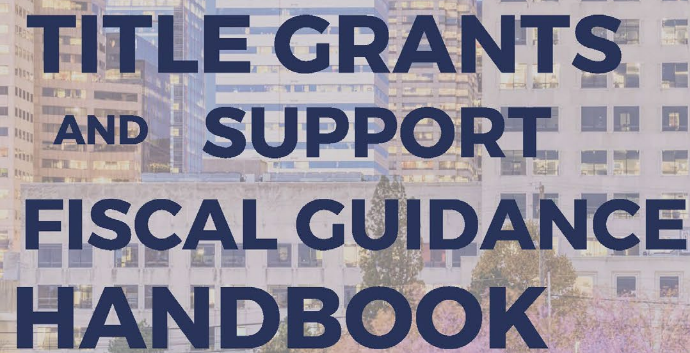
Indiana
DEPARTMENT OF EDUCATION



TITLE GRANTS AND SUPPORT FISCAL GUIDANCE HANDBOOK

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Disclaimer: Although this document attempts to provide a comprehensive summary of fiscal regulations and statute pertaining to federal funds, this document is not exhaustive and is subject to change. If further state or federal statute or regulatory changes are made, corresponding edits will be made to this living document.

Part 1: Governing Legal Authorities and General Structure of Grant Programs

Overview of Governing Legal Authorities

As a condition of receiving federal funds, LEAs receiving federal education grants are responsible for complying with many legal requirements. While most grantees know they must comply with the terms of the specific law under which the grant funds were given, such as Title I, Part A of the Elementary and Secondary Education Act (ESEA), the Individuals with Disabilities Education Act, or the Strengthening Career and Technical Education for the 21st Century Act, many grantees are not aware of the multitude of other legal requirements and responsibilities that are attached to the receipt of federal funds — often referred to as "grants management" requirements.

Federal Law is Supreme

In general, federal law is supreme over state law. However, in the context of federal grants, it is fairly common for a federal law to permit a state or local government to follow state or local law, so long as certain threshold requirements are met. Where there is a conflict between federal and state law, the federal law will control unless the federal law in question says otherwise. The importance of reading the specific laws and rules that govern a particular grant cannot be overemphasized.

Hierarchy of Federal Rules

The hierarchy of federal rules is as follows:

1. Statutes
2. Regulations
3. Nonregulatory guidance
4. *Dear Colleague* letters
5. Direct communications from U.S. Department of Education (ED) officials

Federal statutes are passed by Congress, which is the legislative branch of the federal government. Federal regulations are promulgated, or put into effect by federal agencies, such as ED, within the executive branch of government. Regulations fill in practical details about how a law will be implemented, and emphasize and clarify areas where an executive branch agency may exercise some discretion. Regulations have the full force and effect of law, meaning that affected parties are required by law to comply with them. To adopt regulations, a federal agency has to go through a formal "rulemaking" process. The Education Department General Administrative Regulations (EDGAR), which serves as the fiscal regulations that govern federal education funds, are examples of regulations.

Federal agencies may also issue nonregulatory guidance that provides additional

information about the law in plain-language format. Nonregulatory guidance does not go through a formal rulemaking process. It does not have the force of law or regulation and is often updated. However, nonregulatory guidance will support IDOE and LEAs in carrying out the programs in a manner that will be considered allowable by an auditor. As with any guidance, the nonregulatory guidance is not all encompassing and often represents examples.

In lieu of new guidance, ED often issues *Dear Colleague* letters to education stakeholders that describe ED policy interpretations and flexibility options. These letters typically are addressed to stakeholders as a group — such as all chief state school officers or all state Title I directors. Like guidance, these letters do not carry the force of law; however, they are an important indicator of policy trends at ED.

Finally, ED program officials will respond to individual questions via letter, phone, or email. While these direct communications are not considered official policy, they can provide an indication of how ED will address certain programmatic and fiscal concerns. LEAs who seek guidance from IDOE may utilize this information in a similar manner.

1. *Statutes: Programmatic and Administrative*

As the highest controlling authority, statutes are the point at which all administrators should start when trying to learn the formal legal requirements of the programs they administer. There are two basic types of statutes that most Districts will encounter: programmatic statutes and administrative statutes.

Programmatic Statutes

Examples of programmatic statutes include the:

- Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act
- Individuals with Disabilities Education Act
- Strengthening Career and Technical Education for the 21st Century Act

Specific statutory programmatic requirements vary a great deal from program to program. Administrators are encouraged to read the statutory language to understand the basic program requirements. Basic programmatic requirements can be found in the sister Title Grants & Support handbook, found at www.doe.in.gov/grants.

Programmatic statutes typically contain many different education programs. For example, the ESEA (as amended by the Every Student Succeeds Act) contains several individual programs, including programs such as Title I, Part A; the Title III English Language Acquisition program; and the 21st Century Community Learning Centers program. The overarching purpose of a programmatic statute is to establish the particular programmatic requirements of each individual education program, such as:

- How the funds are generated
- How the funds must be allocated

- Who is eligible to be served
- How the program must be designed
- What the permissible uses of funds are
- What types of reports or evaluations are required

In addition to these types of programmatic requirements, the statutory language of individual programs often establishes certain program-specific fiscal requirements. Examples include the "supplement-not-supplant" requirement, mandatory set-asides or administrative caps, and matching requirements.

Programmatic statutes, such as the ESEA, often contain certain provisions that are general in nature and apply to all (or most) programs in the statute. For example, a statute may contain a definitions section, a "general provisions" or "uniform requirements" section, and a fiscal requirements section. These types of requirements are often located in a different part in the statute than the federal education program language itself; however, they may still apply to the federal program in question.

Administrative Statutes

Administrative statutes do not address programmatic issues. Instead, administrative statutes outline the basic threshold requirements or processes that apply to federal funds. One primary administrative statute with which Districts should be familiar is the General Education Provisions Act.

The General Education Provisions Act (GEPA) outlines the basic administrative requirements that pertain to most ED programs. It is important to note that while GEPA establishes the general administrative framework for federal education grant funds, certain programmatic statutes state that some portions of GEPA do not apply to certain programs. For example, GEPA includes sections regarding single state and local applications for education funds, but the ESEA establishes different application requirements and specifically states that the application sections of GEPA do not apply to consolidated applications under the ESEA. Therefore, it is essential to check the specific program statute at issue to determine whether the rules outlined in the program statute or the rules contained in GEPA apply in a specific situation.

Perhaps the most important general provisions of GEPA for recipients of federal education funds are the following:

- "Forward funding" and the period of performance. GEPA Sections 420 – 421.
- State reporting requirements. GEPA Section 424.
- State agency monitoring and enforcement responsibilities. GEPA Section 440.
- Single state and local application requirements. GEPA Sections 441 – 442.
- Family Educational Rights and Privacy Act (FERPA) requirements. GEPA Section 444.
- Requirements relating to protection of pupil rights. GEPA Section 445
- Enforcement provisions for noncompliance. GEPA Sections 451 – 459.

2. *Federal Agency Regulations*

Regulations are next in the hierarchy of federal rules. Regulations are designed to fill in vague areas within the statute that require federal agency interpretation. For instance, if a statute requires that an appeal be filed “within a reasonable time,” the relevant federal agency may issue a regulation indicating the appeal must be filed within 30 days. Like statutes, regulations have the force of law and are considered to be binding legal authority.

Not all programs have regulations. It is essential to determine whether a specific program has regulations, because compliance with regulations is a condition of receiving funds.

Grantees may encounter such statements as, “This program is subject to EDGAR” since ED designates all of its general administrative requirements collectively as the Education Department General Administrative Regulations. This is simply a shorthand way for the department to indicate that the normal administrative regulations apply to that program.

The regulations in EDGAR contain important administrative requirements that apply to federal education funds. Specifically, EDGAR addresses topics such as the threshold administrative systems that must be in place for recipients of federal grants, application requirements (34 CFR 76.300 – 76.304), private school and charter school requirements (34 CFR 76.650 – 76.662; 76.785 – 76.797), and enforcement requirements (34 CFR 81.1 – 81.45), among many others. Many of the concepts laid out in the GEPA statute are further articulated and explained in EDGAR. In addition to the sections of EDGAR outlined above, ED has formally adopted new administrative requirements, cost principles, and audit requirements issued by the Office of Management and Budget under Title 2 of the Code of Federal Regulations (CFR), including 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (also known as the Uniform Guidance or UGG). 2 CFR Part 3474.

3. *Nonregulatory Guidance*

Nonregulatory guidance is used by ED to provide informal advice to grantees and subgrantees regarding federal education requirements.

Technically, nonregulatory guidance does not have the force of law in the same way a statute or regulation does. However, nonregulatory guidance reflects ED’s most user-friendly interpretation of a statute, as it is generally written in plain-language question-and-answer format. Moreover, the guidance typically represents policy and flexibility that will be followed by the program offices. In other words, if an LEA complies with the nonregulatory guidance, ED’s program offices generally will not later issue a finding of noncompliance. However, it is important to recognize that the guidance is not binding on the Department in the same way that statutes or regulations are binding and that program offices occasionally issue multiple versions of guidance on the same subject with different interpretations, or release subsequent versions with changes in interpretation.

The ED Office of Inspector General (OIG) has made findings of noncompliance where a grantee or subgrantee complied with advice provided in nonregulatory guidance that (in the OIG's view) was not entirely consistent with the statute. Accordingly, recipients of federal grant funds are advised that statutes and regulations should be viewed as the "gold standard" for compliance purposes. If there is an inconsistency between guidance and the relevant statute or regulation, ultimately the statute or regulation controls.

4. *Dear Colleague Letters from ED*

ED has increasingly used *Dear Colleague* letters as a way to communicate significant policy changes or flexibility options to agencies regarding federal law. Sometimes these letters notify recipients of an opportunity to request flexibility through a formal application to ED. In other cases, these letters simply grant blanket flexibility regarding a legal requirement across the board with no further action required by a grant recipient.

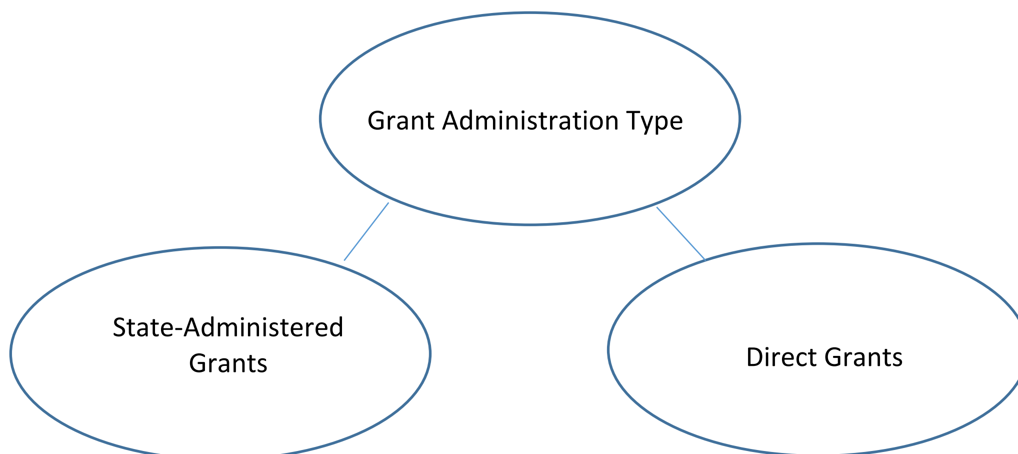
Like nonregulatory guidance, letters issued by ED do not have the force of law or regulations. However, because they are increasingly used to communicate important policy changes or flexibility in how ED is administering a program or interpreting a legal requirement, Districts should ensure that they monitor these letters to keep abreast of recent developments.

