Nebraska Department of Education

State and Federal Grant Management Requirements and Guidance

NEBRASKA
DEPARTMENT OF
EDUCATION

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It is the policy of the Nebraska Department of Education not to discriminate on the basis of gender, disability, race, color, religion, marital status, age, national origin or genetic information in its education programs, administration, policies, employment or other agency programs.

Sources of Information

EDGAR (Education Department General Administrative Regulations): 34 CFR Parts 74, 75, 76, 77, 79, 80, 81, 82, 84, 85, 86 and 99. The link to the U. S. Education Department General Administrative Regulations (EDGAR) can be found at http://www.ed.gov/policy/fund/reg/edgarReg/edgar.html

The latest version of the Code of Federal Regulations (CFR) can be found at http://www.access.gpo.gov/nara/cfr/cfr-table-search.html Once there, go down the chart until you reach Title 34 for the U. S. Department of Education or appropriate title for the grant program of other Federal agencies and then click onto the most recent year.

The Catalog of Federal Domestic Assistance (CFDA) can be found at http://www.cfda.gov

OMB Circular A-87, "Cost Principles for State, Local and Indian Tribal Governments", can be found at http://www.whitehouse.gov/omb/circulars_default/

OMB Circular A-133, "Audits of State and Local Governments, and Non-profit Organizations", can be found at http://www.whitehouse.gov/omb/circulars_default/

The new Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule is available at http://www.gpo.gov/fdsys/pkg/FR-2013-12-26/pdf/2013-30465.pdf.

Program Budgeting, Accounting, and Reporting System for Nebraska School Districts, Users' Manual, Nebraska Department of Education, Revised Annually.
http://www.education.ne.gov/FOS/SchoolFinance/AFR/

The restricted indirect cost rates are available at
http://www.education.ne.gov/FOS/ASPX/IndirectCost/Default.aspx

Introduction

The purpose of this guidance is to:

- provide information on the policies governing all grants awarded by the Nebraska Department of Education, excluding those issued by Vocational Rehabilitation Services, Disability Determination Services, and the Assistive Technology Partnership;
- communicate the procedures and guidelines;
- ensure sound accounting practices; and
- provide consistency throughout the Department in the administration of all State and Federal grants.

It is not intended to address program specific requirements or regulations.

The guidance and requirements are identified as applicable to grants funded by the State where they differ from Federal grants. Since regulations and guidance apply to both the State (the Department of Education) and to the agencies or organizations that receive grants from the State, there are a number of descriptors used that can be confusing (i.e., grantee, subgrantee, recipient and subrecipient, etc.). To maintain some consistency, this guidance will use the term "grant recipient" or "grantee", whenever possible; to mean the agency that receives a grant from the Nebraska Department of Education.

This guidance will continue to be updated as needed. Changes, which result from implementation of the Grants Management System (GMS), are indicated. As programs are added to the GMS, these changes will apply to them.

I. Program Descriptions

ADULT EDUCATION PROGRAMS

Adult Education and EL/Civics –Basic Grants to States *CFDA 84.002*

Contact: Vicki Bauer 402.471.4807 (vicki.l.bauer@nebraska.gov)

Authority: Adult Education and Family Literacy Act, Title II; and Title V, Section 503 of the Workforce Investment Act of 1998, Public Law 105-220, as amended. (20 U.S.C. 9201 et.seq. and 20 U.S.C. 9273)

Regulations: EDGAR (34 CFR Parts 74-99), as applicable, including 34 CFR Parts 74, 76, 77, 79, 80, 81, 82, 85 and 86.

Provide educational opportunities for adults to improve their literacy skills to a level requisite for high school completion, self-sufficiency, effective citizenship, and/or English language acquisition.

Please review Appendix D regarding the purchase of food with Federal funds. There will be a high level of scrutiny on these types of purchases.

State Funded Volunteer Coordination Grants

Contact: Vicki Bauer 402.471.4807 (vicki.l.bauer@nebraska.gov)

Authority: Laws 1927; 1949; 1990, and 1996

Regulations: State Statutes 79-11,133 and 79-11,135

Volunteer Coordination grants are available to programs receiving Federal Adult Education grants. The programs must have a publicly elected board and a separate application is required to apply for the funds. The purpose of these funds is to recruit, train, and evaluate volunteers to assist in instruction in the Adult Education classrooms.

Application procedures and program guidelines are the same as the Federal Adult Education program.

CARL PERKINS, CAREER AND TECHNICAL EDUCATION

Career and Technical Education - Basic Grants to States CFDA 84.048
Contact: Rich Katt 402.471.4808 (rich.katt@nebraska.gov)

Authority: Carl D. Perkins Career and Technical Education Act of 2006, Title I, Public Law 109-270, as amended. (20 U.S.C. 2321-2355)
Regulations: EDGAR (34 CFR Parts 74-99), as applicable, including 34 CFR Parts 74, 76 (except Part 76.103), 77, 79, 80, 81, 82, and 85; and 34 CFR 400 and 403; and OCR Guidelines for Career and Technical Education.

The Perkins program provides supplemental assistance to develop more fully the academic and technical skills of secondary and postsecondary students who elect to enroll in career and technical programs in Nebraska secondary schools and community colleges.

This program provides formula grants to secondary schools based upon the poverty and population census data and postsecondary formula grants based upon Pell grant and BIA (Bureau of Indian Affairs) assistance percentages for the two-year postsecondary education institutions. Some targeted competitive grant funds are available under set aside for focused efforts in nontraditional employment, innovation and adoption, and special projects through statewide leadership funds.

Please review Appendix D regarding the purchase of food with Federal funds. There will be a high level of scrutiny on these types of purchases.

DISTANCE EDUCATION

Distance Education Incentives

Contact: SuAnn Witt 402.471.2085 (suann.witt@nebraska.gov)

Authority: Nebraska R.S.S. 79-1337
Regulations: Regulations and Procedures for the Education Innovation Fund Program - Distance Education Equipment Reimbursement And Incentives Title 92, Nebraska Administrative Code, Chapter 89

For fiscal years 2007-08 through 2015-16, the State Department of Education shall provide distance education incentives from the Education Innovation Fund to school districts and educational service units for qualified distance education courses and coordinated through the

Distance Education Council until July 1, 2008, and the Educational Service Unit Coordinating Council on and after July 1, 2008. For additional information visit the program website at: http://www.education.ne.gov/neat/DistanceEducation.html

EARLY CHILDHOOD PROGRAMS

Early Childhood Education Program

Contact: Melody Hobson 402.471.0263 (melody.hobson@nebraska.gov)

Authority: Nebraska Revised Statutes 79-1101 through 79-1104
Regulations: Title 92, Nebraska Administrative Code, Chapter 11 (Rule 11) Regulations for Early Childhood Education Programs

Funds are provided for grants to programs to serve at-risk four-year old children eligible to attend kindergarten in the following year. For the purpose of this grant, the criteria for "at-risk" are defined as the population of:

- children whose family income qualifies them for participation in the Federal free or reduced lunch program,
- children who reside in a home where a language other than spoken English is used as the primary means of communication,
- children whose parents are younger than eighteen or who have not completed high school, and/or
- children who were born prematurely or at low birth weight as verified by a physician.

Grants are intended to improve equity of access to early childhood education/prekindergarten programs, therefore the program grant should increase the number of children served in the community through the provision of comprehensive center-based programs. These early childhood programs are not intended to be categorical programs for at-risk four-year-old children and are expected to serve the targeted population of children within classrooms of three and four-year-old children that represent the range of abilities and disabilities of the children and the social, linguistic, and economic diversity of families within the community.

Eligible applicants are school districts, individually or in cooperation with other school districts. School districts which have received an early childhood education program grant for three years and have met the quality criteria will shift from the Early Childhood Education Grant Program to the Tax Equity and Educational Opportunities Support Act (state aid) for qualified early childhood average daily membership.

At the time programs begin receiving state aid for qualified four-year-olds, programs serving a combination of three- and four-year-olds may remain eligible for continuation grants in reduced amounts for serving children younger than those eligible to attend kindergarten in the following year.

Early Learning Connections Professional Development Partnerships

Contact: Melody Hobson 402.471.0263 (melody.hobson@nebraska.gov)

Authority: Child Care and Development Block Grant Act of 1990, as amended, 42 U.S.C. 9858 et. seq., CFDA 93.575; Individuals with Disabilities Education Act (IDEA), Part C, 20 U.S.C. 1431-1444 (NOTE: CFDA website also lists 20 U.S.C. 1471-

1485, but see 2004 IDEA Amendments), CFDA 84.181; Individuals with Disabilities Education Act (IDEA), Part B, Section 619, as amended (20 U.S.C. 1419), CFDA 84.173; Elementary and Secondary Education Act, Title 1, Part B, Subpart 3, as amended. (20 U.S.C. 6381-6381k), and 20 U.S.C. 6362, CFDA 84.213; Community Opportunities, Accountability, Training, and Educational Services Act of 1998, Title 1, Sections 101-119, Public Law 105-285 (42 U.S.C. 9831 et. seq.), CFDA 93.600.

Regulations: EDGAR, (34 CFR Parts 74-99), as applicable, (except Parts 76.600-76.677, 77, 80-82 and 85); and 34 CFR Parts 300, 301 and 303 (See also 34 CFR Part 200.80); and 45 CFR Parts 74, 92, 98, 99, 1301-1311.

The purpose of the Early Learning Connections Professional Development Partnerships (ELCs) is to assist collaboration in professional development efforts within regions to build the capacity to plan, disseminate, and coordinate training and professional development opportunities for all who work with young children, including children identified with disabilities.

ELCs promote systemic change in the use of training resources at local and regional levels. Time, support, and funds to develop a high level of coordination and collaboration are recognized as critical components for successful implementation.

As part of the comprehensive work plan, ELCs are expected to support all early childhood care and education professional development requirements, including child care licensing, public school and ESU early childhood program regulations, and early intervention and early childhood special education (birth to five) regulations.

FOREIGN LANGUAGE

Foreign Language Assistance Program – State Educational Agencies CFDA 84.293

Contact: Vicki Scow 402.471.4331 (vicki.scow@nebraska.gov)

Authority: Foreign Language Assistance Act of 2001 (20 U. S. C. 7259-7259c)

Regulations: EDGAR (34 CFR Parts 74-99), as applicable, including 34 CFR Parts 75, 76.564-569, 77, 80, 81, 97, 98 and 99; and 34 CFR Part 299.

The Foreign Language Assistance Program (FLAP) Grant is designed to promote systemic approaches to improving foreign language learning in Nebraska. Nebraska's current FLAP Grant, the Nebraska Chinese Acquisition Program (NECAP), is a collaborative effort of the Nebraska Department of Education and the University of Nebraska-Lincoln that expands efforts to increase Chinese language learning by improving Chinese teaching and learning in Nebraska. NECAP promotes systemic approaches to improve Chinese learning by providing intensive professional development summer institutes, innovative online modules and discussion boards, and face-to-face workshops. Teachers will be trained to create a learning environment where language is acquired through input from a variety of resources. This approach ensures learners are engaged cognitively as their Chinese language ability emerges and establishes horizontal articulation within the foundation of existing curriculum, while building language proficiency to deepen and expand language skills promoting vertical articulation. NECAP will provide opportunities for Chinese teachers to expand their understanding and use of formative and summative assessments that will document student achievement. Participants will implement the LinguaFolio, designed to allow students to track and assess their own

language learning progress under the guidance of a world language educator. The LinguaFolio develops self-regulation skills in learners through goal setting, action plans, and reflection. This effective practice will be replicated yearly with Chinese teachers.

Please review Appendix D regarding the purchase of food with Federal funds. There will be a high level of scrutiny on these types of purchases.

HIGH ABILITY LEARNERS

High Ability Learners
Contact: Mary Duffy 402.471.0737 (mary.duffy@nebraska.gov)

Authority: Nebraska Revised Statutes 79-1107 through 79-1108.03
Regulations: Title 92, Nebraska Administrative Code, Chapter 3 (Rule 3), Identification of High Ability Learners

The purpose of the High-Ability Learner Program is to meet the needs of Nebraska's students who give evidence of high performance capability in such areas as intellectual, creative, or artistic capacity or in specific academic fields and who require accelerated or differentiated curriculum programs in order to develop those capabilities fully. These are state funded grants.

NO CHILD LEFT BEHIND TITLE PROGRAMS

In general, food/beverages are not allowable using Federal grant funds but there are some rare occasions when grantees are allowed to do so. In very strict cases, food purchases for conferences and meetings are allowable, albeit there is a very high burden of proof for expending Federal funds to purchase food/beverages. In one case where it may be allowable is for a working lunch if there are no eateries within a reasonable distance. On another very rare occasion, if the conference/meeting goes beyond the dinner hour and again no eateries are available within a reasonable distance, usually in remote areas, it may be allowable. Very clear, concise documentation must be kept to justify that there were no eateries with a reasonable distance and allowable grant activities were conducted during the lunch and/or dinner---an auditor and a program monitor will request this documentation.

Finally, Federal funds cannot pay for breakfast, snacks, beverages (i.e., coffee, bottled water, sodas, etc.) and, in most cases, lunch or dinner because the general rule is that attendees should eat before and after attending the conference/meeting and food is only for working sessions when allowable.

See Appendix D for further information.

Title I, Part A, Improving Basic Programs CFDA 84.010

Contact: Diane Stuehmer 402.471.1740 (diane.stuehmer@nebraska.gov)

Authority: Elementary and Secondary Education Act, Title I, Part A, as amended. (20 U.S.C. 6301 et. seq., 20 U.S.C. 6311-6339)

Regulations: EDGAR (34 CFR Parts 74-99), as applicable; and 34 CFR Part 200 (See Parts 200.1-200.79)

The Title I, Part A program provides supplemental educational services so that all children have a fair, equal, and significant opportunity to obtain a high-quality education and to meet challenging state academic standards.

The amount of Title I funds allocated to each participating public school attendance area is determined primarily on the basis of the total number of low-income students—both public and private—residing in each attendance area.

Please review Appendix D regarding the purchase of food with Federal funds. There will be a high level of scrutiny on these types of purchases.

