

# NEW EDGAR REGULATIONS FREQUENTLY ASKED QUESTIONS (FAQ):

*PRELIMINARY GUIDANCE APPLICABLE TO ALL  
FEDERALLY FUNDED GRANT PROGRAMS ADMINISTERED BY  
THE TEXAS EDUCATION AGENCY*

Blue text identifies changes, updates, and clarifications. New text is also bracketed with the following special characters for accessibility purposes: ►►► to indicate the start of new text or questions, and ◄◄◄ to indicate the end of new text or questions.

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## Changes in This Version

▶▶▶ This version 6 of the EDGAR FAQ addresses recently asked questions and changes made at the federal level. In particular, see questions 6.4 and 9.8 for clarification. New questions include 2.4, 3.8–3.11, 5.8, and 7.36–7.40. ◀◀◀

## Applicability of FAQ

Except where a question specifies a particular type of subgrantee, such as an education service center (ESC), all responses are intended for TEA subgrantees, primarily independent school districts (ISDs), charter schools, and ESCs.

USDE may issue additional EDGAR guidance in the future. This FAQ will be updated as further information becomes available.

*This FAQ document applies to all federally funded grant programs administered by TEA.*

## Source of Questions

This preliminary guidance is provided in response to questions TEA staff received either during or after the statewide and regional cluster trainings. We reworded some questions to make them applicable to all TEA subgrantees.

### 1. General Topics

#### 1.1 What is the difference between grantee, subgrantee, and non-federal entity?

Response:

Basically the Texas Education Agency (TEA), as the pass-through entity<sup>1</sup> (and a non-federal entity), is the grantee<sup>2</sup> from the US Department of Education (USDE) and TEA awards subgrants to non-federal entities<sup>3</sup> such as local educational agencies (LEAs), including ISDs, charter schools, and ESCs, and to a lesser degree institutions of higher education (IHEs), and nonprofit organizations (NPOs) who are the subgrantees<sup>4</sup>.

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<sup>1</sup> Pass-through entity is defined as a non-federal entity that provides a subaward to a subrecipient to carry out part of a federal program. (2 CFR 200.74)

<sup>2</sup> Grantee is defined as the legal entity to which a grant is awarded and that is accountable to the federal government for the use of the funds provided. The term “grantee” does not include any secondary recipients, such as subgrantees and contractors that may receive funds from a grantee. (34 CFR 77)

<sup>3</sup> Non-federal entity is defined as a state, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a federal award as a recipient or subrecipient. (2 CFR 200.69)

<sup>4</sup> Subgrantee is defined by TEA to be the same as a subrecipient which is defined as a non-federal entity that receives a subaward from a pass-through entity to carry out part of a federal program; but does not include an individual that is a beneficiary of such program. (2 CFR 200.93) Subgrantee is defined in 34 CFR 77 as the legal entity to which a subgrant is awarded and that is accountable to the grantee for the use of the funds provided.

## **1.2 Does the Texas Literacy Initiative (TLI) continuation grant have to follow EDGAR guidelines?**

Response:

All federal education grants follow EDGAR. Since TLI is a federally funded continuation grant, it will follow the old or new EDGAR based on what is stated on the LEA's NOGA supplement. At this time, it is expected that the continuation grants will continue to follow the old EDGAR rules; however, the new EDGAR has a provision that USDE could change the terms and conditions of the grant award to TEA and thus require the continuation grant to follow the new EDGAR rules. The subgrantee will need to pay particular attention to, and read, the complete 2015-2016 school year NOGA and supplement.

## **1.3 What about eRate vendors? Can we still limit the distance from LEA for bid submission for eRate purposes?**

Response:

The eRate is generally considered a reimbursement rather than a grant; however, you must contact the eRate program office for clarification.

## **1.4 Will current "policy services" vendors have the updated policies?**

Response:

Contact your policy service vendor for details on their individual plans to update policies or not. However, the obligation to ensure compliance with EDGAR is with the subgrantee regardless of your local process for writing and adopting policies and procedures.

Please note that USDE may release additional guidance in June and TEA will update its guidance accordingly. Be sure you are keeping up to date on the most recent guidance available as you write your policy and procedures.

## **1.5 Does ROTC grant have to follow EDGAR rules?**

Response:

All federal grants must follow the new Part 200 administrative requirements. The new EDGAR is specific to federal awards from USDE. However, you should review the new Part 200 administrative requirements from the applicable federal awarding agency of the grant in question.

## **1.6 If an LEA develops policy changes and submits them to the board for first review in June, the changes cannot be approved or adopted until the July board meeting. Does submitting changes for first reading review meet the requirement of having policies and procedures in place by July 1, even though it hasn't received the final board approval yet? (We will submit our eGrants application by June 30.)**

Response:

The policies and procedures are to be completed by July 1. Regarding the approval and adoption process for the required policies and/or procedures, the subgrantee is to follow its local process and policy for approval of administrative policies and procedures when seeking approval of the required EDGAR policies and procedures. The subgrantee's policies and procedures are not official until this approval process has been completed.

If the subgrantee has completed its writing of the policies and procedures and is fully implementing them, prior to the official approval process, the subgrantee would generally be considered to be compliant as long as the approval process is completed in a timely manner. If the subgrantee were to be cited for noncompliance in this situation, the corrective action would be to document the approval of the policies and procedures and there would likely be no questioned costs with the finding.

▶▶▶ See Appendix 1 for a complete list of policy and procedure requirements from 2 CFR 200. ◀◀◀

**1.7 Will shared services arrangements (SSAs) for special education need their own management board policies, procedures, and internal control systems by July 1, or will the fiscal agent's having all of them in place meet the requirements?**

Response:

The responsibility for compliance with the new EDGAR belongs to the non-federal entity receiving the funds (the fiscal agent) for the SSA. The SSA agreement must define the roles and responsibilities of the fiscal agent and the member LEAs, including the responsibilities for policies and procedures. The agreement would be followed and documented in the policies and procedures document of the fiscal agent for the SSA. It is possible that the responsibility for policies and procedures may be shared between the fiscal agent and member LEAs, depending on arrangement and organization of the SSA.

**1.8 Are the following funds subject to the new EDGAR: Food Service (fund 240), MAC (fund 272—claim reimbursement program), and SHARS (claim reimbursement program)?**

Response:

All federal grants must follow the new Part 200 administrative requirements. The new EDGAR is specific to federal awards from USDE. However, you should review the new Part 200 administrative requirements from the applicable federal awarding agency of the grant in question. MAC and SHARS are reimbursements and not federal awards.

**1.9 The SHARS and MAC guidance through HHSC states that record retention for those programs should meet federal retention guidelines of seven years. However, under 200.333 of EDGAR, records pertaining to the federal award must be retained for three years. Could you please clarify this difference?**

Response:

Check with HHSC for clarification.

For USDE grants, the recommendation is five years past the revised final expenditure reporting date, or closing of any open audit or litigation, whichever is later. The federal statute of limitations, under 34 CFR 81.31 of the General Education Provisions Act (GEPA), for requesting repayment of funds is five years from the date of obligation even though the new EDGAR states a records retention requirement of three years.

Note that the GEPA statute of limitations only applies to USDE grants and it does not apply to the Higher Education Act grants.

**1.10 When is the “termination or completion of the project or program”?**

Response:

The “termination or completion of the project or program” (as used in 2 CFR 200.314) is the end of a federal grant that either will not be renewed, extended, or funded in the subsequent year. For example, Title I, Part A is a continuing, formula entitlement grant as long as the LEA remains eligible while the Texas Title I Priority Schools (TTIPS) grant has a definitive start and end date of the funds.

**1.11 LEAs have to plan for how their Title I, Part A campus allocations are distributed. Is this a written plan or policy?**

Response:

LEAs must have “allowability of costs” procedures for identifying cost to be charged to each federal grant. The new allowability of costs procedures would govern how the funds are obligated to campuses in conjunction with federal statute and/or program regulations on campus allocations, as applicable.

**1.12 Is the concept of “first and full access” to the intended recipients/students of a grant program with “incidental benefit” to other students still applicable? If so, would any amount of the cost of a purchase have to be allocated to a funding source other than the grant?**

Response:

The item purchased is required under EDGAR to be made available for use by another program area; however, you may be required to allocate the cost of the usage to the other program if it exceeds the incidental use standards. If the usage does not exceed 5% of the time and does not impede intended beneficiaries from having access to the service, then the incidental benefit use does not require another program area to be charged for the time the equipment is used.

If the item, such as a computer lab, is on a Title I, Part A schoolwide campus and was purchased with the consolidated schoolwide budget, it may be used by any program area that is included in the campus improvement plan to upgrade the entire educational program of the campus. If the campus has a separate discretionary grant that is not included in the campus improvement plan, the campus would be required to allocate the cost of the use of the item to that program if it exceeds the incidental use criteria.

**1.13 Once an item has fully depreciated, do we have to continue to track it?**

Response:

2 CFR 200.302(b)(4) states the non-Federal entity “must adequately safeguard all assets and assure that they are used solely for authorized purposes.” Supplies are defined in 2 CFR 200.94 as all tangible personal property other than equipment, including computing devices when the acquisition price is below \$5,000 or the LEA’s capitalization threshold.

Equipment must be tracked until it is properly disposed and removed from the subgrantee’s inventory.

In order to provide subgrantees flexibility and not require them to track every individual supply purchased with federal grant funds, TEA has adopted a statewide policy requiring assets to be tracked if the supplies are non-consumable, regardless of the useful life of the item.

**1.14 On a Title I schoolwide campus, all students are eligible for services, so how would a computer lab only be available to “Title I students” for part of a day?**

Response:

EDGAR generally requires all items purchased to be made available for use by another program area; however, you may be required to allocate the cost of the usage to the other program if it exceeds the incidental use standards. If the usage does not exceed 5% of the time and does not impede intended beneficiaries from having access to the service, then the incidental benefit use does not require another program area to be charged for the time the equipment is used.

If the item, such as a computer lab, is on a Title I, Part A schoolwide campus and was purchased with the consolidated schoolwide budget then it may be used by any program area that is included in the campus improvement plan to upgrade the entire educational program of the campus. If the campus has a separate discretionary grant that is not included in the campus improvement plan, then the campus would be required to allocate the cost of the use of the item to that program if it exceeds the incidental use criteria.

**1.15 Is the disposition of equipment form required for equipment with an initial unit purchase price of greater than \$5,000?**

Response:

Disposition of equipment and aggregate amounts of supplies is required for any equipment with an original per unit acquisition cost of \$5,000 (\$5,000 or less if the district policy has a lower capitalization level) or an aggregate amount of supplies that exceeds \$5,000, or the district's capitalization level, whichever is lower.

After identifying the equipment or supplies which require a disposition request to be filed, the subrecipient will complete the form using the current fair-market value of the item(s). Only items with a current, fair-market value exceeding \$5,000 (regardless of initial purchase price) are required to be listed individually on the disposition form.

**1.16 How will shared services arrangements (consortia) be impacted by the EDGAR requirements?**

Response:

The responsibility for compliance belongs to the non-federal entity (fiscal agent) receiving the grant award. The SSA agreement must define the roles and responsibilities of the fiscal agent and the member LEAs, including the responsibility for the policies and procedures. The agreement would be followed. It is likely that the responsibility may be shared depending on the specific arrangement and organization of the SSA.

SSA fiscal agents, under Texas' SSA structure, are not considered pass-through entities and flow-through funds are not subawards. Therefore, TEA is responsible for the pass-through entity responsibilities such as conducting risk assessments and subrecipient monitoring.

