete and a proper vendor invoice is presented by the vendor to the Accounts Payable Specialist, it is matched up to the approved purchase order. At that point, the purchase amount is entered by the Accounts Payable Specialist and approved for payment. The General Ledger Specialist is responsible for issuing the payment once the three-way match is complete.

### ***Purchasing Cards and Gift Cards***

According to the Purchasing Module of TEA's FASRG, purchasing cards can provide efficiency, transparency, and security when utilized correctly. A purchasing card should be considered a payment mechanism, not a purchasing method. If managed well with the right controls in place to ensure compliance with purchasing guidelines and card usage, a purchasing card program can be beneficial to an LEA.

Requirement:

To avoid fraud and waste, purchasing cards must be controlled closely. Enough controls must be in place to limit or remove any potential misuse, malicious or not, by cardholders. These controls should be cross-departmental to allow for a continual check and balance of the program and purchases made.

Implementation:

The LEA does **not** authorize the purchase or use of **gift cards** with Federal funds because they lack adequate accountability for ensuring allowable use of Federal funds.

The LEA does use district **credit cards** for purchases with Federal funds provided a purchase order is in place prior to purchase.

### **Standards of Conduct Covering Conflicts of Interest 2 CFR §200.318(c)**

Requirement:

The LEA must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts.

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest.

Such a conflict of interest would arise when the employee, officer, agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

Implementation:

Please refer to the remainder of this section for ethics standards and actions to be taken in regards to real or apparent conflict of interest.

A formal Conflict of Interest document is presented to all Board Members annually and to all vendors before they are set up for use by the District. The Department of Business Services maintains these forms on the District website and in the vendor files as applicable.

*Organizational Conflict of Interest:*

***Purchasing Ethics Standards Purchasing Module from TEA's FASRG:***

The competitive nature of the public purchasing arena and the expenditure of significant amounts of public funds require that ethical standards be incorporated into the foundation of all purchasing functions. Purchasing personnel and school district staff face the difficult task of developing good vendor relations and encouraging vendor competition while avoiding even the appearance of favoritism or other ethical misconduct.

Ethics relating to conflicts of interest, financial interests in firms conducting business with the school district, kickbacks and gratuities, and improper use of a position or confidential information should be clearly communicated throughout the school district. Additionally, school district personnel should be made aware of the penalties for violations of purchasing laws and ethics, which may include criminal prosecution and loss of employment opportunities. Personnel considered held to the highest standards include board trustees, superintendents, or other person designated as an executive officer of the district, and any employees or agents who exercise discretion in the planning, recommending, selecting, or contracting of a vendor.

Areas to consider within the district include the following:

- School district staff should be familiar with the numerous district policies related to conflict of interest and ethical behaviors.
- Annual review of these policies is suggested and should be included in training for new employees.
- All employees that have a role in the purchasing process should be reminded annually to complete conflict of interest forms if a conflict exists. Any forms with a conflict should be reviewed by the appropriate level of personnel. All completed conflict of interest questionnaire/conflict of interest statement (CIQ/CIS) forms showing a conflict must be posted online.
- Know and obey the letter and spirit of laws governing the purchasing function and remain alert to the legal ramifications of purchasing decisions.
- Discourage purchasing involvement in employer-sponsored programs of personal purchases that are not business related.
- Avoid the appearance of unethical or compromising practice in relationships, actions, and communications.
- Refrain from any private business or professional activity that would create a conflict between personal interests and those of your employer.
- Refrain from soliciting or accepting money, loans, credits, discounts, gifts entertainment, favors, or services from present or potential suppliers.
- Do not accept any gift unless allowable by district policy.
- Handle confidential or proprietary information with due care and proper consideration of ethical and legal ramifications and governmental regulations.
- Promote positive supplier relationships through courtesy and impartiality

***Common Standards of Ethics to Govern the Conduct of Employees Involved in the Purchasing Function Purchasing Module from TEA's FASRG:***



There are certain common standards of ethics that should govern the conduct of employees involved in the purchasing function, as follows:

- It is a breach of ethics to attempt to realize personal gain through public employment with a school district by any conduct inconsistent with the proper discharge of the employee's duties.
- It is a breach of ethics to attempt to influence any public employee of a school district to breach the standards of ethical conduct set forth in this code.
- It is a breach of ethics for any employee of a school district to participate directly or indirectly in a procurement when the employee knows that:
  - the employee or any member of the employee's immediate family has a financial interest pertaining to the procurement;
  - a business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement; or
  - any other person, business, or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.
- It is a breach of ethics to offer, give, or agree to give any employee or former employee of a school district, or for any employee or former employee of a school district to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore pending before this government. Acceptance of gratuities may be construed as a criminal offense.
- It is a breach of ethics for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract of a school district, or any person associated therewith, as an inducement for the award of a subcontract or order.
- The prohibition against gratuities and kickbacks prescribed above should be conspicuously set forth in every contract and solicitation, therefore.

- It is a breach of ethics for any employee or former employee of a school district knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated gain of any person.

The Comptroller has published purchasing guidance, titled the State of Texas Procurement and Contract Management Guide, that includes related ethics information. The Texas Local Government Code, Chapter 176, provides information regarding conflict of interest statements to be filed by vendors and certain school district employees. Refer to the Texas Ethics Commission for additional information and sample conflict of interest forms.

If a school district board member or other official has a substantial interest in a procurement, that person shall abstain from discussion and decisions regarding the award of the procurement contract. (See the Texas Local Government Code, Chapter 171, for definition of substantial interest.) In addition, the board member should disclose this substantial interest by filing an affidavit with the district.

### ***Actions to be Taken for Real or Apparent Conflict of Interest***

Requirement:

Conflict of interest statements must be filed by vendors and certain LEA officials and employees if a real or potential conflict of interest exists.

The LEA will follow the requirements of Local Government Code Chapter 176 and Local Government Code Chapter 171 regarding conflict of interest statements and reporting. The LEA will also refer to the Texas Ethics Commission website for additional information and sample forms.

Implementation:

If a *board member* or member of their immediate family has a financial interest in a business entity(s), they are required to disclose this relationship through the execution of an affidavit, submitted to Purchasing Coordinator or the CFO.

Local Government Codes §171 and §176 provide information regarding disclosure requirements.

If the LEA receives a conflicts disclosure statement, TEA will be notified.

See the Conflict of Interest and Mandatory Disclosures section of this manual for information on the submittal to TEA.

*Local Government Officer:*

A *local government officer* shall file a conflicts disclosure statement with respect to a vendor if: (1) the vendor enters into a contract with the LEA or the LEA is considering entering into a contract with the vendor; and (2) the vendor (A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that: (i) a contract between the LEA and vendor has been executed; or (ii) the LEA is considering entering into a contract with the vendor; (B) has given to the local government officer or family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that: (i) a contract between the LEA and vendor has been executed; or (ii) the LEA is considering entering into a contract with the vendor; or (C) has a family relationship with the local government officer.

A local government officer is not required to file a conflicts disclosure statement in relation to a gift accepted by the officer or a family member of the officer if the gift is: (1) a political contribution as defined by Title 15, Election Code; or (2) food accepted as a guest. A local government officer is not required to file a conflicts disclosure statement if the LEA or vendor is an administrative agency created under Section 791.013, Government Code.

A local government officer shall file the conflicts disclosure statement with the records administrator of the LEA not later than 5 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement.

The conflicts disclosure statement must include: (1) a requirement that each local government officer disclose: (A) an employment or other business relationship described above, including the nature and extent of the relationship; and (B) if the aggregate value of the gifts accepted by the officer or a family member from that vendor exceeds \$100; (2) an acknowledgment from the local government officer that: (A) the disclosure applies to each family member of the officer; and (B) the statement covers

the 12-month period described above; and (3) the signature of the local government officer acknowledging that the statement is made under oath under penalty of perjury. Local Government Code Chapter 176.003

If the LEA receives a conflicts disclosure statement, TEA will be notified. See the Conflict of Interest and Mandatory Disclosures section of this manual for information on the submittal to TEA.

*Vendor:*

A *vendor* shall file a completed conflict of interest questionnaire if the vendor has a business relationship with an LEA and: (1) has an employment or other business relationship with a local government officer of that LEA, or a family member of the officer, described in Local Government Code §176.003(a)(2)(A); (2) has given a local government officer of that LEA, or a family member of the officer, one or more gifts with the aggregate value specified by Local Government Code §176.003(a)(2)(B), excluding any gift described by Local Government Code §176.003(a-1); or (3) has a family relationship with a local government officer of that LEA.

The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of: (1) the date that the vendor: (A) begins discussions or negotiations to enter into a contract with the LEA; or (B) submits to the LEA an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the LEA; or (2) the date the vendor becomes aware: (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described in Local Government Code §176.001; or (B) that the vendor has given one or more gifts described by Local Government Code §176.001; or (C) of a family relationship with a local government officer.

The conflicts disclosure statement must: (1) describe each employment or business and family relationship the vendor has with each local government officer of the LEA; (2) identify each employment or business relationship described above with respect to which the local government officer receives, or is likely to receive, taxable income, other than investment income, from the vendor; (3) identify each employment or business relationship described above with respect to which the vendor receives, or is likely to receive, taxable income, other than investment income, that: (A) is received from, or at

the direction of, a local government officer of the LEA; and (B) is not received from the LEA; and (4) describe each employment or business relationship with a corporation or other business entity with respect to which a local government officer of the LEA: (A) serves as an officer or director; or (B) holds an ownership interest of one percent or more.

A vendor shall file an updated complete questionnaire with the appropriate records administrator not later than the seventh business day after the date on which the vendor becomes aware of an event that would make a statement in the questionnaire incomplete or inaccurate.

#### Local Government Code Chapter 176.006

If the LEA receives a conflicts disclosure statement, TEA will be notified.  
See the Conflict of Interest and Mandatory Disclosures section of this manual for information on the submittal to TEA.

#### *Employee:*

The *employee* shall disclose in writing to his or her immediate supervisor a personal financial interest, a business interest, or any other obligation or relationship that in any way creates a real or potential conflict of interest with the proper discharge of assigned duties and responsibilities or that creates a potential conflict of interest with the best interest of the LEA. In the case that the individual receiving the report is also involved in the potential conflict, the disclosure should be submitted to CFO.

The disclosure is then forwarded to the LEA's designated records administrator.

If the LEA receives a conflicts disclosure statement, TEA will be notified.  
See the Conflict of Interest and Mandatory Disclosures section of this manual for information on the submittal to TEA.

#### ***Removal from the Procurement Transaction***

##### **Requirement:**

Board members, other officials, and employees with a conflict of interest or potential conflict of interest with the vendor being considered, or whose family members have a conflict of interest or potential conflict of interest with the vendor being considered for a procurement, shall:

- Abstain and recuse themselves from voting on award of the contract
- Abstain and recuse themselves from discussion and decisions regarding the award of the contract
- Not participate in the selection, award, or administration of the contract

### ***Vendor Gifts***

#### **Requirement:**

LEA officials and employees cannot accept anything of value from a vendor, such as personal gifts or gratuities, directly or indirectly, because it may be construed to have been given to influence the purchasing process. Although such practices may be legitimate and generally accepted in the private sector, giving and receiving gifts in the public sector may constitute a violation of law.

The Texas Penal Code, Chapter 36, provides information about violations of corrupt influence. A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion. A person commits a Class A misdemeanor offense if he offers, confers, or agrees to confer any benefit on a public servant that he knows the public servant is prohibited by law from accepting. Purchasing Module from TEA's FASRG

The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. 2 CFR §200.318(c)(1)

### ***Disciplinary Actions for Violations of Standards of Conduct Covering Conflicts of Interest:***

#### **Requirement:**

The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity. 2 CFR §200.318(c)(1)

Penalties, sanctions, or other disciplinary actions for violations of standards of conduct will be in accordance and to the extent permitted under State and local law. Penalties for

violations of purchasing laws and ethics may include criminal prosecution and loss of employment opportunities.

Implementation:

The LEA will follow the enforcement requirements of Local Government Code Chapter 176, Texas Penal Code, Chapter 36, and TEC §44.032 for local government officers, employees, and vendors who violate the procurement standards of conduct and conflict of interest requirements.

Please see the State Enforcement of Purchase Procedures section under the Contract Prohibitions section of this manual for additional information.

***Definitions Pertaining to Standards of Conduct Covering Conflicts of Interest:***

The following definitions apply to the LEA's Standards of Conduct Covering Conflicts of Interest.

*Agent.* "Agent" means a third party who undertakes to transact some business or manage some affair for another person by the authority or on account of the other person. The term includes an employee. Local Government Code, §176.001(1)

*Business Entity.* "Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law. Local Government Code, §171.001(2)

*Business Relationship.* "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does **not** include a connection based on: (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity (includes LEA) or an agency of a federal, state, or local governmental entity (includes LEA); (B) a transaction conducted at a price and subject to terms available to the public; or (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency. Local Government Code, §176.001(1-a)

*Conflict of Interest.* Conflict of interest is defined in 2 CFR §200.318(c).