5. *Other Communications from ED Officials and IDOE staff*

The most informal form of federal guidance comes from other correspondence from ED officials and IDOE staff, often addressing single programmatic or fiscal questions. While nonregulatory guidance and generally distributed *Dear Colleague* policy letters are much more official, individual letters, emails or phone calls with ED officials may signal shifts in ED policy. However, if information contained in correspondence conflicts with nonregulatory guidance, regulations, or the statute itself, the more official forms of federal policy will always be controlling.

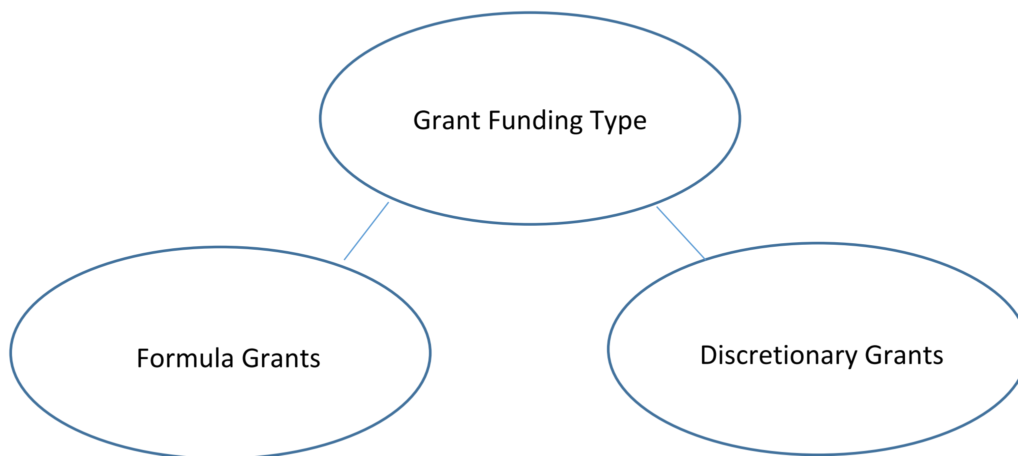
Types of Federal Education Grants

ED grants may be divided into four partially overlapping types. The first two — state-administered grants and direct grant programs — are distinguished by the lines of grant oversight and accountability. The second two — formula grants and discretionary grants — are distinguished according to the basis on which the funds are awarded.



State-Administered Programs
State-administered programs are a special category of ED formula grants and are governed by a distinct set of regulations: Part 76 of EDGAR, State-Administered Programs. Although they are relatively few in number, they are by far the largest ED programs. Representative state-administered programs include ESEA Title I, Part A; IDEA, Parts B and C; and the Perkins Career and Technical Education formula grant program. A "state-administered program" may be described as one in which the State receives funds by formula from ED. The authorizing statute usually permits the State to use some funds directly, but, for the most part, 34 CFR 76.50 explains that state-administered programs require the State to pass the money on to eligible grantees (generally Districts) that will actually carry out the programs. Depending on the regulations governing the program, the State may be required to distribute the funds to its subgrantees through formula, by competition, or a combination of the two. 34 CFR 76.51.

Direct Grant Programs
All ED grants that are not state-administered programs as defined above are considered direct grants. Direct grants are governed by Part 75 of EDGAR, Direct Grant Programs. Almost all direct grants are discretionary grants. However, formula grants that are *not* state-administered programs are also considered "direct grants." 34 CFR 75.1(b). Typically, in a direct grant program, the entity receiving the funds has a direct relationship with ED; funds do not flow through another entity like the IDOE.



Formula Grants
A formula grant program distributes funds to recipients based on a formula established by law. As a threshold criterion, eligibility for formula grants is based on the type of recipient (i.e., whether it is an SEA, LEA, IHE, tribe, etc.), but may involve other criteria such as population, poverty level or number of students in special populations (such as homeless students). EDGAR Part 75.200(c) describes a formula grant program as "one that entitles applicants to receive grants if they meet the requirements of the program. These applicants do not compete with each other for the funds, and each grant is either for a set amount or for an amount determined under a formula." Most major formula programs, such as ESEA Title I, Part A or the Part B and Part C programs under the Individuals with Disabilities Education Act, are also *state-administered programs.*

Discretionary Grant Programs
Discretionary grants, also known as competitive grants, permit the granting agency to exercise discretion over the selection of entities or subgrantees for funding. The criteria for applying for and receiving a discretionary grant are defined by federal education laws and, in some cases, regulations. Under certain programs, the granting agency (i.e. IDOE) has relatively wide discretion in establishing competitive criteria. As determined by IDOE and applicable laws, McKinney-Vento, 21st Century CLC, and 1003 School Improvement Grant (SIG) funds are administered as discretionary grants.

The following table illustrates examples of each type of grant:

State-Administered Formula Grants	State-Administered Discretionary Grants	Direct Formula Grants	Direct Discretionary Grants
• Title I • Title II • Title III • Title IV • IDEA, Part B	• 21st Century CCLC • Charter School Program Grants	• Some Impact Aid awards • Small, Rural School Achievement (SRSA)	• Some Charter School Program Grants

<u>Frequently Asked Question</u>

Question: *If my District receives federal funding from the Indiana Department of Education for a grant, does this mean my District still has to comply with the federal statutes and regulations?*

Answer: If the source of the funding for that grant program is federal dollars, it would be considered a state-administered grant program and your District would need to be compliant with the applicable federal statutes and regulations. The letter from IDOE will be able to tell you this information.

Part 2: Obligations and Liquidations

Timely Obligation of Funds

Obligations are orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by a Local Education Agency (LEA) during the same or a future period. 2 CFR 200.71. An obligation occurs when a public school district or charter school has entered into a binding commitment to pay out money, such as entering into a contract to pay for supplies.
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 the Secretary under the cost principles in 2 CFR part 200, Subpart E- Cost Principles.	On the first day of the project period.

34 CFR 75.707; 34 CFR 76.707.

Why does this matter? The activities for a specific program, such as Title II, must be obligated within the project period (e.g. July 1, 2018 through Sept. 30, 2020) and then can be liquidated by December 15, 2020. If the obligation is to occur after the 9/30 date, such as requesting to travel for a conference that occurs in October, then a subsequent year's funds must be utilized.

Period of Performance of Federal Funds

All obligations must occur on or between the beginning and ending dates of the grant project. 2 CFR 200.309. This period of time is known as the period of performance. 2 CFR 200.77. The period of performance is dictated by statute and will be indicated in the Grant Award Notification (GAN) that IDOE receives from U.S. Department of Education, which is then passed on to the LEAs. However, there are exceptions to this rule. For direct grant programs, which is when a subgrantee receives funds directly from ED (rare), a grantee

may use grant funds only for obligations it makes during the grant period. 34 CFR 75.703, unless pre-award costs are permitted. 2 CFR 200.209 and 2 CFR 200.458. Pre-award costs are activities that occur in anticipation of an award and are necessary and reasonable in relation to the scope of work.

State-Administered Grants: For state-administered programs that IDOE administers such as Title I, the obligation clock starts once the State is authorized to begin obligations (i.e., typically July 1) or once the District submits its application in substantially approvable, whichever is later. 34 CFR 76.708(a). The term “substantially approvable” is not clearly defined; therefore IDOE defines this as when the subgrantee submits a grant application that is complete. Reimbursement for obligations incurred when a subgrantee is operating under a substantially approved application is contingent on final approval of the application. 34 CFR 76.708(b). If the State has discretion to select subgrantees under a program (e.g. competitive grants), it may not allow an applicant for a subgrant to obligate funds until the subgrant is awarded, although the State may approve certain pre-award costs. 34 CFR 76.708(c).

As a general rule, state-administered federal funds are available for obligation within the year in which Congress appropriates the funds. However, given the unique nature of educational institutions, for many federal education grants, the period of availability is 27 months. Federal education grant funds are typically awarded on July 1 of each year. While the District will always plan to spend all current grant funds within the year the grant was appropriated (i.e. the first 15 months), the period of obligation for any grant that is covered by the “Tydings Amendment” is 27 months, extending from July 1 of the fiscal year for which the funds were appropriated through September 30 of the second following fiscal year (e.g. July 1, 2018 through Sept. 30, 2020). This maximum period includes a 15-month period of initial availability, plus a 12-month period for carryover. One example is Title I federal funds. 34 CFR 76.709. For example, funds awarded on July 1, 2019 would remain available for obligation through September 30, 2021. Program statutes may limit the availability of carryover. For example, ESEA, Title I, Part A limits a District’s carryover to 15 percent of the grant award. Perkins does not permit any carryover for Districts, rather unspent funds are collected and reallocated by the State after the initial award period. Other programs, like Titles II, III, and IV A do not have a carryover limit and the entire award is available the full 27 months.

Direct Grants: In general, the period of availability for funds authorized under direct grants is identified in the Grant Award Notification (GAN). Most federal funds that LEAs receive are not direct grants, as they first pass through IDOE. However, the Small Rural Schools Achievement program is allocated directly from ED to LEAs, bypassing the IDOE.

Why does this matter? The liquidation period, such as through 12/15, can only pay for activities that occurred by the encumbrance period of 9/30. Furthermore, the ability for a subgrantee to request funds depends upon the date that the grant application was submitted. However, if the subgrantee applies before the fiscal period starts, i.e. July 1, then the earliest date the performance period can start is July 1.

Carryover

State-Administered Grants
As described above, the Tydings Amendment extends the period of availability for applicable state-administered program funds. Essentially, it permits recipients to "carryover" any funds left over at the end of the initial 15-month period into the next year. These leftover funds are typically referred to as carryover funds and continue to be available for obligation for an additional 12 months. 34 CFR 76.709. Accordingly, the District may have multiple years of grant funds available under the same program at the same time. For example, a subgrantee on July 1 will receive new funds, whereas they are in the carryover period for both last year and two years ago.

Direct Grants: Grantees receiving direct grants are not covered by the 12-month Tydings period. However, under 2 CFR 200.308, 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.
Districts must seek prior approval from the federal agency when the extension will not be contrary to federal statute, regulation or grant conditions and:

- 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. 2 CFR 200.308(d) (2).

Why does this matter? The period of performance for federal grants is not determined by IDOE but rather by ED. Therefore, subgrantees must ensure expenses are obligated and liquidated per the respective dates in order to avoid forfeiture of funds.

Liquidations

After obligations are incurred, the obligation must be funded or paid for — a process known as "liquidation." In its most basic form, liquidation consists of the grantee or subgrantee writing a check to a vendor or paying an employee and then drawing funds from IDOE. For both state-administered and direct grants, regardless of the period of availability, an LEA must liquidate all obligations incurred under the award not later than 90 days after the end of the funding period unless an extension is authorized. 2 CFR 200.343(b). IDOE allows for a liquidation period as close to the 90 days noted in the Uniform Guidance as is administratively feasible. Any funds not obligated within the period of availability or liquidated within the appropriate time frame are said to lapse and must be returned to the awarding agency, usually the IDOE. 2 CFR 200.343(d). Consequently, Districts should closely monitor grant obligations and spending throughout

the grant cycle. More information of the deadlines for liquidations (and possible extensions) can be found here.

Why does this matter? The activities for a specific program, such as a trauma-informed training for Title IV, must occur within the project period (e.g. July 1, 2018 through Sept. 30, 2020) and then can be liquidated, or paid out, by December 15, 2020. The grantee will also have to request reimbursement from IDOE for these funds by December 15, 2020. If funds are not requested by this date, they will lapse and will be returned to IDOE.

Frequently Asked Questions

Question*: How do obligating funds for travel work?*

Answer: According to 34 CFR 75.707 and 34 CFR 76.707, travel obligates when the travel is taken. This means that for booking a flight or hotel, travel does not obligate on the date of booking, but rather on the date of the flight or hotel stay. Because Districts still need to find a way to pay for the travel when booking, it is recommended to initially charge these costs to nonfederal funding, and then, once the travel is taken, do whatever necessary accounting processes to move the costs to federal funds.