**1.17 Will TEA update the federal cost principles side-by-side document to align with the new EDGAR regulations?**

Response:

No. The existing side-by-side cost principles document will remain for those multi-year and continuation grants that continue to follow the existing EDGAR rules. For all grants following the

new EDGAR rules, there is only one set of cost principles found in Subpart E of Part 200. There is no need for a side-by-side document under the new EDGAR.

#### **1.18 Is the new EDGAR only 2 CFR 200?**

Response:

No, the new EDGAR consists of multiple parts and regulations. For a complete description of the federal regulations that apply to federal education grant awards, visit USDE's EDGAR website at <http://www2.ed.gov/policy/fund/reg/edgarReg/edgar.html>.

#### **1.19 Does the new EDGAR apply to all state and local funds in addition to state grant funds and federal grant funds?**

Response:

All federal grants must follow the new Part 200 administrative requirements. However, the new EDGAR is specific to federal awards from USDE and applies to those federal awards from USDE received after December 26, 2014. All grants issued by USDE before December 26, 2014, were governed by the OMB circulars that were in effect when the grant was initially awarded, unless an incremental allocation was received which caused the grant to follow the new EDGAR regulations.

However, some federal grants that were initially awarded before December 26, 2014, continue for one or more years subsequent to their initial award (multi-year grants). As of October 1, 2015, these multi-year grants become carryover after the initial grant period (15 months) and are to be governed by the new EDGAR, rather than the OMB circulars that were in effect when the grant was initially awarded. Grantees can therefore administer all their grants using a single set of federal regulations.

Individual grantees of multi-year grants will be notified by TEA whether the original OMB circulars or the new EDGAR regulations apply to the grant.

State grant funds follow the state's Uniform Grant Management Standards (UGMS) which traditionally apply federal grant regulations to state grants. However, the update to UGMS has not been released.

While it is best practice to have one set of rules governing the use of all funds within an organization, EDGAR requirements do not apply to other state and local funds.

However, note that federal grant expenditures that are paid with other state and local funds and later reimbursed with federal grant funds must follow EDGAR regulations. In the same manner, state grant expenditures that are paid with other state and local funds and later reimbursed with state grant funds must follow UGMS regulations.

#### **1.20 How should the subgrantee's policy for conflict of interest address "immediate family" and "partner," since they are not defined in the federal regulations?**

Response:

Since the federal regulations do not define the terms, the local policy should define the terms for the subgrantee. If the local policy does not define the terms and an issue arises, the subgrantee is at risk of a monitoring or audit finding and subsequent potential remedies for noncompliance.

Refer to the Local Government Code, [Chapter 176](#) for definitions of "family" and other potentially relevant information.



**1.21 The new EDGAR requires several “policies” but is not specific about the local approval process. Are subgrantees required to update or write local policies, or can they simply write the changes into their local procedures?**

Response:

EDGAR requires the subgrantee to have several types of policies in addition to requirements for procedures. The regulations require a policy; however, policy is first defined in your local organization and then approved following your local policy approval process. Monitors or auditors will ask for both policies and procedures based on the federal requirements.

**1.22 In the conflict of interest policy, where the subgrantee defines any allowable exceptions for staff receiving gifts or gratuities, is there a specific dollar amount the subgrantee should use? Is the dollar amount per item, or is it total value per donation from the one vendor?**

Response:

The way your local organization writes and implements its policy is local discretion. Each subgrantee will define its own dollar thresholds per unit or in the aggregate in its policy.

## **2. Audit and Monitoring**

**2.1 Does the new EDGAR \$750,000 audit threshold for conducting a federal single audit apply if an LEA receives a total of \$750,000 in federal funding (across all programs), or only if it receives one federal grant valued at over \$750,000?**

Response:

Beginning with state fiscal year 2016, the requirement for the subgrantee to have the federal single audit applies when the subgrantee *expends* an aggregate of \$750,000 in federal funds. The amount received for individual grants is not a determining factor in whether the subgrantee is required to conduct the federal single audit.

Note that for state fiscal year 2015, the requirement for the subgrantee to have the federal single audit applies when the subgrantee expended an aggregate of \$500,000 in federal funds during 2014–2015 school year.

**2.2 If an SSA fiscal agent flows funds through to its LEA member districts, who is required to do subrecipient monitoring?**

Response:

SSA fiscal agents, under Texas’ SSA structure, are not considered pass-through entities and flow-through funds are not subawards. Therefore, TEA is responsible for the pass-through entity responsibilities such as conducting risk assessments and subrecipient monitoring.

If the fiscal agent were to issue actual subgrants (not flow-through funds to member LEAs), the fiscal agent becomes a pass-through entity and is responsible for the pass-through entity responsibilities such as conducting risk assessments and subrecipient monitoring. Note that issuing subgrants with federal education funds is rarely allowable and would be identified in the program guidelines.

## **2.3 Is the subgrantee required to submit its audit reports to both TEA and the Federal Audit Clearinghouse (FAC)?**

Response:

As the cognizant agency, TEA is required under the Texas Administrative Code (TAC) and Texas Education Code (TEC) to maintain all annual financial and compliance reports submitted by LEAs. LEAs are required to submit annual financial reports and compliance reports to TEA within 150 days after the end of the fiscal year.

In the new EDGAR, 2 CFR 200.512 states the auditee must electronically submit the audit report package to the Federal Audit Clearinghouse (FAC) within the earlier of the following: 1) 30 calendar days after the receipt of the auditor's reports; or 2) nine months after the end of the audit period.

The audit reporting package must include the following.

- Financial statements and schedule of expenditures of federal awards
- Summary schedule of prior audit findings
- Auditor's report(s), either organized as a combined report or in separate reports
- Corrective action plan to address each audit finding included in the current year auditor's report(s)

USDE has issued guidance stating that LEAs should submit their audit reports to TEA under the TEC requirement *and* electronically submit the report to the FAC as required under 2 CFR 200.512.

## **2.4 ►►► Does an auditor test for EDGAR compliance if the LEA has less than \$750,000 in total federal expenditures and the single audit is not required?**

Regardless of whether the single audit is required, the LEA is required to be in compliance with EDGAR. The independent auditor will follow the required testing procedures for the annual financial report and, when applicable, the single audit as required in the compliance supplement.

When the single audit is not required, the independent auditor will not select and test specific federal grant programs for compliance with applicable requirement. However, some EDGAR requirements will be tested during the regular work performed for the audit of the annual financial and compliance report. ◄◄◄

## **3. Payments**

### **3.1 Are payroll accruals considered an advance payment or a reimbursement payment?**

Response:

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

Generally, advance or reimbursed payments depend on the type of payroll drawn down from TEA's Expenditure Reporting (ER) system. To be a reimbursement under the cash management system, the drawdown from the ER system must be no earlier than the day the payment is mailed, delivered, or electronically submitted.

**Cash Advance**

If the LEA were to draw down the payroll accrual that has been earned for that month, but that is not paid until July or August, then it is a cash advance. The LEA's payment system is required to minimize the number of days between the disbursement (mailing, delivering, or electronically submitting the payment) and the drawdown from the ER system. If the LEA cannot meet this requirement and keeps federal grant cash on hand in the LEA's bank account, it is an indication that the LEA does not have good internal controls, indicating a higher risk under the new EDGAR rules.

When the LEA has cash on hand from federal grants, interest begins to accrue from the date of receipt of the drawdown and will be required to be remitted back to the federal government once the total aggregate amount of interest earned on all federal grants equals \$500. 2 CFR 200.207 allows for specific conditions to be placed on any grant award when TEA identifies a subgrantee as posing a level of risk identified by the agency's risk criteria, such as not meeting this requirement.

Specific conditions may include requiring payments as reimbursements rather than cash advances or other conditions stated in 2 CFR 200.207. If TEA determines that noncompliance cannot be corrected by imposing the specific conditions, TEA may take one or more of the following remedies for noncompliance actions, as appropriate in the circumstances:

1. Temporarily withhold cash payments.
2. Disallow all or part of an activity or action not in compliance.
3. Suspend or terminate the grant award.
4. Initiate suspension or disbarment proceedings.
5. Withhold further grant awards for the project.
6. Take other remedies that may be legally available.

In the example below, if the amount earned for the month in Column C is drawn down at the end of each month, but only the amount in Column D is paid to the employee, then the amount in Column E is the cash advance. Note that cash on hand from federal funds in the LEA's local bank account must be held in an interest-bearing account and the LEA's accounting system must be able to track the interest earned to the federal program fund source.

**Reimbursement**

If the LEA draws down *only* the amount to be paid to the employees on the date the employees are paid—leaving an accrual balance in the accrued wages payables account in the LEA's accounting system—then the drawdown is a reimbursement. Unless the payroll cost is first being paid out of non-federal funds and then claimed for reimbursement from federal funds, the drawdown is still considered an advance payment and must also be deposited in to an interest bearing account. In the example below, if only the amount to be paid to the employee in Column D is drawn down each month, then it is a reimbursement.

**Example of payroll earned on a 10-month contract and paid over 12 months.**

Column	(A)	(B)	(C)	(D)	(E)	(F)
	Days	Daily	Earned/	Paid to	Monthly	Accrual
Month/Yr	Worked	Rate	Expend	Employee	Accrual	Balance
Aug FY 15	9	\$ 157.38	\$ 1,416.42	\$ -	\$ 1,416.42	\$ 1,416.42
Sept FY 16	19	\$ 157.38	\$ 2,990.22	\$ 2,452.51	\$ 537.71	\$ 1,954.13
Oct FY 16	18	\$ 157.38	\$ 2,832.84	\$ 2,452.51	\$ 380.33	\$ 2,334.46
Nov FY 16	16	\$ 157.38	\$ 2,518.08	\$ 2,452.51	\$ 65.57	\$ 2,400.03
Dec FY 16	19	\$ 157.38	\$ 2,990.22	\$ 2,452.51	\$ 537.71	\$ 2,937.74
Jan FY 16	19	\$ 157.38	\$ 2,990.22	\$ 2,452.51	\$ 537.71	\$ 3,475.45
Feb FY 16	19	\$ 157.38	\$ 2,990.22	\$ 2,452.51	\$ 537.71	\$ 4,013.16
Mar FY 16	19	\$ 157.38	\$ 2,990.22	\$ 2,452.51	\$ 537.71	\$ 4,550.87
Apr FY 16	18	\$ 157.38	\$ 2,832.84	\$ 2,452.51	\$ 380.33	\$ 4,931.20
May FY 16	18	\$ 157.38	\$ 2,832.84	\$ 2,452.51	\$ 380.33	\$ 5,311.53
June FY 16	13	\$ 157.38	\$ 2,045.94	\$ 2,452.51	\$ (406.57)	\$ 4,904.96
July FY 16	0		\$ -	\$ 2,452.51	\$ (2,452.51)	\$ 2,452.45
Aug FY 16	0		\$ -	\$ 2,452.45	\$ (2,452.45)	\$ -
Totals	187	\$29,430.06	\$29,430.06	\$29,430.06	\$ 0.00	\$ 0.00

**3.2 If our TRS payment is not submitted until it is due on the 6<sup>th</sup> of the next month following payday, is it a cash advance?**

Response:

If you drawdown the TRS, or IRS, payments at the same time you drawdown the employee's paycheck amount before you submit the TRS or IRS payments it is a cash advance. If you drawdown the employee's paycheck amount on the day staff are paid and you drawdown the TRS and IRS payments on the date they are submitted, then both would be reimbursements.