*Contract.* "Contract" means a written agreement for the sale or purchase of real property, goods, or services. Local Government Code, §176.001(1-d)

*Family Member.* “Family member” means a person related to another person within the first degree by consanguinity or affinity, as described by Subchapter B, Chapter 573, Government Code. Local Government Code, §176.001(2)

*Family Relationship.* “Family relationship” means a relationship between a person and another person within the third degree by consanguinity or the second degree by affinity, as those terms are defined by Subchapter B, Chapter 573, Government Code. Local Government Code, §176.001(2-a)

*Gift.* “Gift” means a benefit offered by a person, including food, lodging, transportation, and entertainment accepted as a guest. The term does not include a benefit offered on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient. Local Government Code, §176.001(2-b)

*Goods.* “Goods” means personal property. Local Government Code, §176.001(2-c)

*Local Government Officer.* “Local government officer” means (A) a member of the governing body of a local governmental entity (includes LEA); (B) a director, superintendent, administrator, president, or other person designated as the executive officer of a local governmental entity (includes LEA); or (C) an agent of a local governmental entity (includes LEA) who exercises discretion in the planning, recommending, selecting, or contracting of a vendor. Local Government Code, §176.001(4)

*Local Public Official.* “Local public official” means a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any district (including a school district), county, municipality, precinct, central appraisal district, transit authority or district, or other local governmental entity who exercises responsibilities beyond those that are advisory in nature. Local Government Code, §171.001(1)

For charter schools, according to TEC §12.1054, a member of a governing body of a charter holder, a member of the governing body of an open-enrollment charter school, or an officer of an open-enrollment charter school is considered to be a local public official for purposes of Chapter 171, Local Government Code.

*Nominal Value.* Any item or unit with a value of \$50.00 or more.



*Officer.* See definition for “Local Government Officer.”

*Records Administrator.* “Records Administrator” means the director, county clerk, municipal secretary, superintendent, or other person responsible for maintaining the records of the local governmental entity (includes LEA) or another person designated by the local governmental entity (includes LEA) to maintain statements and questionnaires under Local Government Code §176, and perform related functions. Local Government Code §176.001(5)

The LEA has designated CFO as the records administrator for Conflict of Interest Disclosure statements.

*Substantial Financial Interest in a Business Entity.* According to Local Government Code §171.002, (a) A person has a substantial interest in a business entity if: (1) the person owns 10 percent or more of the voting stock or shares of the business entity or owns either 10 percent or more or \$15,000 or more of the fair market value of the business entity; or (2) funds received by the person from the business entity exceed 10 percent of the person’s gross income for the previous year. (b) A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more. (c) A local public official is considered to have a substantial interest under this section if a person related to the official in the first degree by consanguinity (blood) or affinity (marriage), as determined under Chapter 573, Government Code, has a substantial interest under this section. [Charter Schools: Additionally, according to TEC §12.1054(a)(1), a member of the governing body of a charter holder or a member of the governing body or officer of an open-enrollment charter school is considered to have a substantial interest in a business entity if a person related to the member or officer in the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a substantial interest in the business entity under Section §171.002, Local Government Code.]

*Vendor.* “Vendor” means a person who enters or seeks to enter into a contract with a local governmental entity (includes LEA). The term includes an agent of a vendor. The term includes an officer or employee of a state agency when that individual is acting in a private capacity to enter into a contract. The term does not include a state agency except for Texas Correctional Industries. Local Government Code, §176.001(7)

# Property

## Definitions Pertaining to Property Purchased with Federal Funds

The following definitions are applicable to terms used in the Uniform Guidance 2 CFR Part 200, as defined in 2 CFR §200.1.

*Acquisition cost* means the cost of the asset including the cost to ready the asset for its intended use. Acquisition cost for equipment, for example, means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Acquisition costs for software includes those development costs capitalized in accordance with generally accepted accounting principles (GAAP). Ancillary charges, such as taxes, duty, protective in transit insurance, freight, and installation may be included in or excluded from the acquisition cost in accordance with the non-Federal entity's regular accounting practices. LEA-specific: The LEA includes ancillary charges in the acquisition cost.

*Capital assets* means:

- Tangible or intangible assets used in operations having a useful life or more than one year which are capitalized in accordance with GAAP. Capital assets include:
  - Land, buildings (facilities), equipment, and intellectual property (including software) whether acquired by purchase, construction, manufacture, exchange, or through a lease accounted for as financed purchase under Government Accounting Standards Board (GASB) standards or a finance lease under Financial Accounting Standards Board (FASB) standards; and
  - Additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life (not ordinary repairs and maintenance)
- For purpose of this part, capital assets do not include intangible right-to-use assets (per GASB) and right-to-use operating lease assets (per FASB). For example, assets capitalized that recognize a lessee's right to control the use of property and/or equipment for a period of time under a least contract.

*Capital expenditures* means 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.

*Computing devices* means machines used to acquire, store, analyze, process, and publish data and other information electronically, including accessories (or “peripherals”) for printing, transmitting, and receiving, or storing electronic information.

*Equipment* means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which **equals or exceeds the lesser** of the capitalization level established by the non-Federal entity for financial statement purposes, or \$10,000. LEA-specific: The LEA’s capitalization level for financial statement purposes is \$5,000.

*General purpose equipment* means equipment which is not limited to research, medical, scientific, or other technical activities. Examples include office equipment and furnishings, modular offices, telephone networks, information technology equipment and systems, air conditioning equipment, reproduction and printing equipment, and motor vehicles.

*Information technology systems* means computing devices, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related resources.

*Intangible property* means property having no physical existence, such as trademarks, copyrights, patents and patent applications and property, such as loans, notes and other debt instruments, lease agreements, stock, and other instruments of property ownership (whether the property is tangible or intangible).

*Micro-purchase threshold* means the dollar amount at or below which a non-Federal entity may purchase property or services using micro-purchase procedures.

Please see the Informal Procurement Methods section of this manual for more information.

*Personal property* means property other than real property. It may be tangible, having physical existence, or intangible.

*Property* means real property or personal property.

*Real property* means land, including land improvements, structures, and appurtenances thereto, but excludes moveable machinery and equipment.

*Simplified acquisition threshold* means the dollar amount below which a non-Federal entity may purchase property or services using informal purchase methods.

Please see the Informal Procurement Methods section of this manual for more information. **Texas state law is more restrictive** than Federal regulations concerning the threshold for informal purchase methods versus formal, competitive procurement for ISDs and **certain** open-enrollment charter schools.

*Special purpose equipment* means equipment which is used only for research, medical, scientific, or other technical activities. Examples of special purpose equipment include microscopes, x-ray machines, surgical instruments, and spectrometers.

*Supplies* means all tangible personal property other than those described in the definition of equipment in this section. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or \$5,000, regardless of the length of its useful life.

## Insurance Coverage for Property Purchased with Federal Funds 2 CFR §200.310

Requirement:

### *Federal requirement:*

The LEA must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided to property owned by the LEA.

Federally owned property need not be insured unless required by the terms and conditions of the Federal award. Please review 2 CFR §200.312 for information regarding Federally-owned property.

### *State requirement:*

In accordance with TEA's General and Fiscal Guidelines applicable to all Federal education grants administered by TEA, equipment purchased with Federal funds must be insured. The actual cost of insurance for equipment purchased with funds from the grant program may be charged as a direct cost to the grant so long as the insurance costs are not contained in any other comprehensive casualty insurance that may be held by the subgrantee.

## Real Property (Land and Structures) 2 CFR §200.311

Please refer to the Definitions Pertaining to Property Purchased with Federal Funds section of this manual for a Federal definition of real property.

Requirement:

### ***Title to Real Property:***

Subject to the requirements and conditions set forth in 2 CFR §200.311, title to real property acquired or improved under a Federal award will vest upon acquisition in the non-Federal entity,

### ***Use of Real Property:***

Except as otherwise provided by Federal statutes or by the Federal awarding agency, real property will be used for the originally authorized purpose as long as needed for that purpose, during which time the non-Federal entity must not dispose of or encumber its title or other interests.

### ***Disposition of Real Property:***

When real property is no longer needed for the originally authorized purpose, the non-Federal entity must obtain disposition instructions from the Federal awarding agency or pass-through entity (TEA). The instructions must provide for one of the following alternatives:

- Retain title after compensating the Federal awarding agency. The amount paid to the Federal awarding agency will be computed by applying the Federal awarding agency's percentage of participation in the cost of the original purchase (and costs of any improvements) to the fair market value of the property. However, in those situations where the non-Federal entity is disposing of real property acquired or improved with a Federal award and acquiring replacement real property under the same Federal award, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.
- Sell the property and compensate the Federal awarding agency. The amount due to the Federal awarding agency will be calculated by applying the Federal awarding agency's percentage of participation in the cost of the original purchase (and cost of any improvements) to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the Federal award has not been closed

out, the net proceeds from sale may be off set against the original cost of the property. When the non-Federal entity is directed to sell property, sales procedures must be followed that provide for competition to the extent practicable and result in the highest possible return.

- Transfer title to the Federal awarding agency or to a third party designated/approved by the Federal awarding agency. The non-Federal entity is entitled to be paid an amount calculated by applying the non-Federal entity's percentage of participation in the purchase of the real property (and cost of any improvements) to the current fair market value of the property.

**Implementation:**

When real property purchased in full or in part with Federal funds is no longer needed for the originally authorized purpose, the LEA will seek disposition instructions from TEA.

The Federal Programs Coordinator, Director of Special Education Services, or Director of Child Nutrition as applicable reviews the program statutes/regulations and terms and conditions of the specific Federal award to determine whether the purchase of real property is allowable with the Federal award.

The CFO and the Federal Programs Coordinator, Director of Special Education Services, or Director of Child Nutrition as applicable determine whether real property is no longer needed for the originally authorized purpose, and which alternative to disposition is desired.

The department of Business Services maintains all funding source records for capital assets and capital improvements.

## Equipment 2 CFR §200.313

### Property Management and Inventory Controls

***Requirement:***

The LEA must maintain property records and conduct a physical inventory of all equipment purchased with Federal funds at least once every two years. The inventory must verify the existence, use, and condition of the property.

***Implementation:***

The District maintains a centralized inventory tracking system for all equipment purchased with Federal funds. Each asset is tagged with a unique ID number and recorded in the system. Records include description, serial number, funding source, acquisition date, cost, location, condition, and disposition data. Physical inventories are conducted biennially by campus or department custodians under supervision of the Federal Programs Coordinator. Discrepancies are investigated immediately, and disposals follow §200.313(e) and TEA requirements, with written approval prior to disposition.

### ***Title to Equipment***

Requirement:

Subject to the requirements and conditions set forth in 2 CFR §200.313, title to equipment acquired under a Federal award will vest upon acquisition to the non-Federal entity. Unless a statute specifically authorizes the Federal agency to vest title in the non-Federal entity without further responsibility to the Federal Government, and the Federal agency elects to do so, the title must be a conditional title.

Title must vest in the non-Federal entity subject to the following conditions:

- Use the equipment for the authorized purposes of the project during the period of performance, or until the property is no longer needed for the purposes of the project.
- Not encumber the property without approval of the Federal awarding agency or pass-through entity (TEA).
- Use and dispose of the property in accordance with the requirements of 2 CFR §200.313

Implementation:

Please see the Use of Equipment, Property Management, and Disposition sections of this manual for additional information.

Please see the Completing and Submitting the Grant Application section of this manual for information on the process used to ensure that no activities occur, such as purchase orders issued, funds encumbered or expended, goods received, or services rendered, prior to the effective date for use of grant funds.

### ***Use of Equipment:***

Requirement:

Equipment must be used by the non-Federal entity in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the Federal award, and the non-Federal entity must not encumber the property without prior approval of the Federal awarding agency.

When no longer needed for the original program or project, the equipment may be used in other activities supported by the Federal awarding agency, in the following order of priority: (1) Activities under a Federal award from the Federal awarding agency (USDE) which funded the original program or project, then (2) Activities under Federal awards from other Federal awarding agencies (non-USDE agencies). This includes consolidated equipment for information technology systems.

Notwithstanding the encouragement in 2 CFR §200.307 to earn program income, the non-Federal entity must not use equipment acquired with the Federal award to provide services for a fee that is less than private companies charge for equivalent services unless specifically authorized by Federal statute for as long as the Federal Government retains an interest in the equipment.

When acquiring replacement equipment, the non-Federal entity may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement.

#### *Shared Use:*

During the time that equipment is used on the project or program for which it was acquired, the non-Federal entity must also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, *provided that such use will not interfere with the work on the projects or program for which it was originally acquired.*

First preference for other use must be given to other programs or projects supported by the Federal awarding agency that financed the equipment (USDE). Second preference must be given to programs or projects under Federal awards from other Federal awarding agencies (non-USDE agencies).

Use for non-Federally-funded programs or projects is also permissible. User fees should be considered if appropriate.

#### *Personal Use of Computing Devices Purchased with Grant Funds*

State Recommendation:



TEA's General and Fiscal Guidelines strongly encourages subgrantees to develop and approve a policy pertaining to personal use of technology items purchased with grant funds.