Title I, Part A, Improving Basic Programs Accountability CFDA 84.010

Contact: Diane Stuehmer 402.471.1740 (diane.stuehmer@nebraska.gov)

Authority: Elementary and Secondary Education Act, Title I, Part A, as amended. (20 U.S.C. 6301 et. seq., 20 U.S.C. 6311-6339)
Regulations: EDGAR (34 CFR Parts 74-99), as applicable; and 34 CFR 200 (See Parts 200.1-200.79)

Provides Local Education Agencies (LEAs) with supplemental resources to carry out school improvement and corrective action responsibilities under §1116(c) of Title I, Part A.

Please review Appendix D regarding the purchase of food with Federal funds. There will be a high level of scrutiny on these types of purchases.

School Improvement Grant 1003(g) CFDA: 84.377A

Contact: Diane Stuehmer 402.471.1740 (diane.stuehmer@nebraska.gov)
Randy McIntyre 402-471-1749 (randy.mcintyre@nebraska.gov)

Authority: PL 107-110 Elementary and Secondary Education Act, as Amended

School Improvement Grants CFDA: 84.388A

Authority: Section 1003(g) of the Elementary and Secondary Education Act of 1965
Regulations: The final requirements for the SIG program, set forth in 75 FR 66363 (Oct. 28, 2010) (final requirements), implement both the requirements of section 1003(g) of the ESEA and the flexibilities for the SIG program provided through the Consolidated Appropriations Act, 2010.

Schools identified as persistently lowest-achieving schools (PLAS) are eligible to apply for School Improvement Grants (SIG). Funds will be awarded to schools that demonstrate (A) the greatest need for such funds; and (B) the strongest commitment to ensuring that such funds are used to substantially raise student achievement in the persistently lowest-achieving schools in the State.

Please review Appendix D regarding the purchase of food with Federal funds. There will be a high level of scrutiny on these types of purchases.

Title I, Part C, Education of Migrant Children CFDA 84.011

Contact: Sue Henry 402.471.3440 (sue.henry@nebraska.gov)

Authority: Elementary and Secondary Education Act, as amended. (20 U.S.C. 6301 et. seq., 20 U.S.C. 6391-6399), and 20 U.S.C. 6362.
Regulations: EDGAR (34 CFR Parts 74-99), as applicable, and 34 CFR Parts 200.81-200.88

Under the Migrant Education Program, the U. S. Department of Education awards grants to the State for the purpose of establishing and improving programs and projects that are designed to meet the unique educational needs of children of migratory agricultural workers or migratory fishers. These grants assist States and appropriate local operating agencies in improving educational opportunities for migrant children to help them succeed in the regular school program, meet the challenging State academic content and student academic achievement standards that all children are expected to meet, and graduate from high school. Children are eligible to receive supplemental services through the Migrant Education Program if they meet the definition of "migratory child" and if the basis for their eligibility is properly recorded on a Certificate Of Eligibility (COE). If your district has identified migrant students who meet the Federal definition, please contact the NDE Migrant Education office to address special circumstances that apply.

Please review Appendix D regarding the purchase of food with Federal funds. There will be a high level of scrutiny on these types of purchases.

Title I, Part D, Education of Neglected and Delinquent and At-risk Youth CFDA 84.013

Contact: Pat Frost 402.471.2478 (pat.frost@nebraska.gov)

Authority: Elementary and Secondary Education Act, Title I, Part D, as amended. (20 U.S.C. 6301 et. seq., 20 U.S.C. 6421-6472)
Regulations: EDGAR (34 CFR Parts 74-99), as applicable, and 34 CFR Parts 200.90-200.91

Nebraska provides educational services to children and youth through Title I, Part D, Subpart 1 (Grants made to state agencies responsible for serving children and youth in residential and non-residential institutions, including those in adult correctional facilities.) and Title I, Part D, Subpart 2 (Grants made to local educational agencies that provide services to youth in local correctional facilities who are at risk of educational failure.) In addition to services provided in an institutional setting, programming is designed to assist children and youth as they transition from institutionalization to further schooling or employment.

Please review Appendix D regarding the purchase of food with Federal funds. There will be a high level of scrutiny on these types of purchases.

Title II, Part A, Teacher and Principal Training and Recruiting CFDA 84.367

Contact: Mike Kissler 402.471.2741 (mike.kissler@nebraska.gov)

Authority: Elementary and Secondary Education Act, Title II, Part A, as amended, (20 U.S.C. 6301 et. seq., 20 U.S.C. 6601-6651)
Regulations: EDGAR (34 CFR Parts 74-99), as applicable, including 34 CFR Part 76.

This program allows school districts to hire teachers in order to reduce class size or conduct professional development so instructional staff in the core academic areas are highly qualified to work with students. Student population and poverty figures from the Census Bureau affect the amount of money school districts are eligible to receive. For further information about the program, visit the program's website at http://www.education.ne.gov/federalprograms/Title%20II.html

Please review Appendix D regarding the purchase of food with Federal funds. There will be a high level of scrutiny on these types of purchases.

Title II, Part B, Mathematics and Science Partnerships Grant Program CFDA 84.366

Contact Jan Handa 402.471.0876 (jan.handa@nebraska.gov)

Authority: Elementary and Secondary Education Act, Title II, Part B, as amended. (20 U.S.C. 6301 et. seq., 20 USC 6661-6663)
Regulations: EDGAR (34 CFR Parts 74-99), as applicable, including 34 CFR Parts 74, 75, 77, 79. 80, 81, 82, 85, 86, 97, 98 and 99.

This Federally funded competitive grant program funds partnerships of high-need school districts, four-year institutions of higher education, and other organizations to improve the academic achievement of students in mathematics and science in elementary and secondary schools. The program will accomplish this by concentrating resources in two statewide grants serving a significant portion of the state for a multi-year period.

Please review Appendix D regarding the purchase of food with Federal funds. There will be a high level of scrutiny on these types of purchases.

Title III, English Language Acquisition CFDA 84.365

Contact: Terri Schuster, 402.471.4694 (terri.schuster@nebraska.gov)

Authority: Elementary and Secondary Education Act, Title III, Part A, as amended. (20 U.S.C. 6301 et. seq., 20 USC 6801-6871)
Regulations: EDGAR (34 CFR Parts 74-99), as applicable, including 34 CFR Part 76.

Limited English Proficient Grants

Limited English Proficient (LEP) grants support efforts to assist limited English proficient students to learn English and meet challenging State academic content and student academic achievement standards.

Immigrant Education Grants
Section 3114(d) authorizes grants for districts with a significant increase in the percentage or number of immigrant children and youth enrolled in the district. These grants are used to provide enhanced instructional opportunities for immigrant children and youth.

Please review Appendix D regarding the purchase of food with Federal funds. There will be a high level of scrutiny on these types of purchases.

Title IV, Part B, 21st Century Community Learning Centers CFDA 84.287

Contact: Jan Handa 402.471.0876 (jan.handa@nebraska.gov)

Authority: Elementary and Secondary Education Act, Title IV, Part B, as amended. (20 U.S.C. 6301 et. seq., 20 U.S.C. 7171-7176)
Regulations: EDGAR (34 CFR Parts 74-99), as applicable, including 34 CFR Parts 74, 75, 76, 77, 79, 80, 81, 82, 85 and 86.

The 21st Century Community Learning Centers (21st CCLC) is a Federally funded competitive grant program designed to support the establishment of community learning centers serving students attending schools with high needs. The Nebraska Department of Education (NDE) administers these grants to offer students a broad array of services, programs, and activities during non-school hours or periods when school is not in session, such as afterschool or during the summer. The three overarching goals of this grant program are to 1) improve student learning performance in one or more core academic areas; 2) improve student social and behavioral skills; and 3) increase family and community engagement in supporting students' education.
Any eligible entity (local educational agency, community-based organization, or other public or private entity) may serve as the fiscal agent for a 21st Century Community Learning Center grant. Fiscal agents must annually register in the SAM (System for Award Management) and must have a DUNS (Dun & Bradstreet) number. Fiscal agents are subject to approval by NDE. Requests to act as the fiscal agent will be considered based on the following criteria: previous experience administering local, State or Federal grants of similar dollar value; proven fiduciary responsibility as demonstrated through annual audits; and linkage with the school district(s) and the school site(s) to be served.

Please review Appendix D regarding the purchase of food with Federal funds. There will be a high level of scrutiny on these types of purchases.

Title VI, Part B, Subpart 2: Rural and Low-Income Schools CFDA 84.358

Contact: Brad Conner 402-471-2968 (brad.conner@nebraska.gov)
Diane Stuehmer 402.471.1740 (diane.stuehmer@nebraska.gov)

Authority: Elementary and Secondary Education Act, Title VI, Part B, Subpart 2, as amended. (20 USC 6301 et. seq., 20 U.S.C. 7341-7351c)
Regulations: EDGAR (34 CFR Parts 74-99), as applicable, including 34 CFR Parts 75, 76, 77, 79, 80, 81, 82, 85, 97, 98 and 99.

Provides assistance to eligible districts determined to be rural and low-income for any of the activities authorized in Titles I through V of No Child Left Behind.

Please review Appendix D regarding the purchase of food with Federal funds. There will be a high level of scrutiny on these types of purchases.

NUTRITION SERVICES

Fresh Fruit and Vegetable Program (FFVP) CFDA 10.582

Contact: Bev Benes 402.471.3566 (bev.benes@nebraska.gov)

Authority: The Food, Conservation, and Energy Act of 2008, (P.L. 110-234) also known as the 2008 Farm Bill, Section 4304 of P.L. 110-234 amended the Richard B. Russell School Lunch Act (NSLA) (42 U.S.C. 1769) by adding Section 19, the *Fresh Fruit and Vegetable Program.*

FFVP is authorized by Public Law 109-97 and Section 120 of the Child Nutrition and WIC Reauthorization Act of 2004 (Public Law 108-265)

Regulations: None at this time.

To provide all children in participating, elementary schools a variety of free, fresh fruits and vegetables throughout the school day. Schools must participate in the National School Lunch Program, submit an annual application and have 50% or more Free/Reduced price eligible students. Funding to each school is based on the school's enrollment.

SPECIAL EDUCATION PROGRAMS

Special Education Grants to States- Base, Enrollment/Poverty, CEIS, and Nonpublic Allocations *CFDA 84.027*

Contact: Pete Biaggio 402.471.4308 (pete.biaggio@nebraska.gov)

Authority: Individuals with Disabilities Education Act (IDEA), Part B, Section 611, as amended. (20 U.S.C. 1411)

Regulations: EDGAR (34 CFR Parts 74-99), as applicable, and 34 CFR Part 300.

To provide grants to districts and other agencies to assist in providing a free appropriate public education to children with disabilities.

Special Education Preschool Grants- Base Allocations *CFDA 84.173*

Contact: Pete Biaggio 402.471.4308 (pete.biaggio@nebraska.gov)

Authority: Individuals with Disabilities Education Act (IDEA), Part B, Section 619, as amended. (20 U.S.C. 1419)

Regulations: EDGAR (34 CFR Parts 74-99), as applicable, and 34 CFR Parts 300 and 301.

To provide grants to districts and other agencies to assist in providing a free appropriate public education to children with disabilities ages three through five years

Please review Appendix D regarding the purchase of food with Federal funds. There will be a high level of scrutiny on these types of purchases.

NDE Special Education/ESU Facilitator Project *CFDA 84.l027 and 84.181*
Contact: Lindy Foley 402.471.4318 (lindy.foley@nebraska.gov)

Authority: Individuals with Disabilities Education Act (IDEA), Part B, 20 U.S.C. 1400 et. seq. Public Law 105-17
Regulations: EDGAR (34 CFR Parts 74-99), as applicable, and 34 CFR Part 300.

To provide grants to agencies to facilitate technical assistance and support to help districts successfully complete the Improving Learning for Children with Disabilities (ILCD) process.

Please review Appendix D regarding the purchase of food with Federal funds. There will be a high level of scrutiny on these types of purchases.

Special Education Secondary Transition Innovative Grants *CFDA 84.027*
Contact: Rita Hammitt 402.595.2092 (rita.hammitt@nebraska.gov)

Authority: Individuals with Disabilities Education Act (IDEA), Part B, 20 U.S.C. 1400 et. seq.
Regulations: EDGAR (34 CFR Parts 74-99), as applicable, and 34 CFR Part 300

To provide grants to assist districts and other agencies in developing or enhancing transition services available to students with disabilities through activities which are innovative

Please review Appendix D regarding the purchase of food with Federal funds. There will be a high level of scrutiny on these types of purchases.

Special Education Grants for Infants and Toddlers With Disabilities *CFDA 84.181*
Contact: Carol McClain 402.471.4323 (carol.mcclain@nebraska.gov)

Authority: Individuals with Disabilities Education Act (IDEA), Part C, as amended, 20 U.S.C. 1431-1444. (NOTE: CFDA website also lists 20 U.S.C. 1471-1485, but see 2004 IDEA Amendments).
Regulations: EDGAR (34 CFR Parts 74-99), as applicable; and 34 CFR Part 303.

To assist the State to develop and implement a Statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities (birth to age 3), and their families.

Please review Appendix D regarding the purchase of food with Federal funds. There will be a high level of scrutiny on these types of purchases.

Special Education Early Childhood Grants – System Support Grant to Planning Region Teams *CFDA 84.181*

Contact: Pam Kasl 402.471.4341 (pam.kasl@nebraska.gov)

Authority: Individuals with Disabilities Education Act (IDEA), as amended, 20 U.S.C. 1431-1444, Part C

Regulations: EDGAR (34 CFR Parts 74-99), as applicable; and 34 CFR Part 303

To provide support to Early Development Network Planning Region Teams to carry out their responsibilities related to a Statewide, comprehensive, coordinated, multidisciplinary, interagency system to sustain early intervention services for infants and toddlers with disabilities (birth to age 3), and their families.

Please review Appendix D regarding the purchase of food with Federal funds. There will be a high level of scrutiny on these types of purchases.