**3.3 How do we define the date of disbursement to determine if we are implementing a reimbursement or cash advance system of cash management and payments?**

Response:

Reimbursement is defined as drawing down funds on, or after, the day the subgrantee has mailed, delivered, or submitted an electronic payment for the federal program purpose. Cash advance is defined as the subgrantee drawing down funds in advance of when it will issue the payment for the federal program purpose.

The LEA's payment system is required to minimize the number of days between the disbursement (mailing, delivering, or electronically submitting the payment) and the drawdown from the ER system. If the LEA cannot meet this requirement and keeps cash on hand in the LEA's bank account, it is an indication that the LEA does not have good internal controls indicating a higher risk under the new EDGAR rules.

When the LEA has cash on hand from federal grant funds, interest begins to accrue from the date of receipt of the drawdown and will be required to be remitted back to the federal

government once the total aggregate amount of interest earned on federal grant awards equals \$500. Note that cash on hand from federal grants in the LEA's local bank account must be held in an interest bearing account and the LEA's accounting system must be able to track, or impute, the interest earned to the federal program fund source.

### **3.4 Can TEA post the system “triggers” that cause manual review of expenditure reporting?**

Response:

As stated in the General and Fiscal Guidelines, TEA has the right to request supporting documentation for any expenditure request. An expenditure report may be selected for manual review for any number of reasons including, but not limited to, exceeding established thresholds, the appearance of not requesting actual expenditures incurred, or if TEA staff questions the sustainability of the grant program.

For example, consistently requesting the same amount each month could indicate the subgrantee is not requesting funds for actual costs incurred for a particular service period. In addition, requesting significant funds at the beginning of a grant could prompt TEA to question how costs will be covered for the entire grant period.

### **3.5 Can the expenditure drawdown requests be made by the same person with the new certification statement, or does the requester need to have contract binding authority?**

Response:

The ER system will continue to allow different staff to enter the expenditure request and an authorized official to “certify and submit.” The authorized official who actually certifies and submits the request (Grantee Official or Grantee Manager) is the official certifying to the new certification statement (starting July 2015). The authorized official (Grantee Official or Grantee Manager) must have been delegated authority to enter the organization into legally binding agreements.

### **3.6 If we choose to use the reimbursement method of drawdown for cash management purposes, do we have to track interest?**

Response:

No, interest is earned only under the cash advance method of payment for federal funds.

To be a reimbursement under the cash management system, the drawdown from the ER system must be no earlier than the day the payment is mailed, delivered, or electronically submitted.

### **3.7 If the subgrantee uses a cash advance payment system and accrues interest, when does interest begin to accrue?**

Response:

Interest begins to accrue on the day that the drawdown is deposited into your bank account, whether the drawdown is made from TEA's ER system or from the USDE's G5 system for direct grant programs. Interest continues to accrue until the day you submit the payment (the day the check is mailed, delivered, or electronically submitted) for the grant expenditure.

**3.8 ►►► Question #3.3 above defines how a grant payment is a reimbursement. Earlier guidance advised that the payment had to clear the bank before the LEA drew down the funds from TEA for a payment to be a reimbursement. Please clarify whether the LEA must wait for the payment to clear the bank.**

The response to question #3.3 is correct. For the subgrantee, reimbursement is defined as drawing down funds on, or after, the day the subgrantee has mailed, delivered, or submitted an electronic payment for the federal program purpose. Cash advance is defined as drawing down funds in advance of when the subgrantee will issue the payment for the federal program purpose.

Prior guidance was superseded by the FAQ document when TEA received additional clarification and guidance.

**3.9 Many district finance systems have limited space for descriptions of the awards received. Can the Schedule of Expenditures of Federal Awards (SEFA) serve as the LEA's source documentation of 2 CFR 200.302(b)(1), which requires subrecipients to identify specific criteria for all federal awards received and expended?**

The required information may be included in the SEFA as long as the subgrantee's local policy defines where that required information is documented. The detailed information is not necessarily expected to be reflected in the general ledger but rather documented in the subgrantee's financial management system, as described in its policy.

**3.10 Which areas or functions of grant management must have internal control procedures?**

A complete list of all required written policies and procedures is contained in [Appendix 1](#).

All areas of grant management including administrative, fiscal, and programmatic functions must have internal controls to ensure that documented policies, procedures, and activities are designed to provide reliable information and provide reasonable assurance that program activities are carried out as planned and meet all applicable statutory and regulatory requirements. Internal controls also safeguard assets, promote efficient use of resources, and assist in accomplishing the goals and objectives of the program.

**3.11 How does an LEA document to its auditor or TEA that the LEA has appropriate internal controls in place?**

The primary documentation for internal controls is written policies and procedures and verification that the policies and procedures are actually implemented and reviewed on a periodic basis. ◀◀◀

#### **4. Specific Costs**

##### **4.1 Do participant support costs include field trips, especially under the Carl D. Perkins grant programs? Will there be guidance on how to request prior approval? Does the LEA have to submit the prior approval request to USDE?**

Response:

2 CFR 200.75 states that participant support costs means direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (non-employees) in connection with conferences, or training projects.

Educational field trips are not participant support costs, but rather generally fall under entertainment.

Entertainment is unallowable unless it has a programmatic purpose. TEA policy defines educational field trips as generally unallowable unless they are identified as allowable in the program guidelines to the specific grant application. Although prior approval is not required, you must submit a justification form for allowable field trips in the grant application. See question #6.6.

##### **4.2 Will all trainings and/or meetings such as staff development require prior approval?**

Response:

No, 2 CFR 200.472 states that training and education provided for employee development (such as meetings and staff development) is allowable; no prior approval is required. The expenditure must be reasonable, necessary, and allocable to the federal award.

##### **4.3 For a federal grant program that is ending on September 30, 2015, may funds be used to pay for speaker to provide staff development in August 2015?**

Response:

Yes, if the speaker was budgeted in the grant application, a contract was signed appropriately within the NOGA period obligating the funds, and the service was received and liquidated by the date the revised final expenditure report is due.

The expenditure may also be obligated under the new federal grant program (2015-2016 school year) if the speaker was budgeted in the new grant application and the application has been submitted in substantially approvable form prior to the staff development event. The expenditure could be paid from the new grant funds once the NOGA is received.

##### **4.4 What is an example of a stipend for a non-employee?**

Response:

An example of a stipend for a non-employee is providing a nominal payment for a parent's time to attend a training while the parent misses work.

Note that 2 CFR 200.75 defines participant support costs as stipends, travel expenses, and registration fees for non-employees to attend training relevant to the federal grant program. Participant support costs require prior approval.

**4.5 How does this student travel apply to McKinney Vento identified students if they are being transported from out of district to their campus of origin?**

Response:

Federal statute outlines the requirements for transportation of students under the McKinney-Vento Homeless Assistance Act. When federal statute conflicts with EDGAR, follow the federal statute.

**4.6 LEAs with students attending the Texas School for the Deaf or Texas School for the Visually Impaired are required to provide transportation for the students between their home district and Austin. How does the new EDGAR apply to this student travel?**

Response:

Providing transportation for the students between their LEA of residence and the school in Austin is considered to be special education related services for students to attend school and is not considered student travel.

**4.7 Suppose the rebate generated from a procurement card or purchasing cooperative is not considered significant by the LEA and it is cumbersome to determine what percentage is related to a federal grant. Can we implement a local policy to set a higher threshold for applicable credits?**

Response:

No, there is no threshold that applies to the “applicable credits” regulations. It applies to any rebate received by the subgrantee which relate to allowable costs charged to a federal award. (See 2 CFR 200.406.)

**4.8 Suppose an LEA wants to use some or all of the funds reserved for parent involvement in the NCLB Consolidated grant application for their Title I, Part A campuses to send parents to the annual parental involvement conference. Is this considered a field trip, with the prior approval requirement? If so, how should that be indicated in the application?**

Response:

Travel for parents attending a conference is not considered a field trip. However, it is considered participant support costs (non-employee travel) under 2 CFR 200.456 and requires prior approval in the application.

**4.9 If two or three LEAs are contracting for several ESC consultants to come out and do a one-day workshop covering several areas, such as Title III, and Title II core academic professional development, is that considered “hosting a conference”? No one outside of the two or three contracting LEAs will be attending the training.**

Response:

No, this example is two or three LEAs coordinating funding for best value purposes.



**4.10 How are Head Start and special education field trips addressed under the new field trip policy?**

Response:

Field trips will be addressed in the program guidelines of each individual grant application for that fund source. However, community-based instruction identified in the student's IEP is considered special education related services rather than a field trip.

**4.11 Are extended learning experiences in out-of-school-time programs, such as 21st Century Community Learning Center (CCLC) grants, treated the same as field trips under TEA's new policy and process requiring justification forms?**

Response:

No, 21st CCLC grantees would follow the existing programmatic process for approval of learning activities conducted off-site. These types of activities in an out-of-school-time grant is not considered a field trip under TEA's new policy.

**4.12 How will TEA reduce the grant award (NOGA) if the subgrantee generates program income?**

Response:

TEA is currently seeking clarification and will be implementing policy decisions related to this question. This response will be updated in the future.

**4.13 When and how is interest calculated?**

Response:

Regardless of the date of the obligation, interest is calculated from the date that the federal funds are deposited into the subgrantee's bank account when drawn down from the ER system (for TEA administered grants) and the date that the federal funds are drawn down from the G5 system (for direct grant programs from USDE) until the date the payment is made (disbursed) by either mailing, delivering, electronically submitting the payment check.

**4.14 Are there selected items of cost identified in Subpart E Cost Principles where the state policy or rules are more restrictive than the EDGAR regulations?**

Response:

Hosting conferences, field trips (entertainment), out-of-state travel, travel, and procurement all have state rules that are more restrictive than the EDGAR regulations.

Hosting conferences, field trips, and out-of-state travel are generally unallowable under state policy unless they are specified in the program guidelines of the specific grant application.

State travel rules do not allow per diem allowances, but rather require only reimbursement of actual costs expended by the traveler. Specific documentation for travel expenses is also required under state travel rules.

State procurement rules are more restrictive at various procurement levels for school districts and ESCs. See question #7.1.

**4.15 How is TEA defining “hosting a conference” for determining when prior approval is required?**

Response:

For purposes of TEA’s policy restricting hosting conferences, a “conference” is defined as a *meeting, retreat, seminar, symposium, workshop or event whose primary purpose is the dissemination of technical information beyond the non-federal entity (for other non-federal entities that are not part of the grant award) and is necessary and reasonable for successful performance under the federal award.*

For LEAs, providing meetings, seminars, symposiums, or workshops for the LEA’s employees, parents, and/or students are allowable with no prior approval needed, if the activity is reasonable, necessary, allocable, allowable, and meets the program intent and purpose. These activities would not be defined as hosting conferences.

For SSA fiscal agents, providing meetings, seminars, symposiums, or workshops for your member LEAs are allowable with no prior approval needed, if the activity is reasonable, necessary, allocable, allowable, and meets the program intent and purpose. These activities would not be defined as hosting conferences.

For ESCs, providing meetings, seminars, symposiums, or workshops for LEAs in Texas are allowable with no prior approval needed, if the activity is reasonable, necessary, allocable, allowable, and meets the program intent and purpose. These activities would not be defined as hosting conferences.

**4.16 Can a tutor paid through Title I, Part A during the school year be paid with state comp ed (SCE) funds during the summer?**

Response:

From a federal grant perspective, yes. However, the subgrantee may want to discuss this with the SCE program office to ensure that you comply with SCE program requirements.