The policy should include the following elements:

- A statement detailing that software and/or applications that are solely for personal use should not be loaded/saved onto computing devices purchased with grant funds
- Mechanisms/procedures for ensuring compliance with the policy
- Consequences for noncompliance with the policy

Implementation:

All purchases that meet the above definition for fixed asset are tagged with a bar code and documented in the District's fixed asset inventory system. Documentation is detailed below. On an annual basis, a fixed asset inventory is performed at all locations to assure the proper tracking and accounting of all items. Inventory procedures are performed by the Purchasing Coordinator, the CFO, other department of Business Services staff, and other applicable departments.

### ***Property Management:***

The minimum requirements that must be met for managing equipment (including replacement equipment) acquired in whole or in part under a Federal award are outlined in this section.

### ***Property Records***

Requirement:

*Property records* must be maintained that include:

- A description of the property
- A serial number or other identification number
- The source of funding for the property (including the FAIN)
- Who holds title
- The acquisition date
- Cost of the property
- Percentage of Federal participation in the project costs for the Federal award under which the property was acquired
- The location of the property
- Use and condition of the property

- Any ultimate disposition data, including the date of disposal and sale price of the property

Implementation:

For each equipment and computing device purchased with federal funds, the following information is maintained by the department of Business Services in the fixed asset inventory system:

- Serial number or other identification number
- Source of funding for the property – by fund number and fiscal year
- Acquisition date and cost of the property and purchase order reference
- Location, use, and condition of the property, and
- Any ultimate disposition data including the date of disposal and sale price of the property.

\*Pursuant to federal regulations, the District holds a conditional title for equipment purchased with federal funds unless a statute specifically authorizes a federal agency to vest title in the District without further obligation to the federal government. Title will vest in the District as long as:

- the District uses the equipment for the authorized purposes of the project until funding for the project ceases, or until the property is no longer needed for the purposes of the project
- the District does not encumber the property without approval of TEA or other awarding agency, and
- the District uses and disposes of the property in accordance with federal rules.

Disposition of the property is maintained in the fixed asset system.

### *Physical Inventory*

Requirement:

*Physical inventory* of the property must be taken and the results reconciled with the property records at least once every two years. TEA recommends inventory to be performed annually.

Implementation:

The LEA performs physical inventory on an annual basis.

A physical inventory of the property is taken and the results reconciled with the property records every year. The inventory is taken at each location using the District's fixed asset inventory system.

A calendar of inventory dates is prepared and communicated to schools and departments. At the inventory date, a download of assets is made to a hand-held scanner. All asset tags are then scanned, and any missing items are documented. Missing assets are required to be located by the responsible department.

#### *Control System to Prevent Loss, Damage, or Theft*

##### Requirement:

*A control system* must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.

TEA's General and Fiscal Guidelines state that "while items such as tablet computers, netbooks, and laptops may not meet the capitalization level established by the subgrantee or TEA, it is strongly recommended that these items be inventoried, tracked, and monitored as they are highly mobile and susceptible to loss.

##### Implementation:

Technology items with a unit price of \$500 or more receive a printed bar code tag and are tracked as noted in the physical inventory procedures. The Technology department is responsible for scanning and tracking all technology related equipment.

#### *Maintenance of Property*

##### Requirement:

*Adequate maintenance* procedures must be developed to keep the property in good condition.

##### Implementation:

The Maintenance Director oversees an annual plan of inspection and maintenance of all property and equipment district wide.

#### *Sales Procedures*

##### Requirement:

*Proper sales procedures* must be established to ensure the highest possible return if the non-Federal entity is authorized or required to sell the property.

### Implementation:

The sale of capital assets is handled through an online auction process to ensure competition for the best price. The Purchasing Coordinator is responsible for posting items in the online auction.

Please see the Disposition section of this manual for disposition information.

### ***Disposition:***

When original or replacement equipment acquired under a Federal award is no longer needed for the original project or program or for other activities currently or previously supported by a Federal awarding agency, the non-Federal entity must request disposition instructions from the Federal awarding agency if required by the terms and conditions of the Federal award.

Disposition of the equipment will be made as follows, in accordance with Federal awarding agency disposition instructions:

- Items of equipment with a **current** per unit fair market value of **\$10,000 or less** may be retained, sold, or otherwise disposed of with *no further responsibility to the Federal awarding agency*.
- When the **current** per unit fair market value is **greater than \$10,000**, the Federal awarding agency is entitled to an amount calculated by multiplying the current market value or proceeds from sale by the Federal awarding agency's percentage of participation in the cost of the original purchase. If the equipment is sold, the Federal awarding agency may permit the non-Federal entity to deduct and retain from the Federal share \$500 or ten percent of the proceeds, whichever is less, for its selling and handling expenses.
- The non-Federal entity may transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the non-Federal entity must be entitled to compensation for its attributable percentage of the current fair market value of the property.
- In cases where a non-Federal entity fails to take appropriate disposition actions, the Federal awarding agency may direct the non-Federal entity to take disposition actions.

### ***State requirements:***

Disposition instructions must be obtained from TEA by submitting the “Inventory Disposition” form that is located on TEA’s “Forms for Prior Approval, Disclosure, and Justification” webpage.

The completed disposition form must be submitted to TEA, and approval received when applicable, prior to the actual disposition of the equipment.

All compensation due to the Federal awarding agency will be submitted to TEA to return to the Federal government.

Implementation:

The Department of Business Services determines whether the terms and conditions of the specific Federal award require the LEA to request disposition instructions when the equipment is no longer needed by that Federal program or any other Federal program.

If the current fair market value is \$10,000 or less, the Inventory Form is submitted to TEA to inform TEA that the item is no longer needed for the original program or for any other programs funded by USDE grants. The LEA may retain, sell, or otherwise dispose of the item with no further obligation to TEA or to the Federal government.

If the current fair market value is greater than \$10,000, the Inventory Form is submitted to TEA with required information regarding original purchase data and reason for disposition or transfer, including notification that the equipment was stolen or lost, if applicable.

The department of Business Services determines the current fair market value of the equipment and submits the Inventory Form to TEA. The department of Business Services maintains the documentation, including the documentation of the current market value, the Inventory Form and TEA’s approval, when applicable.

## Supplies and Materials 2 CFR §200.314

Requirement:

Title to supplies will vest in the non-Federal entity upon acquisition. If there is a **residual inventory of unused supplies exceeding \$5,000 in total aggregate value** upon termination or completion of the project or program and the supplies are not needed for any other Federal award, the non-Federal entity must retain the supplies for use on other activities or sell them, but must, in either case, compensate the Federal Government for its share. The amount of compensation must be computed in the same manner as for equipment.

*State requirements:*

Disposition instructions must be obtained from TEA by submitting the “Inventory Disposition” form that is located on TEA’s “Forms for Prior Approval, Disclosure, and Justification” webpage.

The completed disposition form must be submitted to TEA, and approval received if applicable, prior to the actual disposition of the supplies.

All compensation due to the Federal awarding agency will be submitted to TEA to return to the Federal government.

The aggregate value of supplies being considered for disposal is the total of all supplies, regardless of type, the LEA seeks to dispose.

*Implementation:*

If the unused supplies or materials purchased with Federal grant funds have an aggregate current fair market value of \$10,000 or less, the Inventory Form is submitted to TEA to inform TEA that the supplies are no longer needed for the original program or for any other programs funded by USDE grants. The LEA may retain, sell, or otherwise dispose of the supplies and materials with no further obligation to TEA or to the Federal government.

If the unused supplies or materials purchased with Federal grant funds have an aggregate current fair market value greater than \$10,000, the Inventory Form is submitted to TEA with required information regarding original purchase data and reason for disposition or transfer, including notification that the supplies and materials were stolen or lost, if applicable.

The Business determines the current fair market value of the supplies and materials and submits the Inventory Form to TEA. The department of Business Services maintains the documentation, including the documentation of the current market value, the Inventory Form and TEA’s approval, when applicable.

Reminder: 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.

**Property Trust Relationship 2 CFR §200.316**

**Requirement:**

Real property, equipment, and intangible property, which are acquired or improved with a Federal award must be held in trust by the non-Federal entity as trustee for the beneficiaries of the project or program under which the property was acquired or improved. The Federal awarding agency may require the non-Federal entity to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a Federal award and that use and disposition conditions apply to the property.

Regulations regarding intangible property are located at 2 CFR §200.315.

## Equipment or Supplies and Materials Purchased for Equitable Services for Students Enrolled in Private Schools (PNP)

### Requirement:

Under some program statutes, a public agency must keep title to, and exercise continuing administrative control of all equipment and supplies that the subgrantee acquires with program funds. This public agency is usually the subgrantee.

The subgrantee may place equipment and supplies in a private school for the period of time needed for the project.

The subgrantee shall ensure that the equipment or supplies placed in a private school:

- Are used only for the purposes of the project; and
- Can be removed from the private school without remodeling the private school facilities.

The subgrantee shall remove equipment or supplies from a private school if:

- The equipment or supplies are no longer needed for the purposes of the project; or
- Removal is necessary to avoid use of the equipment or supplies for other than project purposes.

### Implementation:

The LEA determines whether a specific Federal program has requirements for equitable services for students enrolled in private schools.

The LEA determines the specific provisions for the specific Federal program regarding equipment and supplies and materials for equitable services.

Equipment will be used in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the federal award. The District will not encumber the property without prior approval of TEA and the federal awarding agency.

When no longer needed for the original program or project, the equipment may be used in other activities supported by the federal awarding agency, in the following order of priority: (1) activities under a federal award from the federal awarding agency which funded the original program or project; then (2) activities under federal awards from other federal awarding agencies.

During the time equipment is used on the project or program for which it was acquired, the equipment will also be made available for use on other projects or programs currently or previously supported by the federal government, provided that such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use must be given to other programs or projects supported by the federal awarding agency that financed the equipment. Second preference is given to programs or projects under federal awards from other federal awarding agencies. Use for non-federally funded programs or projects is also permissible. However, the original purchase of any equipment to be used in other programs will be properly allocated (i.e., prorated) among the applicable funding sources.

## **Compensation 2 CFR §§200.430 - 200.431**

### **Compensation for Personal Services**

Requirement:

*Compensation for personal services* includes all remuneration, paid currently, or accrued, for services of employees rendered during the period of performance under the Federal award, including but not necessarily limited to wages and salaries. Compensation for personal services may also include fringe benefits as described in the Fringe Benefits section of this manual.

Costs of compensation are allowable to the extent that they satisfy the specific requirements of 2 CFR §200.430 and that the total compensation for individual employees:



- Is reasonable for the services rendered and conforms to the established written policy of the non-Federal entity consistently applied to both Federal and non-Federal activities;
- Follows an appointment made in accordance with a non-Federal entity's laws and/or rules or written policies and meets the requirements of Federal statute, where applicable; and
- Is determined and supported as provided in the Standards of Documentation of Personnel Expenses, when applicable. See the Standards of Documentation of Personnel section of this manual for the LEA's procedures.

#### Implementation:

The LEA will ensure the position is an allowable use of funds for the specific Federal award in accordance with the statutes and regulations and terms and conditions of the award.

The department of Business Services and the Program Director for the specific federal program work together to ensure the position is allowable for the specific Federal award.

Compensation for employees paid from federal funds is in accordance with the established written policy for compensation for all employees, and the written policy is consistently applied among all employees, whether paid from state, local, or federal funds. Compensation includes all remuneration, paid currently, or accrued, for services of employees rendered during the period of performance under the federal award, including but not necessarily limited to wages and salaries. Compensation for personal services may also include fringe benefits.

Costs of compensation are allowable to be charged to a federal award to the extent that they satisfy the following requirements as specified in and that the total compensation for individuals:

1. Is reasonable for the services rendered and conforms to the established written policy of the District consistently applied to both federal and non-federal activities;
2. Follows an appointment made in accordance with the District's rules or written policies and meets the requirements of federal statute; and
3. Is determined and supported by documentation that meets the federal Standards for Documentation of Personnel Expenses.

#### *Funding Neutral Local Compensation and Leave Plan/Policy*

The LEA applies its compensation and leave plan/policy consistently to all employees, regardless of the fund source used for compensation: Federal funds, state funds, or local funds.

### ***Reasonableness***

Requirement:

Compensation for employees engaged in work on Federal awards will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the non-Federal entity. In cases where the kinds of employees required for Federal awards are not found in the other activities of the non-Federal entity, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the non-Federal entity competes for the kind of employees involved.

Implementation:

Compensation for employees engaged in work on federal awards will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the District. In cases where the kinds of employees required for the federal awards are not found in the other activities of the District, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the District competes for the kind of employees involved.

### ***Professional Activities Outside the LEA***

Requirement:

Unless an arrangement is specifically authorized by a Federal awarding agency, a non-Federal entity must follow its written non-Federal entity-wide policies and practices concerning the permissible extent of professional services that can be provided outside the non-Federal entity for non-organizational compensation. Where such non-Federal entity-wide written policies do not exist or do not adequately define the permissible extent of consulting or other non-organizational activities undertaken for extra outside pay, the Federal Government may require that the effort of professional staff working on Federal awards be allocated between:

- Non-Federal entity [LEA] activities, and
- Non-organizational professional activities. If the Federal awarding agency considers the extent of non-organizational professional effort excessive or inconsistent with the

conflicts-of-interest terms and conditions of the Federal award, appropriate arrangements governing compensation will be negotiated on a case-by-case basis.