Special Education State Personnel Development Grant for Children with Disabilities (SPDG) *CFDA 84.323*

Contact: Jolene Palmer 402.471.2944 (jolene.palmer@nebraska.gov)

Authority: Individuals with Disabilities Education Act (IDEA), Part D, Subpart 1, as amended. (20 U.S.C. 1451-1456)

Regulations: EDGAR (34 CFR Parts 74-99), as applicable.

To assist NDE and districts in reforming and improving a system providing Positive Behavior Intervention and Supports, including their systems for professional development, technical assistance, and dissemination of knowledge about best practices to improve results for children with disabilities.

Please review Appendix D regarding the purchase of food with Federal funds. There will be a high level of scrutiny on these types of purchases.

Special Education – Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities; Deaf-Blind *CFDA 84.326*

Contact: Teresa Coonts 402.595.1810 (teresa.coonts@nebraska.gov)

Authority: Individuals with Disabilities Education Act (IDEA), Part D, Subpart 2, Section 663, as amended. (20 U.S.C. 1463)

Regulations: EDGAR (34 CFR Parts 74-99), as applicable.

The goal of the Nebraska Project for Children Who Are Deaf-Blind in partnership with NDE is to improve results for children who are deaf-blind (birth to age 21) by providing evidence-based practices, technical assistance, training, information and dissemination to families, educators, paraprofessionals, and agencies serving this population so that children and their families will be successful members of their school and communities.

Please review Appendix D regarding the purchase of food with Federal funds. There will be a high level of scrutiny on these types of purchases.

OTHER PROGRAMS

McKinney Vento Education of Homeless Children and Youth CFDA 84.196

Contact: Cathy Mohnike 402.471.1419 (cathy.mohnike@nebraska.gov)

Authority: McKinney-Vento Homeless Assistance Act, (42 U.S.C. 11431-11435)
Regulation: EDGAR (34 CFR Parts 74-99), as applicable.

A competitive grant program that provides resources for activities and services to ensure that each child of a homeless individual and each homeless youth have equal access to the same free, appropriate public education, including a public preschool, as provided to other children and youths. This access is necessary to ensure that homeless children and youths have an opportunity to meet the same challenging State student academic achievement standards to which all students are held. Establishes a State Office of Homeless Education with a State Coordinator and requires a Homeless Education Liaison for each district within the state.

Please review Appendix D regarding the purchase of food with Federal funds. There will be a high level of scrutiny on these types of purchases.

II. Definitions

Grant

An award of financial assistance by NDE, in the form of money or property in lieu of money, to an eligible recipient for a defined purpose permitted by associated grant program regulations.

- Continuation grant – a new grant award to provide "another period" of funding under an approved project timeline specified in a competitive or non-competitive discretionary grant.
- Discretionary grant (two types) –
    - Competitive Discretionary Grant – A grant made on the basis of competition among applicants. An application does not assure the applicant of being awarded a grant.
    - Non-competitive Discretionary Grant – Any grant that is not a formula grant or a competitive discretionary grant.
- Formula Grant – A grant award with a grant amount determined by a formula specified or authorized by law, regulation, or terms of the funding agreement with NDE.

Calendar

Fiscal Years:

- State fiscal year: July 1 to June 30.
- Districts' fiscal year: September 1 to August 31.
- Each ESU has discretion in establishing a fiscal year.
- Federal fiscal year: October 1 to September 30

Federal Grant Funding Availability

Although the Federal fiscal year is October 1 to September 30, many formula grants, including ESEA/NCLB, become available on July 1. Most Federal funds are granted for one year. In some instances, only a portion of the grant funds are available from July 1 – September 30. The entire grant becomes available October 1.

If the Federal Tydings Amendment applies to a specific grant, those grant funds are available as carryover to schools and other recipients in the following year. This amendment makes qualifying program grants received by NDE available for a 27-month period. Example: July 1, 2013 to September 30, 2015.

> "Under the Tydings Amendment, Section 421(b) of the General Education Provisions Act (GEPA), 20 U. S. C. 1225(b), any funds that are not obligated at the end of the funding period specified in the Grant Award Notice shall remain available for obligation for an additional period of 12 months."

Project Start Date:

- The beginning date when funds can be obligated for approved grant activities. Some grants allow pre-award costs, which will be identified with the grant award.
- Cannot precede 1) the receipt of an approvable application with a budget request for funds for formula grant programs or 2) notification of approval and issuance of the grant award notification (GAN) for competitive and discretionary grants.
- Cannot precede the beginning of the fiscal year for which the funds are appropriated.
- The project start date is included on the Grant Award Notification (GAN).

Approval Date: The date when the application is approved. Formula grant recipients can begin obligating funds upon approval and issuance of the grant award notification subject to the limitations of the project start date. Competitive grants of $25,000 or more require approval by the State Board of Education before the issuance of a grant award notification. Grant awards for competitive discretionary grants between $10,000 and $25,000 must be approved by the Commissioner**.**

Project Ending Date:

- The last date that funds can be obligated or spent on an approved project.
    - All activities for a project must be completed within the project starting and ending dates.
- Any funds obligated before the project ending date must be liquidated within a period of 45 days following the project ending date. Any delay past 45 days may jeopardize payments.
- The project ending date is included on the Grant Award Notification (GAN).
- Most Federal formula grants are covered under the Tydings Amendment and permit unexpended funds from the first project year to be carried over to the next project year. Carryover funds must be amended and approved for expenditure in the next year's grant budget and application.

Final Financial Reports: A final financial report is due 45 days after the project ending date (excluding statutory deadline reporting requirements). Failure to submit the required reports on time will result in current and subsequent years' funding being withheld until the report is received. Some programs also require a final program progress report at the end of a project, which is subject to the same withholding provisions if not submitted by the time required. If the

grant project and all obligations are completed prior to the project ending date, grant recipients should submit the final financial report at that time, not waiting for the project ending date.

Outstanding Obligations: An outstanding obligation is any debt for which funds were obligated prior to the end of the project and is expected to be paid within 45 days following the project ending date.

Federal Grants

The following table (from 34 CFR 76.707) describes when an obligation occurs with respect to various categories of activities.

If the obligation is for:	The obligation is made:
a) acquisition of real or personal property	-on the date on which a written commitment to acquire the property has been made.
b) personal services by an employee	-when the service has been performed.
c) personal services by a contractor (not an employee)	-on the date on which a binding written commitment to obtain the services has been made. (NDE has added: provided that the work can be completed within 45 days of the end of the project).
d) performance of work other than a personal service	-on the date on which a binding written commitment to obtain the work has been made. (NDE has added: provided that the work can be completed within 45 days of the end of the project).
e) public utility service	-when the service is received.
f) travel	-when the travel is taken.
g) rental of real or personal property	-when the property is used.
h) a preagreement cost that was approved by the State under the cost principles identified in 34 CFR 74.171 and 80.22	-when the preagreement costs were approved.

State Grants

State grants may have other restrictions or timelines for obligations which are specified in the grant's instructions. Check with the program director of the grant for further information.

Other Terms:

Department: Refers to the Nebraska Department of Education unless otherwise identified.

Nonpublic: All schools approved under Rule 14 will, for consistency, be referred to as nonpublic schools.

Interim Program Schools: Refers to schools located in or operated by county detention homes, institutions and juvenile emergency shelters that are created to ensure continuity of instruction for students who cannot attend public schools for reasons of health or safety while in temporary residential placements and to insure that such students may receive academic credit from the approved or accredited schools to which they will transfer in order to make continued progress toward grade promotion or graduation.

Unique Grant Recipient Identifier Numbers: The GMS will use the following unique identifier numbers within all projects to identify the grant recipient. This is not a grant award number. The unique grant recipient identifier number includes 15 characters but will use only those needed (remaining characters will be zeros).

00	00	0000	0000	000
ESU	County	District	Nonpublic School	Building

Project Number: All grant award notifications have a unique number identifying the project and fiscal year.

III. Applications

A grant application and subsequent grant award constitute a legally binding agreement between the applicant and the Department of Education. An applicant may be a school district, an ESU, a multi-district project (consortium), or a nonprofit entity. Eligibility requirements vary. Check with the program director for details on eligibility.

Each application shall contain a set of assurances, which is the applicant's agreement to follow important state and Federal laws and regulations related to the administration of the program and management of the funds.

Authorized Representative

The "Authorized Representative" is a person who legally acts on behalf of the recipient of Federal and state grants. The authorized representative is the liaison between the grant recipient and NDE as the grantor.

The governing body of an agency delegates their authority to the person (i.e., district superintendent or ESU administrator) who will act as the authorized representative of the agency receiving state or Federal grants. **This authorization must be done annually, for some programs, and duly noted in recorded board minutes.** The chairperson of the managing board or committee of the grantee organization is assumed to be the authorized representative for applicants that are not districts, or ESUs, unless otherwise indicated by the managing board.

Role and Responsibilities of the Authorized Representative

The signature of the authorized representative protects the legal rights and interests of the recipient and commits the recipient to fulfill the obligations of the grant project. The signature of the authorized representative is required in order to form a legal contract between the recipient and the Department of Education as the grantor agency. By signing grant related documents on behalf of the organization, the authorized representative binds the recipient to operate the grant

within the terms of the grant agreement, assurances, administrative and program requirements. The security measures in NDE's Portal identify the authorized representative as the electronic signature for online submissions.

The authorized representative is responsible for:

- Developing a work plan or calendar to administer and achieve the goals and objectives of the grant award;
- Informing the business manager/financial contact of the application, approval of the award, applicable requirements for allowable costs of the program, reporting requirements, budget or program modifications, close-out procedures, etc.;
- Ensuring an appropriate system of **time and effort records** is used in cases where an employee that is paid using grant funds is also paid using local or state funds or funds of another Federal program;
- Submitting timely and accurate program reports and ensuring the person responsible for fiscal reporting is also prompt and accurate, and;
- Ensuring the grant award is administered in compliance with applicable state and Federal laws, regulations, statement of assurances and terms and conditions of the grant award.

Application Process

Application forms may be accessible online through the grants management system (GMS) or manual (paper forms) for grants not on the GMS. Notices that applications are available are sent to the authorized representative and may be posted on the Department's homepage. If online, the authorized representative can access the application form through NDE's Portal found at: https://portal.education.ne.gov/Site/DesktopDefault.aspx

The authorized representative may approve, through the use of the activation codes, other staff to assume roles in completing the application and financial reporting. The GMS notifies the applicant of approval or, if necessary, the need for changes before approval can be given.

Nonpublic Participation in Federal Grants

The authorizing statutes for many Federal programs require that the state and recipients of NDE issued grants provide for participation by eligible students or staff enrolled in nonpublic schools and define the specifics for determining eligibility and participation. Federal statutes may require that public school districts have meaningful and timely consultation with nonpublic schools within their boundaries concerning the availability of the various Federal programs in which nonpublic schools may participate, whether individually or in a multi-district project (consortium). This consultation must be documented and the appropriate Nonpublic School Participation form must be signed by all parties and submitted to the Department. All districts must offer the opportunity for a free and appropriate public education for students with disabilities residing within their boundaries.

The major provisions of Section 9501 of the No Child Left Behind Act require:

- Districts or consortia to provide eligible non-public children and their teachers, on an equitable basis, services or benefits that address their needs;
- Services or benefits must be secular, neutral, and non-ideological;
- Services and benefits shall be equitable in comparison to services and other benefits for public school children, teachers and other educational personnel participating in the program and shall be provided in a timely manner; and

- Expenditures shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children.

Administrative Responsibility for Nonpublic Participation
Recipients of Federal grants issued by NDE must fulfill these general administrative responsibilities: (34 CFR 76.651-662)

- Provide eligible nonpublic school students a genuine opportunity for equitable participation in accordance with Federal laws and regulations for a program;
- Provide nonpublic school students the opportunity to participate consistent with the number of nonpublic school students and their needs;
- Maintain administrative control over Federal funds and Federal property used for students enrolled in nonpublic schools;
- Provide for timely and meaningful consultation that addresses:
    - How the eligible staff and children's needs will be identified;
    - What services will be offered;
    - How, where, and by whom the services will be provided;
    - How the services will be assessed and how the results of that assessment will be used to improve those services;
    - The size and scope of the equitable services to be provided and the amount of funds available for those services; and
    - How and when the district will make decisions about the delivery of services including a thorough consideration and analysis of the views of the nonpublic school officials on the provision of services through a contract with potential third-party providers.
- Consult with the nonpublic school before the district makes any decision on use of funds, including decisions to use the REAP-FLEX or Section 6123 options or to assign their allocation to a consortium;
- Assure that program benefits provided for eligible nonpublic school staff and students are comparable in quality, scope, and opportunity to participate as are benefits provided to students in public schools. NCLB does NOT allow any payments to be made to a nonpublic school. Nonpublic school teachers may receive stipends but these must be paid directly to the teacher. No part of a nonpublic school teacher's salary or benefits or substitute pay can be paid with NCLB funds;
- Assure that, if needs of students in nonpublic schools are different than in public schools, the benefits provided are different; and
- Assure that the program funds are not used to finance the existing level of instruction or otherwise benefit the nonpublic school or provide for construction of nonpublic school facilities.

Specific Program Nonpublic Participation

Title I, Part A, Improving Basic Programs: Nonpublic school students with academic needs who reside in an eligible Title I attendance area may receive equitable services to the extent possible with funds generated by low-income nonpublic school students. The LEA is responsible for assessing the English language proficiency of private school students. The assessment is critical to ensuring, for example, that a student who has a native language other than English is, in fact, LEP. Details on the kind of assessment and how it will be conducted should be discussed during the consultation process. However, the LEA cannot require a private school to

administer an English language proficiency assessment as a condition for equitable participation of the private school students.

Title II, Part A, Teacher and Principle Training and Recruiting: Funds can support professional development for nonpublic school staff members in such areas as improving the knowledge of teachers, principals, and other educational personnel in one or more of the core academic subjects and in effective instructional teaching strategies, methods, and skills; training in effectively integrating technology into curricula and instruction; training in how to teach students with different needs, including students with disabilities or limited English proficiency, and gifted and talented students; and training in methods of improving student behavior, identifying early and appropriate interventions, and involving parents more effectively in their children's education; etc.…

Title III, Part A, Language Acquisition: Does not require LEAs to administer their State's annual English language proficiency assessment for identified English learners in **private** schools. However, the LEA is required under the Title IX uniform provisions to consult with private school officials about how the results of the assessment will be used to improve those services (see Section 950 (c)(1)(D)).