**5. Travel**

**5.1 Are all travel and trainings for private nonprofit staff considered to be participant support costs, with required prior approval?**

Response:

Yes, private nonprofit staff are non-employees of the LEA. Any stipends, travel, or registration fees for professional development provided as part of equitable services would be considered as participant support costs and require prior approval. However, we are checking with USDE for further clarification related to travel for required equitable services.

Note that several other types of equitable services activities (that do not include stipends, travel, or registration fees) are not considered participant support costs.

**5.2 The TEA letter regarding travel reimbursement states that the per diem rate is up to \$46 per day. However, on the Comptroller’s website, it has different per diem rates listed for certain cities that are higher than \$46. Which is correct?**

Response:

If the Comptroller’s travel website does not list the specific city or county in Texas, then the general \$46 rate applies to the destination of the travel. If the Comptroller’s website indicates a

higher rate for the city or county destination, then the higher rate is applicable. An updated TEA travel letter clarifying this rate has been posted to the TEA correspondence website.

**5.3 When asked about registration fees being part of travel, TEA said that registration fees could be paid separately from the travel and paid when the registration was submitted. Please explain.**

Response:

The response was related to when the federal funds were obligated for paying registration fees (34 CFR 76.707). If obligated as travel, the registration fee is obligated the day the conference or meeting begins. If obligated as personal services, the registration is obligated the day the registration is submitted. The benefit of obligating registration fees as personal services by a contractor (non-employee of the subgrantee) under 34 CFR 76.707 is that the subgrantee may benefit from reduced cost registration fees when registering earlier for conferences or trainings.

Demonstrating relative benefit to the program is generally defined as the benefit must be received within the grant period dates identified on the NOGA. For discretionary grants that will be ending at the end of the grant period and no continuation funding is expected, the benefit must be received within the grant period. However, for a formula entitlement grant that will receive a continuing funding allocation in the subsequent year, benefit may be received during the liquidation period.

The subgrantee must liquidate all obligations within the liquidation period which is defined as the time period from the end of the grant period to the due date of the revised final expenditure report. Note that the revised final expenditure reports may be due on the same date as final expenditure reports in some instances.

It is the subgrantee's discretion how to incur and code the obligation for registration fees (either as personal services or as travel) under 34 CFR 76.707. That decision will determine when the cost is obligated. If the registration fee is obligated as personal services, then the registration fee may be paid at the time the registration is submitted. If the registration fee is obligated as travel, then the registration fee may not be paid with federal funds until the travel is taken. In either case, the relative benefit of the obligation must be received and the obligation liquidated as described in the paragraphs above.

Regardless of how the subrecipient chooses to treat the obligation of registration costs, the subrecipient should<sup>5</sup> have a local policy that outlines the consistent treatment of registration costs.

**5.4 What is the difference between a travel advance and a travel allowance?**

Response:

A travel advance is the estimated cost of the travel that is provided to the employee in advance of the trip. The employee must submit travel receipts for the amounts, within the allowable rates, actually expended and refund back to the subgrantee organization any funds not documented through receipts. A travel advance is allowable with federal grant funds.

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<sup>5</sup> "should" refers to best practice

A travel allowance is unallowable under the state's travel rules. An allowance would be when the traveler is given a flat rate for the travel regardless of the actual amounts expended. Travel allowances are not reimbursements and could become taxable income for the employee.

**5.5 What is the per diem meal rate for students when student travel is allowable under the grant program?**

Response:

When the student travel is allowable, the subgrantee would follow either the state travel rate for the location of the travel or the subgrantee's local policy, whichever is lower. Note that many LEAs have local policy defining meal rates for students for extra-curricular activities and this rate may be lower than the state travel rate. Regardless of the original purpose of the policy, the subgrantee must follow the most restrictive rule or policy.

**5.6 Are meal receipts required under federal travel regulations?**

Response:

Meal receipts are not required under federal or state travel requirements; however, the subgrantee must always follow the most restrictive requirement, which may be local policy. The local written travel policy may require employees on travel for the federal grant program to submit meal receipts. The subgrantee is within its authority to have more restrictive requirement than the federal or state requirements.

State travel rules only allow reimbursement of actual costs expended. When the subgrantee does not have a local policy requiring meal receipts to be submitted, the traveler may only be reimbursed for the actual costs expended for meals up to the maximum allowed per diem rate. The maximum allowed per diem rate is always the state-approved per diem rate or local policy per diem rate, whichever is less. The traveler must certify in the travel reimbursement request that the amount requested for reimbursement for meals is only the actual amount expended.

**5.7 Do the state travel guidelines apply to travel reimbursements or travel advances paid only with non-grant funds (state funds or local funds)?**

Response:

Contact the Division of Financial Compliance at (512) 463-9095 or [schoolaudits@tea.texas.gov](mailto:schoolaudits@tea.texas.gov) for questions related to paying travel from state and local funds (non-grant funds).

**5.8 ►►► How does the LEA document that participation of an individual is necessary to the project so that that person's travel is an allowable expense to the federal award?**

The subgrantee's written travel policies and procedures must identify the allowable travel costs that will be reimbursed. The procedures would include the types of roles and responsibilities of the staff who would be eligible for travel reimbursement.

The subgrantee would then document the responsibility of the traveler and how the travel is relevant to the grant program. ◀◀◀

## **6. Grant Application Changes**

### **6.1 Do the changes to the grant applications affect the Special Education Consolidated Grant Application?**

Response:

Yes, the changes being implemented due to the changes in the EDGAR regulations apply to all federal grant applications. The changes in EDGAR are cross-cutting regulations and; therefore, the changes to the grant applications will apply to all the applicable federal programs.

### **6.2 On the part of the grant application that will be revised to include field trips, will LEAs have to include justification for all field trips for all campuses?**

Response:

Yes, field trips will only be allowed if explicitly identified as allowable in the program guidelines to the application for the particular grant program. Expending funds for field trips without including them in the grant application and receiving approval is unallowable and will result in questioned costs.

### **6.3 Concerning changes to the grant application, please explain how we will request written approval for student travel, non-employees (parents and private schools), stipends for non-employees, field trips (if approved), and out of state travel. Will the grant application have a line with a total amount or will we have to break down the details?**

Response:

Some items will have a specific line item in the application and others will required attachment will be submitted with the grant application.

### **6.4 Since USDE has not delegated prior approval authority to TEA as of yet, how do we complete the grant application as it relates to items that require prior approval?**

Response:

We recommend including all items requiring prior approval in the grant application and submitting them to TEA. However, do not expend funds for the items until the appropriate approval is received, either from USDE or from TEA if the authority is delegated to TEA in the future.

Effective November 20, 2015, TEA is providing approval of the following types of activities that require prior approval under 2 CFR 200.456:

- Equitable services to private nonprofit schools that are required, and therefore allowable, under federal program statute; this includes registration and travel costs for participating in allowable professional development activities
- Parental involvement activities required, and therefore allowable, under federal program statute; this includes registration and travel costs for participating in allowable parent trainings or conferences and required parent involvement/advisory committees

Approval forms for these activities are posted on the New EDGAR page of the TEA website and may be downloaded by the subrecipient and maintained locally for its documentation of prior approval.

The subrecipient may complete and submit prior approval request forms for other types of participant support costs, such as travel for school board members to attend an allowable program training, to TEA on an individual basis.

▶▶▶ Fiscal agents are not required to submit requests for approval for participant support costs for travel or registration fees for employees of member LEAs of the SSA. In the same manner that member LEAs of an SSA are considered to be part of the grant award for defining conferences (see question 4.15), the employees of the member LEAs are considered part of the grant award for participant support cost purposes. ◀◀◀

#### **6.5 Is there a definition in the new EDGAR of “administration”?**

Response:

No, “administration” is not defined in the new EDGAR regulations. Various program statutes include useful information related to defining the term. For any program that does not have a statutory definition of administration, the subgrantee should<sup>6</sup> define administration of the grant program in its local policy or procedures consistently for all federal grant programs.

#### **6.6 May the subgrantee expend funds on educational field trips or program-related out-of-state travel before the NOGA is received?**

Response:

TEA has recently rescinded the policy requiring prior approval of educational field trips and program-related out-of-state travel before issuing the NOGA. However, if the educational field trip or out-of-state travel is identified as allowable by the program guidelines, the justification form must still be submitted in the grant application or amendment. As with any expenditure with federal grant funds, the subgrantee must maintain appropriate documentation that the educational field trip or out-of-state travel is reasonable, necessary, allocable to the federal grant program, and has a programmatic purpose.

The subgrantee may begin to expend funds for the activity based on the grant application submission date or wait until the NOGA is received, at its discretion. As with all costs budgeted in the grant application, the agency is not responsible for any educational field trip or out-of-state travel costs that are removed from the grant application during negotiations.

#### **6.7 Title I, Part A and Title II, Part A previously did not allow field trips under TEA’s new policy. Has that changed?**

Response:

Educational field trips are now allowable under Title I, Part A under certain conditions that will be updated in an errata to the program guidelines. If the LEA has not negotiated its grant application, it may submit a field trip justification form and make necessary adjustments to its budget during the grant negotiation process. If the LEA has completed its grant negotiations, was denied a previous request prior to the policy change, or received a NOGA, it may submit a field trip justification form and any subsequent budget adjustments through the grant amendment process.

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<sup>6</sup> “should” refers to best practice

Title II, Part A does not allow educational field trips.

**6.8 Is TEA's policy change (To The Administrator Addressed letter, August 18, 2015), which says that prior approval is no longer required for educational field trips and program-related out-of-state travel, retroactive for educational field trips and out-of-state travel justification forms that were already submitted with the grant application?**

Response:

Yes, the policy change applies to grant program applications under the new EDGAR, whether a NOGA has already been issued or has not been issued. See question #61.

**6.9 I did not submit a justification form for program-related out-of-state travel with my grant application because I did not think I would get the NOGA in time (I submitted my application on July 1, 2015, and the travel took place on July 15, 2015.) Now that TEA has rescinded the prior approval policy, can I charge the cost of the travel to federal grant funds?**

Response:

Yes, so long as you submit a justification form and make the necessary budget adjustment through the grant amendment process. The out-of-state travel, taken between the submission of the grant application and the change in TEA policy, must also have been allowable, allocable, reasonable, and necessary. See question #6.10 below.

**6.10 If prior approval is no longer required by TEA, why must we submit the justification forms for educational field trips and program-related out-of-state travel with the grant application?**

Response:

The justification forms are still necessary to provide supplemental information to the agency that demonstrates the activities have a programmatic purpose. The justification forms will be reviewed during the grant application negotiation process in the same manner as all other information contained in the grant application.

Because TEA is no longer requiring or issuing prior approval for the costs of educational field trips and program-related out-of-state travel, as with all expenditures with federal grant funds subgrantees must still comply with the terms and conditions of federal grants and are responsible for demonstrating that these costs are allowable, allocable, reasonable, and necessary. All federal grant subgrantees must maintain adequate supporting documentation for their independent auditors and for TEA monitors.

## **7. Procurement and Contracts**

**7.1 Which procurement thresholds determine the strictest rules to follow, EDGAR or FASRG?**

Response:

The response varies depending on the subgrantee's entity type.

***ISDs and ESCs***

Regarding procurement regulations in the new EDGAR and FASRG, the ISD or ESC must follow the most restrictive rule or regulation.

For micro-purchases below \$3,500<sup>7</sup>, the federal rules apply. In addition, per state rules, the LEA should<sup>8</sup> have a local policy identifying a threshold below \$50,000 for which the LEA does not require a competitive process.

For purchases that cost between \$3,501 and \$49,999, the federal rules require price or rate quotations from an adequate number of qualified sources. In this case, the federal rules are more restrictive than the state rules, up to \$50,000.