Question: *When would funds for registering for a conference obligate?*

Answer: Oftentimes, it is necessary to register for a conference well in advance in order to secure a spot. In these circumstances, the registration costs would be considered to obligate on the date the District made the binding commitment to register for the conference. The District should maintain documented evidence demonstrating why it was necessary to register in advance. However, the remaining costs associated with travel (tickets, per diem, etc.) must be obligated through funds that currently have an open period of performance.

Part 3: Standards for Financial Management Systems

Coding Federal Expenditures and Reporting Requirements

The Indiana State Board of Accounts (SBOA) guidance is used to ensure integrity and accountability of funds. Furthermore proper coding of expenses allows for IDOE to calculate Maintenance of Effort (MOE), which is a requirement of receiving federal funds. For example, an LEA has to spend 90% of the year prior in state and local funds, in aggregate or per-pupil, in order to avoid a penalty that would reduce ESSA funds proportionally. Proper coding also ensures that the per-pupil expenditures at the building level are reported accurately, which is another condition of receiving federal funds. For further information on the classification of expenditure accounts and object codes, visit this website.

Internal Controls

Internal controls are policies and procedures meant to ensure the integrity of accounting and other information, and to promote accountability while preventing fraud. Internal controls can usually be satisfied by ensuring multiple individuals are involved and sign off on a procedure, such as making a purchase or submitting data to an agency, and having detailed, backup documentation to be able to demonstrate what occurred.

Written Policies and Procedures

Effective and well-written policies and procedures are essential for record keeping and tracking federal funds.

The following table illustrates citations for written policy and procedure rules:

Policy or Procedure	Citation of Written Policies and Procedures Rules
Written Cash Management Procedure	2 CFR § 200.302(b)(6) and 200.305
Written Allowability Procedures	2 CFR § 200.302(b)(7)
Written Conflict of Interest Policy	2 CFR § 200.318(c)
Written Procurement Procedures	2 CFR § 200.319(c)
Written Method for Conducting Technical Evaluations of Proposals and Selecting Recipients	2 CFR § 200.320(d)(3)
Written Travel Policy	2 CFR § 200.474(b)
Procedures for Managing Equipment	2 CFR § 200.313(d)
Time and Effort	Section 5 of the Cost Allocation Guide

Allowability Review

The Indiana Department of Education reviews submitted grant applications and budgets to ensure proposed expenditures are reasonable, allocable (able to proportionally charge to a grant), and necessary (RAN) in order to carry out the stated goals and objectives. Any proposed expenditure must meet all three to be considered. The below graphic contains guiding questions that IDOE utilizes to ensure all expenditures meet the RAN test. LEAs may wish to utilize this information to prepare budgets and grant submissions.

Reasonable	Allocable	Necessary
Is this project reasonable to the performance of the grant award?	Will this project directly advance the work or performance of the award?	Is the project necessary for the operation and efficient performance of the grant?
Is the project justifiable to a prudent reviewer?	Will denial of this project activity hinder the implementation and outcomes of the grant?	Does the project conform to any limitations or exclusions of the grant regarding type or cost?
Is this project tied to an identified need?	Will this project primarily benefit the intended group?	Will this project provide additional support or service?

Part 4: Standards for Procurement Systems

Another threshold system that recipients of federal funds must have in place is a procurement or purchasing system for goods and services. In essence, a good procurement system ensures that recipients of federal grant funds obtain goods or services through processes that maximize the value of federal funds.

General Procurement Standards

EDGAR requires that LEAs have in place a documented procurement system that conforms to certain minimum requirements. Under 2 CFR 200.318, a procurement system should include the following elements:

Contract Administration

The LEA must maintain oversight to ensure contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. 2 CFR 200.318(b). "Maintain oversight" is not specifically defined, but, at a minimum, LEAs must ensure their contractors are meeting the terms and conditions of their contracts and, in general, that payments are made only after satisfactory proof of performance. Payment should only be made when services are rendered.

Written Code of Standards of Conduct, Including Conflict of Interest Standards

LEAs must maintain a written code of conduct governing the performance of employees that award and administer contracts. 2 CFR 200.318(c) (1). This code must address conflicts of interest. Specifically, EDGAR defines a "conflict of interest" as arising when any of the following has a financial or other interest in the firm selected for award:

- The employee, officer, or agent
- Any member of that person's immediate family
- That person's partner
- An organization which employs or is about to employ, any of the above or has a financial or other interest in the firm selected for award. 2 CFR 200.318(c)(1).

When creating written policies for conflicts of interest, it is recommended to further define the above listed individuals. For example, who would be included in "immediate family"? Also, does "partner" mean business or romantic partner? It is recommended to use Indiana guidance. For example, Indiana Code 3-8-9-8 defines partner as the person's spouse.

LEA's officers, employees, or agents are not permitted to solicit or accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or subcontractors. **LEAs may set rules allowing an employee to participate in a procurement transaction where the employee's financial interest is not substantial, or allowing a gift when the item is unsolicited and of nominal value**. 2

CFR 200.318(c)(1). If that is the case, the LEA should define what is considered to be a nominal value, usually ranging from $5-100.

Additionally, if the LEA has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the District must have written standards of conduct covering organizational conflicts of interest. “Organizational conflict of interest” means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-federal entity appears to be impartial in conducting a procurement action involving a related organization. 2 CFR 200.318(c)(2). This could occur with charter schools. For example, charter management organizations may be related parties to a charter school, and contracts between those related parties must comply with federal conflict of interest policy requirements.

LEAs must disclose in writing any potential conflict of interest to the federal awarding agency or the pass-through entity in accordance with the applicable awarding agency’s policy. 2 CFR 200.112.
The written code of conduct must provide for penalties, sanctions or other disciplinary actions for violations by the District’s officers, employees or agents, or by contractors or their agents, to the extent permitted under State and local law. 2 CFR 200.318(c) (1). Furthermore, Districts must timely disclose in writing to the federal awarding agency or pass-through entity any violation of federal criminal law involving fraud, bribery, gratuity violations potentially affecting the federal award. 2 CFR 200.113. There are state sanctions, including the criminal offense of conflict of interest, when applicable for “public servants” who work for a school corporation (IC 35-44.1-1-4).

Procedures for Review of Proposed Procurements and Encouragement to Employ Certain Economies for Purchasing

LEAs must maintain procedures that avoid the purchase of unnecessary or duplicate items. 2 CFR 200.318(d). This is a distinct procurement requirement, and it is consistent with the cost principles that require all federal expenditures to be necessary, reasonable, and allocable. Grantees and subgrantees are encouraged to:

- Consolidate procurements to obtain a more economical purchase, where appropriate. 2 CFR 200.318(d). This is also important as the LEA may not separate a large order into multiple smaller orders for the same vendor for the sake of avoiding federal procurement thresholds.
- Enter into intergovernmental agreements for purchases, where appropriate. 2 CFR 200.318(e).
- Use federal excess and surplus property in lieu of new purchases, where feasible. 2 CFR 200.318(f).
- Use value-engineering clauses in construction projects (note that most federal education programs do not generally permit funds to be used for construction). 2 CFR 200.318(g).

Awards to Responsible Contractors

Awards must only be made to contractors that have the ability to perform successfully under the terms and conditions of the proposed procurement. 2 CFR 200.318(h). Consideration should be given to integrity, compliance with public policy, record of past performance, and financial and technical resources. The U.S. Department of Education considers the necessary review of these factors to be a “risk assessment” of proposed contractors.
Districts must not enter into contracts with entities that have been suspended or debarred from participating in contracts with federal funds. 2 CFR 200.212 and Part 200 Appendix II (H).
In addition, for contracts over $25,000, Districts must verify a contractor is not excluded or disqualified. IDOE requires that all contractors be verified.

This must be accomplished in one of three ways:

- Checking the System for Award Management (SAM) (www.SAM.gov)
- Collecting a certification from that contractor.
- Adding a clause or condition to the covered transaction with that contractor. (Recommended)

If an LEA uses the first option and checks SAM.gov, it should retain a printout from the website to document that they have verified the contractor’s status and complied with this requirement. 2 CFR 180.220 and 180.300.

Maintenance of Records

Records detailing the significant history of the procurement must be maintained, including, but not limited to, materials on:

- Rationale for the method of procurement
- Selection of the contract type
- Contractor selection or rejection
- The basis for the contract price. 2 CFR 200.318(j)

Time and Materials Contracts

“Time and materials contracts” are permissible under very limited circumstances. “Time and materials contracts” are defined as general in nature that only provides hourly or daily rates without a cap and no specific scope of work. LEAs should only contract with entities in which they know the specific work to be completed, in a specific time, with a specific cost. In general, the federal government disfavors contracts that do not establish a firm fixed price or rate because of the increased risk of cost overruns or unscrupulous contractors that may overcharge in order to obtain a higher fee. Time and materials contracts may be used 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. 2 CFR 200.318(j) (1). Further, a District awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

Settlement of Issues Arising out of Procurements

LEAs alone are responsible for the settlement of all contractual and administrative issues arising out of procurement disputes. 2 CFR 200.318(k). The federal government will not substitute its judgment unless the matter is primarily a federal concern. The types of issues that can arise include, but are not limited to, source evaluations, protests, disputes, and claims.

Competition

EDGAR requires that all procurement transactions (with limited exceptions) be conducted with full and open competition. The state competition requirements are outlined in Indiana Code 5-22. The federal competition requirements are outlined in 2 CFR. 200.319. In general, Districts must ensure that their procurement systems maximize competition so they can demonstrate that a good value was obtained by the federal program under which the service or item was procured. Examples of situations that could be considered restrictive of competition and therefore not allowed include:

- Placing unreasonable requirements on firms in order for them to qualify to do business;
- Requiring unnecessary experience or excessive bonding;
- Noncompetitive pricing practices between firms or between affiliated companies;
- Noncompetitive awards 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 requirements or other relevant elements of the procurement;
- Any arbitrary action in the procurement process.

Geographical Preferences

Statutorily or administratively imposed in-state or local geographic preferences are prohibited, except when an applicable federal statute expressly mandates or encourages geographical preferences. 2 CFR 200.319(b). This means that a District cannot limit competition to vendors located in a particular geographical area. Districts can however award points for knowledge of local or State laws and regulations. For example, the state of Indiana has a Buy Indiana preference, where it prefers to do business with Indiana companies. However, when utilizing federal funds, IDOE is barred from deploying this preference.

Written Procedures for Procurement Transactions

Written procedures for procurement transactions are required. 2 CFR 200.319(c). At a minimum, these procedures must ensure that all solicitations:

- Incorporate clear and accurate description of the technical requirements of the material, product, or service to be produced. This description should not unduly

restrict competition. For example, a District should not specify a brand name or draft such a detailed description that only a brand name will fit the description.

- Identify all requirements that the vendor must fulfill and all other factors to be used in evaluating bids or proposals.

Pre-qualified Lists

All pre-qualified lists of persons, firms, or products must be current and ensure that enough qualified sources are included to ensure maximum open and free competition. 2 CFR 200.319(d). Districts should be familiar with the State procurement rules regarding pre-qualified lists. All Contractors and Sub-contractors for IDOA Public Works projects valued at over $150,000 MUST be pre-qualified through the Public Works Certification Board. This requirement is applicable only to Public Works project contractors and subcontractors as established in IC 4-13.6.

Methods of Procurement

Where specific EDGAR thresholds apply, Districts must meet baseline requirements for procurement by micro-purchases, small-purchase procedures, sealed bids, competitive proposals, and procurement by noncompetitive proposals. If State or local rules have more restrictive thresholds, the most restrictive rule must be followed. A Procurement Methods Side by Side Comparison Chart can be found here.

1. Micro-purchase (0-$10,000)

Procurement by micro-purchase is the acquisition of supplies or services, which does not exceed $10,000. 2 C.F.R. 200.310(a). This amount was recently increased from $3,500 to $10,000 in a June 2018 Office of Management and Budget (OMB) Memo. To the extent practicable, the District must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the District considers the price to be reasonable. The procurement procedures for the District should outline what document is maintained regarding determining reasonableness for micro-purchases. For example, the District may determine a price is reasonable based on prior experience with similar purchases.