21st Century Community Learning Center Grants: Public and private organizations are eligible to apply for a competitive 21st Century Community Learning Center grant. Examples of eligible agencies and organizations include, but are not limited to public school districts and private schools (LEAs), community-based organizations (CBOs), non-profit agencies, city or county government agencies, faith-based organizations (FBOs), institutions of higher education, and for-profit corporations. A consortium of two or more such agencies, organizations, or entities is also eligible. Eligible organizations are required to collaborate with public schools when applying for funds.

Nonpublic Participation in State Grants
Contact the Program Director for guidance on the participation of nonpublic schools, staff or students in any State grant.

Complaints and Appeals Process in Federal Grants

Complaints
Chapter 34 of the Code of Federal Regulations, Section 299.10 (34 CFR 299.10) requires the Department to adopt written procedures for receiving or resolving any complaint from an organization or individual that the Department or an agency or a consortium of agencies is violating a Federal statute or regulation that applies to certain Federal programs.

34 CFR 299.10 applies to the following Federal programs:

- Part A of Title I (Improving Basic Programs operated by local educational agencies).
- Part C of Title I (Migrant Education).
- Part D of Title I (Children and Youth who are Neglected, Delinquent, or At Risk of Dropping Out).
- Title II (Eisenhower Professional Development Program) (other than Section 2103 and Part C of this Title).

- Subpart 2 of Part A of Title III (State and Local Programs for School Technology Resources).
- Title V (Innovative Education Program Strategies).
- Part C of Title VII (Emergency Immigrant Education).

A complaint that the Department of Education or agency or consortium of agencies is violating a Federal statute or regulation that applies to any applicable program should be submitted by letter to the Deputy Commissioner, Nebraska Department of Education, who will handle such complaints on behalf of the Commissioner and whose actions will be taken on behalf of the Commissioner. The complaint must include the following information:

- Title of the Federal program.
- A description of the alleged violation of statute or regulation including
  - the applicable Federal statute and/or regulation alleged violated, and
  - a description of the alleged facts constituting the violation, along with the dates(s) of such violations, if known.
- Name and address of the person making the complaint.
- The signature of the complainant along with the date such complaint was made.

The Deputy Commissioner, Nebraska Department of Education, will cause the complaint to be investigated.

- The Deputy Commissioner will notify the entity that is the subject of the complaint of the nature of the complaint.
- The Deputy Commissioner may
  - request additional information from the person filing the complaint, and/or from the entity alleged to be in violation of Federal law or regulation; and,
  - provide for an independent on-site investigation if she/he determines it necessary.
- The Deputy Commissioner will make a decision on the complaint within 60 days of the receipt of the complaint and will communicate the decision in writing to the complainant and the subject of the complaint.
- The written communication will be accompanied by information on how the complainant or subject of the complaint may appeal the Deputy Commissioner's decision to the State Board of Education using the contested case process specified in Title 92, Nebraska Administrative Code, Chapter 61.
- The Deputy Commissioner may extend the timeframe of the investigation by up to sixty (60) days if he or she determines that exceptional circumstances exist with respect to the complaint.

If the complainant or subject of the complaint is not satisfied with the Deputy Commissioner's decision, she/he may appeal the decision to the State Board of Education within thirty (30) days of the date of the Deputy Commissioner's decision using the process specified in Title 92, Nebraska Administrative Code, Chapter 61. The Deputy Commissioner's decision shall be considered to be a decision of the Commissioner for purposes of appeal.

If the complainant is not satisfied with the outcome of the final decision under Title 92, Nebraska Administrative Code, Chapter 61, she/he may request the Secretary of Education, U.S. Department of Education to review the final decision of the Nebraska Department of Education. Upon request, the Nebraska Department of Education shall provide information on how to contact the Secretary of Education, U.S. Department of Education.

Each entity receiving funding under any applicable Federal program will disseminate, free of charge, the complaint procedure to parents of the students, and appropriate private school officials or representatives.

Appeals

In addition, 34 CFR 76.401 requires the Department to provide an applicant for a grant with notice and an opportunity for a hearing before disapproval of an application for a grant from the Department. Note: In the GMS, an application being returned for changes does not constitute "disapproval". 34 CFR 76.401 applies to all Federal grants issued through the Department.

If an applicant wishes to invoke procedures for a hearing on the disapproval or denial of an application for a continuation or discretionary grant, the applicant must, within thirty (30) days after receiving notice of disapproval, file a written request for a hearing with the Deputy Commissioner, Nebraska Department of Education, 301 Centennial Mall South, Lincoln, NE 68509. The written request for the hearing must include a rationale for contesting the disapproval and supporting documentation. Upon the timely filing of such a request for hearing, NDE will hold a hearing on the record within thirty (30) days of the receipt of the request and issue a ruling no later than ten (10) days after such hearing. Such hearing shall be informal in nature, will be audiotape recorded, and may, if agreed to by the applicant, be conducted via telephone, video conferencing or other electronic means. The Commissioner of Education or the Deputy Commissioner of Education will appoint an individual to act as the hearing official for such hearings. Such individual may be an employee of NDE.

Complaint and Appeal Process in State or Federal Grants not covered above

NDE will seek to work cooperatively with the grantee to resolve issues surrounding the administration of their project. In the event a mutually agreeable resolution cannot be reached, grantees may file an appeal with NDE within 30 days of the grantee receiving notification of the Department decision, and request a hearing, if applicable, with the State Board of Education using the procedures adopted pursuant to 92 NAC 61. Rule 61 is found at: http://www.education.ne.gov/LEGAL/webrulespdf/RULE61.pdf

Lobby, Debarment, Suspension

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, New Restrictions on Lobbying, and 34 CFR Part 85, Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants). The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

   As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;
b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.
c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers, including subgrants, contracts under grants and cooperative agreements, and subcontracts, and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110:

A. The applicant certifies that it and its principals:
   a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
   b. Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
   c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity, Federal, State, or local, with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
   d. Have not within a three-year period preceding this application had one or more public transactions, Federal, State, or local, terminated for cause or default; and
B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE
(GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:
   a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

b. Establishing an on-going drug-free awareness program to inform employees about:
    i. The dangers of drug abuse in the workplace;
    ii. The grantee's policy of maintaining a drug-free workplace;
    iii. Any available drug counseling, rehabilitation, and employee assistance program; and
    iv. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a).
d. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:
    i. Abide by the terms of the statement; and
    ii. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.
e. Notifying the agency, in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.
f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:
    i. Taking appropriate personnel action against such an employee, up to and including termination; consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
g. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by Federal, State, or local health, law enforcement, or other appropriate agency. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a),(b),(c),(d),(e), and (f).

IV. Grant Management

FEDERAL GRANTS

The following legal requirements apply to agencies receiving Federal grants. These are Federal policies and regulations established by legislative or executive authority and apply to all Federal programs. The requirements are to be reviewed as part of an audit of each state and local government or other entity which receives Federal financial assistance. Grant recipients should adopt policies implementing each of these requirements.

Appendix A is a reproduction of Federal regulation 34CFR80.20 – Federal standards for financial management systems.

Appendix B is a reproduction of Federal regulation 34CFR80.36 – Procurement.

Political Activity

Federal funds cannot be used for partisan political purposes of any kind by any person or organization involved in the administration of Federally assisted programs. [Hatch Act (5 U.S.C. 1502-1508) and Intergovernmental Personnel Act of 1970, as amended by Title IV of Civil Services Reform Act (Public Law 95-454 Section 47281)].

Civil Rights

No person shall be discriminated against on the grounds of race, color, national origin, age, or handicapping condition in any Federally funded program or activity. Discrimination on the basis of sex or religion is also prohibited in Federal programs. [Age-42 U.S.C. 6101 et seq.; Race-42 U. S. C. 2000d; Handicap-29 U. S. C. 794]

Cash Management

The timing between the transfer of funds from the U. S. Treasury and the disbursement of funds by the receiving grant recipient is to be minimized with proper cash management procedures. Grant recipients, that in turn grant/transfer Federal funds to other grant recipients for final expenditure, shall conform to the same standards of timing and amount. Generally, this standard has been interpreted to mean a grant recipient should have the minimum amount of Federal cash on hand needed for expenditures. Excess cash-on-hand may be repaid to the grantor.

Supplement, Not Supplant

Supplement, not supplant is a requirement of all Federal funds, unless specifically noted in the legislation. In its simplest definition it means that Federal funds cannot be used in place of local, State or other Federal funds to support education. The auditor's question is: In the absence of these Federal funds, would the district need to provide it? If the answer is yes, then Federal funds cannot be used.

NO CHILD LEFT BEHIND

In No Child Left Behind, the supplement, not supplant requirement is addressed at three different levels. At the district level, this requirement is called **Maintenance of Effort (MOE).** The Department determines MOE for the following programs based on information from the district's Annual Financial Report. A district may receive its full allocation if either the combined fiscal effort per student (using Average Daily Attendance or Average Daily Membership) or the aggregate of all expenditures of local and State funds used for providing a free public education for the preceding fiscal year was not less than 90 percent of the combined fiscal effort per student or the aggregate expenditures for the second preceding year. If the district fails to maintain at least 90%, the allocations for all of the following programs are reduced by the percentage of effort below 90 using the highest percentage of the three options (ADA, ADM or aggregate):

- Title I, Part A, Improving Basic Programs Operated by Local Educational Agencies (LEAs);
- Title I, Part C, Migrant Education;
- Title I, Part D, Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At-Risk;
- Title II, Part A, Improving Teacher Quality State Grants;
- Title III, Part A, English Acquisition State Grants;
- Title IV, Part B, 21st Century Community Learning Centers; and
- Title VI, Part B, Subpart 2, Rural Education.

Supplement, not supplant is also "tested" annually at the building level for all districts receiving Title I funds that have two or more buildings in a grade span with an enrollment

total of 100 or more students, not counting preschool. At the building level, this is called comparability. Each district meeting the above cited criteria must annually determine if district support is being provided to all buildings on a comparable basis. Title I allows several options to determine comparability. Staff/student ratios and teacher salary comparisons have been used. USDE also allows other options for calculating comparability. The guidance is available at
http://www.education.ne.gov/federalprograms/Documents/Title%20I/USDE%20Fiscal%20February%202006%20Title%20I.pdf
Buildings must be within 90% in each option when comparing Title I to non-Title I buildings or high-poverty to low-poverty buildings if all buildings are Title I.
Comparability analysis must be done on an annual basis and submitted to the NDE Title I Office. Beginning in the 2012-13 school year, districts have the option of having NDE calculate comparability based on staff/student ratio. Districts electronically sign and submit the form via "Data Collections." If the district is not comparable using these calculations, they must submit other identified options for showing comparability. In addition to doing a comparability analysis, districts must agree to an assurance that they have an agency-wide salary schedule, a policy to ensure equivalence among schools in teachers, administrators, and other staff; and a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies. (Section 1120A of NCLB)
Supplement, not supplant is also applied at the program level. At the program level, it means that Federally funded services cannot be used in place of services that the district must provide. Supplement, not supplant at the program level applies to Federal programs that serve students such as Title I, Migrant (Title I, Part C), and English Language Acquisition (Title III) programs. For example, the district has an obligation to provide services to enable non-English speakers to learn to speak English. Federal funds may then be used to provide services in addition to what the district is required to provide under Federal, state, or local laws.

Migrant Programs

The migrant education program operates differently than other NCLB formula programs because it is operated at the State level. If your district has identified migrant students who meet the Federal definition, please contact the NDE Migrant Education office to address special circumstances that apply.

Title I, Part A Programs

Supplement, not supplant for Title I buildings is applied differently for Targeted Assistance Schools than for Schoolwide Programs. In a Title I Targeted Assistance program providing instruction, the Title I students must receive the same amount of instruction provided to all students with the Title I services being additional time and instruction. Title I services cannot replace instruction from the regular classroom teacher. Another example: If the district provides a service such as Reading Recovery in non-Title buildings, it cannot use Title I funds to provide that service in the Title buildings.
In a Schoolwide Program, the Title I funds must be supplemental to the funds the district provides to all buildings. The district cannot provide a lower level of funds to a Schoolwide Program than it does to non-Title I buildings.
Title I services are not considered to be supplanting at the preschool level since preschool is not required by Nebraska law.

Maintenance of Effort (MOE)

IDEA Part B

A recipient may receive its allocation if the expenditures for special education and related services in the preceding year were at least equal to the expenditures for special education and related services in the second preceding year. An applicant may not reduce its level of expenditures of state or state and local funds below the level of those expenditures for the preceding fiscal year except for those conditions provided for under 34 CFR 300.232 and 300.233. MOE is calculated by the Department using information from the Annual Financial Report.

Carl Perkins Career and Technical Education

Maintenance of Effort is required on a statewide level, not an individual grant recipient level.

Adult Education

Maintenance of Effort is required on a statewide level, not an individual grant recipient level.

State and Federal Grant Requirements

Matching and In-kind

Several Federal programs require the grant recipient to "match" the grant funds using local dollars. When a match is required, the recipient must spend the required amount of state and local dollars in order to be eligible to spend the grant funds. If a grant recipient does not meet the matching requirements of a particular grant, the Department must disallow the grant expenditures and may require repayment of grant funds used that are not matched.

Program regulations specify the type and amount of required match. Depending on the program, the match may include cash outlay and/or in-kind contributions. "Cash outlay" is the grant recipient's cash spending. The cash may have come to the grant recipient from non-Federal revenues, individuals, public agencies, institutions, private organizations, etc. "In-kind contributions" are the value of non-cash contributions made by the grant recipient, individuals, public agencies, institutions, private organizations, etc. They may include charges for real property and equipment and the value of goods and services directly benefiting and specifically identifiable to the grant program. Generally, the matching requirements specify the recipient must spend state and/or local dollars to provide the match.