**Implementation:**

If TEA or other awarding agency considers the extent of non-District professional effort excessive or inconsistent with the conflicts-of-interest terms and conditions of the federal award, appropriate arrangements governing compensation will be negotiated on a case-by-case basis.

Therefore, the District's policy which governs employees obtaining payment for performing professional services outside the District is incorporated into the District's written employee compensation policy. Any employee wishing to perform professional services outside the District and receive payment for such services by another entity must complete, sign, and submit the Conflict of Interest form prior to agreeing to perform professional services outside the District. The purpose of the Conflict of Interest form is to disclose the nature of the professional services to be performed outside the district to ensure a conflict of interest does not exist for the District. The completed, signed form will be submitted to Superintendent for review and determination of whether a potential conflict of interest exists. See DBD LOCAL.

The District complies with other requirements pertaining to allowable and unallowable costs:

1. Compensation for certain employees of cost-reimbursement contracts;
2. Changes in compensation resulting in a substantial increase in the District's employees' level of compensation; and
3. Incentive compensation based on cost reduction, efficient performance, suggestion awards, safety awards, etc.

Where practical, the District also adheres to the Suggested Areas for Consideration of Internal Control Structure for areas of employee compensation that could require internal control procedures. TEA's Module 1 – FAR, 1.5.4.7 of FASRG

***Special Considerations***

**Requirement:**

Special considerations in determining allowability of compensation will be given to any change in a non-Federal entity's compensation policy resulting in a substantial increase in its employees' level of compensation (particularly when the change was concurrent

with an increase in the ration of Federal awards to other activities) or any change in the treatment of allowability of specific types of compensation due to changes in Federal policy.

Implementation:

Please see the Considerations for Disasters or Unexpected Events section of this manual.

### ***Incentive Compensation***

Requirement:

Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc., is allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the non-Federal entity and the employees before the services were rendered, or pursuant to an established plan followed by the non-Federal entity so consistently as to imply, in effect, an agreement to make such payment.

In accordance with TEA guidance in the FAQ-ESSER I, ESSER II, ESSER III document, AU-A11 and J-Q-11, incentive pay related to performance pay or pay to meet an identified need, must be justified. Additionally, the LEA must have a plan/agreement that governs the pay and must ensure the compensation is reasonable. Types of incentive compensation include retention bonuses, recruitment bonuses, performance stipends, stipends for additional responsibilities, and extra-duty pay for duties outside the normal workday. The LEA is generally prohibited from using Federal funds to pay for gifts or incentives, including student incentives, other than those described above.

In accordance with, special emoluments, fringe benefits, and salary allowances incurred to attract professional personnel that do not meet the test of reasonableness and do not conform with the established practices of the non-Federal entity, are unallowable.

Implementation:

The Federal Programs Coordinator, Director of Special Education Services, or Director of Child Nutrition as applicable or other appropriate specific Federal Program Director determines the incentive pay is allowable with the program-specific statutes and regulations and terms and conditions of the award.

Please see the Considerations for Disasters or Unexpected Events and Standards for Documentation of Personnel Expenses sections of this manual for additional information.

## Fringe Benefits

### Requirement:

*Fringe benefits* are allowances and services and services provided by employers to their employees as compensation in addition to regular salaries and wages. Fringe benefits include, but are not limited to, the costs of leave (vacation, family-related, sick, or military), employee insurance, pensions, and unemployment benefit plans. Except as provided elsewhere in the Federal Cost Principles of 2 CFR Part 200, Subpart E, the costs of fringe benefits are allowable provided that the benefits are reasonable and are required by law, non-Federal entity-employee agreement or an established policy of the non-Federal entity.

- *Leave*. The cost of fringe benefits in the form of regular compensation paid to employees during period of authorized absences from the job, such as for annual leave, family-related leave, sick leave, holidays, court leave, military leave, administrative leave, and other similar benefits, are allowable if all of the following criteria are met:
  - They are provided under established written leave policies;
  - The costs are equitably allocated to all related activities, including Federal awards; and,
  - The accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the non-Federal entity or specified grouping of employees.
- *Fringe benefits*. The cost of fringe benefits in the form of employer contributions or expenses for social security; employee life, health, unemployment, and worker's compensation insurance (except as indicated in 2 CFR §200.447); pension plan costs (for pension plans financed on a pay-as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries); and other similar benefits are allowable, provided such benefits are granted under established written policies. Such benefits must be allocated to Federal awards and all other activities in a manner consistent with the pattern of benefits attributable to the individuals or group(s) of employees whose salaries and wages are chargeable to such Federal awards and other activities, and charged as direct or indirect costs in accordance with the non-Federal entity's accounting practices.
- *Additional information regarding fringe benefits with Federal awards* is described in 2 CFR §200.431.

### Implementation:

The allowability of various types of personnel compensation costs is dependent on whether they are spent in accordance with written policies and procedures. For example, the cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as annual leave, sick leave, or holidays, is allowable if, among other criteria, the costs are provided under established written leave policies.

Seguin ISD has human resource policies which cover (1) how employees are hired; (2) the extent to which employees may provide professional services outside the District (see DAA LEGAL AND LOCAL); (3) the provision of fringe benefits and costing policy, including leave and insurance, (see DEB AND DEC LEGAL AND LOCAL); and (4) the use of recruiting expenses to attract personnel (DAA (REGULATION)).

#### *Funding Neutral Local Compensation and Leave Plan/Policy*

The LEA applies its compensation and leave plan/policy consistently to all employees, regardless of the fund source used for compensation: Federal funds, state funds, or local funds.

### Relocation Costs of Employees 2 CFR §200.464

#### Requirement:

Relocation costs are costs incident to the permanent change of duty assignment (for an indefinite period or for a state period of not less than 12 months) of an existing employee or upon recruitment of a new employee. Federal regulations regarding the use of Federal funds for relocation costs are outlined in 2 CFR §200.434. Reimbursement to the employee is in accordance with an established written policy consistently followed by the employer.

#### Implementation:

The LEA will determine if reimbursement for relocation costs is allowable with the program-specific statutes and regulations and terms and conditions of the award.

### Standards for Documentation of Personnel Expenses 2 CFR §200.430(i)

#### Requirement:

Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:

- Be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated;
- Be incorporated into the official records of the non-Federal entity;
- Reasonably reflect the total activity for which the employee is compensated by the non-Federal entity, not exceeding 100% of compensated activities;
- Encompass Federally-assisted and all other activities compensated by the non-Federal entity on an integrated basis, but may include the use of subsidiary records as defined in the non-Federal entity's written policy;
- Comply with the established accounting policies and practices of the non-Federal entity;
- Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one Federal award; a Federal award and non-Federal award; an indirect cost activity and a direct cost activity; two indirect costs or more indirect activities which are allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity;
- Budget estimates (i.e., estimates determined before the services are performed) alone do not qualify as support for charges to Federal awards, but may be used for interim accounting purposes, provided that: (a) The system for establishing the estimates produces reasonable approximations of the activity actually performed; (b) Significant changes in the corresponding work activity (as defined by the non-Federal entity's written policies) are identified and entered into the records in a timely manner. Short term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term; and (c) The non-Federal entity's system of internal controls includes processes to review after-the-fact interim charges made to a Federal award based on budget estimates. All necessary adjustments must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated.
- In accordance with Department of Labor regulations implementing the Fair Labor Standards Act (FLSA) (29 CFR part 516), charges for the salaries and wages of nonexempt employees, in addition to the supporting documentation described in this section, must also be supported by records indicating the total number of hours worked each day.
- Salaries and wages of employees used in meeting cost sharing or matching requirements on Federal awards must be supported in the same manner as salaries and wages claimed for reimbursement from Federal awards.

- Substitute processes or systems for allocating salaries and wages to Federal awards may be used in place of or in addition to the records described in this section if approved by the cognizant agency for indirect cost [TEA].
  - TEA has approved a Substitute System of Time and Effort Reporting for eligible LEAs and eligible LEA employees to use to reduce the burden of monthly documentation.
  - Please see the Substitute System of Time and Effort Reporting section of this manual for more information.
- For a non-Federal entity where the records do not match the standards described in 2 CFR 200.430(i), the Federal Government may require personnel activity reports, including prescribed certifications, or equivalent documentation that support the records as required in 2 CFR 200.430(i).

Implementation:

The LEA will maintain documentation of allocability to a Federal award for all employee compensation paid in full or in part with a Federal award.

### ***Employees Working on a Single Cost Objective***

A single cost objective may be a single function, a single grant, a single activity, or applicable to one specific student population type.

- It is possible to work on a single cost objective even if an employee is paid from more than one Federal award IF the employee's activities could allowably be fully funded from either grant if funds were sufficient. Example:
  - A preschool special education teacher works 100% of the time teaching preschool students with disabilities and is funded partially from IDEA-B Formula funds and partially from IDEA-B Preschool funds.
  - Teaching preschool special education is an allowable activity under both IDEA-B Formula (ages 3-21) and IDEA-B Preschool (ages 3-5). Since the teacher's compensation could be paid 100% from either grant, if funds were sufficient, it is considered a single cost objective.
- It is possible to work on a single cost objective even if an employee is paid from a Federal award and a non-Federal award IF the employee's activities could allowably be fully funded from the Federal award alone if funds were sufficient. Example:
  - A special education teacher works 100% of the time teaching students with disabilities and is funded partially from IDEA-B Formula funds and partially from the state Special Education Allotment from the Foundation School Program (FSP).



- Teaching students with disabilities is an allowable activity under both fund sources and could be fully funded from the IDEA-B grant alone if funds were sufficient. Therefore, this qualifies as a single cost objective.

Additional considerations:

- If a required set-aside or reservation is identified in the grant application, that set-aside or reservation is a separate cost objective. If the employee is working on more than one set-aside or reservation, the employee is working on multiple cost objectives, even if paid in full from a single Federal award. If the employee is working on only one set-aside or reservation, the employee is working on a single cost objective.
- ESSA Schoolwide: If the employee works 100% of their time on a Title I, Part A Schoolwide campus and “Schoolwide Personnel” is checked on the BS6101 grant schedule and all the activities are allowable with Title I, Part A, this employee is working on a single cost objective.
- ESSA Consolidation of Administrative Funds: If the LEA consolidates their administrative funds from more than one Federal award and “Consolidated Administrative Funds” is checked “yes” on the BS6001 grant schedule and the LEA completes the “Consolidation of ESSA Administrative Funds” prior approval form and the employee works 100% of their time on administrative activities allowable under any of the programs that have been consolidated, this employee is working on a single cost objective. If the employee also works on activities that are not included in the consolidation of administrative funds, the employee is working on multiple cost objectives.

*Key to Determining Whether an Employee Works on a Single Cost Objective:*

If the employee’s compensation can be supported in full from each of the funding sources, if funds were sufficient, and all activities are allowable with each funding source, the employee is working on a single cost objective.

### **Time Distribution Record Required for Single Cost Objective Employees:**

The Semi-Annual Periodic Certification form contains the following elements:

- Employer’s Name
- Employee’s Name and Position Title
- Single Cost Objective under which the employee worked (This is the activity, not the fund source. For example: special education program.)
- Fund source(s); Example: IDEA-B Formula. Example: IDEA-B Formula and state special education allotment.

- Reporting period
- Statement that the employee worked solely (100% of the time) on the single cost objective
- Dated signature must be signed after-the-fact, on or after the ending date of the certification period, by the employee or the supervisor with first-hand knowledge of the employee's activities Electronic signatures are permissible.

The Semi-Annual Periodic Certifications are submitted by semester to the Federal Programs Coordinator, Director of Special Education Services, or Director of Child Nutrition as applicable for review of accuracy and compliance with the requirements.

*Alternatives to Semi-Annual Periodic Certification for Single Cost Objective Employees*

- Single Cost Objective employees working under a Federal program covered under the Ed-Flex Statewide Administrative Waiver
  - A signed and dated job description that identifies the fund source and clearly states the employee is assigned 100% to the single cost objective may be used in lieu of the Semi-Annual Periodic Certification
  - This exception is not applicable to employees working on multiple cost objectives
  - The LEA ensures the Ed-Flex waiver is in effect for the school year (refer to TEA's [Ed-Flex Waivers webpage](#))
  - The LEA ensures the specific Federal program is covered under the Ed-Flex waiver (refer to TEA's [Ed-Flex Waivers webpage](#)); Typically the covered programs are: Title I, Part A (other than section 1111); Title I, Part C; Title I, Part D; Title II, Part A; Title IV, Part A; Carl D. Perkins Career and Technical Education Act of 2006, as amended
  - The Federal Programs Coordinator, Director of Special Education Services, or Director of Child Nutrition as applicable collaborates with the department of Human Resources to ensure adequate signed and dated job descriptions are on file for employees exempt from completing the Semi-Annual Periodic Certification for Single Cost Objective Employees

***Employees Working on Multiple Cost Objectives***

An employee is working on Multiple Cost Objectives if the employee works on:

- Multiple functions, grants, or activities, or student population types, which cannot allowably be fully funded from any of the fund sources alone, if funds were sufficient, such as:
  - Working on more than one Federal award, if the activities cannot allowably be fully funded from each Federal award
  - Working on a Federal award and non-Federal award, if the activities cannot allowably be fully funded from the Federal award alone
- An indirect cost activity and a direct cost activity
- An unallowable activity and an allowable direct cost activity or indirect cost activity
- Multiple student population types, if the activities cannot allowably be fully funded from any of the fund sources alone, if funds were sufficient.