2. Small Purchase Procedures Using a Simplified Acquisition Threshold ($10,000 – $150,000)

Districts may follow relatively simple and informal small purchase procedures when the goods or services cost less than $250,000. 2 C.F.R. 200.320(b). While the federal “Simplified Acquisition Threshold” is $250,000 threshold, a State or local government may set a lower threshold for a “small purchase,” in which case the District is bound to use the lower threshold. If a State or local government has a threshold higher than $250,000 for purchases made with State or local funds, then the $250,000 threshold applies to federal funds.

If small purchase procedures are appropriate, Districts typically must simply solicit quotes from an adequate number of qualified sources, which OMB noted was at least two. Procurement procedures for the District should outline how many quotes are required, and the precise methods by which quotes must be obtain and documented (phone, fax, e-mail, internet search, etc.).

3. Procurement by Sealed Bids (Formal Advertising) (above $150,000)

A "sealed bid" is a formal method of procurement where the District publicly invites vendors to submit bids offering to provide goods or services at a specific price. This typically occurs at purchases above the small purchase procedure threshold. Under sealed bidding, a firm fixed price contract is awarded to the lowest responsible bidder whose bid conforms with all terms and conditions of the invitation. 2 C.F.R. 200.320(c). The invitation for bids is usually very detailed and includes a description of the item to be purchased or service to be rendered, as well as all of the terms and conditions that will be included in the contract. Generally, sealed bids are preferred for procurements that do not depend on qualitative factors, but rather the predominant consideration is 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. For local and tribal governments, the invitation for bids must be publicly advertised.
- The invitation for bids must include any specifications and define the items or services the vendor is expected to deliver in order for the bidder to properly respond.
- All bids must be publicly opened at the time and place prescribed in the invitation for bids.
- A firm fixed-price contract must be awarded to the lowest responsive and responsible bidder. A firm fixed-price contract establishes a fixed, lump-sum payment for delivery of a specific good or performance of a specific service. Factors such as discounts, transportation costs, 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.

4. Procurement by Competitive Proposals (above $150,000)

A "competitive proposal" is another formal method of procurement. Here, a District issues a public request for proposals, and vendors respond with proposals for the types of goods or services they will submit. This typically occurs at purchases above the small purchase procedure threshold. It is normally conducted with more than one source submitting an offer, and results in the awarding of either a fixed-price or cost-reimbursement type contract. 2 C.F.R. 200.320(d). Competitive proposals are generally used when conditions are not appropriate for the use of sealed bids. For example, competitive proposals may be appropriate when expertise is important, as is often the

case with professional services, or when the item to be purchased or services to be rendered are difficult to describe in an invitation for bids.
If competitive proposals are 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 honored to the maximum extent practical.
- Proposals must be solicited from an adequate number of sources ("adequate number" is not defined; the number for "adequacy" will vary in every case depending on the subject of procurement).
- Districts must have written methods for conducting technical evaluations of the proposals received and for selecting awardees.
- Awards must be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered. It is important to note that price is not the only factor considered in making the determination.
- 2 C.F.R. 200.310(d) (5) contains additional special rules for contracts for architectural and engineering services.

5. Noncompetitive (Sole Source) Proposals

In certain limited situations, noncompetitive proposals are permitted if one of the following circumstances applies:

- The item is only available from a single source.
- There is a public emergency.
- The awarding agency expressly authorizes noncompetitive proposals in response to a written request.
- After soliciting a number of sources, competition is determined to be inadequate. 2 C.F.R. 200.320(f).

These are the only valid reasons to permit noncompetitive proposals. It is essential to note that even if one of the above situations applies and the entity is permitted to make a noncompetitive procurement, the District is required to ensure the contract price is reasonable by conducting a cost analysis, as explained in the next section.
Districts that determine competition is not necessary because of a "sole source" exception should document how the decision was reached, e.g. completing a sole source justification form. Solely utilizing a letter from a vendor who states it is the only provider is not sufficient to demonstrate only a sole source exists. The LEA should conduct a reasonable search. Documentation should show the uniqueness of the services sought, the dearth of other available providers, and the specific experience of the vendor selected. Because sole source contracts require profit to be negotiated as a separate element of price (see below), we recommend the sole source justification form or similar documentation include the negotiated profit levels.

Cost and Price Analysis

Either a cost analysis or a price analysis must be performed for all procurement transactions over the Simplified Acquisition Threshold ($150,000). 2 CFR 200.323(a). This includes contracts, a contract amendment or any other type of contract modification that involves the expenditure of federal funds over the required amount. A cost analysis generally means evaluating the separate cost elements that make up the total price. Price analysis generally means evaluating the total price, without looking at the individual cost elements.

Which method to use and the degree of analysis will vary depending on the situation, but the regulations require LEAs to make independent estimates *before* receiving bids or proposals as a method of determining the reasonableness of the contract price. In addition, the LEA must negotiate profit as a separate element of the price for each contract in which there is no price competition (noncompetitive proposal) 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.

Contract Provisions

In addition to any contract provisions that may be required by an individual program statute or regulations, Districts must ensure that all contracts and purchase orders include all clauses required by federal statutes and executive orders.
2 CFR 200.326 requires LEAs to develop contracts that contain the following provisions from Appendix II to Part 200, as applicable:

- Contracts for more than $250,000 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.
- Contracts over $10,000 must contain language allowing termination for cause and for convenience.
- Notice of the awarding agency's requirements and regulations governing patent rights associated with any discovery or invention developed during or under the contract.
- Contract award must not be made to parties listed on the government wide exclusions in the System for Award Management (i.e. www.sam.gov).
- Contracts over $150,000 must contain a provision to agree to comply with the Clean Air Act (42 USC 7401-7671q) and the Federal Water Pollution Control Act (33 USC 1251-1387).
- Contracts over $100,000 must require applicants to certify that it will not and has not used Federal appropriated funds for covered lobbying activities, as required by Byrd-Anti-Lobbying Amendment (31 USC 1352).
- Depending on the type of contract, additional clauses must be included for certain federal legal requirements. For example, if LEAs utilize the CARES Act

funds for construction activities, then the LEA should attend to the language in the EEO and Davis-Bacon Act.:

- Equal Employment Opportunity. Contracts that meet the definition of "federally assisted construction contract" must include the equal opportunity clause in 41 CFR 60-1.4(b).
- Davis-Bacon Act. Prime construction contracts in excess of $2,000 must include a provision for compliance with the Davis-Bacon Act (40 USC 3141-3144, and 3146-3148).
- Contract Work Hours and Safety Standards Act (40 USC 3701-3708). Contracts in excess of $100,000 that involve employment of mechanics or laborers must include a provision for compliance with 40 USC 3702 and 3704.
- Rights to Inventions Made under a Contract. If the award meets the definition of "funding agreement" under 37 CFR 401.2(a), and the recipients enters into a contract with an organization regarding the substitution of parties, assignment of performance of experimental, developmental, or research work under that "funding agreement", the recipient must comply with 37 CFR Part 401.

Practical Advice Regarding Procurement Systems

Written Contracts or Purchase Orders Containing Clear Deliverables

It is very difficult to prove compliance with the "necessary and reasonable" requirements without a written contract or purchase order describing the specifications needed by an LEA. Further, having a written contract or purchase order is an important internal control to ensure there is no disagreement regarding the terms and conditions contractors must fulfill under the contract.
Therefore, ED monitors and Office of Inspector General (OIG) auditors recommend that contracts be sufficiently detailed to leave nothing to the imagination. Specifically, it is important to include a description of:

- The services to be performed or goods to be delivered
- The dates when the services will be performed or goods will be delivered
- The number of intended beneficiaries to be served, if relevant
- It is also important to clearly specify when payments will be made

Written Invoices

Written invoices are an important internal control that will facilitate an effective audit. It is important to include on the invoice a description of:

- The services the vendor performed or the goods it delivered
- The dates when the services were performed or goods were delivered

- The locations where the services were performed or goods were delivered
- The number of eligible beneficiaries that were served, if relevant

This information must match the terms agreed to in the contract.

Proper Segregation of Duties

A lack of “segregation of duties” typically means that either one person (such as a superintendent or principal) or a small group of people have sole final authority for approving various stages of procurement transactions. For example, duties are not properly segregated if one individual has authority for selecting a contractor, authorizing payment to that contractor and issuing the check. In this environment, the likelihood that fraud or unintentional errors will not be detected by a “system” is greatly increased. LEAs are wise to ensure that procurement duties are properly segregated so that there are numerous checks within an LEA’s system for facilitating and processing all procurement transactions. In addition, LEA procedures should provide employees with internal contacts and external contacts (e.g., ED OIG Hotline: https://www2.ed.gov/about/offices/list/oig/hotline.html) to report potential wrongdoing or conflicts involving employees, contractors or related persons.

Clear and Timely Payment Processes

It is important for LEAs to establish and enforce controls over their payment processes. LEAs should tie payment to deliverables. In other words, the contract should specify that the LEA is not responsible for paying until the contractor delivers what it promised under the contract. LEAs must be able to prove that all expenditures of federal funds are reasonable. Thus, an appropriate official should review proposed payments to ensure the contractor has met all of its responsibilities under the contract and payment is appropriate. This review should be documented to facilitate an effective audit. *See* 34 CFR 76.730.

Appropriate Documentation

The importance of maintaining adequate and appropriate documentation in easily accessible procurement files cannot be overstated. Many audit and monitoring findings are issued because files, receipts, or other supporting documentation cannot be located, required signatures or dates are missing from the documentation, or there is a mismatch between the invoice and payment amounts. Therefore, all recipients of federal grant funds must ensure that they have a documentation system that ensures that there is an adequate paper trail to validate every procurement made with federal funds. This is essential in order to prove compliance with the federal cost principles.

Frequently Asked Questions

Question: *When we started the contracting process, the contract was under the bidding threshold and we used small purchase procedures ($50,000 - $150,000) to select the contractor. Now, we are halfway through the year and want to increase the contract, but it will put the total contract amount above the bidding threshold. What do we do?*

Answer: Generally, federal procurement requirements are intended to ensure the lowest price for contracted goods or services. The District should mitigate its potential audit exposure by obtaining as much contemporaneous documentation as possible to demonstrate that the increased contract amount is at a fair and reasonable price. There may still be a technical violation of procurement requirements, but this documentation will help reduce the harm to the federal interest. As a best practice moving forward, if a contract is close to the bidding threshold, the district may want to follow competitive or sealed bidding procedures to avoid this issue should the contract eventually exceed the threshold.

Question: *In my LEA, individual school buildings have purchasing power. Are the procurement thresholds applied to each purchase, or must we aggregate the purchases from the same vendor across the district?*

Answer: Procurement thresholds apply to the non-federal entity, which is the LEA as a whole. Accordingly, the LEA should have procurement procedures that review individual school building purchases and aggregate purchases to the same contractor when determining what method of procurement is appropriate. If multiple schools select the same vendor, which causes the aggregate value of the contract to exceed a certain threshold, then the more comprehensive procurement procedures must occur.

Question: *If a contract will be paid with both federal and nonfederal funds, do I include the nonfederal purchases in determining which method of procurement to follow?*

Answer: If a contract will be paid with both federal and nonfederal funds the school should include both sources in determining which procurement method to follow to ensure compliance with federal procurement rules.

Part 5: Standards for Inventory Management Systems

Recipients must have an inventory management system in place to track items purchased with federal funds.
This section outlines the specific EDGAR thresholds that apply.

Definitions

Equipment

Equipment is defined as tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost that equals or exceeds $5,000. 2 CFR § 200.33. A State or District may set a lower threshold for defining equipment, but not a higher one. Indiana's threshold for equipment follows the federal definition of $5,000 per unit, so anything that costs less than $5,000 per unit would not be considered equipment unless the LEA voluntarily sets a lower threshold.