Consolidating Funds in Title I Schoolwide Programs

The purpose of consolidating funds is to help a Schoolwide program school effectively design and implement a comprehensive plan to upgrade the entire educational program in the school based on the school's needs identified through its comprehensive needs assessment. By consolidating funds from Federal, State, and local sources, a Schoolwide program school can address its needs using *all* of the resources available to it. This gives a school more flexibility in how it uses available resources to meet the specifically identified needs of its students.

Consolidating Federal funds eases the requirements for accounting for funds from each specific program separately, because a Schoolwide school is not required to distinguish among funds received from different sources when accounting for their use. Therefore, a school is not

required to maintain separate fiscal accounting records, by Federal program, that identify the specific activities supported by each program's funds in order to demonstrate that those activities are allowable under the program. *[PL 107-110; Section 1114(a)(3)(C)]*

A school that consolidates Federal funds in its Schoolwide program is not required to meet most of the statutory and regulatory requirements of the specific Federal programs included in the consolidation. However, the school must ensure that it meets the intent and purposes of the Federal programs included in the consolidation so that the needs of the intended beneficiaries are met. *[PL 107-110; Section 1114(a)(3); 34 CFR 200.29.(a), (b), (d)]*

Consolidating funds in a Schoolwide program means that a school treats the funds it is consolidating like they are a single "pool" of funds. In other words, the funds from the contributing programs in the school lose their individual identity and the school has one flexible pool of funds. The school uses funds from this consolidated Schoolwide pool to support any activity of the Schoolwide program without regard to which program contributed the specific funds used for a particular activity. A Schoolwide school must identify in its Schoolwide plan which programs are included in its consolidation and the amount each program contributes to the consolidated Schoolwide pool. *[PL 107-110; Section 1114(b)(2)(A)(iii)]*

Keep in mind that a District must ensure that such a school meets the supplement not supplant requirement as it relates to a Schoolwide program, *i.e.* each school operating a Schoolwide program must receive all the State and local funds it would otherwise receive to operate its educational program in the absence of Title I, Part A or other Federal education funds. *[PL 107-110; Section 1114(a)(2)(B)]*

In accounting for expenditures from funds included in a consolidated Schoolwide pool, a district has options. (See Non-Regulatory Guidance for examples.) The common denominator is that consolidated funds are not tracked to specific activities allowable under a particular program.

V. Budgets/Amendments/Payment/Schedules/ Expenditure Reports

1. Budgets

A budget, submitted with a grant application, is a statement of anticipated costs for which grant funds would be used in support of the activities and strategies proposed to meet grant program goals. Grant applicant staff may have to put many hours into writing the proposal before reaching the budget section. The budget is of equal importance to the narrative and can be approached as an important final check in clarifying the practical application of the program. Careful deliberation should go into completing the budget section to insure that the financial support requested will be adequate to carry out the goals of the project. Budgets will use whole dollar amounts only.

Before developing a project budget, the applicant must have an understanding of the regulations and requirements of the funding source (state or Federal funding agency). This includes allowable direct costs, indirect costs, assurances, project forms and instructions, and changes permitted in a budget once the project is approved. For assistance on specific

programs, the applicant can contact the NDE program consultant who can help specify what information is necessary in the final document.

A complete copy of the approved application, approved budget, and all approved amendments must be maintained by the grant recipient. These documents and other supporting information will be used by Department staff and local auditors to determine fiscal and program compliance. (Also see Records Retention in this guide.)

Grants Management System (GMS)
In the GMS, the following terms apply and may vary from the current edition of *Program Budgeting, Accounting, and Reporting System for Nebraska School Districts Users' Manual,* (Nebraska Department of Education, revised annually)
http://www.education.ne.gov/FOS/SchoolFinance/AFR/

- Function – For Federal programs, the four digit function is a specific number in the range of 4000 to 4999 assigned by NDE School Finance and Organization Services.
- Activity – activities are defined in the GMS and identify the allowable uses of funds for each program. An activity might be a summer program or nonpublic school instructional costs.
- Major Object Code – Identifies the object of expenditures for each activity. Major object codes are 100 – Salaries, 200 - Employee Benefits, 300 - Purchased Services, 400 Supplies and materials; 500 – capital outlay (depreciated equipment), 600 – Other including travel expenses for professional development. Budgets will be submitted using major object codes.
    - Detail object code – Identifies the sub-categories of major object codes. Some programs may request additional information on some detail object codes such as "560 - computer hardware".

2. Amendments

Amendments to an approved application and budget are required when:

- The scope of the program is expected to change, either to remove or add a new activity (example: adding a new component like a summer school); or
- Grantees wish to budget for more available funds (i.e., carryover); or
- Grantees wish to revise amounts across major object codes.
- Changes to the original approved budget will require an amendment. To reduce the number of amendments, the expenditures for a major object code can exceed the approved budget by 25% or $2,500 (whichever is greater) before an amendment is needed provided there are no program restrictions on that activity or major object code (e.g., an administrative cost limitation).

Carryover funds are funds which, if not obligated by the end of the grant period, remain available to the grant recipient for one additional time period, usually one year. Costs allowable using Federal carryover funds are subject to the same requirements as all other funding under that particular Federal program. Formula grant programs usually require the funds to be carried over to the agency that received the original grant award. Competitive grants may or may not allow carryover. Please check individual program guidelines for further clarification. Carryover funds from the prior grant period must be included in the current period application and budget and approved before being spent or obligated.

The amount of carryover for Federal Title I, Part A, Improving Basic Programs is limited to 15% of the original allocation for districts that receive an allocation of $50,000 or more. A grantee may request a waiver to exceed the 15% limitation only once every three years.

Migrant Programs, Carl Perkins, and Adult Education programs do not allow carryover.

IDEA regulations do not limit the amount of carryover for Part B or Preschool entitlement funds. Any “current-year” funds available to the grantee and not expended during the grant period will be available to the grantee in the next school year.

3. Payments

Types of payments for State and Federal grants vary by program and may be made on a reimbursement or advance basis:

Reimbursement Payments

Require the applicant to have expended funds first and are made only after supporting documentation for those expenditures has been approved by the Department.

Advance Payments

A payment in advance can only be requested to meet actual cash needs of a project. Advance payments may be an option for some programs in the GMS. 34 CFR 80.20 “Standards for Financial Management Systems” can be found in Appendix A. Section (b)(7) states:

> Cash management: Procedures for minimizing the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by grantees and subgrantees must be followed whenever advance payment procedures are used. Grantees must establish reasonable procedures to ensure the receipt of reports on subgrantees' cash balances and cash disbursements in sufficient time to enable them to prepare complete and accurate cash transactions reports to the awarding agency. When advances are made by letter-of-credit or electronic transfer of funds methods, the grantee must make drawdowns as close as possible to the time of making disbursements. Grantees must monitor cash drawdowns by their subgrantees to assure that they conform substantially to the same standards of timing and amount as apply to advances to the grantees.

If advance payments are an option in a NDE issued grant, the advance payment should be for no more than the first month's cash requirement of the grant recipient. Subsequent payments will be on a reimbursement basis. The advance payment of up to one month's cash requirement must be supported by a budget in the grant application with rationale for the advance.

Payment Order of Grant Funds

The GMS will always pay the oldest funds first which eliminates the need for separate accounting of carryover funds. NCLB has two options for using funds under some programs: Section 6123 allows funds to be transferred to another program and REAP-FLEX allows funds from one program to be used for the purposes of another program. In the NCLB Consolidated Application other carryover funds of the transferred funds under Section 6123 or REAP-FLEX option are paid before the current year funds.

District accounting systems will not need a separate line of coding to receipt any carryover funds (i.e., 4100 for Title I carryover funds). Districts must continue to receipt the payment of any funds designed for REAP-FLEX or Section 6123 to the original program. For example, Title II-A funds used for Title I purposes under REAP-FLEX must be receipted as Title II-A funding.

4. Expenditure Reports and Supporting Documentation

Reports of expenditures and requests for reimbursement are an accounting of a project's expenditures through a specified period of time and must be accompanied by supporting detail documentation (e.g. accounting system printout). The Department uses this information to monitor each project for appropriate use of funds.

The GMS will not allow reporting of expenditures that were not budgeted or amounts that are not within the acceptable variance for budgeted items as approved within the program. The acceptable variance is an allowance that expenditures in a major object code can exceed the already approved amount for that major object code before an amendment to that budget is required. The acceptable variance from the approved amount in a major object code is 25% or $2,500 (whichever is greater).

Cash-On-Hand (COH) results when the total of payments received exceeds the expenditures reported to date. Excess cash-on-hand is determined by taking the amounts requested but not receipted plus receipted to date minus the total amount expended per grant period. A positive balance indicates excess cash-on-hand. This amount will be withheld from subsequent payment(s) to the grantee. A recipient may be required to reimburse the Department for excess cash-on-hand.

Payments, like budgets, will use only whole dollar amounts. Supporting documentation, like computer printouts of expenditures, can include exact amounts (including cents) but payments will be rounded-down to the nearest whole dollar to avoid overpaying the total of the grant award or approved budget.

5. Expenditures

All costs charged to a grant must be allowable under that program and must meet general grants management principles. For Federal funded grants, awarded before December 26, 2014, the Office of Management and Budget (OMB), Circular A-87 establishes the "Federal cost principles" and guidance for state and local governments. A copy of Circular A-87 may be obtained by visiting http://www.whitehouse.gov/omb/circulars_default. For Federally funded grants awarded after December 26, 2014, OMB Uniform Administrative Guidance Requirements, Cost Principles, and Audit Requirements for Federal Awards as adopted by granting agencies through a Federal Register Notice, establishes the "Federal cost principles" and the guidance for state and local governments. A copy may be found at http://www.gpo.gov/fdsys/pkg/FR-2013-12-26/pdf/2013-30465.pdf. While Circular A-87 and the new Uniform Guidance detail the Federal requirements, the following general rules also apply to all state grants. Costs charged to any grant must be (1) necessary and reasonable; (2) allocable to the grant award; and (3) legal.

1) Necessary and reasonable means the proposed expenditure must meet the purpose of the program to which it is charged and be of reasonable cost. Guidance from the program will help determine if costs are appropriate. Some programs have specific allowable and non-allowable costs identified in the statute, guidance or regulations.

2) Allocable cost means the funding program must receive the benefit. Example: a teacher normally funded through Federal Title I cannot be paid by Title I on any days spent performing as a substitute teacher in a regular classroom since the district must pay the costs of all substitute teachers.
3) Legal costs for Federal programs are defined in Circular A-87. In addition, almost all Federal programs have a "supplement, not supplant" requirement. This means that Federal grant funds must be used to enhance the existing educational program and not to substitute for state or local funds or services that would otherwise be used. The general rule asks: Would this program or service be required in the absence of these Federal funds? If the answer is yes, then Federal funds may only be used to supplement the required program. Example: State and Federal law requires the provision of a free, appropriate education to children with identified disabilities. Federal NCLB Title I funds cannot be used to provide services to children with disabilities if those services are identified by the Multi-disciplinary Team or are on the Individual Education Plan (IEP).

Equipment/Capital Outlay

This guidance aligns with the Department's *Program Budgeting, Accounting, and Reporting System for Nebraska School Districts: Users' Manual*, which is available at http://www.education.ne.gov/FOS/SchoolFinance/AFR/.

Equipment is defined as any instrument, machine, apparatus or set of articles that meets ANY of the following:

- Under normal conditions of use can be expected to last longer than a year;
- Does not lose its identity through fabrication or incorporation into a different or more complex unit;
- Is nonexpendable (more feasible to repair the item than to replace);
- Retains its appearance and character through use; and/or
- Is of significant value

Equipment items costing $5,000 or more should be capitalized (depreciated). In the grants management system, only equipment that has a unit cost of $5,000 or more can be budgeted in Object Code 500 on the Budget Detail page for any program (NCLB, Career Ed, Early Childhood, etc.) See the NDE *Program Budgeting, Accounting, and Reporting System for Nebraska School Districts Users' Manual*.
http://www.education.ne.gov/FOS/SchoolFinance/AFR/.

Some Federal programs have specific guidance regarding equipment itemization and inventory requirements. Equipment items costing at least $5,000 must be inventoried although it is prudent to inventory any equipment that meets the definition above. Items that are considered "small and attractive," such as i-pads, i-pods, laptop computers, etc., should also be inventoried.

Acquisition cost of an item of purchased equipment means the net invoice unit price of the equipment including the cost of modifications, accessories or auxiliary apparatus necessary to make the equipment usable for the purpose for which it was acquired. Other charges such as cost of installation, transportation, taxes, duty or protective in-transit insurance shall be included or excluded from the unit acquisition cost in accordance with the grantee's regular accounting practice.

Some grant programs have specific requirements regarding the disposition of equipment purchased through a grant when that project ends. Contact the Department program staff for further information.

For the purposes of disposing or transferring equipment, current fair market value is determined by obtaining two signed bids from potential purchasers or two appraisals from authorized appraisers for the purpose of disposing of or transferring equipment. When the equipment is being traded in for like or similar equipment used in the same program for the same purpose, the trade in value constitutes the current fair market value of the traded in equipment.

All equipment purchased with state or Federal funds must be in accordance with the regulations of the funding source. Some Federal programs have specific prohibitions or limitations on equipment purchases. The equipment purchased must be reasonable and necessary to effectively operate the program.

An application for a grant may require a description of the need for equipment and how such equipment will be used. Equipment, as well as associated costs, must be included in an approved budget or amendment prior to purchase.

Lease purchases of equipment are authorized by some programs. Lease purchases that span more than one grant period are permissible. Costs can be recovered from more than one period of grant funds. The following provisions should be understood related to such situations:

- Documentation should be retained that substantiates the decision to enter into a lease purchase agreement rather than a direct purchase;
- Grant continuation cannot be guaranteed;
- Grant recipients must keep financial and programmatic records that document the disbursement of funds associated with the agreement; and
- Lease purchases must be budgeted as purchased services rather than equipment.