Additional considerations:

- If a required set-aside or reservation is identified in the grant application, that set-aside or reservation is a separate cost objective. If the employee is working on more than one set-aside or reservation, the employee is working on multiple cost objectives, even if paid in full from a single Federal award.
- ESSA Consolidation of Administrative Funds: If the LEA consolidates their administrative funds from more than one Federal award and the employee works 100% of their time on administrative activities allowable under any of the programs that have been consolidated, this employee is working on a single cost objective. If the employee also works on activities that are not included in the consolidation of administrative funds, the employee is working on multiple cost objectives.
- When a Federal award requires the provision of private, nonprofit (PNP) equitable services, the LEA must differentiate between public school services and private school services. Therefore, each student type is a separate cost objective. Services for public school students under the Federal award is one cost objective; Equitable services for PNP students under the Federal award is a separate, distinct cost objective. If the employee provides services to both public school students and PNP students, the employee is working on multiple cost objectives.

Examples of separate cost objectives for **IDEA-B Formula**:

- Program activities applicable to public school students with disabilities
- Private School Proportionate Share Services, applicable to parentally placed private school children with disabilities (PS3502 grant schedule)
- Provision of CEIS (Coordinated Early Intervening Services) or CCEIS (Comprehensive CEIS) (BS6016 grant schedule)

*If an employee works on only one of these cost objectives, the employee is working on a single cost objective. If an employee works on more than one of these cost objectives, the employee is working on multiple cost objectives.*

Examples of separate cost objectives for **Title I, Part A** (includes, but may not be limited to):

- Title I, Part A campus-level program activities applicable to public school students
- PNP (Public Non-Profit) Equitable Services (program, not administrative) (PS3101 grant schedule)
- PNP Equitable Services Administration (PS3101 grant schedule)
- Administration of Title I, Part A programs, including administration of Title I, Part A programs for students at facilities for neglected and delinquent (PS3101 grant schedule)
- Districtwide Parent and Family Engagement activities (PS3101 grant schedule)

*If an employee works on only one of these cost objectives, the employee is working on a single cost objective. If an employee works on more than one of these cost objectives, the employee is working on multiple cost objectives.*

*Key to Determining Whether an Employee Works on Multiple Cost Objectives:*

If the employee's compensation cannot be supported in full from each of the funding sources because all the activities are not allowable with each funding source, or if the employee is working on more than set-aside or reservation within a grant, the employee is working on multiple cost objectives.

### **Time Distribution Record Required for Multiple Cost Objectives Employees:**

Monthly PARs (Personnel Activity Reports) with the following elements:

- Employer's Name
- Employee's Name and Position Title
- Identification of each cost objective under which the employee worked (activities, not fund sources)
- Percent of Time worked on each cost objective
- Sum of cost objective percentages (must equal 100% to account for the total activity for which the employee is compensated)
- Fund sources
- Reporting Period (monthly)
- Dated signature must be signed after-the-fact, on or after the ending date of the certification period, by the employee

- If employee unable to sign, the supervisor with first-hand knowledge of the employee's activities signs the form and notates that the employee is not available. Electronic signatures are permissible.

The PARs are submitted monthly to the Program Director of the specific federal program for review of accuracy and compliance with the requirements.

### *Alternative to Monthly PAR for Multiple Cost Objectives Employees for Certain Employees*

In lieu of the monthly PAR, an employee who works on multiple cost objectives and has a set, pre-determined schedule and works on only one cost objective at a time, may use TEA's Substitute System of Time and Effort Reporting. Please see that section of the manual for more information.

### ***Substitute System of Time and Effort Reporting***

In an effort to reduce the administrative burden of completing monthly PARs, an employee who works on multiple cost objectives and has a set, pre-determined schedule and only works on one cost objective at a time, may submit a semi-annual employee schedule and certificate by using TEA's Substitute System of Time and Effort Reporting.

The following eligibility criteria must be met:

- LEA **annually** submits the Management Certification Survey Form for approval to use the Substitute System of Time and Effort Reporting. The link to the management survey form and the submittal deadline are posted on TEA's Substitute System of Time and Effort Reporting webpage.
- Employee **semi-annually** completes the Employee Schedule and Certification. The form is accessed on TEA's Substitute System of Time and Effort Reporting webpage.
- The Employee Schedule and Certification is completed after-the-fact, to document time the employee has actually worked.
- The Employee Schedule and Certification must be signed by both the employee and the supervisor, after-the-fact.
- If the employee's schedule changes by more than 10 percent, a new Employee Schedule and Certification must be completed.
- The Employee Schedule and Certification is not submitted to TEA, but is kept locally.

The Substitute System of Time and Effort Reporting is not applicable to: (a) employees working on a Single Cost Objective, (b) employees who work on multiple cost objectives at the same time, or (c) employees who work on multiple cost objectives but do not have

a set, pre-determined schedule and therefore doesn't know from day to day how much time will be spent on each cost objective.

To qualify for this substitute system in lieu of traditional time-and-effort reports, the employee must work on multiple activities or cost objectives (i.e., more than one federal grant award) based on a predetermined, set schedule, which is most likely applicable to classroom teachers or instructional aides. The employee must also normally be required to complete traditional monthly time-and-effort reports. In order for any employees to use this system, the LEA must also submit a Management Certification form to TEA by the specified deadline date each year.

### ***Stipends, Supplemental Pay, Extra-Duty Pay***

Any form of compensation to the employee, whether paid in full or in part with Federal funds, requires time distribution records to ensure allocability to the Federal award.

Stipends, supplemental pay, and extra-duty pay must be applied consistently across the LEA.

The LEA must have a plan/agreement that governs the additional compensation, and must ensure the compensation is reasonable and necessary, meets the intent of the Federal program's statute and regulations, and aligns with an allowable program activity.

*Extra-Duty Pay* means additional compensation for performing duties that are not included in the employee's regular job description and are performed outside the employee's normal working hours. An example is performing after-school tutoring.

*Supplemental Pay, Stipends, or Other forms of Additional Compensation* include:

- Retention bonuses,
- Recruitment bonuses,
- Performance stipends,
- Higher Level of Pay for Advanced/Preferred Degree/Certification,
- Supplemental pay for additional responsibilities, such as acquiring professional development during the summer break

*Extra-Duty Pay Documentation Requirements:*

- Extra-Duty Pay Agreement between the employee and LEA that includes:
  - The reason for the additional compensation
  - A description of the duties/activities to be performed for the additional compensation
  - The timeframe for carrying out the additional activities

- The documentation requirements to verify fulfillment/completion of the activities
- Documentation from employee that demonstrates the extra-duty pay activities were performed, such as timesheets, report of students served, etc.
- Time Distribution Report: Blanket Certification form completed by the LEA official that lists the employees who received extra-duty pay, purpose/cost objective, fund source, time period
- Current license or certification, if applicable to the Extra-Duty responsibilities

The Program Director of the specific federal program initiates the Extra-Duty Pay Agreement and ensures completion of required activities prior to payment processing. The Blanket Certification is submitted to the Federal Programs Coordinator, Director of Special Education Services, or Director of Child Nutrition as applicable for review of accuracy and compliance with the requirements.

*Documentation Requirements for Supplemental Pay for Additional Responsibilities, such as acquiring professional development during the summer break:*

- Supplemental Pay Agreement between the employee and LEA that includes:
  - The reason for the additional compensation
  - A description of the duties/activities to be performed for the additional compensation
  - The timeframe for carrying out the additional activities
  - The documentation requirements to verify fulfillment/completion of the activities
- Documentation from employee that demonstrates the supplemental pay activities were performed, such as certificate of attendance for professional development received
- Time Distribution Report: Blanket Certification form completed by the LEA official that lists the employees who received supplemental pay, purpose/cost objective, fund source, time period
- Current license or certification if applicable to the supplemental pay responsibilities

The Program Director of the specific federal program initiates the Supplemental Pay Agreement and ensures completion of required activities prior to payment processing. The Blanket Certification is submitted to the Federal Programs Coordinator, Director of Special Education Services, or Director of Child Nutrition as applicable for review of accuracy and compliance with the requirements.

*Documentation Requirements for Other Forms of Stipends or Supplemental Pay:*

If the employee receives a higher rate of compensation for having an advanced/preferred degree or certification or for recruitment/retention purposes, etc., and the compensation is included in the employee's base pay (employee receives a higher compensation rate):

- Payroll Authorization form or similar form to depict all fund source(s) and budgeted percentage(s) for compensation and include the reason for the higher compensation, if applicable. A Salary Schedule that depicts the compensation rates for employees, including higher rates for those with advanced/preferred degrees, etc., may also be used to document the justification for a higher rate of compensation.
- Job Description that clearly depicts the job duties/responsibilities, fund source(s), cost objective(s), responsibilities for each cost objective, if multiple cost objectives, type of Time Distribution record required, and how often the Time Distribution record must be completed
- Time Distribution record, based on whether single cost objective or multiple cost objectives
- Current license or certification, if applicable to the regular position

If the employee receives additional pay, separate from their regular compensation, as a stipend or supplemental pay for recruitment, retention, merit, performance, etc.:

- Supplemental Pay Agreement or other type of Payroll Authorization/Acknowledgement form that depicts the reason and amount for the additional compensation
- Time Distribution Report: Blanket Certification form completed by the LEA official that lists the employees who received supplemental pay/stipend, purpose/cost objective, fund source, time period
- Current license or certification if applicable to the supplemental pay/stipend

***Substitute Teachers and Aides who are employees of the LEA (not contracted):***

Seguin ISD contracts with an external partner for substitute teachers and aides.

***Reconciliation and Closeout Procedures***

Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed to ensure proper allocation. Although budget estimates may be used for interim purposes, provided the estimates produce reasonable approximations of the activity actually performed, the LEA must review after-the-fact time distribution records and make all necessary adjustments to ensure the final amount charged to the Federal award is accurate, allowable, and properly allocated.



It is the responsibility of the grant administrator to communicate information from the time and effort documents the Budget & General Ledger Coordinator and CFO so that any adjustments to expenditure allocations are made in a timely manner prior to final expenditure billing. Adjustments will be made based on the timeline for the time and effort certifications. If the difference between the budget allocation and time and effort record is 10% or greater, the District will do the following:

- Adjust accounting records to reflect the costs based on the actual time and effort reported.
- Revise the budget estimates for the period to reflect the actual distribution, if necessary.

If the reconciled difference is less than 10%, the District will adjust the accounting records annually. In all cases, the accounting records will be adjusted to reflect actual time-and-effort records. Please note that the 10% variance only governs how often the reconciliation will occur. It does not govern whether or not the reconciliation will occur.

### ***Job Descriptions***

Job descriptions are considered to be an internal control activity that signifies the employees' understanding of their job duties.

Signed and dated job descriptions are required for all employees paid from Federal funds. Employee job descriptions are signed and dated annually by the employee as acknowledgement that the employee has full knowledge of their duties and responsibilities and the programs under which they are working. Job descriptions are also signed and dated by the employee's immediate supervisor.

Employee job descriptions must be current. Job descriptions are reviewed annually. Job descriptions must be updated as new assignments are made. The immediate supervisor or Program Director for the specific federal program will monitor job descriptions to ensure they are kept up-to-date and that the job descriptions accurately and completely describe the work performed by the specific position.

Employee job descriptions must delineate all program or cost objectives under which the employee works. Job descriptions and duties must be specific to the particular grant program and clearly identify the functions and programs they benefit, including the fund source(s) from which the position is compensated. The Program Director of the specific federal program will ensure the job description aligns the activities of the position to the program goals of the fund source and ties the source of funds to the activity.

If a position benefits multiple cost objectives or programs, the job description will clearly define each cost objective and the responsibilities for each cost objective. The job description will indicate the type of time distribution record that must be completed and how often the record must be completed.

If a position benefits a single cost objective or program, the job description will clearly indicate the employee is assigned 100% to the program. If a position that benefits a single cost objective is funded through multiple sources, a sentence will be added to the job description stating that the position is supported by a single cost objective even though its funding is split among multiple sources.

If a position has administrative duties, the job description will clearly delineate the administrative activities and identify the percentage of administrative activities compared to program activities.

## **Travel Reimbursement**

### **Overview**

An LEA employee is entitled to reimbursement of certain travel expenses required by the LEA to conduct official LEA business, subject to certain limitations described throughout this manual.