At \$50,000 and above, the state rules become more restrictive than the federal and must be followed.

However, at \$150,000 and above, the federal rule for the cost or price analysis is more restrictive and must also be followed in conjunction with the state rules.

### ***Charter Schools***

The FASRG requirements are not applicable to charter schools unless the commissioner approved otherwise in the individual contract for charter. Generally, TEC §12.1053 provisions do not significantly limit the contracting and purchasing activities of open-enrollment charter schools. The federal EDGAR requirements will, therefore, be more restrictive where FASRG does not apply and must in such instances be followed for all procurements under federal awards.

### ***Nonprofit Organizations***

The FASRG requirements are not applicable to nonprofit organizations. The federal EDGAR requirements must be followed.

Contact the Division of Financial Compliance at (512) 463-9095 or [schoolaudits@tea.texas.gov](mailto:schoolaudits@tea.texas.gov) for questions related to state purchasing rules under FASRG.

**7.2 2 CFR 200.323 requires an entity to conduct a cost or price analysis in connection with every procurement action in excess of \$150,000 (Simplified Acquisition Threshold). But per state law, the ISD or ESC must obtain competitive bids for purchases of \$50,000 or more. Does this mean the ISD or ESC must perform a cost or price analysis in connection with every procurement that is \$50,000 or more, since Texas law requires that these purchases be competitive?**

Response:

No, these are two slightly different rules. At \$50,000 or greater procurements, the ISD or ESC must follow the more restrictive state rules for competitive bids; however, at \$150,000 and above, the federal rule for the cost or price analysis is more restrictive and must also be followed in conjunction with the state rules.

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<sup>7</sup> The micro-purchase threshold was originally \$3,000, but was increased to \$3,500 under 48 CFR Subpart 2.1 (Definitions). The Federal Acquisition Regulations occasionally change procurement thresholds due to the cost of inflation.

<sup>8</sup> "should" refers to best practice and is LEA discretion



**7.3 For contracts that hit the \$50,000 state competitive threshold requirement, how does this apply to special education personnel contracts, such as speech therapists? Can their contract be extended, or will it require another competitive bid?**

Response:

The subrecipient's local procurement procedures will dictate whether a multi-year contract may be signed or how often a contract can be extended in order to continue to use the same contractor more than one year. The LEA should<sup>9</sup> also consider a multi-year contract initially. TEA recommends only two-year contracts be executed since life of most federal awards is 27 months.

Contact the Division of Financial Compliance at (512) 463-9095 or [schoolaudits@tea.texas.gov](mailto:schoolaudits@tea.texas.gov) for questions related to state purchasing rules under FASRG.

**7.4 How do we equally distribute micro-purchases among vendors when we are restocking office supplies or purchasing supplies for a parental involvement activity?**

Response:

The subgrantee should<sup>10</sup> develop a local policy to determine how to equitably distribute micro-purchases, to the extent practicable, among qualified vendors and implement its local policy. Due to changes in availability, the subgrantee may have to review and revise this policy annually.

**7.5 Can the subgrantee split up costs that in the aggregate would normally exceed \$3,500 and purchase the items in smaller quantities under the micro-purchase option?**

Response:

No, you must ensure that you do not abuse this procurement method and that you use it only when it is allowed. The intent is to reduce administrative burden for the cost of small items that do not exceed \$3,500. Once the aggregate of the item exceeds \$3,500, it is no longer a micro-purchase, and you must follow the appropriate procurement process for the item.

Contact the Division of Financial Compliance at (512) 463-9095 or [schoolaudits@tea.texas.gov](mailto:schoolaudits@tea.texas.gov) for questions related to state purchasing rules under FASRG.

**7.6 Is the subgrantee *required* to use the micro-purchase flexibility, since the subgrantee should properly plan for procurements and issue procurements to encompass all needed supplies or services? If we use commodity lines as are used in all other purchases, it does not appear that we would spend less than \$3,000 in the aggregate.**

Response:

No, the subgrantee is not required to use the micro-purchase option. The subgrantee should plan for its procurements for the entire year and procure goods and services accordingly in compliance with federal and state procurement rules. However, the micro-purchase is an option allowable by federal regulations for subgrantees to consider when needing to make low-cost,

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<sup>9</sup> "should" refers to best practice

<sup>10</sup> "should" refers to best practice

unexpected procurements that may not have been included in original planning and contracts for supplies or services.

Contact the Division of Financial Compliance at (512) 463-9095 or [schoolaudits@tea.texas.gov](mailto:schoolaudits@tea.texas.gov) for questions related to state purchasing rules under FASRG.

**7.7 Is travel for employees considered a micro-purchase if the cost is less than \$3,500 per trip?**

Response:

No, travel for employees must be reimbursed under the most restrictive of federal, state, or local travel rules. Micro-purchases apply to procurements, not reimbursements.

**7.8 Would a service such as a personal services contract for staff training or professional development be considered a micro-purchase?**

Response:

If the personal services contract meets all the above requirements that apply to a micro-purchase, then it may be classified as such. The personal services contract must also meet the requirements of 2 CFR 200.459 and should follow the Guidance and Best Practice: Professional Services Contracts issued by TEA.

Contact the Division of Financial Compliance at (512) 463-9095 or [schoolaudits@tea.texas.gov](mailto:schoolaudits@tea.texas.gov) for questions related to state purchasing rules under FASRG.

**7.9 Can the subgrantee purchase multi-year subscriptions with federal funds?**

Response:

Generally, a multi-year subscription is treated as a contract. The subgrantee may enter into multi-year contracts if it is permissible with the vendor and the subgrantee follows the Guidance and Best Practice: Professional Services Contracts issued by TEA. As with any multi-year contract, the subgrantee may only pay for one year of service per grant year, since you cannot pay for benefits not yet received.

**7.10 Can the one year of service of the multi-year subscription be paid at the beginning of the grant year?**

Response:

As long as the subgrantee receives the full benefit of the subscription (full access to the service) at the beginning of the grant year, the contract for that grant year may be paid at the beginning of the period of availability.

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

**7.11 How does the sole source requirement work when doing a specific book study by one particular author and availability is limited? If we are not allowed to specify a particular brand, then is it not okay to specify a particular book?**

Response:

2 CFR 200.320(f) states that noncompetitive procurements (sole source) may only be used when one or more of the following circumstances apply.

1. The item is available only from a single source. Note that this circumstance is hard to document and prove when questioned.
2. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.
3. The federal awarding agency (USDE) or pass-through entity (TEA) expressly authorizes noncompetitive proposals in response to a written request from the non-federal entity (LEA or subgrantee).
4. After solicitation of a number of sources, competition is determined inadequate.

Since books are generally readily available from a variety of sources, a book will be difficult to document as a noncompetitive procurement. If the book is only available from one publisher, then it is easier to document as a sole source procurement. For example, if an educational research organization publishes and sells a book or research report that is not available from any other vendor, then it may be considered a sole source procurement.

**7.12 Does the handout provided at the training on the new EDGAR, *Guidance and Best Practices* regarding Professional Services Contracts, apply to all professional services contracts?**

Response:

The handout relates to professional and consulting services and applies to any professional services contracts under 2 CFR 200.459.

Contact the Division of Financial Compliance at (512) 463-9095 or [schoolaudits@tea.texas.gov](mailto:schoolaudits@tea.texas.gov) for questions related to state purchasing rules under FASRG.

**7.13 Does the handout provided at the latest training on the new EDGAR, *Guidance and Best Practices* regarding all professional services contracts, apply to employment contracts as well?**

Response:

No, the guidance applies to professional and consultant services contracts that would be budgeted under class-object code 6200. It does not apply to employment contracts budgeted under class-object code 6100.

**7.14 Under the new EDGAR, are LEAs allowed to purchase items from their existing purchasing cooperatives, or must they follow the new regulations and make individual procurement decisions for each item that they would normally purchase from a purchasing cooperative?**

Response:

2 CFR 200.318(e) encourages non-federal entities to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services in order to foster greater economy and efficiency.

The purchasing cooperative must follow the same state and federal procurement rules that would apply if the local LEA made the procurement.

Once it has been verified that the purchasing cooperative has followed the most restrictive of the state or federal procurement rules (as detailed in the response to question #7.1), the LEA may purchase goods and services from the purchasing cooperative directly, without any additional procurement activities or documentation.

Contact the Division of Financial Compliance at (512) 463-9095 or [schoolaudits@tea.texas.gov](mailto:schoolaudits@tea.texas.gov) for questions related to state purchasing rules under FASRG.

**7.15 Will TEA be asking LEAs to self-certify their procurements as is discussed in 2 CFR 200.324?**

Response:

The requirement in 2 CFR 200.324 is that the subgrantee must make available the following types of documents to USDE or TEA upon request.

1. Technical specifications on proposed procurements when USDE or TEA believes a review is warranted, or
2. Procurement documents such as proposals, invitations to bid, or independent cost estimates under one or more of the following potential procurement events.
  - The subgrantee has been noncompliant with the new federal procurement rules.
  - The procurement is expected to exceed \$150,000 and is to be awarded without competition or when only one bid or offer is received in response to a solicitation for bid.
  - The procurement is expected to exceed \$150,000 and specifies a “brand name” product.
  - The procurement is expected to exceed \$150,000 and is to be awarded to other than the apparent low bidder under a sealed bid procurement.
  - A proposed contract modification changes the scope of contract amount by more than \$150,000.

The subgrantee is exempt from the procurement review if USDE or TEA has determined that its procurement policies, procedures, and systems are compliant. The subgrantee may request USDE or TEA to review its procurement system to be certified, or the subgrantee may self-certify its procurement system. The USDE may rely on the written assurances from the subgrantee’s self-certification, but the self-certification does not prevent the USDE or TEA from conducting its own review of the subgrantee’s procurement system.

In any case, these reviews of the subgrantee’s procurement system generally occur where there is continuous, high-dollar funding and third-party contracts are being awarded on a regular basis. As stated above, the subgrantee must always follow the most restrictive procurement rules, whether those are federal, state, or local.

**7.16 Is an affidavit or sole source letter from a vendor sufficient documentation to issue a noncompetitive (sole source) procurement under the new EDGAR?**

Response:

No. Noncompetitive (sole source) procurements must meet the requirements in 2 CFR 200.320(f), which states that procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

1. The item is available only from a single source.
2. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.
3. The federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-federal entity.
4. After solicitation of a number of sources, competition is determined inadequate.

An affidavit or sole source letter is not sufficient documentation that the item or service is only available from a single source. Attorneys have indicated that under the new regulations, sole source must be proven and adequately documented, and will seldom be used in federal procurements.

**7.17 Am I required to submit a request for pre-authorization to TEA for all noncompetitive (sole source) procurements under the new EDGAR?**

Response:

No. Noncompetitive (sole source) procurements may be used only when one or more of the following circumstances apply:

1. The item is available only from a single source.
2. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.
3. The federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-federal entity.
4. After solicitation of a number of sources, competition is determined inadequate.

Requesting pre-authorization from TEA is only one (#3 above) way of documenting a sole source. Note that all procurements, including sole source procurements, must comply with the general procurement standards identified in 2 CFR 200.318.

**7.18 Am I required to submit a request for pre-authorization to TEA for noncompetitive (sole source) procurements for affiliation fees for CTE programs?**

Response:

No. An affiliation fee would be treated like a membership fee and is not a procurement.

**7.19 Is the verification that a vendor is not suspended or debarred required on all procurement transactions or only when the procurement is over a specific threshold?**

Response:

The non-federal entity must not award any federal funds to any vendor who is suspended or debarred. In addition, if the award exceeds \$25,000 the non-federal entity must verify and document that the vendor is in good standing by one of the following methods.