According to Federal OMB Circular No. A-87, financing costs (including interest) are allowable subject to the following conditions:

- The financing is provided (from other than tax or user fee services) by a bona fide third party external to the governmental unit;
- The assets are used in support of Federal awards;
- Earnings on debt service reserve funds or interest earned on borrowed funds pending payment of the acquisition costs are used to offset the current period's cost or the capitalized interest, as appropriate;
- Governmental units will negotiate the amount of allowable interest whenever cash payments (interest, depreciation, use allowances, and contributions) exceed the governmental unit's cash payment and other contributions attributable to that portion of real property used for Federal awards.

Appendix C is a reproduction of the applicable Federal regulation 34 CFR 80.32 - Equipment.

<u>Federal Funds used for Prizes, Incentives or Rewards</u>

The use of Federal funds for prizes, incentives, or rewards is not detailed in law or guidance and this makes it open to interpretation by state and local auditors and monitors. Best advice:

1. Use funds from other sources for prizes, incentives, or rewards unless a Federal Program's guidance specifically approves it.

2. If Federal funds are used, include justification/rationale on the documentation submitted for payment. This does not guarantee reimbursement.

OMB Circular A-87, Attachment A, Paragraph C.1 simply states that all Federal costs must be necessary and reasonable for proper and efficient performance and administration of the program and must be authorized or not prohibited under state or local laws. To apply these rules to proposed costs ask these questions:

1. Is it necessary and reasonable?
    a. Will it further the goals of the program? If a Title I Schoolwide Program, will it support the strategies identified in the schoolwide plan?
    b. Does it have a clearly demonstrative and legitimate purpose?
    c. Is the cost justifiable?

2. Could the proposed expenditure be interpreted as "paying" for participation (attendance) or for achievement (scores on tests)?
    a. If the answer is yes, then Federal funds cannot be used according to guidance from the U.S. Department of Education.

3. Is it supplementing, not supplanting district efforts?
    a. Are funds (other than Federal) used to provide this cost in other non-Federal programs or activities?
        i. If the answer is yes, then Federal funds cannot be used according to guidance from the U.S. Department of Education.

The following section is specific to ALL Federal Title Programs

NDE has determined that that the following items are **not** "reasonable and necessary" Federal Title Program expenditures and will **not** be approved as allowable for purchase with Federal Title funds. **This is not a complete list, but rather a sampling of the types of items for which districts will not be reimbursed.**

- ⊗ Prizes and/or cash awards
- ⊗ Entertainment--Per OMB Circular A-87, the cost of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).
    - NOTE: Title I-D (Delinquent) programs *may* allow some social activities. Please consult with appropriate NDE staff before incurring these types of expenditures to determine if allowable.
- ⊗ Cake, balloons, crowns, leis, cowboy hats, dog tags, bracelets, t-shirts, hats, rings, tattoos, whistles, candy, ice cream, soda pop, trinkets, and other items having questionable educational value (This is not a complete list, but rather a sampling of the types of items for which districts will not be reimbursed.)
- ⊗ Conference attendance that doesn't support the Federal Title program/plan
- ⊗ Prepaid gift / cash cards—i.e. Amazon, I-tunes, Wal-Mart, convenience stores etc. because non-educational items could be purchased. Direct purchases from these companies will be considered if the item(s) are appropriate to support the Federal Title program, but using gift cards to make purchases will not be allowed. (Very difficult

matching up the purchases of the gift-cards with the actual items that are purchased. Sometimes the gift cards are purchased in one grant period and not spent until the following grant period.)

- ⊗ Door prizes
- ⊗ Parent Involvement activities that don't actually involve the parents. i.e. Reward ceremonies/celebrations in which parents are invited to attend are not allowed. Parent Involvement Activities MUST involve the parents. They cannot simply be in the audience—not participating
- ⊗ Food for Parent/Teacher Conferences

The following expenditure items **always** require supporting documentation.
Following these guidelines does not necessarily guarantee reimbursement.

- ⊗ Credit card purchases
- ⊗ Travel expenditures related to a conference requires adequate documentation (per OMB Circular A-87)
- ⊗ Title I allows the provision of food for Parent Involvement activities, but limits the food to "light refreshments" (i.e. fresh fruit and/or vegetables, cookies, lemonade, finger-foods, etc.) and requires an agenda or other supporting documentation. **(Federal Title Program funds cannot be used for purchasing candy.)**
- ⊗ Generally, there is a very high burden of proof that paying for food and beverages with Federal funds is necessary to meet the goals and objectives of a Federal grant. There may be unique circumstances where the costs would be permissible because they are reasonable and necessary. To be considered for reimbursement, the district must provide a detailed explanation as to why the purchase is necessary with Federal funds.
- ⊗ Petty-cash purchases
- ⊗ Reimbursement to individuals
- ⊗ Field trips always require adequate documentation which includes the educational value

NDE has concluded that the following Motivational-type items could be determined "reasonable and necessary" Federal Title program expenditures and *may* be approved as allowable purchases with Federal Title funds, if acceptable by the specific grant program.

- ⊗ Books, board games, recognition certificates, pencils, erasers, bookmarks, and other educational type of items

Before districts charge expenditures to Federal Title programs, the question should be asked, "Can we have an effective Federal Title program without these items?"

Contact the NDE Federal Title program consultant for your district if you have questions

Title I, Part A guidance for parent/family involvement allows the provision of food for activities but limits the food to "light refreshment". Title I funds for door prizes for parents would not pass the above questions.

Incentives for Early Retirement and Employee Termination Pay
Federal formula grant funds may be used to pay an employer's share of incentive plans for early retirement provided these costs are proportional to the number of years the employee was paid from the grant program; the costs are reasonable; and the costs are required by law, agency-employee agreement, or agency policy. Such early retirement incentive costs must be included in the grant and approved as appropriate.

Circular A-87, Attachment B, “Compensation for Personnel Services” addresses the payment for unused leave and severance pay:

> Paragraph 8, d, (3) …Payments for unused leave when an employee retires or terminates employment are allowable in the year of payment provided they are allocated as a general administrative expense to all activities of the governmental unit or component.

In the case of schools, the general aid fund is to be used for Paragraph 8, d, (3) above.

> Paragraph 8, g, (2) … Severance payments associated with normal turnover are allowable. Such payments shall be allocated to all activities of the governmental unit as an indirect cost.
>
> Paragraph 8, g, (3) . . . Abnormal or mass severance pay will be considered on a case by case basis and is allowable only if *approved* by the cognizant Federal agency.
>
> Mass severance or termination benefits would include all expenses associated with the event. This would include: lump sum payments that may be linked to years of service, increased pension benefits such as granting additional years or eliminating penalties for early retirement, payments of unused leave, and the cost of any other incentive offered to employees as an incentive to leave government service, such as buy-outs.
>
> The costs of these special termination benefits must be determined and prior approval of such costs must be obtained from the Federal cognizant office prior to claiming these costs directly or indirectly against Federal programs. The requests for *prior approval*, at a minimum, must demonstrate the reasonableness and allocability of such costs to Federal programs.

Indirect Cost

An indirect cost rate is the ratio between the total indirect costs and the total direct costs of an organization. This rate is used to determine what proportion of general expenses each grant or contract should bear. Indirect costs are those costs which are not readily identifiable with the activities of the grant or contract, but are nevertheless incurred for the joint benefit of those activities and other activities and programs of the organization. Accounting, payroll, budgeting and purchasing are examples of services which typically benefit several activities and programs, and for which costs may be attributed by means of an indirect cost allocation plan.

By definition, indirect costs are: a) incurred for a common or joint purpose benefiting more than one program or cost objective, and b) not readily assignable to the program or cost objective specifically benefited, without effort disproportionate to the results achieved.

Restricted and Unrestricted Indirect Cost Rates

The “Restricted Indirect Cost Rate” is to be used with grant programs that restrict expenditures to those that “supplement but do not supplant” state or local effort. The “Unrestricted Indirect Cost Rate” applies to Federal programs that allow Federal funds to supplement and/or supplant local funds. All Federal No Child Left Behind and IDEA Federal programs use the restricted rate. The Federal Child Nutrition Program (school lunch) uses the unrestricted rate.

Calculation of Indirect Cost Rates

The School Finance and Organization Services section of the Department annually calculates indirect cost rates for each local education agency (districts and Educational Service Units). The restricted and unrestricted indirect cost rates are available at http://www.education.ne.gov/FOS/ASPX/IndirectCost/Default.aspx.

Other applicants may have an indirect cost rate established by another agency and evidence of that approved rate may be required by the Department. An ESU must use their indirect cost rate for consortium or cooperative projects.

The GMS will have the indirect cost rates for each district and ESU. Contact the Department's School Finance and Organization Services section if you choose to use an indirect cost rate for other programs whose grants are issued by the Department.

In the GMS, the indirect cost rate is provided for the fiscal year in which the application is approved. However, NCLB grants can span more than one fiscal year. If NCLB funds are spent in more than one fiscal year, the appropriate indirect cost rate can be applied for each year.

Administrative Costs and Limitations on Recovery of Indirect Cost

Regulations of some grant programs limit the amount of administrative costs a grantee can pay from the grant. The total direct administrative costs plus the indirect administrative cost cannot exceed any administrative cost limitations established by specific grant programs. To assist agencies in determining direct cost allocation for the administration of a program, the following identifies some allowable activities for program or grant administrators:

- Developing plans, applications and completing reports
- Maintaining appropriate records and documentation
- Supervising staff
- Overseeing budgets and expenditures
- Monitoring implementation
- Understanding and sharing of program information and requirements
- Developing strategies and activities for implementation
- Conducting program evaluations

To stay within administrative cost limits, staff time may be allocated to program coordination and technical assistance activities such as:

- Providing professional development
- Developing and modeling practices
- Organizing and conducting program specific activities
- Mentoring staff
- Assisting with program evaluation.

If charging costs for both administration and for coordination, staff will need to document time and effort for each area.

Recovery of indirect costs on grants is subject to availability of funds. Indirect costs may be recovered only to the extent that direct costs are incurred. The approved indirect cost rate is applied against the amount of direct costs of the program minus exclusions for the period in which the indirect cost rate is effective, not the total grant award. It is possible that a grant recipient may have a different approved indirect cost rate applicable to different periods covered

by a grant award. A local education agency may not recover more costs in any program than they incur. If all costs are allocated directly to a program, no indirect cost may be charged to the program. For Title III, the allowable amount for indirect administrative costs PLUS direct administrative costs cannot exceed a 2% limitation.

Exclusions
Special consideration is necessary when a Federal grant budget contains capital outlay (equipment) expenditures. The amount of capital outlay is excluded from the total direct costs when the indirect cost rate is applied to determine the dollar amount of indirect cost to be allowed by the project.

Consistency
Consistency of expenditure classification is a basic principle applied when developing or using indirect cost rates. The simultaneous use of direct cost allocation and the indirect cost rate application against the same expense is prohibited. For example, all allowable indirect costs, with respect to certain services or function, are not readily assignable to a specific program or cost objective. In order to assign these indirect types of cost, some allocation processes must be applied. Such functions would include, but are not limited to, General Administration – Business Services such as fiscal services, internal services, and data processing. Direct cost allocation of these types of administrative costs to a program is permissible providing that supporting records and documentation are maintained by the district. Example: If the salary of a bookkeeper was shown as a direct cost on the program budget, the salary of that bookkeeper cannot be part of the indirect cost pool used to calculate the indirect cost rate.

6. Time-and-Effort Reporting

Portions of the following information are excerpted directly from USDE Time and Effort Reporting Guidance, Enclosures A, B, & C (September 7, 2012)
These documents are available in their entirety at http://www2.ed.gov/policy/fund/guid/gposbul/time-and-effort-reporting.html.

Federal funds may only be used for employee compensation if appropriate "time-and-effort" records are maintained. Time-and-effort reporting is important in ensuring that Federal program funds are used to pay only their proportionate share of personnel costs.

NOTE: If Federal funds are used to pay for stipends or substitute teachers, time-and-effort is to be reported.

Under the Appendix to 2 C.F.R. Part 225 (formerly OMB Circular A-87), time-and-effort reporting for an employee whose salary is supported by only one Federal program or cost objective may be prepared on just a semiannual basis. Employees supported by multiple cost objectives, however, must provide a monthly Personnel Activity Report (PAR) or equivalent documentation supporting their time and effort. In practice, however, many of the individuals submitting monthly PARs may have schedules that do not change from week to week, meaning that they carry out the same duties for the same amount of time each pay period and thus submit the same documentation every month.

Single Cost Objective

The criteria for whether an employee may document time and effort using a semiannual certification or must fill out a monthly PAR can be confusing. As noted above, an employee who works on a single Federal program or cost objective needs to file only a semiannual certification as the basis for time-and-effort documentation. A single cost objective can be, for example, a single function or a single grant or single activity. It is possible to work on a single cost objective even if an employee works on more than one Federal award or on a Federal award and a non-Federal award. The key in determining whether an employee is working on a single cost objective is whether the employee's salary and wages can be supported *in full* from each of the Federal awards on which the employee is working, or from the Federal award alone if the employee's salary is also paid with non-Federal funds.

Semiannual Certifications

If an employee works solely on a single Federal award or cost objective, charges for the employee's salary and wages must be supported by periodic certifications that the employee worked solely on that program or cost objective for the period covered by the certification. Those certifications must be:

- Prepared at least semiannually; AND
- Signed by the employee or supervisory official having firsthand knowledge of the work performed by the employee.

Monthly Certifications

An employee must complete a PAR if he or she works on multiple activities or cost objectives. For example, a PAR is generally required if an employee works on more than one Federal program or a Federal program and a non-Federal program. It is possible, however, for multiple programs to have the same cost objective, which creates confusion over whether the presence of a single cost objective or being funded by multiple programs should determine what time-and-effort documentation an employee must complete.

Personnel Activity Reports (PARs)

If an employee works on multiple activities or cost objectives, a distribution of the employee's salary and wages must be supported by a personnel activity report (PAR) or equivalent documentation.

The following instances of multiple activities or cost objectives require a PAR. An employee works on:

- More than one Federal award.
- A Federal award and a non-Federal award.
- An indirect cost activity and a direct cost activity
- Two or more indirect activities that are allocated using different allocation bases
- An unallowable activity and a direct or indirect cost activity.