Supplies and Computing Devices

Supplies include all tangible personal property other than equipment. 2 CFR § 200.94. Part 200 emphasizes that computing devices are supplies if they fall below the per-unit threshold for equipment. Computing devices are defined as machines used to acquire, store, analyze, process, and publish data and other information electronically including accessories for printing, transmitting and receiving, or storing electronic information. 2 CFR § 200.20. Therefore, most technology items would be considered a supply rather than equipment due to the cost of each individual item.

Equipment Property Records

Specific records must be maintained to document the location and use of equipment, not supplies, purchased with federal funds. In accordance with 2 CFR § 200.313(d) (1) property records must include:

1. A description of the property;
2. A serial number or other identification number;
3. The source of funding for the property (including the FAIN);
4. Who holds title;
5. The acquisition date and cost of the property;
6. The percentage of federal participation in the project costs for the federal award under which the property was acquired;
7. The location, use, and condition of the property; and
8. Any ultimate disposition data, including the date of disposals and sale price of the property

Inventory management findings are common; therefore, it is essential to ensure that all of this information is maintained for equipment purchased with federal funds. However, the tag itself does not need to include all of this information; rather the identifying tag

could be scanned to an online system that maintains the detailed data. LEAs should also ensure that their inventory records are up-to-date so that they can account for all items purchased with federal funds at any given time.

Computing Devices: Best Practices. It is recommended (but not required) that LEAs tag “small and attractive” or “easily stolen” items that fall below the equipment threshold, such as tablets, laptops, cameras, etc. The tag should consist of a physical label with an inventory number, funding source, and name of the entity that holds title to the property. This would be an effective mechanism for demonstrating proper recordkeeping when monitors or auditors conduct onsite visits. However, some type of option must be utilized to ensure safeguarding if tagging and inventorying easily walkable items do not occur. Other options to safeguard computing devices include: sign in/ sign out sheets for devices; maintaining devices in a secured (locked) location when not in use; adding technology safeguards, such as tracking the device location via GPS and enabling external controls over the device that limit functionality, review use, and/or access stored data. If these supplies are not properly safeguarded and regularly are lost or stolen, then IDOE will call into question whether the items met the reasonable and necessary test since the LEA will go without the items for a considerable period of time unless replacements are purchased. This means that the safeguarding of items ensures that purchasing the items is considered allowable.

Physical Inventory

LEAs must take a physical inventory of their equipment at least every two years and reconcile the results. 2 CFR § 200.313(d) (2). In addition, there must be follow-up if any equipment is missing. It is possible the local government or the District’s own internal policies require a more frequent physical inventory. According to State Board of Accounts, A complete physical inventory must be taken at least every two years, unless more stringent requirements exist, to verify account balances carried in the accounting records. If so, Districts must follow the more restrictive rule.

Control System

As part of an inventory management system, LEAs must develop a control system to ensure that adequate safeguards are in place to prevent loss, damage, or theft of property. Any loss, damage, or theft must be investigated by the District. 2 CFR 200.313(d) (3). This means that there should be procedures in place in the event of any loss, damage, or theft. For example, LEA procedures should identify who to contact if that occurs and any necessary forms to fill out. The procedures could vary depending on the value of the item lost or stolen: for example, items above a certain threshold could be referred to insurance and/or the police for investigation.

Adequate Maintenance of Equipment

LEAs must ensure that adequate maintenance procedures are in place to keep equipment purchased with federal funds in good condition. 2 CFR 200.313(d) (4). Assuming they are

necessary, reasonable, and properly allocated, maintenance costs can generally be charged to federal grants if they:

- Keep property in efficient operating condition
- Do not add to the permanent value of the property or appreciably prolong its intended life
- Are not otherwise included in rental fees or other charges for space. 2 CFR 200.452

Trade-In and Sales Procedures

When acquiring replacement equipment or computing devices, the LEA may use the current equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property. 2 CFR 200.313(c) (2)(4). If the LEA is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return. However, the LEA must first determine whether the equipment may be utilized with another federal program, such as Title I A funded equipment being utilized in the 21st Century CLC after school program when no longer needed during the day.

Use of Equipment

Equipment or computing devices may be used 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. 2 CFR 200.313(a) (1). The use by the LEA in the program or project for which it was acquired should occur as long as needed, whether or not the project or program continues to be supported by the federal award. 2 CFR 200.313(c) (1). However, this does not apply to use of equipment at private schools as part of equitable participation services as that property must be removed and returned to the LEA when no longer supported by the federal award or as necessary to avoid unauthorized uses. 34 CFR 76.661.

When no longer needed for the original program or project, the equipment may be used in other programs in order of the following priority:

1. Activities under another 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 program, the LEA must also make equipment available for use on other projects or programs currently or previously supported by federal funds, provided the use will not interfere with the work on the project or program for which it was originally acquired. Keep in mind, “interfere” is interpreted broadly by the U.S. Department of Education and generally includes regular, planned use by another program or project – even if there is no overlap in time. For example, if equipment purchased with federal funds for an after-school federal program is regularly used during the school day for non-federal purposes, this regular use “interferes” with the federally-funded project by shortening the lifespan of the equipment. Therefore, this type of regular

use should contribute to the purchase price so that the multiple programs all contribute proportionally according to the use.

Disposition of Equipment

There are specific rules for disposing equipment, depending on what the equipment will be used for and its value. 2 CFR 200.313(e). When an LEA no longer needs equipment for the original program for which it was purchased, the LEA may use the equipment for other programs that are currently, or were previously, supported with federal funds, unless otherwise provided in federal statutes, regulations or federal awarding agency disposition instructions. If such a disposition is made, the transfer must be recorded in the property management system. If required by the terms and conditions of the federal award, the District must request disposition instructions from the federal awarding agency. For state-administered programs such as Title I, A, the LEA does not need to seek permission from IDOE or ED as long as the disposition rules are followed.

If there are no federally supported programs that need the equipment, the disposal rules depend on the current fair market value of equipment. If the equipment has a current per-unit fair market value of $5,000 or less, the LEA may keep equipment, sell it, or otherwise dispose of it with no further obligation to the federal awarding agency. 2 CFR 200.313(e) (1). This is if the LEA is selling only one item. If there are multiple items to be sold, then see the disposition rules in the H. Supplies section.

If the equipment has a current per-unit fair market value in excess of $5,000, the LEA may keep or sell the equipment but must pay the federal awarding agency a share based on the percentage of federal in the initial acquisition. For example, if a LEA purchased a copier with $5,000 of state funds and $5,000 ESSA Title I funds, the federal participation is 50 percent. If the LEA then sells the copier for $6,000, the District must pay $3,000 to ED through IDOE. However, the District can deduct from the federal share $500 or 10 percent of the proceeds (whichever is less) for the LEA's selling and handling expenses. 2 CFR 200.313(e) (2).

It is important that LEAs must take care to accurately value equipment. Ensuring proper valuation is an important part of a sound control system. It is a good idea for Districts to maintain written procedures explaining how they value equipment and ensure employees are trained on these procedures. The LEA must maintain sufficient documentation to support a valuation.

Supplies

Generally, supplies do not cost much and are used fairly quickly because they are consumable items (e.g., books, pens, paper, and printer toner). As a result, supplies do not have to be recorded in an inventory management system and do not require formal inventory. However, LEAs must maintain information about their purchases and protect and use the supplies in the program that paid for them in order to prove all costs are necessary, reasonable, and allocable to the grant.

If an LEA has unused supplies that, in the aggregate, have a fair market value of more than $5,000 at the end of grant award period (including computing devices and equipment no longer over the market value of $5,000 per unit, the LEA should use the supplies for another project that is supported with federal funds. 2 CFR 200.314(a). If the supplies are not needed for another federally supported project, the LEA must compensate the federal awarding agency for its share of the value of supplies.

Frequently Asked Questions

Question: *If I have multiple items on a purchase order, do I aggregate those items to determine whether the purchase exceeds $5,000 and would be considered "equipment," or do I consider each item separately?*

Answer: The definition of equipment states that it is "per unit". Whether multiple items are part of a "unit" or should be treated separately will depend on the use. For example, the costs of a smartboard and interactive clickers would be aggregated, because the interactive clickers are not independently used. However, the purchase of six laptops to be distributed to separate classrooms would not be aggregated, as each item is used separately from the others.

Question: *Is prior approval necessary before purchasing equipment with federal funds?*

Answer: 2 CFR 200.439 requires Districts to get prior approval from the awarding agency (generally, IDOE) before purchasing equipment with federal funds.

Question: *Do computing devices need to be inventoried?*

Answer: Not necessarily. Only equipment must be inventoried. Computing devices that cost less than $5,000 are not equipment. That said, auditors and monitors expect enhanced internal controls for computing devices because these items tend to get lost/stolen at a higher rate than other supplies. Accordingly, many LEAs inventory computing devices to meet those internal control requirements. Other options for safeguarding computing devices are discussed in *Computing Devices: Best Practices* above.

Part 6: Cost Principles

General Cost Principles and Selected Items of Cost

The Education Department General Administrative Regulations (EDGAR) state that the general principles to be used in determining allowable costs to grants and subgrants are specified in 2 CFR Part 200, Subpart E – Cost Principles. Part 200 outlines specific factors that all costs must meet in order for an expense to be allowable under any federal program. Additionally, Part 200 includes other regulations related to specific items of cost.

Basic Cost Principles

Necessary, Reasonable, and Allocable

A fundamental requirement for any use of federal funds is that the cost must be "necessary and reasonable for the performance of the federal award and be allocable."2 CFR 200.403. It is important to note that this is actually a three-pronged standard: a cost must be "necessary" and "reasonable" and "allocable," - all are different standards. Determining whether a cost is **"necessary"** is a programmatic determination. Specifically, the expenditure must be "generally recognized as ordinary and necessary for the operation of the LEA or the proper and efficient performance of the federal award." 2 CFR 200.404(a). A key aspect in determining whether a cost is necessary is whether it can be demonstrated that the cost addresses an existing need that ties to the purpose of the federal program and is included in the district or school-level plan.

For the purpose of determining if a cost is **"reasonable,"** Part 200 employs the "prudent person" standard. This means that a cost is reasonable if, in its nature and amount, it does not exceed the amount that would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. 2 CFR 200.404.

> *Distinguishing between "necessary" and "reasonable"*. A district sent 20 staff members to an out-of-state training related to a federal grant program. Although the training was "necessary" to assist the district in operating the program, the costs to send 20 staff was not "reasonable" – a prudent person would send only a few staff members to the training, and then bring the information back to share with others or procure the training to be delivered onsite at the school so no travel occurred. Accordingly, a monitoring report disallowed travel costs related to several of the staff as being unreasonable.

A cost is **"allocable"** to a particular federal program if the goods or services in question are chargeable to the program "in accordance with relative benefits received." 2 CFR 200.405(a). This means charging in proportion to benefit received. For instance, if a teacher is paid 50 percent from ESSA Title I, then at least 50 percent of this time must be spent providing a benefit to the Title I program. Similarly, if IDEA pays 20 percent of the cost of an instructional computer, the District must be able to demonstrate that 20 percent of the computer usage is by IDEA-eligible students in an IDEA-eligible activity.

Helpful Questions for Determining Whether a Cost is Allowable

In addition to the cost principles and standards described above, LEAs can refer to this section for a useful framework when performing an allowability analysis. In order to determine whether federal funds may be used to purchase a specific cost, it is helpful to ask the following questions:

- Is the proposed cost allowable under the relevant program?
- Is the proposed cost consistent with an approved program plan and budget?
- Is the proposed cost consistent with program specific fiscal rules?
    - For example, the District may be required to use federal funds only to supplement the amount of funds available from nonfederal (and possibly other federal) sources.
- Is the proposed cost consistent with EDGAR?
- Is the proposed cost consistent with specific conditions imposed on the grant (if applicable)?