Whenever Federal, state, and local travel policy differ, the most restrictive is followed.

The LEA must minimize the amount of travel expenses reimbursed by ensuring that each travel arrangement is the most cost-effective, considering all relevant circumstances.

The LEA will properly train employees on travel regulations and keep them informed of any changes in travel rules. The Department of Business Services and the Program Director of the specific federal program will ensure that employees are properly trained on travel rules and guidelines on an annual basis.

The LEA ensures that all travel reimbursements are examined prior to payment to ensure compliance with all applicable regulations and limitations. The Program Director for the specific federal program is responsible for this task.

Employees must ensure that their travel complies with applicable laws and rules and must not seek reimbursement for travel expenses that the employee should reasonably know are not reimbursable.

When federal grant funds are used for travel expenditures, the obligation is made when the travel is taken, according to 34 CFR 76.707. Please see the Registration Fees section of this manual for information regarding LEA options for obligation of registration fees.

## Definitions Related to Travel

The following definitions were obtained from the Texas Comptroller of Public Accounts located at <https://fm.x.cpa.state.tx.us/fmx/travel/texttravel/gen/def/index.php> and modified to meet the LEA's circumstances.

***Business Day:*** Any weekday except a weekday on which a national or state holiday occurs.

***Cancellation Charge:*** A fee, charge, or payment that a provider of travel services assesses because of the cancellation or change of a travel reservation or other travel plan. For example, a non-refundable purchase of an airline ticket becomes a cancellation charge when the ticket becomes unusable because of changed travel plans.

***Commercial Lodging Establishment:*** (1) A motel, hotel, inn, apartment, house or similar establishment that provides lodging to the public for pay; or (2) A person or establishment that provides lodging for pay that the Comptroller determines to have a sufficient number of the characteristics of a commercial lodging establishment for the purposes of the Travel Regulations Act, Texas Government Code Section 660.002(5).

***Commercial Transportation Company:*** A company or individual that transports people or goods at a cost.

***Comptroller:*** The Comptroller of Public Accounts.

***Designated Headquarters:*** The area within the boundaries of the city in which an LEA employee's place of employment is located. If an employee's place of employment is located within an unincorporated area, then the area within a five-mile radius of the place of employment is the employee's designated headquarters. If an incorporated municipality or an unincorporated area is completely surrounded by the incorporated municipality in which an employee's place of employment is located, then the employee's designated headquarters includes the surrounding municipality or area.

***Disability:*** A physical or mental impairment of an individual that substantially limits one or more major life activities of the individual.

*Duty Point:* The destination, other than a place of employment, to which an LEA employee travels to conduct official LEA business. If the destination is outside the employee's designated headquarters, then the duty point is either the incorporated municipality in which the destination is located or the unincorporated area within a five-mile radius of the destination.

*Gratuity:* Something given voluntarily or beyond obligation, usually in response to or in anticipation of a service.

*Incidental Expense:* An expense incurred while traveling on official LEA business. The term includes a mandatory insurance or service charge and an applicable tax, except a tax based on the cost of a meal. The term does not include a meal, lodging or transportation expense, a personal expense, an expense an individual would incur regardless of whether the individual were traveling on official LEA business, a tip, or a gratuity.

*Lease:* A contract with a term of at least one month that gives the lessee possession and use of property or equipment while the lessor retains ownership of it.

*Lodging Expense:* A charge imposed by a commercial lodging establishment as consideration for providing lodging. The term does not include money paid as a donation, gratuity, or tip to the establishment.

*Meal Expense:* The cost of a meal plus any tax that is based on the meal's cost. The term includes a mandatory service charge or fee imposed in conjunction with a meal. The term does not include a tip or gratuity.

*Non-Working Hours:* All hours in a calendar day except working hours.

*Place of Employment:* The office or other location at which an LEA employee most frequently conducts official LEA business.

*Rented or Public Conveyance:* A motor vehicle, train, aircraft, boat, or bicycle that an LEA employee rents or pays a fare to use for a period of less than one month.

*Resort Fee:* A mandatory fee that a guest may be required to pay at a commercial lodging establishment in addition to the daily room rate. The fee is typically charged to all guests for the right to access various amenities at a hotel such as swimming pools, exercise facilities, daily newspaper delivery, printing of boarding passes and local telephone calls. May also be called a facility fee, a destination fee, an amenity fee, or a resort charge.

*Travel Document:* A document that consists of one or more travel vouchers or transactions.

*Travel Expense:* A meal, lodging, transportation, or incidental expense.

*Travel Voucher/Form:* The paper or electronic form adopted or approved by the LEA that is completed for the purpose of (1) submitting a travel voucher on paper or electronically, (2) supporting the legality and fiscal responsibility of a travel payment or reimbursement, or (3) for both purposes.

*Work Day:* A day on which a particular LEA employee is regularly required to conduct official LEA business.

*Working Hours:* The hours during which an LEA employee is regularly scheduled to conduct official LEA business.

## Federal Regulations Related to Travel

Federal requirements related to travel, as indicated in 2 CFR §200.475, are listed below. In some instances, state and/or local rules are more restrictive and are notated. Whenever Federal, state, and local policy differ, the most restrictive is followed.

*General.* Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the LEA. Federal rules allow such costs to be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred\*, or on a combination of the two, provided the method used is applied to an entire trip and not selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in the LEA's non-federally-funded activities and in accordance with the LEA's written travel reimbursement policies.

\*A per diem basis in lieu of actual costs is not allowable according to the more restrictive State rules. According to state rules, travel allowances in which the traveler receives a flat per diem for lodging and/or meals, regardless of the amount expended, are not allowable in Texas.

*Lodging and Subsistence.* Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, must be considered reasonable and otherwise allowable only to the extent such costs do not exceed charges normally allowed by the LEA in its regular operations as the result of its written travel policy. In addition, if these costs are charged directly to the Federal award,

documentation must justify that (1) participation of the individual is necessary to the Federal award; and (2) the costs are reasonable and consistent with the LEA's established travel policy.

*Temporary Dependent Care Costs.* Temporary dependent care costs (as dependent is defined in 26 U.S.C. 152) **above and beyond** regular dependent care that directly results from travel to conferences is allowable provided that: (1) the costs are a direct result of the individual's travel for the Federal award; (2) the costs are consistent with the LEA's documented travel policy for all entity travel [which means the LEA also allows these costs with state/local funds for non-Federal award travel]; and (3) are only temporary during the travel period. Travel costs for dependents are unallowable, except for travel for a duration of six months or more with prior approval of the federal awarding agency.

The LEA does not allow temporary dependent care costs, as described above, with state and/or local funds for non-federally funded travel, and therefore, such costs are not allowable with federal funds.

*Commercial Air Travel.* Airfare costs in excess of the basic least expensive unrestricted accommodations class offered by commercial airlines are unallowable except when such accommodations would: (1) require circuitous routing; (2) require travel during unreasonable hours; (3) excessively prolong travel; (4) result in additional costs that would offset the transportation savings; or (5) offer accommodations not reasonably adequate for the traveler's medical needs. The LEA must justify and document these conditions on a case-by-case basis in order for the use of first-class or business-class airfare to be allowable in such cases.

Documentation for cases where first-class or business-class airfare would be acceptable must prove that the cost is unavoidable and will be reviewed by the CFO and Federal Programs Coordinator, Director of Special Education Services, or Director of Child Nutrition as applicable prior to approval.

## State Regulations and Local Policy & Procedures for Travel Reimbursement

State travel rules are more restrictive than the federal requirements, therefore, state rules are followed. If local rules are more restrictive, they are notated in this manual accordingly. Mileage, lodging, and meal reimbursement rates and rules published by the Texas Comptroller of Public Accounts ("Comptroller") on the Textravel webpage apply to all grants funded by TEA for individuals on travel status.

### ***Out-Of-State Travel***

The LEA will follow TEA guidelines for Federally funded program-related out-of-state travel, including required justification. The LEA must maintain appropriate documentation that the out-of-state travel is reasonable, necessary, allocable to the Federal grant program, and has a programmatic purpose. **If the professional development is available in-state, the cost of out-of-state travel is not considered reasonable.**

If out-of-state travel is identified as allowable by program guidelines associated with the Federal grant, and the LEA chooses to use grant funds for out-of-state travel, the LEA must complete and retain locally TEA's "Justification for Out-of-State Travel" form. The form is accessible on TEA's "Forms for Prior Approval, Disclosure, and Justification" webpage.

The Federal Programs Coordinator, Director of Special Education Services, or Director of Child Nutrition as applicable or the Program Director of the specific federal program determines when out-of-state travel is reasonable and necessary and has a programmatic purpose. The Justification form is maintained with the travel voucher supporting documentation as an electronic attachment in the MUNIS system.

#### ***Transportation Expenditures: Mileage in Personal Vehicle***

An employee is entitled to be reimbursed for mileage incurred to conduct LEA business.

The reimbursement may not exceed the product of the actual number of miles traveled for business and the maximum reimbursement rate posted on the Comptroller's Textravel webpage for Current Rates.

The LEA is not required to reimburse employees at the maximum rate, but may specify a mileage reimbursement rate that is lower than the maximum allowable rate per mile posted on the Comptroller's Textravel webpage for Current Rates. The LEA must notify affected individuals in writing about the lower rate before implementing it.

The District annually reviews the rates posted on the Comptroller's webpage to determine the next reimbursement rate for the next fiscal year. Employees are informed of the mileage reimbursement rate at the beginning of the school year. The reimbursement rate is also clearly indicated on the travel request form that must be completed and approved prior to any business travel.

The number of reimbursable miles may not exceed the number of miles of the most cost-effective, reasonably safe route between an employee's origin of travel and the final duty point. In determining the most cost-effective reasonably safe route, the LEA may consider the route that provides the shortest distance, the quickest drive time, or the safest road conditions.

The number of miles traveled by an employee for LEA business may be determined by point-to-point itemization. Point-to-point mileage shall be documented by Google Maps\.

The itemization must be sufficiently detailed for the LEA to verify the number of miles.

**Note: an increase in the number of miles incurred due to an employee receiving inadequate directions, choosing alternate routes, or being lost is not reimbursable.**

The LEA may determine when it is appropriate to reimburse an employee for mileage between a residence and an airport. The mileage reimbursement is limited to the cost of one two-way trip to and from the airport in the employee's personal vehicle plus parking at the airport.

An employee may not be reimbursed for mileage incurred in traveling between the employee's residence and place of employment in a personally owned or leased motor vehicle unless the travel is necessitated by extraordinary circumstances and occurs outside of the hours the employee is working. The same restrictions and requirements that apply to the use of a personally owned vehicle apply to an employee's use of mass transit, taxi, or limousine when traveling between an employee's residence and place of employment.

Documentation Requirements for Mileage Reimbursement:

Documentation for mileage reimbursement must be made using Google Maps to determine the number of miles, the name of the service used must be documented. If the employee does not use the online mapping service adopted by the LEA for mileage reimbursement purposes, justification must be given.

### ***Transportation Expenditures: Rental Vehicles***

An employee is entitled to reimbursement for the cost of renting a vehicle to conduct LEA business.

The reimbursement includes all applicable taxes and mandatory charges. It also may include a charge for a collision damage waiver or a loss damage waiver if not already included in the contracted rate for the rental. A charge for an additional driver may only be reimbursed if incurred for a business reason. A charge for a liability insurance supplement, personal accident insurance, safe trip insurance, or personal effects insurance is not reimbursable.

When at least two LEA employees share a rental vehicle, one employee will be reimbursed for the allowable cost of the rental.



Employees may either rent the vehicle and then seek reimbursement or opt to use the rental car company agreement that the District has arranged, if applicable, allowing the District to pay the rental charge directly to the pre-approved vendor with a purchase order already in place

#### Documentation Requirements for Rental Vehicle Reimbursement:

To be reimbursed for a rental expense, the employee must provide proof that the expense was incurred. A complete receipt issued by the rental company serves this purpose.

The receipt must include the following:

- The name of the rental company
- The name of the employee renting the vehicle
- The starting and ending dates of the rental
- An itemization of expenses incurred
- Proof of payment

If the receipt does not include all of the above listed items, the rental contract may also be included to provide that information.

#### ***Transportation Expenditures: Mass Transit, Taxis, or Limousine***

An employee is entitled to be reimbursed for the actual cost of transportation by bus, subway, or other mode of mass transit or taxi if incurred to conduct LEA business. The cost is only reimbursable if provided by a commercial transportation company.

An employee is entitled to be reimbursed for the actual cost of transportation provided by a network transportation driver (Uber, Lyft, etc.) if incurred to conduct LEA business and if it was the most cost-effective mode of transportation available considering all relevant circumstances.

An employee is entitled to be reimbursed for the actual cost of transportation by limousine only if it was the most cost-effective mode of transportation available considering all relevant circumstances.

If a taxi or limousine is shared by two or more employees, only the employee who paid for the transportation may be reimbursed for that expense. The other employees may be reimbursed only for charges imposed on an individual-by-individual basis.