A Personnel Activity Report (PAR) must:

- Reflect an after-the-fact distribution of the actual activity of the employee.
- Account for the total activity for which each employee is compensated.
- Be prepared at least monthly and coincide with one or more pay periods
- Be signed by the employee AND supervisory official having firsthand knowledge of the work performed by the employee.

Nebraska's Substitute/Alternate Reporting System

In September 2012, the United States Department of Education (USDE) provided an opportunity for State Educational Agencies to establish a substitute system for time and effort reporting. NDE has established the following substitute system for time and effort reporting beginning with the 2013-14 school year.

1. To be eligible to document time and effort under the substitute system, employees must
    a. Currently work on a schedule that includes multiple activities or cost objectives that must be supported by monthly personnel activity reports;
    b. Work on specific activities or cost objectives based on a predetermined schedule; and
    c. Not work on multiple activities or cost objectives at the exact time on their schedule.
2. Under the substitute system, in lieu of personnel activity reports, eligible employees may support a distribution of their salaries and wages through documentation of an established work schedule that meets the standards under section 3. An acceptable work schedule may be in a style and format already used by the District.
3. Employee schedules must:
    a. Indicate the specific activity or cost objective that the employee worked on for each segment of the employee's schedule;
    b. Account for the total hours for which each employee is compensated during the period reflected on the employee's schedule; and
    c. Be certified at least semiannually and signed by the employee AND a supervisory official having firsthand knowledge of the work performed by the employee.
4. Any revisions to an employee's established schedule that continue for **2 weeks or more** must be documented and certified in accordance with the requirements in section 3.
5. Any significant deviations from an employee's established schedule, that require the employee to work on multiple activities or cost objectives at the exact same time, including but not limited to lengthy, unanticipated schedule changes, must be documented by the employee using a Personnel Activity Report (PAR) that covers the period during which the deviations occurred.

If an employee meets the above requirements, semiannual certification, supported by a set schedule, will be accepted.

Examples of When a Semiannual Certification is Allowable and When a Monthly Personnel Activity Report (PAR) is Required

Some of the examples below have been provided by USDE, while others are being provided by NDE.

1. **Title I, Part A funds and State compensatory education funds**

    A district supports a supplemental math teacher to serve low-achieving students with 50 percent Title I, Part A funds and 50 percent State compensatory education funds.

Teaching math to low-achieving students is a single cost objective because it can be fully supported under Title I, Part A. Only semiannual certification, therefore, is required even though the employee's salary is supported by a Federal award and a non-Federal award.

2. **Title I, Part A funds and local funds**

A teacher in a Title I Schoolwide school is paid with local funds to teach first grade in the morning to decrease class size for reading and is paid with Title I, Part A funds to teach a supplemental reading class in the afternoon. (The school has a sufficient number of first-grade teachers to meet the requirements of ESEA section 1114(a)(2)(B).)

Because the part-time first-grade teacher is not needed in order to provide the basic education program in the Schoolwide program school, her salary could be supported with Title I, Part A funds, even though it is not. Similarly, her salary for providing supplemental reading could be supported with Title I, Part A funds. Both her functions, therefore, are fully supportable with Title I, Part A funds, and the Schoolwide program constitutes a single cost objective. Only a semiannual certification, therefore, is required even though the teacher's salary is supported by a Federal award and local funds and she conducts two different activities.

3. Funds under Section 611 and 619 of the Individuals with Disabilities Education Act (IDEA)

A preschool special education teacher is funded with 50 percent IDEA section 611 funds and 50 percent with IDEA section 619 funds.

Teaching preschool special education is an allowable activity under both IDEA sections 611 and 619. Accordingly, the teacher is performing a single cost objective even though she is supported with funds from two separate Federal awards; therefore she need only file a semiannual certification.

4. **Title I, Part A Funds and CEIS (Comprehensive Early Intervening Services) funds under IDEA**

A teacher works with low-achieving students and is supported with 60 percent Title I, Part A funds and 40 percent CEIS funds.

Teaching low-achieving students is a single cost objective because it can be fully supported under Title I, Part A and CEIS. Only a semiannual certification therefore is required even though the employee's salary is supported by two Federal awards.

5. **Title I, Part A funds and Local Funds**

A district supports an elementary school teacher with local funds but pay her with Title I, Part A funds to provide after-school tutoring for low-achieving students.

Although the teacher could not be paid with Title I, Part A funds to provide elementary education, the portion of her time spent on after-school tutoring is easily separated from her teaching position by her schedule. Accordingly, the teacher's after-school tutoring is a single cost objective and she need only file a

semiannual certification for the time she works in the after-school program supported by Title I, Part A funds.

6. **Funds under Sections 611 of the Individuals with Disabilities Education Act (IDEA) and State reimbursable local education funds.**

   a. An LEA supports a special education teacher serving school age children with disabilities with 50 percent Section 611 IDEA funds and 50 percent State reimbursable local education funds.

      Special Education services provided to school age students is a single cost objective because it can be fully supported under Section 611 IDEA (ages 0-21). Only a semiannual certification, therefore, is required even though the employee's salary is supported by a Federal award and a non-Federal award.

   b. An LEA supports a special education teacher serving school age and birth to age five children with disabilities with Section 611 IDEA funds and State reimbursable local education funds.

      Special Education services provided to school age and birth to age five students in this case is <u>not</u> a single cost objective. The objectives can be fully supported under Section 611 IDEA (ages 0-21), however; State reimbursable local funds <u>cannot</u> support the birth to age five objective. A personnel activity report (PAR) is required.

7. **Funds under Sections 611 of the Individuals with Disabilities Education Act (IDEA) and non-reimbursable local education funds.**

   An LEA supports a special education teacher serving birth to age five children with disabilities with Section 611 IDEA funds and non-reimbursable local education funds.

   Special Education services provided to birth to age five students is a single cost objective because it can be fully supported under Section 611 IDEA (ages 0-21). Only a semiannual certification, therefore, is required even though the employee's salary is supported by a Federal award and a non-Federal award.

8. **Funds under Sections 611 and 619 of the Individuals with Disabilities Education Act (IDEA) funds.**

   An LEA supports a special education teacher serving birth to age five children with disabilities with Section 611 and Section 619 IDEA funds.

   Special Education services provided to birth to age five students in this case <u>not</u> a single cost objective. The objectives can be fully supported under Section 611 IDEA (ages 0-21), however; Section 619 IDEA funds can <u>only</u> support age three and four year old services objective. A personnel activity report (PAR) is required.

9. Funds under Sections 619 of the Individuals with Disabilities Education Act (IDEA) and non-reimbursable local education funds.

An LEA supports a special education teacher serving age three and four year old children with disabilities with Section 619 IDEA funds and non-reimbursable local education funds.

Special Education services provided to age three and four students is a single cost objective because it can be fully supported under Section 619 IDEA (ages 3-4). Only a semiannual certification, therefore, is required even though the employee's salary is supported by a Federal award and a non-Federal award.

10. Funds under Sections 611 of the Individuals with Disabilities Education Act (IDEA) and local general education funds.

An LEA supports a teacher endorsed in special education serving both special education and regular education classes.

Special Education services and general education services provided to school age students is not a single cost objective which cannot be fully supported under Section 611 IDEA (ages 0-21). A personnel activity report (PAR) is required.

11. Funds under Sections 611 of the Individuals with Disabilities Education Act (IDEA).

a. An LEA supports a special education teacher serving school age children with disabilities and at-risk students in an approved CEIS project.

   The services provided to school age children with disabilities and services provided to the CEIS project students are not a single cost objective. A personnel activity report (PAR) is required.

b. An LEA supports a special education teacher serving school age children with disabilities and non-public children with disabilities students.

   The special education services provided to school age children with disabilities and services provided to the non-public students with disabilities are not a single cost objective. A personnel activity report (PAR) is required.

12. **State leadership funds under the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins IV) and State funds**

A State curriculum specialist who develops new career and technical education courses and initiatives is funded 50 percent with Perkins IV funds reserved under section 112(a)(2) for State leadership and 50 percent with State general funds.

Career and Technical Education curriculum development is a single cost objective because it can be fully supported with State leadership funds under Perkins IV. Only a semiannual certification, therefore, is required even though the employee's salary is supported by a Federal award and State funds.

13. **ESEA Title VII, Part A formula grant funds and state/local funds**

A high school math teacher's regular salary is paid with State and local funds. The teacher conducts an after-school support program for Native American students in the school, and also teaches at a summer academic camp for Native American students in the school district; for both of these activities, he is paid from Title VII, Part A funds.

Although the teacher could not be paid with Title VII, Part A funds to teach high school math, the portion that the teacher is paid with Title VII, Part A funds is easily segregated from his daily teaching schedule. Accordingly, the teacher's after-school and summer activities are each a single cost objective and the teacher need only file a semiannual certification for the time he is paid with Title VII, Part A funds.

14. **Title I-A Schoolwide Projects**

If a school operating a Schoolwide program consolidates Federal, State, and local funds under section 1114(a)(3) in a consolidated Schoolwide pool, an employee who is paid with funds from that pool is not required to file a semiannual certification. Because Federal funds are consolidated with State and local funds in a single consolidated Schoolwide pool, there is no distinction between staff paid with Federal funds and staff paid with State or local funds.

If a school operating a Schoolwide program does not consolidate Federal funds with State and local funds in a consolidated Schoolwide pool, an employee who works, in whole or in part, on a Federal program or cost objective must meet the OMB Circular A-87 requirements as follows:

i. An employee who works solely on a single cost objective (i.e., a single Federal program whose funds have not been consolidated or Federal programs whose funds have been consolidated but not with State and local funds) must furnish a semiannual certification that he/she has been engaged solely in activities supported by the applicable source in accordance with OMB Circular A-87.

ii. An employee who works on multiple activities or cost objectives (i.e., in part on a Federal program whose funds have not been consolidated in a consolidated Schoolwide pool and in part on Federal programs supported with funds that have been consolidated in a pool or on activities funded from other revenue sources) must maintain time and effort distribution records in accordance with OMB Circular A-87. The employee must document the portion of time and effort dedicated to:
    1. The Federal program; and
    2. Each program or other cost objective supported by either consolidated Federal funds or other revenue sources.
        a. Semiannual certification is allowable IF the employee has a set schedule. See "Nebraska's Substitute Reporting System" above (beginning on page 42.

Sample Time and Effort Logs are available on the NDE Federal Programs website, http://www.education.ne.gov/federalprograms/TimeandEffortLog.html.

7. Required Audits

The Federal Office of Management and Budget Circular No. A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, requires entities that expend $500,000 or more a year in Federal grant funds to have a single or program-specific audit conducted. Title 92, Nebraska Administrative Code, Chapter 1 (Rule 1) requires all districts to have an annual fiscal audit.

Only costs associated with a Federal A-133 audit may be charged to all the grants involved and must be prorated according to the grants being audited. Only the proportion of the cost of the audit associated with any specific grant may be charged to that grant.

All financial activities are also subject to audits/reviews conducted by NDE program staff during on-site or desk compliance reviews. A review may include any of the following:

1. funds disbursed to the fund recipient were received and properly recorded;
2. payments reported by the fund recipient were actually made to vendors, contractors and employees and that they conform to applicable laws and regulations, including procurement requirements;
3. refunds, discounts, etc., were properly credited to specific expense classifications as reductions of the gross expenditure;
4. payments are supported by adequate evidence of the delivery of goods or performance of services;
5. obligations included in the report of expenditures or request for reimbursement were actually incurred during the budget period for which the expenditures were claimed and upon liquidation were properly adjusted;
6. the same item is not reported as an expenditure for two or more years; e.g., encumbrance in one year and payment in another;
7. all expenditures that were claimed were made for the approved project and are easily identifiable with this project;
8. all books and materials are plainly marked with appropriate identification where required;
9. all inventory items (equipment) have been allocated an inventory number and the number has been plainly affixed on each piece of equipment and plainly labeled;
10. an inventory has been maintained of those items required to be inventoried that shows: description, serial number or other identification number, acquisition date and cost, location, use and condition of property;
11. inventory items moved from one location to another have been duly authorized in writing and that the transfer has been recorded in the inventory register, and each item of equipment purchased was listed in the approved budget breakdown and is being used solely for authorized purposes;
12. prorated expenditures, such as salaries, travel, etc., are divided correctly between two or more accounts and that the basis of such division can be substantiated as reasonable and equitable (the auditor will compare actual expenditures with the approved budget and note variations);
13. unexpended state funds advanced or overpaid were promptly returned to the NDE;

14. payments to an administrator who is employed by the Board of Education under the terms of the contract covering a twelve month period of service were not included in administrative expenses (provisions of the restricted indirect cost rate);
15. payrolls must be supported by time and attendance or equivalent records for individual employees. Salaries and wages of employees chargeable to more than one grant program or other cost objective must be supported by appropriate time distribution records;
16. obligations were liquidated within forty-five (45) days after the end of the budget period and adjusted to the amount finally paid; and
17. expenditures were incurred for activities that are supplemental (in addition to what is required to be provided by the district) for public and private school students and teachers.

An entity required to have a single audit (A-133) is responsible for follow-up and corrective action on all findings resulting from that audit. This responsibility includes the preparation of a summary schedule of prior audit findings and the preparation of a corrective action plan for current year audit findings.

The summary schedule of prior audit findings shall report the status of all audit findings included in the prior audit's schedule of findings and questioned costs relative to Federal awards. The schedule shall restate the prior audit finding reported.

- When audit findings were fully corrected, the summary schedule need only list the audit findings and state that corrective action was taken.
- When audit findings were not corrected or partially corrected, the summary schedule shall describe the planned corrective action and any partial corrective action taken.
- When corrective action taken is significantly different from the previously reported corrective action plan, the summary schedule shall provide an explanation.
- When the auditee (school district) believes the audit findings are no longer valid or not warranting further action, the reasons for this position shall be described in the summary schedule.