As a practical matter, Districts should also consider whether the proposed cost is consistent with the underlying needs of the program. For example, program funds must benefit the appropriate population of students for which they are allocated. This means that, for instance, funds allocated under Title III of the Elementary and Secondary Education Act (ESEA) governing language instruction programs for English learners (ELs) must only be spent on EL students and cannot be used to benefit non-EL students. For example, if an LEA requests to purchase a projector for the English learner teachers classroom to provide supplemental EL services, but the projector is consistently shared and used by non-Title III eligible students and teachers, then another funding stream should support the appropriate portion of the cost to procure the projector.

Conforming to Limitations or Exclusions

All conditions imposed by the federal government must be met. The cost must conform to any limitations or exclusions set forth under EDGAR, the cost principles, other federal laws, terms and conditions of the federal award, or other governing regulations. 2 CFR 200.403(b).

Consistent with Policies, and Procedures

The cost must be consistent with policies and procedures that apply uniformly to both federal awards and other activities of the LEA. 2 CFR 200.403(c). Any federal cost must be consistent with rules that apply uniformly to federal and nonfederal activities. For example, if per diem rates for employees whose salary and travel are paid from State and local funds is one amount, then there cannot be a different higher amount for employees paid from federal funds.

Be Accorded Consistent Treatment

Part 200 requires that "like" costs be treated consistently when determining whether they are charged indirectly or directly. 2 CFR 200.403(d). A cost may not 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. For example, many LEAs request the time and effort of fiscal staff to be included in the indirect cost rate so that these individuals do not have to maintain time and effort documentation for their sporadic work on the federal projects. However, the LEA would not be allowed to include their time and effort in the calculation of the indirect cost rate and then directly budget their time and effort into the grant application. This would be double dipping, and requesting the federal award to pay for their activities twice. Federal program administrators should be aware of what activities were requested to be included in the indirect cost rate calculated by the IDOE, which will vary by LEA, so to not charge a cost indirectly and directly.

Determined in Accordance with Generally Accepted Accounting Principles

Unless otherwise provided for under the cost principles, every cost must be determined in accordance with generally accepted accounting principles (GAAP). 2 CFR 200.403(e). GAAP actually establishes professional standards for accountants, but its inclusion in the cost principles makes following GAAP an aspect of allowability.

Not Included as a Match or Cost Share

If a cost is supported with federal funds, it generally cannot be counted toward a matching or cost sharing obligation, unless the specific federal program authorizes federal costs to be treated as such. 2 CFR 200.403(f). For example, if a private foundation requires the LEA to match certain costs in order to receive the private funding, the LEA would not be able to count federally funded costs as meeting the matching obligation, unless allowable and seeking prior approval from IDOE.

Net of Applicable Credits

Any potential reduction or offset in the cost must be credited back to the federal program. 2 CFR 200.406. "Applicable credits" refers to receipts or reductions of expenditures that offset or reduce the cost to federal awards. Examples, include purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds or rebates, and adjustments of overpayments or erroneous charges. Such credits must be credited to the federal award as either a cost reduction or cash refund, as appropriate. If an LEA requests an excess of funds due to a later rebate or discount received, then the LEA will account for this difference by reducing future reimbursements by the rebate received. If no reimbursement for the next period is needed but the LEA received a rebate on a federally funded purchase, then the LEA may account for the difference by entering in negative (-) numbers into the reimbursement form.

Adequately Documented

All costs must be adequately documented. 2 CFR 200.403(g). This is an extremely important factor to demonstrate allowability. Without adequate documentation, it is very difficult to prove that a particular cost is allowable.

Selected Items of Cost

After ensuring that a cost does not violate one of the general principles described above, the LEA must ensure that the specific cost category is allowable under EDGAR. For each of the listed items, Part 200 indicates if the cost is allowable or unallowable. In most instances, however, the answer is not that simple and falls somewhere in between, indicating it is allowable only under certain circumstances or subject to certain restrictions. Also, be aware that the cost categories do not make a cost allowable if it is not allowable in the program itself. Thus, a cost must meet the program requirements *and* qualify in one of the categories of allowable costs. The easiest method to determine allowability is to provide a detailed description within a grant application and seek IDOE approval.

When applicable, LEA staff must check costs against the selected items of cost requirements to ensure the cost is allowable. In addition, State, District and program-specific rules may deem a cost as unallowable and LEA personnel must follow those non-federal rules as well. The use of funds ultimately are subject to IDOE approval.

The selected item of cost addressed in Part 200 of the Electronic Code of Federal Regulations includes the following (in alphabetical order):

Item of Cost	**Citation of Allowability Rule**	**Allowable, Unallowable; Allowable with Restrictions; or Unallowable with Exceptions**
Advertising and public relations costs	2 CFR § 200.421	Allowable with Restrictions
Advisory councils	2 CFR § 200.422	Allowable with Restrictions
Alcoholic beverages	2 CFR § 200.423	Unallowable
Alumni/ae activities	2 CFR § 200.424	Unallowable
Audit services	2 CFR § 200.425	Allowable with Restrictions
Bad debts	2 CFR § 200.426	Unallowable
Bonding costs	2 CFR § 200.427	Allowable with Restrictions
Collection of improper payments	2 CFR § 200.428	Allowable
Commencement and convocation costs	2 CFR § 200.429	Unallowable with Exceptions
Compensation – personal services	2 CFR § 200.430	Allowable *with specific criteria*
Compensation – fringe benefits	2 CFR § 200.431	Allowable with Restrictions
Conferences	2 CFR § 200.432	Allowable with Restrictions
Contingency provisions	2 CFR § 200.433	Unallowable with Exceptions
Contributions and donations	2 CFR § 200.434	Unallowable
Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements	2 CFR § 200.435	Unallowable with Exceptions
Depreciation	2 CFR § 200.436	Allowable with Restrictions
Employee health and welfare costs	2 CFR § 200.437	Allowable with Restrictions
Entertainment costs	2 CFR § 200.438	Unallowable with Exceptions

Equipment and other capital expenditures	2 CFR § 200.439	Allowable with Restrictions
Exchange rates	2 CFR § 200.440	Allowable with Restrictions
Fines, penalties, damages and other settlements	2 CFR § 200.441	Unallowable with Exceptions
Fund raising and investment management costs	2 CFR § 200.442	Unallowable with Exceptions
Gains and losses on disposition of depreciable assets	2 CFR § 200.443	Allowable with Restrictions
General costs of government	2 CFR § 200.444	Unallowable
Goods and services for personal use	2 CFR § 200.445	Unallowable
Idle facilities and idle capacity	2 CFR § 200.446	Idle facilities - unallowable with exceptions; idle capacity - allowable with restrictions
Insurance and indemnification	2 CFR § 200.447	Allowable with Restrictions
Intellectual property	2 CFR § 200.448	Allowable with Restrictions
Interest	2 CFR § 200.449	Allowable with Restrictions
Lobbying	2 CFR § 200.450	Unallowable with Exceptions
Losses on other awards or contracts	2 CFR § 200.451	Unallowable
Maintenance and repair costs	2 CFR § 200.452	Allowable with Restrictions
Materials and supplies costs, including costs of computing devices	2 CFR § 200.453	Allowable with Restrictions
Memberships, subscriptions, and professional activity costs	2 CFR § 200.454	Allowable with Restrictions
Organization costs	2 CFR § 200.455	Unallowable with Exceptions
Participant support costs	2 CFR § 200.456	Allowable with Restrictions
Plant and security costs	2 CFR § 200.457	Allowable
Pre-award costs	2 CFR § 200.458	Allowable with Restrictions
Professional services costs	2 CFR § 200.459	Allowable with Restrictions
Proposal costs	2 CFR § 200.460	Allowable with Restrictions

Publication and printing costs	2 CFR § 200.461	Allowable with Restrictions
Rearrangement and reconversion costs	2 CFR § 200.462	Allowable with Restrictions
Recruiting costs	2 CFR § 200.463	Allowable with Restrictions
Relocation costs of employees	2 CFR § 200.464	Allowable with Restrictions
Rental costs of real property and equipment	2 CFR § 200.465	Allowable with Restrictions
Scholarships and student aid costs	2 CFR § 200.466	Allowable with Restrictions
Selling and marketing costs	2 CFR § 200.467	Unallowable with Exceptions
Specialized service facilities	2 CFR § 200.468	Allowable with Restrictions
Student activity costs	2 CFR § 200.469	Unallowable with Exceptions
Taxes (including Value Added Tax)	2 CFR § 200.470	Allowable with Restrictions
Termination costs	2 CFR § 200.471	Allowable with Restrictions
Training and education costs	2 CFR § 200.472	Allowable
Transportation costs	2 CFR § 200.473	Allowable
Travel costs	2 CFR § 200.474	Allowable with Restrictions
Trustees	2 CFR § 200.475	Allowable

Travel Costs

Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of a grant recipient. Such costs may 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 recipient's non-federally funded activities and in accordance with the recipient's written travel reimbursement policies. 2 CFR §200.474(a).

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 be maintained that justifies 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 policy. 2 CFR §200.474(b).

Additionally, the LEA must have written travel policies in order for travel costs to be allowable. A typical travel policy addresses the types of travel, including single day travel, overnight travel, out-of-state travel, what expenses may be reimbursed, and what type of documentation is needed for reimbursement. This travel policy also needs to conform with State and local laws. It is a local determination whether to utilize state or federal rates, such as mileage reimbursement, as long as the application is made uniformly.

Indirect Costs

Direct versus Indirect Costs

One of the most important and complex distinctions for determining how to charge allowable costs to federal awards is whether an expenditure is a direct cost or an indirect cost.

Essentially, direct costs are those that can be identified specifically with a particular program, such as program services provided to intended beneficiaries or compensation of the employees who administer the program. 2 CFR 200.413. The following are examples of legitimate direct costs that should be assigned to a specific grant.

- The salary and benefits for a site coordinator whose sole responsibility is overseeing a 21st Century Community Learning Center summer school program.
- Books purchased for use in an ESEA Title I, Part A program.
- Professional development for teachers under the ESEA Title III English Language Acquisition program.

In contrast, indirect costs (also referred to as facilities and administrative costs) are incurred for common or joint purposes that benefit multiple cost objectives and cannot easily be associated with one specific program without an effort disproportionate to the cost. 2 CFR 200.56.

For example, consider the costs of preparing the payroll for a school district. It would be difficult to identify the precise incremental cost of calculating the paychecks for a few specific grant-funded personnel among hundreds of employees in a school district and then assign that cost to the relevant funding source (or sources). Yet these personnel clearly add some expense to the overall cost of calculating the payroll.

Another example, if a wing of the administration building holds office space for full-time federally funded employees. The utilities cost for this wing cannot be easily differentiated from the cost of the utilities as a whole, but if those employees did not exist, the LEA could turn off lights and AC or heat to that part of the building. The federally funded employees clearly raise the cost of the utilities, but since that cost cannot be determined without "a

disproportionate amount of effort", then the LEA should capture this burden through its indirect cost rate.

General data processing, accounting, procurement, human resources, motor pools, and the costs of a superintendent's or dean's office usually fall in the category of indirect costs.

Calculating Restricted Indirect Cost Rates

To ensure that federal funds pay their fair share of these "overhead" expenses, the federal government allows recipients and sub-recipients to apply a certain indirect cost rate to direct costs under their grants to reimburse themselves for these costs. An indirect cost rate is a fraction: the numerator includes the indirect costs (paid with nonfederal funds), and the denominator is the distribution base. For federal education grants with supplement not supplant provisions, LEAs and other grantees must use a "restricted" indirect cost rate. 34 CFR 76.703. IDOE calculates the indirect cost rates for all LEAs, and the restricted rate must be utilized for all ESSA and IDEA funds. An unrestricted rate is also provided for all LEAs, but can only be used on programs without a supplement not supplant provision, like food and nutrition programs.

Restricted indirect cost rates require a "modified total direct cost" distribution base. Modified total direct costs are all direct costs of the LEA (federal and nonfederal), minus certain distorting items, such as equipment, capital expenditures, subawards exceeding $25,000, participant support costs, tuition remission, scholarships and fellowships, and other items as necessary. 2 CFR 200.68.