- Checking SAM.gov on the day the contract is to be signed to ensure the vendor is not included in the suspended or debarred list and then printing the search results as documentation the vendor is not suspended or debarred
- Requiring a certification signed by the vendor that they are not suspended or debarred
- Including a clause in the contract whereby the vendor assures they are not suspended or debarred

Note that all procurements must also comply with the general procurement standards identified in 2 CFR 200.318.

**7.20 Can the subrecipient include brand names in the description of an item in the procurement documents and application?**

Response:

No, the subrecipient cannot restrict competition by specifying only a brand name.

2 CFR 200.319(a)(6) states that you cannot be restrictive of competition which includes “specifying only a ‘brand name’ product instead of allowing ‘an equal’ product to be offered and describing the performance or other relevant requirements of the procurement.”

In addition 2 CFR 200.319(c)(1) states that the non-federal entity must have written procedures for procurement transactions and must ensure that all solicitations must not unduly restrict competition and when it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a ‘brand name or equivalent’ description may be used as a means to define the procurement. See 2 CFR 200.319(c)(1) for more details.

**7.21 May we use interlocal cooperative RFPs in place of getting the 3 quotes required over the micro-purchase threshold or for purchases under the micro-purchase threshold because it is a more restrictive process?**

Response:

The subrecipient must use its own documented procedures which reflect the most restrictive applicable federal, state, or local policy. The subrecipient must maintain proper documentation of the general procurement standards identified in 2 CFR 200.318.

Contact the Division of Financial Compliance at (512) 463-9095 or [schoolaudits@tea.texas.gov](mailto:schoolaudits@tea.texas.gov) for questions related to state purchasing rules under FASRG.

**7.22 Under EDGAR are multiple awards permitted under the same request for procurement?**

Response:

The subrecipient must use its own documented procedures which reflect the most restrictive applicable federal, state, or local policy. The subrecipient must maintain proper documentation of the general procurement standards identified in 2 CFR 200.318. There is no prohibition of multiple awards.

Contact the Division of Financial Compliance at (512) 463-9095 or [schoolaudits@tea.texas.gov](mailto:schoolaudits@tea.texas.gov) for questions related to state purchasing rules under FASRG.

**7.23 Do the federal purchase thresholds apply to each individual purchase of a specific item or all purchases for the year?**

Response:

The subrecipient must use its own documented procedures which reflect the most restrictive applicable federal, state, or local policy. The subrecipient must maintain proper documentation of the general procurement standards identified in 2 CFR 200.318.

In this instance, state purchasing rules in FASRG are more restrictive.

Contact the Division of Financial Compliance at (512) 463-9095 or [schoolaudits@tea.texas.gov](mailto:schoolaudits@tea.texas.gov) for questions related to state purchasing rules under FASRG.

**7.24 When the LEA only knows of one vendor for a product, how do we document that we searched for other vendors?**

Response:

The subrecipient must use its own documented procedures which reflect the most restrictive applicable federal, state, or local policy. The subrecipient must maintain proper documentation of the general procurement standards identified in 2 CFR 200.318.

Contact the Division of Financial Compliance at (512) 463-9095 or [schoolaudits@tea.texas.gov](mailto:schoolaudits@tea.texas.gov) for questions related to state purchasing rules under FASRG.

**7.25 Debarment and Suspension: A contract award must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM.gov). When the SAM search returns a “record not found”, does it mean that the company is not excluded and we have complied with verification of this provision; or does it mean that the company is not registered in SAM and we cannot do business with a company not registered in SAM?**

Response:

If you receive a “record not found” in your search of SAM.gov, on the day the contract is to be signed to ensure the vendor is not included in the suspended or debarred list, then print and maintain the search results as documentation the vendor is not suspended or debarred.

**7.26 If the LEA is taking the 2-year grace period for procurement and during that time we have an awarded vendor that will not complete a district’s federal CFR form due to legal concerns/constraints, no matter the amount of the purchase, are we unable to**

**make purchases with federal funds with this specific vendor under any circumstance?**

Response:

The subrecipient must use its own documented procedures which reflect the most restrictive applicable federal, state, or local policy. The subrecipient must maintain proper documentation of the general procurement standards identified in 2 CFR 200.318. In addition you must follow the Local Government Code, Chapter 176.

Contact the Division of Financial Compliance at (512) 463-9095 or [schoolaudits@tea.texas.gov](mailto:schoolaudits@tea.texas.gov) for questions related to state purchasing rules under FASRG.

**7.27 State rules do not require competitive procurement for professional services or consultants, so we typically procure under Texas Government Code § 2254. However, except for certain services, EDGAR requires price be a component of the evaluation process for these providers. Are we required to have an RFP with the purchase of goods for these services?**

Response:

You must follow the most restrictive rules, either state or federal. In this instance the federal regulations are more restrictive so price must be a component of the review matrix. The LEA determines the value of price once it is included in the review matrix.

Contact the Division of Financial Compliance at (512) 463-9095 or [schoolaudits@tea.texas.gov](mailto:schoolaudits@tea.texas.gov) for questions related to state purchasing rules under FASRG.

**7.28 When the LEA has verified that a purchasing cooperative had followed the most restrictive procurement rules, exactly what specific documentation is required?**

Response:

The subrecipient must use its own documented procedures which reflect the most restrictive applicable federal, state, or local policy. The subrecipient must maintain proper documentation of the general procurement standards identified in 2 CFR 200.318.

Documentation of verifying the purchasing cooperative followed the appropriate rules could be as simple as maintaining a signed certification statement or an email stating that the rules were followed.

**7.29 Does the subrecipient collect conflict of interest forms from all vendors or only from grant staff?**

Response:

2 CFR 200.112 requires the disclosure of *any* potential conflict of interest while 2 CFR 200.318(h) describes integrity of vendors. In addition, the subrecipient must follow Local Government Code, Chapter 176 which also governs conflict of interest procedures.

Contact the Division of Financial Compliance at (512) 463-9095 or [schoolaudits@tea.texas.gov](mailto:schoolaudits@tea.texas.gov) for questions related to state purchasing rules under FASRG.



**7.30 The criteria for state procurement requires us to consider residency for many categories of purchases, but the federal rules prohibit this practice. Does this mean we must do two separate RFPs for both funding sources?**

Response:

Federal EDGAR regulations prohibit the use of residency requirements because it is considered to be limiting competition which is a more restrictive regulation. For federal procurements, the residency requirement would be deleted from the RFP. The subrecipient could; however, have a criteria such as being able access the location in a timely manner.

Contact the Division of Financial Compliance at (512) 463-9095 or [schoolaudits@tea.texas.gov](mailto:schoolaudits@tea.texas.gov) for questions related to state purchasing rules under FASRG.

**7.31 When crediting applicable credits from procurement cards back to the federal grant, are we required to track each individual purchase credit or can this be done in the aggregate at the end of the year?**

Response:

The applicable credit may be applied either by individual purchase or in the aggregate. Since most rebates from procurement cards are done annually, an aggregate credit may be the most practical. In either instance, the prorate distribution of the applicable credits back to allocable federal grants must be documented.

Contact the Division of Financial Compliance at (512) 463-9095 or [schoolaudits@tea.texas.gov](mailto:schoolaudits@tea.texas.gov) for questions related to state purchasing rules under FASRG.

**7.32 How do we ensure that we have included the appropriate contracting provisions in Appendix II in our procurements?**

Response:

Most of the contracting provisions in *Appendix II to Part 200—Contract Provisions for Non-federal Entity Contracts Under Federal Awards* states the specific type of contract for which it is applicable. The subrecipient should either consult with their legal counsel to ensure the appropriate provisions are included in specific procurements or the subrecipient could duplicate the entire list of provisions in all procurement contracts.

**7.33 How do we document the cost or price analysis process required in 2 CFR 200.232?**

Response:

The subrecipient must use its own documented procedures which reflect the most restrictive applicable federal, state, or local policy. The subrecipient must maintain proper documentation of the general procurement standards identified in 2 CFR 200.318.

The cost or price analysis requirement is done during the planning process before the procurement process is completed.

**7.34 How does the subrecipient handle multi-year contracts that are in place which may not have followed the new rules since they were signed before the new regulations took effect?**

Response:

TEA will consider school year 2015-2016 as a transition year. The subrecipient may continue the contract for this school year, but should ensure its contracts are compliant with the most restrictive rules or regulations before the next year. This may require new procurements that follow the new regulations.

Contact the Division of Financial Compliance at (512) 463-9095 or [schoolaudits@tea.texas.gov](mailto:schoolaudits@tea.texas.gov) for questions related to state purchasing rules under FASRG.

**7.35 Will TEA publish a list of the sole source procurements which it has pre-authorized?**

Response:

No, it is the responsibility of each subrecipient to document a noncompetitive (sole-source) procurement. This documentation must include how the subrecipient determined the noncompetitive procurement is the appropriate procurement method.

**7.36 ►►► When the LEA is verifying EDGAR compliance with existing local purchasing cooperatives (see question #7.14 above), how often must the verification be done?**

Once it has been verified that the purchasing cooperative has followed the most restrictive of the state or federal procurement rules (as detailed in the response to question #7.1), the LEA may enter into an agreement with the purchasing cooperative to purchase goods and services directly, without any additional procurement activities or documentation. This verification is to be conducted annually, preferably at the beginning of the grant period.

Contact the Division of Financial Compliance at (512) 463-9095 or [schoolaudits@tea.texas.gov](mailto:schoolaudits@tea.texas.gov) for questions related to state purchasing rules under FASRG.

**7.37 Can the LEA document the cooperative's statement of compliance posted on its website to meet this requirement?**

If the cooperative posts its compliance certification to its website, the LEA may document that compliance as long as the posted certification is dated and is current (no more than one year old). If the posted compliance certification is not updated annually, the LEA must ask the cooperative for a current compliance verification.

Contact the Division of Financial Compliance at (512) 463-9095 or [schoolaudits@tea.texas.gov](mailto:schoolaudits@tea.texas.gov) for questions related to state purchasing rules under FASRG.

**7.38 If the LEA has a vendor that it pays at the end of the year with a combination of local, state, and federal funds, and the federal portion for any specific federal grant program is less than \$3,500, can the LEA consider the federal grant share a micro-purchase since the federal grant aggregate is less than \$3,500?**

The subgrantee must follow its written local procurement policies and procedures. Those policies and procedures must align to FASRG rules and EDGAR regulations, which detail the process for using total cost to determine the appropriate type of procurement activity.

The subgrantee must follow its written local procurement policies and procedures. Those policies and procedures must align to FASRG rules and EDGAR regulations, which detail the process for using total cost to determine the appropriate type of procurement activity.

While the federal grant share may technically be within the micro-purchase threshold, TEA advises the subgrantee to follow the local written policy and appropriate procurement standards (as detailed in the response to question #7.1) for the total cost of the procurement. Considering the federal grant share as a micro-purchase could cause an audit exception for the LEA. See question #7.5 above.

Contact the Division of Financial Compliance at (512) 463-9095 or [schoolaudits@tea.texas.gov](mailto:schoolaudits@tea.texas.gov) for questions related to state purchasing rules under FASRG.

**7.39 Is the individual purchase order the appropriate mechanism for determining the procurement method to be followed under EDGAR, not taking into account the state purchasing rules?**

No, an individual purchase order may not reflect the full obligation that has been made.

In any case, the LEA must follow the most restrictive of federal, state, or local procurement and purchasing rules based on the total cost of the purchase (see question #7.1 above) and may not circumvent the intent of the regulation.