#### Documentation Requirements for Mass Transit, Taxi, or Limousine:

State law does not require a receipt for reimbursement of travel by bus, subway, other mode of mass transit, taxi, limousine, or network transportation driver; however, supporting documentation must itemize the date and the fare charged for each trip.

The District requires a receipt for reimbursement when transit costs are requested by the employee.

### ***Transportation Expenditures: Commercial Air Transportation***

An employee is entitled to be reimbursed for the actual cost of commercial air transportation incurred to conduct LEA business. The reimbursement may not exceed the cost of the lowest available airfare between the employee's designated headquarters and the employee's duty point.

The District will pay air transportation costs directly, using local funds, and seek reimbursement from the applicable federal program upon the traveling employee's return.

Charges for excessive baggage may be reimbursed as long as the travel is related to LEA business, and the LEA determines the reasonableness for the reimbursement and the number of bags necessary.

#### **Documentation Requirements for Commercial Air Transportation:**

For an employee to be reimbursed for a commercial air transportation expense, the employee must provide proof that the expense was incurred. A complete passenger receipt issued by a commercial airline company or an itinerary issued by the company or a travel agency serves this purpose.

The receipt or itinerary must include the following:

- The name of the employee and airline
- The ticket number
- The class of transportation
- The travel dates
- The amount of the airfare
- The origin and destination of each flight
- Proof of payment

### ***Transportation Expenditures: Parking***

The LEA may reimburse an employee for a parking expense incurred while traveling in a personally owned or leased vehicle, rental vehicle, or LEA-owned or leased vehicle. Parking reimbursement will not be paid if none of the mileage or rental cost is reimbursable.

#### **Documentation Requirements for Parking:**

Reasonable and unavoidable parking costs are reimbursed by the District with receipts showing proof of payment, dates, and location.

### ***Transportation Expenditures: Tolls***

The LEA may reimburse an employee for tolls when the employee travels in a personally owned or leased vehicle. Tolls reimbursement will not be paid if none of the mileage or rental cost is reimbursable.

#### **Documentation Requirements for Tolls:**

Reasonable toll charges will be paid by the District on a case-by-case basis. It must be evident that the cost of the toll is justified by factors such as reducing the number of miles traveled.

Tolls for LEA-owned or leased vehicles are charged directly to the LEA by the toll authority or rental company.

### ***Transportation Expenditures: Four-Per-Car Rule***

When LEA employees travel on the same dates with the same itinerary, they must coordinate travel. When four or fewer employees travel on the same itinerary, only one may be reimbursed for mileage. When more than four employees travel on the same itinerary, only one out of every four may be reimbursed for mileage.

### ***Meals Expenditures***

An LEA may be reimbursed for a meal expense incurred on a day that the LEA conducts LEA business outside their designated headquarters. The meal expenses are only reimbursable if the employee is outside their designated headquarters for at least six consecutive hours.

Meal expenses incurred while traveling to and staying at a duty point the day before LEA business begins and traveling from a duty point the day after LEA business ends are reimbursable. Meal expenses incurred more than one day before or after the LEA business begins or ends are not reimbursable unless the expenses are incurred to qualify for a discount airfare or travel to and from the duty point reasonably requires more than one day.

The employee may only be reimbursed for their actual meal expenses not to exceed the maximum daily reimbursement rate for that location. The state travel expense reimbursement rate is not a per diem. The maximum should not be claimed unless the actual expenditures equal or exceed the maximum allowable rate. The reimbursement limit applies without a carry-over from another day.

In-state and out-of-state meals rates are posted on the Comptroller's Textravel webpage for Current Rates.

When an employee travels to more than one duty point outside the employee's designated headquarters without an intermediate return to the headquarters, then the maximum meal reimbursement for the day is equal to the highest of the maximum rates for the duty points visited.

Direct payment of meal expenses: If an LEA directly pays a commercial lodging establishment, a credit card issuer or a travel agency for lodging expenses incurred by the LEA's employee, the LEA may also directly pay meal expenses incurred by the employee at the lodging establishment.

#### Prohibited Meal Reimbursements:

- *Meal expenses incurred within a designated headquarters:* The LEA may not reimburse an employee for a *meal incurred within the employee's designated headquarters* unless it is mandatory and connected with training, a seminar, or a conference.
- *Meal expenses incurred while not conducting LEA business:* An employee may not be reimbursed for a meal expense incurred while not conducting LEA business unless an exception applies. Exceptions are outlined on the Comptroller's Textravel webpage for Exceptions.
- *Gratuities:* Tips or gratuities paid in conjunction with meal expenses are generally not reimbursable. A "mandatory" service charge may only be reimbursed if the service charge is imposed by an establishment and cannot be refused by the customer.
- *Alcoholic beverages:* The LEA may not reimburse an employee for the purchase of an alcoholic beverage.

#### Documentation Requirements for Meals:

Meal receipts are required when using Federal funds. ***Meal Reimbursement: Non-Overnight Travel***

If an employee on non-overnight travel receives reimbursement for meals, this amount would be considered income and must be reported on the employee's W-2 tax form.

The LEA does not allow meal reimbursements for non-overnight travel for professional development.

### ***Lodging Expenditures***

An employee is entitled to be reimbursed for lodging expenses incurred on a day that the employee conducts LEA business outside their designated headquarters. The lodging expense may only be reimbursed if it is incurred at a commercial lodging establishment. The LEA may not be reimbursed for a lodging expense incurred while not conducting LEA business unless an exception applies. Exceptions are outlined on the Comptroller's Textravel webpage for Exceptions.

Lodging expenses incurred the night before LEA business begins and the night after LEA business ends are reimbursable. Lodging expenses incurred more than one night before or after the LEA business begins or ends are not reimbursable unless the expenses are incurred to qualify for discount airfare or if travel to or from the duty point reasonably requires more than one day.

The LEA may directly pay a commercial lodging establishment, a credit card issuer or a travel agency for lodging expenses incurred by the LEA's employees.

The LEA will use contract travel services, if available, whenever those services provide the most efficient travel resulting in the total lowest cost.

The employee may only be reimbursed for their actual lodging expense not to exceed the maximum lodging rate for that location. The state travel expense reimbursement rate is not a per diem. The maximum should not be claimed unless the actual expenditures equal or exceed the maximum allowable rate. The reimbursement limit applies without a carry-over from another day.

The LEA must use the Federal rates provided by the General Services Administration (GSA) for both in-state and out-of-state travel within the contiguous United States. GSA rates may be accessed at the Comptroller's Textravel webpage for Current Rates or accessed directly at the GSA Per Diem Rates webpage. Federal travel regulations are typically updated on October 1; however, changes may be made at any time during the year. It is possible for two sets of rates to apply to a single trip. If employees are traveling when the rates change, they must use the rates in effect on each specific day of travel.

Increasing the Maximum Lodging Rate:

Under certain circumstances, the maximum lodging rate may be increased.

- *Requesting a higher maximum lodging reimbursement rate:* The LEA may determine that local conditions necessitate an increase in the lodging rate for a particular location for both in-state and out-of-state travel.
- *Reducing meal reimbursement rate to increase lodging rate:* The LEA may claim less than the maximum meal reimbursement rate for a duty point and use the amount of the reduction to increase the maximum lodging reimbursement rate for the duty point. This is allowable for in-state and out-of-state travel.

#### Sharing Lodging:

- *When each individual sharing lodging is an LEA employee:* When at least two LEA employees share lodging, the LEA must reimburse a designated employee for the lodging expense. The designated employee must submit a travel voucher to receive reimbursement.
- *When only one of the individuals sharing lodging is an LEA employee:* The LEA must reimburse the employee the room rate for a single occupancy or the applicable maximum lodging rate, whichever amount is less.

#### Inability to obtain reasonable lodging within the duty point:

An employee may be reimbursed for lodging and meals obtained outside of the duty point if the employee was unable to obtain reasonable lodging within the duty point. The lodging expense reimbursement may not exceed the maximum lodging reimbursement rate for the location where the lodging is obtained. In this situation, the meal expense reimbursement may not exceed the greater of the maximum meal reimbursement rate for the employee's duty point or the maximum meal reimbursement rate for the location where the lodging is obtained.

#### Multi-day travel to duty point:

When traveling to or from a duty point reasonably requires more than one day, the maximum amount the LEA may reimburse the employee for meal expenses incurred during that day is equal to the maximum meal reimbursement rate for the location in which the lodging was obtained on that day. If lodging is not obtained on that day, then the maximum reimbursement is equal to the maximum rate for the location in which lodging was obtained on the day after or prior. The maximum per commercial lodging establishment that an LEA may reimburse the employee for lodging expenses incurred on a day is equal to the maximum lodging reimbursement rate for the location in which lodging is obtained.

#### Documentation Requirements for Lodging:

To be reimbursed for a lodging expense, the employee must provide proof that the lodging expense was incurred. This normally takes the form of a lodging receipt.

A lodging receipt issued by a commercial lodging establishment, a travel agency or a broker is acceptable and must include the following:

- The name and address of the commercial lodging establishment
- The name of the employee
- The single room rate
- A daily itemization of the lodging charges
- Proof of payment

### ***Lodging: Hotel Occupancy Taxes***

An LEA employee is exempt from paying the state hotel occupancy tax. The employee is not exempt from paying the county or municipal hotel occupancy tax.

*Exception for travel outside Texas:* The employee traveling outside Texas shall be reimbursed for their required payment of hotel occupancy or similar taxes. The taxes are classified as an incidental expense and not as a lodging expense for the purpose of the maximum reimbursement rate for lodging expenses.

### ***Travel Cancellation Charges***

The LEA may reimburse an employee for a cancellation charge, related to a travel expense, if the charge is incurred:

- For a reason related to LEA business, or
- For a reason related to LEA business that could not be conducted because of a natural disaster, or
- Because the employee was unable to use transportation that was paid in advance to obtain a cost savings because that employee was ill or had a personal emergency

Please see the Considerations for Disasters or Unexpected Events section of this manual for information regarding Expenditures for Cancelled Services and Travel During Disasters or Unexpected Events.

### ***Discounts and Travel Expenses at No Cost***

An employee may not be reimbursed for a travel expense unless the employee has incurred the expense.

An employee who receives free transportation or lodging in exchange for mileage, points, or other non-monetary credits has not incurred an expense for reimbursement purposes.

An employee may not be reimbursed for the value or cost of a discount on a travel expense unless the employee paid money to obtain the discount. If the employee paid money to obtain a discount, the employee may be reimbursed the lesser of: the cost of obtaining the discount; and the amount of the discount; and the maximum that may be reimbursed to an employee for the type of travel expense incurred. If the employee receives a discount as a benefit of making unrelated purchases or conducting unrelated business with the provider of the discount, the discount is considered to be provided free to the employee.

An employee may be reimbursed for travel expenses incurred while staying extra days at a duty point to qualify for discount airfare if:

- The amount of the reimbursement plus the amount of the discount airfare is less than the contract airfare or average coach airfare that would be available had the employee not stayed extra days at the duty point; and
- The expenses are the same type of expenses incurred during the other days at the duty point; and
- The LEA determines that the employee's absence for the extra days is not detrimental

*Discounts for frequent use of a commercial lodging establishment:*

Travel discounts or bonuses earned from travel paid with public funds can only be used for a private purpose if it cannot be used for a public purpose. The LEA determines whether a discount or bonus can be used for a public purpose.

A discount or award given for travel, such as frequent flyer miles, rental car or hotel discounts or food coupons, are not things of value belonging to the LEA and may be used by the employee.

**Registration Fees**

In accordance with 34 CFR 76.707, the obligation for travel occurs when the travel is taken, which means Federal funds cannot be used for travel expenditures until the travel occurs. The LEA must use a different fund source to pay for expenditures in advance and then reimburse with Federal funds on or after the day of travel.

In accordance with 34 CFR 76.707, the obligation for personal services by a contractor who is not an employee of the LEA occurs on the date on which the LEA makes a binding written commitment to obtain the services.

In accordance with TEA guidance regarding registration fees, in the TEA EDGAR FAQ document, Q.5.3, the LEA has a discretion on how to incur and code the obligation for registration fees: either as travel or as personal services by a contractor.



If obligated as travel (64xx), the registration fee is obligated the day the conference or meeting begins and may not be paid with Federal funds until the travel is taken.

If obligated as personal services by a contractor (62xx), the registration fee is obligated the day the registration is submitted and Federal funds may be used at that time. The benefit of obligating registration fees as personal services by a contractor is that the LEA may benefit from reduced cost registration fees when registering early for conferences or trainings.

Regardless of how the LEA chooses to treat the obligation of registration costs, the LEA must be consistent in its treatment.

The District treats registration fees as personal services by a contractor using object code 6299. The Federal Programs Coordinator, Director of Special Education Services, or Director of Child Nutrition as applicable or the Program Director of the specific federal program ensures that this process is applied consistently for all registration fees.

### ***Travel Requests and Approval Process***

A travel request is submitted in advance of travel. The request identifies all of the costs expected to be incurred. To the extent possible, evidence of the projected cost is attached to the travel request. The request is then approved by the Federal Programs Coordinator, Director of Special Education Services, or Director of Child Nutrition as applicable or the Program Director of the specific federal program before the employee is approved for travel. Upon the employee's return from travel, within five working days, the employee is to reconcile the travel request with actual charges and evidentiary receipts and other materials.