Grant applications setup within INtelligrants will automatically exclude equipment purchases from expenditures in which the indirect cost rate can be applied. Furthermore, LEAs will have to provide the name of each vendor in which a contract exists as well as the value of the contract to then exclude all values above $25,000. When contracting with a vendor, the overhead is shifted to the vendor but the LEA has some minimal burden in managing the vendor. Therefore, LEAs can charge the ICR to just the first $25,000 of the contract expenses but the rest it cannot.

To calculate a restricted indirect cost rate, certain items that may otherwise be considered "indirect costs" are removed from the indirect cost "pool" (numerator) and included in the direct-cost base (denominator). In general, the items subject to this treatment include costs associated with the chief executive officer (such as the superintendent), immediate officers (such as deputy chiefs or similar executive officers), immediate support staff of these individuals, and related costs. 34 CFR 76.565(c). These high-level positions and associated costs would exist with or without the existence of federal aid to the organization. Therefore, although they are indirect costs, they are not eligible to be claimed (i.e., included in the numerator) in calculating the restricted rate. The restricted indirect cost rate further filters costs that are not "organization-wide" and for the "direction and control" of the grantee. Accordingly, costs associated with activities within a single organizational unit and/or cross cutting educational activities (e.g., curriculum development, library services, evaluation services, etc.) are also removed from the

numerator and included in the denominator of the rate calculation. 34 CFR 76.565(a).

IDOE is the cognizant agency that negotiates restricted indirect cost rates with LEAs and provides that rate to all LEAs. Funds with supplement not supplant language must utilize a restricted rate, whereas programs without (such as USDA food/nutrition funds) may utilize an unrestricted rate.

Applying the Restricted Indirect Cost Rate

Once the District has its approved restricted rate, then the District applies that rate to the modified direct costs charged to federal grants. For example, assume a District has a restricted indirect cost rate of 8%. For every dollar ($1.00) the District spends, the District in fact incurs additional overhead costs (accounting, utilities, payroll, etc.) that are not captured; accordingly, the District charges the grant $1.08 – the $.08 is reimbursement for those indirect costs that are incurred. The reimbursement for indirect costs (i.e., indirect charges against the grant) are treated as nonfederal funds; there is no federal accountability for those funds. The LEA can transfer the reimbursement of indirect costs to the general fund or other uses for non-federal purposes. Furthermore, even if the LEA has a rate, such as 6.5%, it is not required to request use of the full rate nor must it do so in the same manner across all federal grants. It is permissible for the LEA to request the use of the ICR on Title I, but forego utilizing it on Title II, for example.

Keep in mind, the rate is applied to modified direct costs, not the entire grant award. LEAs cannot apply the indirect cost rate to items removed from the distribution base, such as equipment. If the LEA has a contract that exceeds $25,000, the District may apply the rate only to the first $25,000 in expenditures under the subaward. If it is a multi-year subaward, then the LEA may recover indirect costs on the first $25,000 each year.

For their first academic school year of existence, new charter schools may receive the median indirect cost rate of the most recently available fiscal year.

Indirect Costs and Administrative Costs

Administrative costs can encompass both direct charges (preparing program plans, monitoring costs, etc.) and indirect charges (accounting, payroll, legal, etc.). For purposes of restricted rates, ED classifies all indirect costs as administrative because the restricted rate formula includes only general management costs in the indirect cost pool. Accordingly, if a grant program has a required cap on administration, then the cap applies to both direct administrative costs and all indirect cost recovery.[1]

[1] Title III, Part A contains a 2% cap on *direct* administrative expenses; accordingly, the cap does not limit LEA indirect recovery. ESSA Sec. 3115(b) (20 USC 6825).

Frequently Asked Questions

Question: *If my District's local travel policies have a different rate of reimbursement than federal government rates, must I use the lower rate?*

Answer: No, you use the rates established in the LEA's policy. While the general rule of thumb is to follow the most-restrictive rule, here, the federal regulations specifically defer to local written travel reimbursement policies if the costs are considered reasonable and necessary. The LEA would use federal rates only in the absence of local travel policies. 2 CFR 200.424(d).

Question: *Can I use federal funds to pay for light snacks and refreshments at a staff training and/or conference that the district is hosting?*

Answer: In most cases, food is not allowable. The U.S. Department of Education has issued guidance stating that food is almost never considered a necessary and reasonable expense for professional meetings and conferences. There is a limited exception for working lunches, but the burden is extremely high. As a general rule, the LEA should release teachers for them to purchase lunch on their own or to bring their lunch. An exception would be an out-of-state meeting whereas it would not be considered prudent to require the teachers to pack several lunches and dinners, and therefore the LEA could offer a per-diem or reimbursement of meal costs.

Question: *Can I use federal funds to pay for light snacks and refreshments at a parental involvement meeting? What are light snacks and refreshments?*

Answer: Yes. Light snacks and refreshments are not defined by the U.S. Department of Education. IDOE defines them as something less than a meal or a cost that is less than a meal; for example, hot dogs and pizza arguably are meals, whereas cookies and coffee/tea are not. Importantly, the restrictions on food purchases are intended to ensure that federal funds are primarily being used for programmatic purposes. If an LEA uses federal funds for light snacks and refreshments at parental involvement meetings, the costs should be minimal in comparison to the costs directly supporting the program. IDOE will consider food costs permissible for parent meetings if the cost of the food is similar to snacks rather than full meals. LEAs may choose to utilize practices that lower the cost of food, such as requesting a parent-teacher organization (PTO) provide some private funds, or may utilize in-house cafeteria staff to prepare the food, so that full meals can be provided to eligible families at a fraction of the cost. The per-person cost of food at parental involvement meetings should not be more than a few dollars.

Part 7: Time and Effort

Some of the most complex (and most common) costs to federal programs fall under the broad category of salaries and benefits, referred to as “compensation for personal services.” In Part 200 of EDGAR, the cost category “compensation — personal services” includes detailed rules on the use of federal funds for salaries and wages, fringe benefits, pension plan costs, post-retirement health benefits and severance pay, as well as whether these items are treated as direct or indirect costs.

Salaries and Wages: Time Distribution Records

In general, for salaries and wages to be allowable under all federal grant programs, all employees who are paid with federal funds must maintain time and effort records. 2 CFR 200.430(i). These are also referred to as time distribution records.

It is important to understand that the standards regarding time distribution exist in addition to the standards for payroll documentation. LEAs must document both time and attendance (reflecting the time period for which the employee worked, as documented in the payroll system), as well as time and effort (reflecting the federal programs on which the employee spent effort during his or her workday). 2 CFR 200.430(a) (3).

Part 200 changed the prescriptive rules of the past as set forth in the old OMB Circulars, including OMB A-87 which applied to State, Local and Indian Tribal Governments. The time and effort requirement under Part 200, described below, is very broad.

Standards for Documentation of Personnel Expenses

The general rule is that time and effort documentation must be maintained for all employees paid in whole or in part with federal funds. 2 CFR 200.430(i) (1). Additionally, all employees whose salaries and wages are used in meeting cost sharing or matching requirements must keep time distribution records. 2 CFR 200.430(i) (4). For example, if the LEA receives a federal grant that requires cost-matching from the LEA in non-federally funded services, the employees that will demonstrate the cost-match must keep time and effort documentation.

Part 200 makes clear that charges to federal awards for salaries and wages must be based on records that accurately reflect the work performed. 2 CFR 200.430(i) (1).

The purpose of time and effort recording is to provide documentation showing of the time spent working on specific federal programs to ensure charges are accurate for each program. Time and effort records to not necessarily need to be personnel activity reports (PARs). Other ways to record time and effort include, but are not limited to:

- A schedule
- Hourly or percent of the distribution of time spent

Time and effort records must:

- Be supported by a system of internal controls 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 both 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. For example, if a 1.0 FTE employee is partially funded with federal funds, the time and effort records must include both federal and non-federal activities.
- 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 or more indirect activities which are allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity.

  Part 200 clarifies that time can be expressed as a percentage distribution among cost objectives versus the number of actual hours worked – while this was accepted in the past, it was not explicitly permissible. 2 CFR 200.430(I) (1)(ix).

Cost Objectives

A cost objective is defined as “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 & Administrative) cost activity.” 2 CFR 200.28. In other words, a cost objective is any cost data element, such as a set-aside or cap that you need to track separately to prove you are meeting a legal requirement. It is not just tracking by federal program. For example, if a District has a 10% administration cap, the District has to track all administration costs. The parental involvement 1% set-aside is another example of a cost data element that would be its own cost objective. So if an employee conducts two different core job functions within Title I but is wholly funded by Title I, such as a parental liaison and an instructional assistant, then time and effort must still be kept to show that the LEA appropriately charges parental liaison activities to the 1% set-aside to ensure that minimum is met. A similar example would be the homeless set-aside.

The determination as to how many cost objectives an employee works on can be difficult. Under Part 200 (and the prior OMB Circular A-87), multiple cost objectives include:

- More than one federal award.
- A federal award and a non-federal award.
- An indirect cost activity and a direct cost activity.
- Two or more indirect cost activities which are allocated using different allocation bases.
- An unallowable activity and a direct or indirect cost activity. 2 CFR 200.430(i) (1)(vii).

Importantly, the number of cost objectives an employee is working on is based on the employee's workload and activities, not how the employee is funded. It is possible that an employee is split-funded (for example, funded by Title I, A and state funds), but working on a single cost objective (for example, as a resource teacher in a schoolwide school). Accordingly, employees that are split-funded may work on a single cost objective, and therefore, keep less frequent time and effort documentation (such as semi-annual certifications).

Review and Adjustment of Budget Estimates

While the time distribution record-keeping requirements can be detailed (and some might say even onerous), simply keeping the right records is not sufficient to avoid compliance problems. The LEA must regularly compare the salaries paid (based on initial budgets) with the actual time and effort dedicated by employees and make adjustments when required. 2 CFR 200.430(i) (1)(viii).

Part 200 authorizes a LEA to use budget estimates or other distribution percentages determined before the services are performed for interim accounting purposes. If such estimates are used, the system for establishing the estimates must produce reasonable approximations of the activity actually performed, and any significant changes in the corresponding work activity must be identified and entered into the records in a timely manner. Frequently, a LEA will look to time distribution records from the prior year to get a reasonable budget estimate for the future period.

Whatever the system, the LEA must have a system of internal controls to review after-the-fact interim charges made to the federal award based on budget estimates. All charges must be reconciled and necessary adjustments made so that the final amount charged to the federal award is accurate, allowable, and properly allocated. 2 CFR 200.430(i) (1)(viii)(C). Accordingly, LEA may wait until the end of the grant period to make any reconciliation, provided the reconciliation is made. For example, the LEA may wish to fully fund all personnel costs with local funds, until the time/effort documentation is received that will allow the LEA to proportionally charge the respective federal funds for the time worked. Or, the IDOE utilizes an estimate to project how much in personnel costs to charge to each federal grant, and then each quarter reconciles the estimates with the actual hours worked to increase or decrease the amount charged to the federal grants when compared to the estimate.

Frequently Asked Questions

As reflected above, the time and effort requirements under Part 200 are very broad and much less prescriptive than the prior OMB A-87 Circular. The following questions and answers are intended to clarify the time and effort requirements under Part 200.

Question: *Can we still use Personnel Activity Reports (PARs) and semiannual certifications?*
Answer: Yes, PARs and semiannual certifications that met the standards under OMB A-87 would be compliant with the new requirements in Part 200.

Question: *Who must sign time and effort documentation?*

Answer: Part 200 does not specify signature requirements for time and effort documentation. To verify accuracy of the documentation, IDOE requires the employee and/or a supervisor with firsthand knowledge of the work performed sign the documentation.