**7.40 If the subgrantee included the name of a specific vendor in its approved grant application, does this suffice as TEA's approval of a sole source vendor?**

No, TEA does not approve vendors through the application process. In fact, the subgrantee should not include vendor names in the grant application.

Noncompetitive (sole source) procurements may be used only when one or more of the following circumstances apply:

1. The item is available only from a single source.
2. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.
3. The federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-federal entity.
4. After solicitation of a number of sources, competition is determined inadequate.

Requesting pre-authorization from TEA is only one (item #3 above) way of documenting a sole source. To request a pre-authorization review of a proposed sole source procurement, complete the [form](#) and follow the [process](#) described on TEA's website.

Note that all procurements, including sole source procurements, must comply with the general procurement standards identified in 2 CFR 200.318. ◀◀◀

## **8. Payroll; Time and Effort**

### **8.1 What documentation should be kept for time and effort under the new EDGAR?**

Response:

Time and effort must be documented appropriately for any employee compensation that is paid, in full or in part, with federal funds. The new EDGAR does not list specific types of

documentation for time and effort, rather it lists seven characteristics of documentation that must be met. Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:

- i. Be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated;
- ii. Be incorporated into the official records of the non-Federal entity;
- iii. Reasonably reflect the total activity for which the employee is compensated by the non-Federal entity, not exceeding 100% of compensated activities (for IHE, this per the IHE's definition of IBS);
- iv. 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;
- v. Comply with the established accounting policies and practices of the non-Federal entity (See paragraph (h)(1)(ii) above for treatment of incidental work for IHEs.); and
- vi. [Reserved for future use in regulations]
- vii. 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.
- viii. Budget estimates (i.e., estimates determined before the services are performed) alone do not qualify as support for charges to Federal awards, but may be used for interim accounting purposes, provided that:
  - (A) The system for establishing the estimates produces reasonable approximations of the activity actually performed;
  - (B) Significant changes in the corresponding work activity (as defined by the non-Federal entity's written policies) are identified and entered into the records in a timely manner. Short term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term; and
  - (C) The non-Federal entity's system of internal controls includes processes to review after-the-fact interim charges made to a Federal awards based on budget estimates. All necessary adjustment must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated.

TEA's recommendation, at this time, is to continue to maintain your existing system of documentation for time and effort if it currently meets A-87, A-21, or A-122, as applicable, compliance requirements.

## **8.2 Should PARs be kept for teacher extra duty pay (tutoring) in addition to the documentation we request and they maintain?**

Response:

Time and effort must be documented if the tutors are paid with federal funds. See the response to question #8.1.

**8.3 Does a substitute teacher require time and effort records since substitutes are considered employees of the LEA?**

Response:

Time and effort must be documented appropriately for any employee compensation that is paid, in full or in part, with federal funds. The subgrantee generally will either have a policy or procedure that all substitute pay is paid from state and/or local, not federal or state grant, funds or the substitute pay follows the same pay as the staff members for whom the substitute is working. If the substitute pay follows the employees funding distribution, the LEA's after-the-fact documentation must identify the teacher or staff for whom the substitute is working. Either a statement signed by the substitute or other system documentation would be sufficient. See the response to question #8.1.

**8.4 Can we use federal funds to pay teachers on payroll for stipends the LEA gives to teachers for things like having a master's degree, being bilingual, teaching dual-credit, or teaching in a high-need area such as science and math?**

Response:

Federal funds may pay for salary and benefits for positions that benefit the federal program. Stipends for an advanced or preferred degree or specific position may be paid from federal funds only in the same manner that is consistent with local salary schedules and local policy. Note that if stipends are paid with federal funds, time and effort documentation must be maintained and the amount to be paid from federal funds must be reasonable and necessary. See the response to question #8.1.

**8.5 If a staff member is paid 100% with federal funds, what type of documentation do we keep for time and effort?**

Response:

Time and effort must be documented appropriately for any employee compensation that is paid, in full or in part, with federal funds. The new EDGAR does not list specific types of documentation for time and effort, rather it lists seven characteristics of documentation that must be met. See the response to question #8.1

**8.6 Is it correct that if a teacher is paid by IDEA-B grant funds and is on the semiannual certification, any substitute for that teacher must complete time and effort reports or that cost is unallowable?**

Response:

Time and effort must be documented appropriately for any employee compensation that is paid, in full or in part, with federal funds. The subgrantee generally will either have a local policy/procedure that all substitute pay is paid from state and/or local, not federal or state grant, funds or the substitute pay follows the same pay as the staff members for whom the substitute is working. If the substitute pay follows the employees funding distribution, the LEA's after-the-fact documentation must identify the teacher or staff for whom the substitute is working. Either a statement signed by the substitute or other system documentation would be sufficient. See the response to question #8.1.

**8.7 How would time and effort documentation work for teachers who are moved into their positions mid-semester?**

Response:

Regardless of when the time worked begins and ends, time and effort documentation described in the response to question #8.1 must be maintained for any salary paid in full or in part with federal grant funds.

**8.8 A campus has requested to hire a supplemental instructional position using its 2015-2016 Title I, Part A funds. Normally, we would have them wait until July 1 (start date of funding) to hire a new position. Are we correct to assume a campus can hire an employee now using its 2015–2016 Title I, Part A funds since the employee would not be performing any services until the start of the next school year?**

Response:

Yes, the funds for paying salary with federal grant funds are obligated the first day the employee works and each day worked thereafter. See the response to question #8.1.

**8.9 I have been told that grants that fall under the Ed-Flex rules are not required to comply with the time and effort rules. Is this true?**

Response:

Not exactly. Only the semiannual certification requirement is waived under Texas' Ed-Flex administrative waiver. Note that there is no semiannual certification requirement under the new EDGAR regulations; therefore, you must meet the documentation standards described in the response to question #8.1.

**8.10 Do we still have to identify work by single and multiple cost objectives?**

Response:

Yes, the subgrantee must maintain accurate documentation for personnel expenses based records that accurately reflect the work performed. See the response to question #8.1.

**8.11 Is it best practice or a federal or state requirement that an employee paid with federal funds must sign his or her job description?**

Response:

Maintaining signed job descriptions is not a state or federal requirement; however, it is considered to be an internal control activity that signifies the employee's understanding of his or her respective job duties. Auditors and monitors often consider the lack of a signed job description to be an indicator of poor internal controls which, in combination with other poor controls, could lead to an audit or monitoring finding or comment.

Subgrantees should<sup>11</sup> maintain signed job descriptions for all staff paid in full or in part with federal funds or staff paid with other funds whose salary is used to meet a federal matching or cost sharing requirement.

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<sup>11</sup> "should" refers to best practice

## **9. Fiscal Topics**

### **9.1 If there are no statutory limitations for special education, why does TEA send notification about carryover amounts?**

Response:

Excessive carryover or lapsing federal funds indicates higher level of risk and may indicate poor planning, poor program implementation, poor fiscal management, and potentially poor performance outcomes. Subgrantees should plan for the expenditure of funds in the 15-month grant period and use the 12-month carryover period, when applicable, to expend remaining funds due to unforeseen circumstances. TEA notifies subgrantees of excessive carryover as part of the state agency's fiduciary responsibilities and as good grant management practice.

### **9.2 At the end of the year, rebates are provided to the LEA for using procurement or credit cards to make purchases. Do the rebates have to be credited back to the federal award?**

Response:

Yes, 2 CFR 200.406, Applicable Credits, requires the refund or rebate to be credited back—either as a cost reduction or cash refund—to the federal grant program in proportion to the amount of federal program expenditures that were charged on the card that generated the refund/rebate. For example, the LEA receives a rebate of \$150 from the procurement card for the year. Of the total expenditures, 10% was charged to the IDEA-B program initially; therefore, 10% of the rebate (or \$15) must be credited back to the IDEA-B account.

### **9.3 What about paying stipends to employees? How will those be treated? We pay district-level instructional specialists out of Title II grant funds and pay a cell phone stipend from Title II. Is that still allowable?**

Response:

Stipends may be used interchangeably with extra-duty pay for employees and may also be used for non-employees. (This is a new interpretation of the terminology. In the past, the term “stipend” was generally used only for non-employees when expending federal grant funds.)

Stipends for an advanced or preferred degree or specific position may be paid from federal funds only in the same manner that is consistent with local salary schedules and local policy. Note that if stipends are paid with federal funds, time and effort documentation must be maintained, and the amount to be paid from federal funds must be reasonable and necessary.

Stipends should not be paid for personal cell phone usage. If the employee needs a cell phone to be in constant contact with central office and is traveling a sufficient amount of time between campuses, the LEA must determine whether it will provide a cell phone for business use to the staff member and follow local policy.

### **9.4 Is the subgrantee required to request approval from TEA to enter into a sole source (noncompetitive) procurement under the new EDGAR regulations?**

Response:

No, TEA authorizing a sole source in response to a prior written request from the applicant/subgrantee is one of four allowable circumstances. 2 CFR 200.320(f) states that noncompetitive procurements may only be used when one or more of the following circumstances apply:

1. The item is available only from a single source. Note that this circumstance is hard to document and prove when questioned.
2. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.
3. The federal awarding agency (USDE) or pass-through entity (TEA) expressly authorizes noncompetitive proposals in response to a written request from the non-federal entity (LEA or subgrantee).
4. After solicitation of a number of sources, competition is determined inadequate.

**9.5 Does the policy and procedures handout from the regional cluster trainings provide an all-inclusive list of policies and procedures required in EDGAR?**

Response:

No, the handout covers key policies and procedures listed in EDGAR. Some references to EDGAR policies and procedures group all the policies and procedures into only six categories—Cash Management, Allowability of Costs, Conflict of Interest, Procurement, Methods for Conducting Technical Evaluations, and Travel.

**9.6 Can our district reclassify staff members in the middle of the school year if they were paid with local funds from the beginning of the school year and now the district wants to pay them with federal funds?**

Response:

It depends. Generally, no, the district would be creating a presumption of supplanting to do this in the middle of the year if the teacher positions were paid with state funds in the prior year. However, there may be certain instances where this could be allowable if the teacher positions are new (not paid with state funds the previous year) and the adjustment can be done within the same fiscal year. You must discuss the details of your situation with TEA staff.

**9.7 What is required to be included in our local policy if we decide to take the two-year<sup>12</sup> grace period of implementation of the new EDGAR procurement regulations?**

Response:

Subgrantees may choose to implement the new EDGAR procurement rules in 2015–2016 or may take the two-year grace period and implement the new rules in the 2017–2018 school year. The subgrantee's local procurement policy must specify if the subgrantee is implementing the old rules in the 2015–2016 and/or 2016–2017 school year(s) or implementing the new EDGAR procurement rules in the 2015–2016 and/or 2016–2017 school year(s). If the subgrantee takes the two-year grace period, its procurement policies and procedures must be updated to the new rules by July 1, 2017.

TEA recommends that LEAs implement the new EDGAR procurement rules in the 2015–2016 school year to take advantage of new flexibility since the new rules are not significantly different from the existing rules.

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<sup>12</sup> The Council on Financial Assistance Reform (COFAR) made technical corrections to the Uniform Guidance on September 10, 2015, which included a grace period of two fiscal years for non-Federal entities to implement changes to their procurement policies and procedures to align with the Uniform Guidance procurement standards. This two-year grace period only applies to procurement policies and procedures.