## **Record Retention and Access**

Records Related to Grant Funds 34 CFR §76.730 and Compliance 34 CFR §76.731

Requirement:

The LEA shall keep records that fully show:

- The amount of funds under the grant or subgrant
- How the LEA uses the funds
- The total cost of the project
- The share of that cost provided from other sources
- Other records to facilitate an effective audit

The LEA shall keep records to show its compliance with program requirements.

Implementation:

## Retention Requirements for Records 2 CFR §200.334

Requirement:

Financial records, supporting documents, statistical records, and all other LEA 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 or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity (TEA).

\*Although the Uniform Guidance 2 CFR §200.334 requires record retention for three years, the General Education Provision Act (GEPA) – Enforcement, stipulates that USDE is authorized to seek recovery of misspent funds within five years from the time the LEA received a notice of disallowance decision. 34 CFR §81.31(c)

Therefore, the LEA should retain records for a minimum of five years rather than three years. The LEA retains records for five years.

Exceptions:

- If any litigation, claim, or audit is started before the expiration of the retention period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
- When the LEA is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.
- Retention period for records for real property and equipment starts after final disposition.
- When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the retention requirement is not applicable to the LEA.
- Records for program income transactions that occur after the period of performance: In some cases, recipients must report program income after the period of performance. When there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the LEA's fiscal year in which the program income is earned.
- Indirect cost rate proposals and cost allocation plans: This applies to the following types of documents and their supporting records:
  - Indirect cost rate computations or proposals
  - Cost allocation plans

- Any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates)

If submitted for negotiation: If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the pass-through entity) to form the basis for negotiation of the rate, the retention period for its supporting records starts from the date of such submission.

If not submitted for negotiation: If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the pass-through entity) for negotiation purposes, then the retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

Implementation:

The Federal Programs Coordinator, Director of Special Education Services, or Director of Child Nutrition as applicable or the Program Director of the specific federal program is responsible for record retention processes.

## Requests for Transfer of Records 2 CFR §200.335

Requirement:

The Federal awarding agency must request transfer of certain records to its custody from the LEA when it determines that the records possess long-term retention value. However, in order to avoid duplicate record-keeping, the Federal awarding agency may make arrangements for the LEA to retain any records that are continuously needed for joint use.

Implementation:

The LEA will comply with instructions from the Federal awarding agency, as applicable.

## Methods for Collection, Transmission, and Storage of Information 2 CFR §200.336

Requirement:

The Federal awarding agency and the LEA should, whenever practicable, collect, transmit, and store Federal award-related information in open and machine-readable formats rather than in closed formats or on paper in accordance with applicable legislative requirements.

A machine-readable format is a format in a standard computer language (not English text) that can be read automatically by a web browser or computer system. The Federal awarding agency or pass-through entity must always provide or accept paper versions of Federal award-related information to and from the LEA upon request.

If paper copies are submitted, the Federal awarding agency or pass-through entity must not require more than an original and two copies. When original records are electronic and cannot be altered, there is no need to create and retain paper copies. When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided that they are subject to periodic quality control reviews, provide reasonable safeguards against alteration, and remain readable.

Implementation:

Records are kept electronically in the MUNIS applications. Paper copies are retained by the Department of Business Services for seven years.

## Access to Records 2 CFR §200.337

*Records of non-Federal entities.* The Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives, must have the right of access to any documents, papers, or other records of the LEA which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the LEA's personnel for the purpose of interview and discussion related to such documents.

*Extraordinary and rare circumstances.* Only under extraordinary and rare circumstances would such access include review of the true name of victims of a crime. Routine monitoring cannot be considered extraordinary and rare circumstances that would necessitate access to this information. When access to the true name of victims of a crime is necessary, appropriate steps to protect this sensitive information must be taken by both the LEA and the Federal awarding agency. Any such access, other than under a court order or subpoena pursuant to a bona fide confidential investigation, must be approved by the head of the Federal awarding agency or delegate.

*Expiration of right of access.* The rights of access in this section are not limited to the required retention period but last as long as the records are retained. Federal awarding agencies and pass-through entities must not impose any other access requirements upon non-Federal entities.

## Restrictions on Public Access to Records 2 CFR §200.338

No Federal awarding agency may place restrictions on the LEA that limit public access to the records of the LEA pertinent to a Federal award, except for protected personally identifiable information (PII) or when the Federal awarding agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) or controlled unclassified information pursuant to Executive Order 13556 if the records had belonged to the Federal awarding agency.

The Freedom of Information Act (5 U.S.C. 552) (FOIA) does not apply to those records that remain under an LEA's control except as required under §200.315. Unless required by Federal, state, or local statute, LEAs are not required to permit public access to their records. The LEA's records provided to a Federal agency generally will be subject to FOIA and applicable exemptions.

## **Self-Monitoring and Audit Resolution**

### Self-Monitoring and Reporting Program Performance 2 CFR §200.329

Requirement:

The LEA is responsible for oversight of the operations of the Federal award supported activities. The LEA must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the LEA must cover each program, function, or activity.

The LEA must submit performance reports at the interval required by the Federal awarding agency or pass-through entity to best inform improvements in program outcomes and productivity.

*Construction performance reports:* For the most part, onsite technical inspections and certified percentage of completion data are relied on heavily by Federal awarding agencies and pass-through entities to monitor progress under Federal awards and subawards for construction.

#### Implementation:

The District has a self-monitoring assessment process that is administered at the end of every year. Corrective actions, including the actions required, the persons responsible, and the target date for completion have been developed to address any deficiencies. Any discrepancies or deficiencies detected or discovered will be immediately corrected and processes or systems will be put into place to ensure such discrepancies do not occur again.

Activities for monitoring and evaluating program performance include, but are not limited to:

- Interviews with campus administrators;
- Collaboration with regional Education Service Center staff for training, technical assistance, and consultative services;
- Review of applicable data;
- Leadership team meetings on a regular basis to review program activities

The Curriculum & Instruction department and the Department of Business Services will collaborate to monitor Federal grant-supported activities to assure compliance with applicable Federal requirements and to assure that performance goals are being achieved. Actual accomplishments will be compared to the objectives of the program.

The LEA will self-monitor implementation of their written policies and procedures on an annual basis and update their procedures manual when applicable.

The CFO and the Federal Programs Coordinator, Director of Special Education Services, or Director of Child Nutrition as applicable or the Program Director of the specific federal program monitors compliance with written policies and procedures.

#### Audit Requirements 2 CFR §200.501

##### Requirement:

*Audit required.* A non-Federal entity that expends \$1,000,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this part.

*Single audit.* A non-Federal entity that expends \$1,000,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single audit conducted in accordance with §200.514 except when it elects to have a program-specific audit conducted.

*Exemption when Federal awards expended are less than \$1,000,000.* A non-Federal entity that expends less than \$1,000,000 during the non-Federal entity's fiscal year in Federal awards is exempt from Federal audit requirements for that year, except as noted in §200.503, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and Government Accountability Office (GAO).

### ***Auditee Responsibilities 2 CFR §200.508***

Requirement:

The auditee must:

- Procure or otherwise arrange for the audit required by this part in accordance with §200.509, and ensure it is properly performed and submitted when due in accordance with §200.512.
- Prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with §200.510.
- Promptly follow up and take corrective action on audit findings, including preparation of a summary schedule of prior audit findings and a corrective action plan in accordance with §200.511(b) and (c), respectively.
- Provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by this part.

### ***TEA Guidance Regarding Single-Audit Requirements***

TEA's Monitoring of Single-Audit Findings webpage provides guidance and information regarding the single-audit requirement.

The LEA must submit the single-audit report to TEA with their annual financial and compliance reports (AFRs) and must also submit their AFRs to the Federal Audit Clearinghouse.

Implementation:

The CFO determines if the LEA is required to have a single-audit conducted by an independent auditor and submits the AFR to TEA and to the Federal Audit Clearinghouse. The CFO reviews the results of audits, initiates, and monitors any necessary corrective action plans.

# Considerations for Disasters or Unexpected Events

In this section of the manual, considerations are addressed for disasters or other unexpected events, such as a pandemic, which results in an interruption of operations or services, including closure to the LEA's buildings.

The LEA will follow TEA guidance and the applicable statutes, regulations, and terms and conditions of Federal disaster awards or Federal stimulus awards.

## Compensation During Times of Interruption of Operations or Services

If a disaster or other unexpected event, such as a pandemic, results in an interruption of operations or services, or closure to the LEA's buildings, the LEA will continue to pay Federally-funded salary and hourly-wage staff who, as a result of the interruption or closure, are (1) on administrative leave, or (2) teleworking, consistent with how the LEA is paying state or locally funded staff.

If an employee's duties or responsibilities change as a result of the disaster or unexpected event, the employee's job description will be updated to reflect the activities. Federal funds cannot be charged for duties that are not aligned to the purpose and intent of the grant.

Federally funded staff working on multiple cost objectives should maintain the same type of time and effort documentation as normal. If that is not possible, the LEA will allocate the charges to the Federal award based on an average of the employees' last three months' documented time and effort records.

Premium pay (overtime) will be paid during disasters or other unexpected events, such as a pandemic with approval from the School Board.

Please see the Special Considerations and Incentive Compensation sections of this manual for additional information regarding increased compensation during a disaster or unexpected event, such as a pandemic.

## Expenditures for Cancelled Services

As a result of a disaster or unexpected event, such as a pandemic, some services that were cancelled might have certain fees still charged.

Federal grant funds may be used to reimburse unrefunded costs provided:

- The LEA seeks to recover non-refundable costs from the entity



- The LEA seeks to exercise force majeure or emergency provision clauses to the extent possible in light of the disaster or unexpected event, such as a pandemic
- The costs were reasonable and incurred in order to carry out an allowable activity under the grant, consistent with the Federal cost principles of 2 CFR Part 200, Subpart E.

Documentation must be maintained to substantiate the charging of any cancellation or other fees related to the interruption of operations or services, or closure of the buildings.

## Travel During Disasters or Unexpected Events

Due to safety or health concerns during a disaster or unexpected event, such as a pandemic, grant-supported travel generally should not be occurring. However, if travel is permitted by Federal, State, or local directives and is the only means to carry out an essential grant function that must be undertaken on a time-sensitive basis during the disaster or unexpected event, and is consistent with the LEA's travel policy, travel insurance is an allowable cost, provided the cost is reasonable and allocable to the grant, consistent with the Federal cost principles of 2 CFR Part 200, Subpart E.

## Accounting Records for Expenses Related to the Disaster/Stimulus Funds

The LEA will keep records to document services provided, or expenditures incurred during disasters or unexpected events, such as a pandemic, which results in an interruption of operations or services, or closures to the LEA's buildings, including:

- The need for the expenditure and justification to substantiate the charging of costs to Federal grant funds related to the interruption of operations or services
- How the expenditure is related to the disaster or unexpected events, such as a pandemic
- The methodology the LEA used to provide services to public schools, and private nonprofit schools, if applicable
- Use of funds and amounts expended
- How the LEA prioritized needs to determine use of funds
- The LEA's timeline for providing services
- Pre-award costs and expenditures, if allowed under the Federal award
- Local option codes in the accounting code structure to identify expenditures related to the disaster or unexpected event, such as a pandemic, including expenditures that will be charged to or reimbursed by a Federal disaster award or Federal stimulus award
- If noncompetitive procurement is used under the emergency or exigency exception, documentation, and justification for the noncompetitive procurement

Alternative methods for documentation of services rendered, when sign-in sheets are not feasible due to the disaster or unexpected event, the LEA will substitute other methods of documentation, as deemed acceptable by the LEA.

FEMA (Federal Emergency Management Agency) Documentation should include:

- Force account labor (personnel)
- Force account materials
- Force account equipment (regular time and overtime)
- Rentals
- Contracts
- Donated resources
- Procurement documentation

## **Whistleblower and Anonymous Reporting Protections**

*Requirement:*

The LEA must provide a means for employees, contractors, or other stakeholders to report suspected fraud, waste, or abuse anonymously and without fear of retaliation.

*Implementation:*

The District maintains a confidential reporting process accessible through the LEA website and Human Resources Department. Individuals may report fraud, waste, or abuse anonymously online or by mail. The District strictly prohibits retaliation against any person who reports in good faith. Reports are investigated by Human Resources and the CFO, and findings are documented. Whistleblower protections are communicated annually to all staff through training and policy acknowledgment.

## **Electronic Signatures**

The LEA allows for the acceptance of electronic signatures for documentation and records addressed in this manual.

If allowed, the LEA ensures that the signatory can be uniquely identified and linked to the signature and employs adequate authentication methods to verify signer identity.

The following resources provide guidance for implementing electronic signatures:

- 1 TAC 203 Management of Electronic Transactions and Signed Records
- Guidelines for evaluating the effectiveness of a given signature method and for matching the signature method to the applicable degree of risk involved