Question: *How frequently must time and effort documentation be collected?*

Answer: Part 200 does not provide a timeframe requirement for time and effort documentation. As such, there is some flexibility in how frequently to collect documentation. For example, an LEA may consider doing a single certification for the entire school year if there is a teacher who will have set schedule for the whole year instead of doing a semiannual certification or PAR. For example, if a full-time employee serves as a Title III aide for 50% of the day and a Title I parent liaison for 50% of the day, and the daily schedule of the employee can demonstrate this schedule, then this documentation can be used in lieu of other types of time and effort documentation. In addition, a LEA may want to do PARs every other month, instead of on a monthly basis, for central-office staff working on multiple cost objectives. The timeframe would be up to LEA discretion while still ensuring that there are adequate internal controls in place. However, doing PARs at a minimum of once per month is recommended for best recordkeeping.

Question: *Are time and effort policies and procedures required?*

Answer: While Part 200 does not require time and effort procedures, a U.S. Department of Education Cost Allocation Guide states that such procedures are "essential" to implementing an effective time reporting system. Therefore, it is important to develop time and effort procedures. Such procedures should develop instructions for (1) the completion of time and effort reporting; (2) the approval cycle that is required; (3) the processing of personnel charges to federal awards; and (4) the internal review process that will be established to ensure effective internal control over the federal award. In addition, when there is an audit or monitoring, a District would be tested against its

written procedures. This means that it is imperative that written procedures and actual practices of the District are in alignment.
Question: *What happens if an employee is working more or less on a cost objective than originally budgeted?*

Answer: Budget estimates alone do not qualify as time and effort documentation. If an employee is not working in accordance with his or her budget, the LEA must make necessary adjustments so that the final amount charged to the federal award is accurate, allowable, and properly allocated. These necessary adjustments can be addressed in one of two ways. First, on the program side, the employee's responsibilities can be adjusted to be consistent with the distribution as budgeted. For example, if a Title II funded instructional coach is expected to be wholly funded with Title II, but is regularly pulled to substitute teach, then the allowability and allowability of fully funding this teacher with Title II is called into question, and the actual hours worked on Title II activities must be adjusted when reconciling the budget. Similar scenarios are why federally-funded employees should know what funding source supports their salary, and to what extent, so that the employee and supervisors know how to utilize the employee and/or to adjust the time and effort charged to the grant in coordination with fiscal staff.

Second, on the fiscal side, the employee's salary can be adjusted to reflect the increase/decrease on time spent for each cost objective. It is important that programmatic and fiscal staff jointly discuss what to do. If there is de minimis or short-term fluctuation in workload categories, a reconciliation would not be required as long as the distribution of salaries and wages is reasonable over the longer term. LEA procedures should discuss what they consider de minimis time on extra duties that need not be reflected in time distribution records (e.g., less than 5% of the employee's normal duties). For example, if a classroom teacher had a medical emergency and the Title I funded instructional coach has to cover the classroom for the rest of the day, this would not require reconciliation unless this type of activity happens regularly.

Question: *How often should reconciliation occur?*

Answer: There is no specific timeframe, but it would need to be done by the end of the fiscal year. So, while there is no objective standard, this should still be an element of your LEA'S internal controls. Your internal controls should outline who (e.g., grant accountant, business officer, program director, etc.) receives and reviews time and effort documentation and compares it against budgets; how often this review is done; and the process for ensuring final charges are adjusted to reflect actual effort. It is recommended that applicable LEA staff meet quarterly to review documentation to determine if reconciliation is necessary. IDOE reconciles its own budget on a quarterly basis by providing time and effort documentation to directors to review that the bi-weekly PARs were appropriately charged to the correct funding streams.

Part 8: Audit Requirements

Single Audits

LEAs that expend $750,000 or more in federal funds in a year must arrange for an annual audit of their use of those funds. 2 CFR 200.501(b). These audits are known as "single audits" because they are intended to cover all major federal programs administered by the LEAs. Districts that expend less than $750,000 in federal funds in a given year have no federal audit responsibilities in that year, although they are subject to normal program monitoring and oversight, as well as any State audit requirements. 2 CFR 200.503(d).

The $750,000 threshold that requires LEAs to conduct a single audit is determined by calculating all of the federal funds a recipient expends (not simply receives), regardless of which federal agency provided the money. 2 CFR 200.502(a).

Usually, Districts arrange for their own audits by professional audit firms but for traditional public schools, the State Board of Accounts (SBOA) conducts a bi-annual audit of the traditional LEA. However, charter schools are subject to an annual audit by arranging for their own audit by an approved SBOA third-party vendor that must follow agreed upon audit procedures. An auditor conducting a single audit reviews the LEA's operations and expenditures of all federal funds. Rules surrounding the single audit process are described in Subpart F of 2 CFR Part 200. In conducting their single audits, auditors rely heavily on the Office of Management and Budget's (OMB's) Compliance Supplement (available at https://www.whitehouse.gov/omb/management/office-federal-financial-management/). Thus, the Compliance Supplement is an important tool for federal education program managers in understanding what issues auditors will be focused on, and more generally, providing insight into the U.S. Department of Education's (ED's) compliance priorities. Whereas an LEA would utilize the compliance supplement to prepare for a single audit by the SBOA or a third-party auditor, IDOE is also required to conduct monitoring and oversight of the LEAs, usually reviewing additional programmatic and fiscal measures not audited by SBOA. IDOE's Title Grants and Support onsite and desktop monitoring protocols for programmatic and fiscal monitoring for ESSA funds can be found at www.doe.in.gov/grants. IDOE's Special Education monitoring protocols can be found at https://www.doe.in.gov/specialed/results-driven-accountability.

After completing the single audit, the auditor prepares a report which may contain findings and questioned costs for each major program. 2 CFR 200.515. The auditors must support their findings by presenting sufficient detail for the LEA to prepare a corrective action plan and for federal agencies and pass-through entities (Indiana Department of Education (IDOE)) to arrive at a management decision. 2 CFR 200.516(b).

The auditor provides the report to the LEA. The LEA then must review the findings and prepare a response including a corrective action plan, where appropriate. 2 CFR 200.511(a). The LEA's corrective action plan must include, for each audit finding, the:

- Specific corrective action planned.
- Name(s) of contact person(s) responsible for the corrective action.

- Anticipated completion date. 2 CFR 200.511(c).

If the LEA does not agree with an audit finding or does not believe a corrective action is warranted, the LEA may explain its position in writing. 2 CFR 200.511(c). Auditors may be willing to work with recipients to resolve disagreements before the final report is submitted to IDOE.
The LEA is responsible for submitting the final single audit report package (including any corrective action plans) to the Federal Audit Clearinghouse.

IDOE will issue a management decision within six months relating to Federal awards passed through to LEAs stating:

- Whether or not the audit finding is sustained
- The reason for the decision
- How the LEA is expected to resolve the finding, e.g., by repaying the disallowed costs, making a financial adjustment or taking other action. 2 CFR 200.521(a)

In the event the LEA has not implemented corrective actions, the management decision will include a timetable for follow-up on the LEA's implementation. In providing its management decision, IDOE requires the LEA to demonstrate that the correction actions agreed upon with the SBOA or third-party vendor have occurred. Finally, if appropriate, IDOE will provide information on any appeal process available for disputing the management decision only if there is a recovery of funds. 2 CFR 200.521. Generally, an appeal is only required under GEPA if IDOE requires a recovery of funds. If only non-monetary corrective actions are applied, then an appeal is not required to be allowed by IDOE.

Resolution Process

When resolving audit findings, IDOE and the LEA need to communicate to assess what corrective measures are appropriate, ensure that the LEA has timely implemented corrective actions and/or understand the obstacles accounting for the recurrence of particular findings. IDOE recommends that Districts provide a point of contact to communicate with regarding the resolution of audit findings. However, IDOE will send the communication to the superintendent, program administrator(s), and treasurer. In addition, effective communication is essential for the timely and proper resolution of all findings, as set forth in Uniform Guidance. 2 CFR 200.331(d) (2).

LEAs are expected to promptly implement corrective action on audit findings. The U.S. Department of Education (ED) recommends the use of cooperative audit resolution techniques in following up on significant or repeat findings involving complex and systemic issues. Cooperative audit resolution is based upon (a) a strong commitment by awarding agency and auditee leadership to program integrity; (b) strengthening partnerships and working cooperatively with awarding agencies, grantees and their auditors; (c) a focus on current conditions and corrective action going forward; (d) federal and pass-through agencies offering appropriate relief for past noncompliance when audits show prompt corrective action has occurred; and (e) federal and pass-

through agency leadership sending a clear message that continued failure to correct conditions identified by audits which are likely to cause improper payments, fraud, waste, or abuse is unacceptable and will result in sanctions. 2 CFR 200.25.
To assist in implementing cooperative audit resolution, ED created the Cooperative Audit Resolution and Oversight Initiative (CAROI) as a post-audit alternative. (*See* AGA, Guide to Improving Program Performance Through Cooperative Audit Resolution and Oversight (May 2010) https://www.agacgfm.org/Intergov/More-Tools/Cooperative-Audit-Resolution-and-Oversight-Initiat.aspx). CAROI is a collaborative method that provides alternative and creative approaches to resolve audit findings as well as their underlying causes. CAROI differs from traditional resolution processes in that it focuses on improving communication in a 'team' environment, developing a sense of trust among government officials, rather than utilizing a more 'traditional' resolution approach, reliant solely on written communication. It helps identify the underlying cause of findings and empowers the people who know programs best to chart a course for program improvement. One of the flexibilities within CAROI is to focus on corrective actions, rather than recovery of funds.

Frequently Asked Questions

Question: *Must individual charter schools receive single audits if part of a larger organization, or is the larger organization's single audit sufficient?*

Answer: Yes. In Indiana, even though some charters are part of a larger network, each charter school is its own LEA. The Federal Audit Clearinghouse (FAC) instructions discuss when "component" organizations may need their own single audit. Auditees are identified by their Employer Identification Number (EIN, or tax ID number) and DUNS number. If the charter school has a separate EIN and DUNS as they do within Indiana, then it will not be covered by the larger organization's single audit, and will need its own audit if the charter school expends more than $750,000 in federal funding.

Question: *Is IDOE required to engage in cooperative audit resolution?*

Answer: No. Federal agencies are required to use cooperative audit resolution when resolving single audits with grantees. 2 CFR 200.513(b) (3)(iii). However, pass-through entities are encouraged, but not required, to use cooperative audit resolution. IDOE will attempt to engage in cooperative audit resolution so that the standard resolution does not solely rely upon, but may include, repayment of funds.

Question: *What does "appropriate relief" mean within the context of cooperative audit resolution (2 CFR 200.25(d))?*

Answer: Generally, appropriate relief may include the forgiveness or reduction of recovery of questioned costs. Appropriate relief may only be offered when prompt corrective action occurred.

Part 9: Acronym Glossary

AGA	Association of Government Accountants
CAROI	Cooperative Audit Resolution and Oversight Initiative
CFR	Code of Federal Regulations
CLC	Community Learning Centers
DUNS	Data Universal Numbering System
ED	United States Education Department
EDGAR	Department General Administrative Regulations
EIN	Employer Identification Number
EL	English Learner
ESEA	Elementary and Secondary Education Act
ESSA	Every Student Succeeds Act
FAC	Federal Audit Clearinghouse
FAIN	Federal Award Identification Number
FERPA	Family Educational Rights and Privacy Act
FTE	Full-Time Equivalency
GAN	Grant Award Notification
GEPA	General Education Provisions Act
ICR	Indirect Cost Rate
IDEA	Individuals with Disabilities Education Act
IDOE	Indiana Department of Education
IHE	Institute of Higher Education
LEA	Local Education Agency
OIG	Office of Inspector General's
OMB	Office of Management and Budget
PARs	Personnel Activity Reports
PTO	Parent-Teacher Organization
RAN	Reasonable, Allocable, and Necessary
SAM	System for Award Management
SBOA	State Board of Accounts
SEA	State Education Agency
SIG	School Improvement Grant
T/E	Time and Effort