**9.8 How long should we keep federal grant records since 2 CFR 200.333 requires the subgrantee to maintain records for three years from the date of submission of the final expenditure report and TEA says to maintain records for five years past the end of the grant period of availability?**

Response:

TEA recommends LEAs maintain records for five years after (1) submission of the final expenditure report, including any carryover funds, or (2) the last audit, monitoring, or litigation activity, whichever is later.

This recommendation is based on the GEPA statute of limitations stated in 34 CFR 81.31 for requesting repayment of funds being five years from the date of obligation even though the new EDGAR states a records retention requirement of three years. Note that the GEPA statute of limitations only applies to USDE grants, and it does not apply to the Higher Education Act grants.

**►►► Updated Response:**

New Texas state law, effective September 1, 2015, changed the state's documentation requirements for contracts and grants. The proposed rules should be available for review and comment this summer and finalized in the coming months. The archives commission's rules published on line currently reflect the existing rules and will be updated after the new rules are finalized. TEA guidance and application documents will be updated once the final rules are posted. ◀◀◀

**9.9 What is the consequence of a subgrantee's failure to have its policies and procedures updated to the new EDGAR requirements by July 1, 2015?**

Response:

The subgrantee will be out of compliance and should work diligently to come into compliance with the EDGAR requirements as quickly as possible. The consequences of that noncompliance will be determined based on the type of monitoring or auditing activity that identifies the noncompliance and the severity of the noncompliance, but may include specific conditions being placed on the grant award and/or remedies for noncompliance being taken.

2 CFR 200.207 allows for additional award conditions to be imposed on any grant award when TEA identifies a subgrantee as posing a level of risk identified by the agency's risk criteria, the subgrantee has a history of failure to comply with the terms and conditions of the grant award, the subgrantee fails to meet performance goals, or is not otherwise responsible.

Specific conditions may include 1) requiring payments as reimbursements rather than advanced payments (cash advances), 2) withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given performance period, 3) requiring additional, more detailed, financial reports, 4) requiring additional project monitoring, 5) requiring technical or management assistance, or 6) establishing additional prior approvals.

If TEA determines that noncompliance cannot be corrected by imposing the specific conditions, TEA may take one or more of the following remedies for noncompliance actions, as appropriate in the circumstances.

1. Temporarily withhold cash payments pending correction of the deficiency.
2. Disallow all or part of an activity or action not in compliance.

3. Wholly or partly suspend or terminate the grant award,
4. Initiate suspension or disbarment proceedings.
5. Withhold further grant awards for the project.
6. Take other remedies that may be legally available.

#### **9.10 How is program income defined and determined?**

Response:

##### ***Definition***

Program income is defined in 2 CFR 200.80 as gross income earned by the non-federal entity that is directly generated by a supported activity or earned as a result of the federal award during the period of performance.

Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under federal awards, the sale of commodities or items fabricated under a federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with federal award funds (when allowed).

Interest earned on advances of federal funds is not program income. Except as otherwise provided in federal statutes, regulations, or the terms and conditions of the federal award, program income also does not include rebates, credits, discounts, and interest earned on any of them.

##### ***Requirements***

2 CFR 200.307 states that non-federal entities are encouraged to earn income to defray program costs where appropriate.

Unless the federal statute or terms of the grant award state the use of program income, or prior approval has been granted, all program income (after the deduction of costs to generate the program income) must be deducted from the total allowable costs of the program area to determine the net allowable costs.

The costs of generating program income may be deducted from the gross income to determine the program income, as long as the costs have not been charged to the federal grant.

##### ***Uses***

Program income must be used for current costs of the grant program. Program income not anticipated at the time of receipt of the NOGA must be used to reduce the NOGA rather than to increase the total amount of funds committed to the grant program.

2 CFR 200.305(b)(5) states that to the extent available, the non-federal entity must disburse program income (including repayments to a revolving fund) and interest earned on such funds before requesting additional payments from federal grant funds. 2 CFR 200.400(g) contains the regulation that the non-federal entity may not earn or keep any profit generated by a federal grant award.

What this means is that the subgrantee is encouraged to generate program income to be used to pay for current expenses of the grant program. The subgrantee may not generate more program income than it expends in the program. This would result in a reduction of the grant NOGA because it is unallowable to generate or keep profit from a federal grant award.

Generally, when more program income is generated than the total expenditures of the grant program, and the NOGA award is not reduced accordingly, profit has been earned from the federal grant award.

**Example**

For example, a school district pays a total \$1,000 for a staff development activity from federal grant funds and \$800 from local funds. The district charges registration fees totaling \$1,500. The \$1,500 is the gross program income.

After deducting the \$800 activity expense (paid with non-federal grant funds), the district must use the remaining \$700 program income to pay for other current expenditures of the federal grant program, rather than charging those other current expenditures to the actual grant program. In this example, the federal grant program received \$1,700 worth of grant expenditures (\$1,000 for the activity and \$700 paid with program income) while only costing the grant program \$1,000.

**9.11 Is the sale of student-generated products from CTE courses considered program income?**

Response:

Yes. The same regulations apply *if* the federal CTE program funds paid for the materials and equipment used in building the product.

As stated above, the costs of generating the program income (cost of materials) may be deducted from the gross program income amount. However, if the student provides all the materials for the project, then the proceeds of the sale of the project remain with the student.

The use of equipment that is purchased with CTE funds and is used at an LEA facility is considered to be an instructional cost. This type of equipment use is not part of the determination of program income.

## ►►► Appendix 1: Policies and Procedures Contained in 2 CFR 200

### **§200.302 Financial management.**

(b) The financial management system of each non-Federal entity must provide for the following (see also §§200.333 Retention requirements for records, 200.334 Requests for transfer of records, 200.335 Methods for collection, transmission and storage of information, 200.336 Access to records, and 200.337 Restrictions on public access to records):

(6) Written procedures to implement the requirements of §200.305 Payment.

(7) Written procedures for determining the allowability of costs in accordance with Subpart E—Cost Principles of this part and the terms and conditions of the Federal award.

### **§200.305 Payment.**

(1) The non-Federal entity must be paid in advance, provided it maintains or demonstrates the willingness to maintain both written procedures that minimize the time elapsing between the transfer of funds and disbursement by the non-Federal entity, and financial management systems that meet the standards for fund control and accountability as established in this part. Advance payments to a non-Federal entity must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the non-Federal entity in carrying out the purpose of the approved program or project. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the non-Federal entity for direct program or project costs and the proportionate share of any allowable indirect costs. The non-Federal entity must make timely payment to contractors in accordance with the contract provisions.

### **§200.318 General procurement standards.**

(a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this part.

(c)(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

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

### **§200.319 Competition.**

(c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

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

### **§200.320 Methods of procurement to be followed.**

(d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- (3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

### **§200.430 Compensation—personal services.**

(a) General. Compensation for personal services includes all remuneration, paid currently or accrued, for services of employees rendered during the period of performance under the Federal award, including but not necessarily limited to wages and salaries. Compensation for personal services may also include fringe benefits which are addressed in §200.431 Compensation—fringe benefits. Costs of compensation are allowable to the extent that they satisfy the specific requirements of this part, and that the total compensation for individual employees:

- (1) Is reasonable for the services rendered and conforms to the established written policy of the non-Federal entity consistently applied to both Federal and non-Federal activities;
- (2) Follows an appointment made in accordance with a non-Federal entity's laws and/or rules or written policies and meets the requirements of Federal statute, where applicable;
- (c) *Professional activities outside the non-Federal entity.* Unless an arrangement is specifically authorized by a Federal awarding agency, a non-Federal entity must follow its written non-Federal entity-wide policies and practices concerning the permissible extent of professional services that can be provided outside the non-Federal entity for non-organizational compensation. Where such non-Federal entity-wide written policies do not exist or do not adequately define the permissible extent of consulting or other non-organizational activities undertaken for extra outside pay, the Federal Government may require that the effort of professional staff working on Federal awards be allocated between:

(h) *Institutions of higher education (IHEs)*. (1) Certain conditions require special consideration and possible limitations in determining allowable personnel compensation costs under Federal awards. Among such conditions are the following:

(ii) Incidental activities. Incidental activities for which supplemental compensation is allowable under written institutional policy (at a rate not to exceed institutional base salary) need not be included in the records described in paragraph (i) of this section to directly charge payments of incidental activities, such activities must either be specifically provided for in the Federal award budget or receive prior written approval by the Federal awarding agency.

(4) Extra Service Pay normally represents overload compensation, subject to institutional compensation policies for services above and beyond IBS. Where extra service pay is a result of Intra-IHE consulting, it is subject to the same requirements of paragraph (b) above. It is allowable if all of the following conditions are met:

(i) The non-Federal entity establishes consistent written policies which apply uniformly to all faculty members, not just those working on Federal awards.

(7) Sabbatical leave costs. Rules for sabbatical leave are as follows:

(i) Costs of leaves of absence by employees for performance of graduate work or sabbatical study, travel, or research are allowable provided the IHE has a uniform written policy on sabbatical leave for persons engaged in instruction and persons engaged in research. Such costs will be allocated on an equitable basis among all related activities of the IHE.

(8) *Salary rates for non-faculty members*. Non-faculty full-time professional personnel may also earn "extra service pay" in accordance with the non-Federal entity's written policy and consistent with paragraph (h)(1)(i) of this section.

(iv) 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;

(B) Significant changes in the corresponding work activity (as defined by the non-Federal entity's written policies) are identified and entered into the records in a timely manner. Short term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term; and...

### **§200.431 Compensation—fringe benefits.**

(b) Leave. The cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, family-related leave, sick leave, holidays, court leave, military leave, administrative leave, and other similar benefits, are allowable if all of the following criteria are met:

(1) They are provided under established written leave policies;

(c) The cost of fringe benefits in the form of employer contributions or expenses for social security; employee life, health, unemployment, and worker's compensation insurance (except as indicated in §200.447 Insurance and indemnification); pension plan costs (see paragraph (i) of this section); and other similar benefits are allowable, provided such benefits are granted under established written policies. Such benefits, must be allocated to Federal awards and all other activities in a manner consistent with the pattern of benefits attributable to the individuals or group(s) of employees whose salaries and wages are chargeable to such Federal awards and other activities, and charged as direct or indirect costs in accordance with the non-Federal entity's accounting practices.

### **§200.464 Relocation costs of employees.**

(a) Relocation costs are costs incident to the permanent change of duty assignment (for an indefinite period or for a stated period of not less than 12 months) of an existing employee or upon recruitment of a new employee. Relocation costs are allowable, subject to the limitations described in paragraphs (b), (c), and (d) of this section, provided that:

(2) Reimbursement to the employee is in accordance with an established written policy consistently followed by the employer.

### **§200.474 Travel costs.**

(a) General. Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the non-Federal entity. 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 to selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in the non-Federal entity's non-federally-funded activities and in accordance with non-Federal entity's written travel reimbursement policies. Notwithstanding the provisions of §200.444 General costs of government, travel costs of officials covered by that section are allowable with the prior written approval of the Federal awarding agency or pass-through entity when they are specifically related to the Federal award.

(b) Lodging and subsistence. Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, must be considered reasonable and otherwise allowable only to the extent such costs do not exceed charges normally allowed by the non-Federal entity in its regular operations as the result of the non-Federal entity's written travel policy. In addition, if these costs are charged directly to the Federal award documentation must justify that:

(d) In the absence of an acceptable, written non-Federal entity policy regarding travel costs, the rates and amounts established under 5 U.S.C. 5701-11, ("Travel and Subsistence Expenses; Mileage Allowances"), or by the Administrator of General Services, or by the President (or his or her designee) pursuant to any provisions of such subchapter must apply to travel under Federal awards (48 CFR 31.205-46(a)).



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