A corrective action plan shall be prepared to address each audit finding included in the current year's audit report. The corrective action plan shall include: the corrective action plan, name(s) of contact person(s) responsible for the corrective action, anticipated completion date, and an explanation and specific reasons if the auditee does not agree with the audit finding or believes corrective action is not needed.

According to Rule 1, all school districts shall file with the Commissioner of Education on or before November 5, a copy of the financial audit report and on or before January 31, a copy of the auditor's letter to management, together with the district's responses, and any responses to compliance issues resulting from the audit.

The Nebraska Department of Education (NDE), as the pass-through entity of Federal awards, is responsible to issue a management decision on all audit findings including cross-cutting findings within six months after the receipt of the subrecipient's (school district) audit report and ensure that the subrecipient takes appropriate and timely corrective action.

Activities of the NDE Federal program staff may include assisting the auditee in developing corrective action plans as well as approving and monitoring the corrective action plans.

VI. Administration of Cooperative Projects and Consortia

Agencies, including school districts, may assign the allocation of a grant to another entity that serves as the fiscal agent for a multi-district project. Some Federal programs require districts to join together as a consortium to meet minimum program funding levels. An Educational Service Unit or another district may serve as the fiscal agent. The fiscal agent cannot be a separate legal entity created solely to administer grants. The fiscal agent is responsible for all funds that flow from the Nebraska Department of Education that have been assigned by members of the consortia. The fiscal agent has the following primary functions/responsibilities:

1. The fiscal agent must maintain a signed agreement with each member district assigning their Federal allocations to the consortium or cooperative project.
2. Allocations assigned to a consortium may be "pooled" to provide the greatest impact.
3. Federal Title I, Part A of NCLB has multi-district cooperative projects. In Title I cooperative projects, the fiscal agent must track all expenditures by member district. This is to ensure that, when required, allocations among the buildings in a district with at least 1,000 school-age students and equitable services for private school students are provided as stipulated in the Title I legislation and regulations. The fiscal agent is responsible for submitting one application that includes an uploaded file breaking out the Targeting information by each participating district and for tracking any carryover funds for member districts. The completed budget should reflect projected expenses for ALL districts included in the multi-district cooperative project.
4. Fiscal agents must maintain separate accounts and ledgers for the consortium or cooperative agreement.
5. Fiscal agents are responsible for the approval and payment of all expenses, obligations and contracts, and hiring of any personnel on behalf of the consortium or cooperative project.
6. Each ESU charges a fee to the member districts for administering the program. The expenditure reports (claims) can only be for the exact costs of the ESU and not a set "fee" for the member districts. When a "fee" is charged to each member district, the ESU may or may not have enough funds to pay the actual administrative costs and adjustments need to be made to the member districts' accounts at the end of the year. In some cases, the ESU may add some of their own resources to cover the costs or limit the administrative costs to the amount available.
    a. The amount of the "fee" varies by ESU and is not limited by any legislation or regulation. It is "negotiated" between the fiscal agent (ESU) and the member districts.
    b. The supporting documentation for the administrative costs needs to be actual costs of the ESU in administering the program and not the service fee charged to the member districts. Administrative costs **cannot** be budgeted under Object Code 300 as a purchased service.
    c. Supporting documentation reports expenditures at the vendor level. Reports can include amount paid directly to teachers or amounts paid to districts for teachers as long as we the teacher being paid can be identified. The same applies to reimbursements to districts for supplies and materials.

7. The financial accounting records maintained by the fiscal agent must be audited annually and reported on the Annual Financial Report meeting the requirements applicable to such audits.
8. The financial records maintained by the fiscal agent shall be available to outside auditors and NDE personnel for review.
9. The fiscal agent for consortia and cooperative projects must ensure that programs are being operated in compliance with all applicable legislation and regulations.
10. Administrative costs are allowable reimbursable costs as long as the following criteria is met:
    a. Administrative costs are actual and documented costs to the grant.
    b. Administrative staff time can be charged to the grant, provided:
        i. Staff time is documented by time and effort logs; and
        ii. The cost of a staff member, whose time is charged to the grant, is also not part of the cost pool used to establish the indirect cost rate.
    c. Operational costs claimed as administrative cost are also not part of the cost pool used to establish the school district/ESU indirect cost rate.
    d. Administrative costs are budgeted and claimed by object code.

VII. Records Retention

Federal Funds

For U.S. Department of Education Federal funds, the grant recipient shall comply with Education Department General Administrative Regulations (EDGAR) 34 CFR 80.42, which generally requires that records be retained for three years after completing activities pertaining to grant funds and until all outstanding claims have been resolved. Generally this is three years after completing activities pertaining to Federal programs and, where the Tydings Amendment applies, means five years after the project start date. If Federal funds are from other U. S. government agencies, other regulations may apply.

State Funds

For State funds, a grantee shall retain records for 1) three years from the final date for filing any claim for reimbursement or until all outstanding claims have been resolved and 2) an annual audit. The State may recompute and adjust claims within six years from the final date for filing claims for reimbursement when there has been an adverse court or administrative agency decision on the merits affecting the tax revenue of the school district. State funds record retention information can be found at: http://www.sos.ne.gov/staticrecordsmgmt.htm

All purchase orders, time and effort records and other supporting documentation will be retained at the local level and must be available for review or audit any time within three years after termination of the project. Records may be disposed of:

- After their individual retention period is complete;
- Providing any local, state, and Federal audit requirements have been met; and
- As long as they are not needed for any litigation either pending or anticipated.

VIII. Interest and Program Income Requirements

Federal Funds

Interest Income

Grant recipients shall promptly, but at least quarterly, remit interest earned on advances of any Federal funds to the U. S. Department of Education. The grant recipient may keep interest amounts up to $100 per year for administrative expenses of the grant. (34 CFR 80.21)

Program Income

Program income is income generated by an activity supported with Federal funds during the grant period. Examples include:

1. Fees for services provided;
2. Fees for use of, or rental of, property acquired with grant funds; and
3. Proceeds from the sale of commodities or items fabricated under a grant agreement.

Grantees should account for program income according to customary accounting practices of the fiscal agent (e.g. activity account) as long as they meet the Federal guidelines. Program income must be coded separately and reported annually on the year-end financial report. Program income must be obligated or expended no later than September 30th of the final grant-funded year. The amount of grant funds in the final grant-funded year will be reduced by the amount of any unobligated program income remaining at the conclusion of the grant period. Federal funds are not intended for the grantee to generate a profit. If program income does result from the use of Federal funds, the income must be used during the current grant period in accordance with regulations of the grant that generated it. See Section 80.25 of EDGAR for further clarification.

State Funds

Unless otherwise specified by statute, the same requirements apply to State funded grant programs except that interest income shall be treated as program income. For state grant programs, which have different statutory requirements, the grant recipient will be notified of the specific requirements.

Appendix A

34 CFR 80.20 Federal Standards for Financial Management Systems

(a) A State must expend and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to:

(1) Permit preparation of reports required by this part and the statutes authorizing the grant, and

(2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

(b) The financial management systems of other grantees and subgrantees must meet the following standards:

(1) Financial reporting. Accurate, current, and complete disclosure of the financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the grant or subgrant.

(2) Accounting records. Grantees and subgrantees must maintain records that adequately identify the source and application of funds provided for financially assisted activities. These records must contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.

(3) Internal control. Effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Grantees and subgrantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.

(4) Budget control. Actual expenditures or outlays must be compared with budgeted amounts for each grant or subgrant. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant or subgrant agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.

(5) Allowable cost. Applicable OMB cost principles, agency program regulations, and the terms of grant and subgrant agreements will be followed in determining the reasonableness, allowability, and allocability of costs.

(6) Source documentation. Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and subgrant award documents, etc.

(7) Cash management. Procedures for minimizing the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by grantees and subgrantees must be followed whenever advance payment procedures are used. Grantees must establish reasonable procedures to ensure the receipt of reports on subgrantees' cash balances and cash disbursements in sufficient time to enable them to prepare complete and accurate cash transactions reports to the awarding agency. When advances are made by letter-of-credit or electronic transfer of funds methods, the grantee must make drawdowns as close as possible to the time of making disbursements. Grantees must monitor cash drawdowns by their subgrantees to assure that they conform substantially to the same standards of timing and amount as apply to advances to the grantees.

(c) An awarding agency may review the adequacy of the financial management system of any applicant for financial assistance as part of a preaward review or at any time subsequent to award.

(Approved by the Office of Management and Budget under control number 1880–0517)

(Authority: 20 U.S.C. 3474; OMB Circular A–102)

[53 FR 8071 and 8087, Mar. 11, 1988, as amended at 53 FR 49143, Dec. 6, 1988]

Appendix B

30 CFR 80.36 Procurement (EDGAR)

(a) States. When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Other grantees and subgrantees will follow paragraphs (b) through (i) in this section.

(b) Procurement standards.

(1) Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(2) Grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

(i) The employee, officer or agent,

(ii) Any member of his immediate family,

(iii) His or her partner, or

(iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

(4) Grantee and subgrantee procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(5) To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

(6) Grantees and subgrantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(7) Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

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

(9) Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(10) Grantees and subgrantees will use time and material type contracts only:

(i) After a determination that no other contract is suitable, and

(ii) If the contract includes a ceiling price that the contractor exceeds at its own risk.

(11) Grantees and subgrantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the grantee or subgrantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee or subgrantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

(12) Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:

(i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and

(ii) Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or subgrantee.

(c) Competition.

(1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of Sec. 80.36. Some of the situations considered to be restrictive of competition include but are not limited to:

(i) Placing unreasonable requirements on firms in order for them to qualify to do business,

(ii) Requiring unnecessary experience and excessive bonding,

(iii) Noncompetitive pricing practices between firms or between affiliated companies,

(iv) Noncompetitive awards to consultants that are on retainer contracts,

(v) Organizational conflicts of interest,

(vi) Specifying only a ``brand name" product instead of allowing “an equal" product to be offered and describing the performance of other relevant requirements of the procurement, and

(vii) Any arbitrary action in the procurement process.

(2) Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:

(i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall 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, shall 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 equal" description may be used as a means to define the performance or other salient

requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and

(ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(4) Grantees and subgrantees will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period.

(d) Methods of procurement to be followed:

(1) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at $100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

(2) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in Sec. 80.36(d)(2)(i) apply.

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

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

(B) Two or more responsible bidders are willing and able to compete effectively and for the business; and

(C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

(A) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;

(B) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;

(C) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(D) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest.

Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(E) Any or all bids may be rejected if there is a sound documented reason.

(3) 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:

(i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;

(ii) Proposals will be solicited from an adequate number of qualified sources;

(iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;

(iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(v) Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services

whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(4) Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

(i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:

(A) The item is available only from a single source;

(B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(C) The awarding agency authorizes noncompetitive proposals; or

(D) After solicitation of a number of sources, competition is determined inadequate.

(ii) Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.

(iii) Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.

(e) Contracting with small and minority firms, women's business enterprise and labor surplus area firms.

(1) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

(2) Affirmative steps shall include:

(i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

(iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;

(v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and

(vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.

(f) Contract cost and price.

(1) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

(2) Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of

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

(3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see Sec. 80.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.

(4) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

(g) Awarding agency review.

(1) Grantees and subgrantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(2) Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:

(i) A grantee's or subgrantee's procurement procedures or operation fails to comply with the procurement standards in this section; or

(ii) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or

(iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a ``brand name'' product; or

(iv) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

(3) A grantee or subgrantee will be exempt from the pre-award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.

(i) A grantee or subgrantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.

(ii) A grantee or subgrantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or subgrantee that it is complying with these standards. A grantee or subgrantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.

(h) Bonding requirements. For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The ``bid guarantee'' shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond'' is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(i) Contract provisions. A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

(1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)

(2) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of $10,000)

(3) Compliance with Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,'' as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of $10,000 by grantees and their contractors or subgrantees)

(4) Compliance with the Copeland ``Anti-Kickback'' Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (All contracts and subgrants for construction or repair)

(5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of $2000 awarded by grantees and subgrantees when required by Federal grant program legislation)

(6) Compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and subgrantees in excess of $2000, and in excess of $2500 for other contracts which involve the employment of mechanics or laborers)

(7) Notice of awarding agency requirements and regulations pertaining to reporting.

(8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.

(9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.

(10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

(11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

(12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of $100,000)

(13) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

(j) Contracting with faith-based organizations.

(1)(i) A faith-based organization is eligible to contract with grantees and subgrantees, including States, on the same basis as any other private organization, with respect to contracts for which such other organizations are eligible.

(ii) In the selection of goods and services providers, grantees and subgrantees, including States, shall not discriminate for or against a private organization on the basis of the organization's religious character or affiliation.

(2) The provisions of Sec. Sec. 75.532 and 76.532 applicable to grantees and subgrantees apply to a faith-based organization that contracts with a grantee or subgrantee, including a State, unless the faith-based organization is selected as a result of the genuine and independent private choices of individual beneficiaries of the program and provided the organization otherwise satisfies the requirements of the program.

(3) A private organization that engages in inherently religious activities, such as religious worship, instruction, or proselytization, must offer those services separately in time or location from any programs or services supported by a contract with a grantee or subgrantee, including a State, and participation in any such inherently religious activities by beneficiaries of the programs supported by the contract must be voluntary, unless the organization is selected as a result of the genuine and independent private choices of individual beneficiaries of the program and provided the organization otherwise satisfies the requirements of the program.

(4)(i) A faith-based organization that contracts with a grantee or subgrantee, including a State, may retain its independence, autonomy, right of expression, religious character, and authority over its governance.

(ii) A faith-based organization may, among other things—

(A) Retain religious terms in its name;

(B) Continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs;

(C) Use its facilities to provide services without removing or altering religious art, icons, scriptures, or other symbols from these facilities;

(D) Select its board members and otherwise govern itself on a religious basis; and

(E) Include religious references in its mission statement and other chartering or governing documents.

(5) A private organization that contracts with a grantee or subgrantee, including a State, shall not discriminate against a beneficiary or prospective beneficiary in the provision of program services on the basis of religion or religious belief.

(6) A religious organization's exemption from the Federal prohibition on employment discrimination on the basis of religion, in section 702(a) of the Civil Rights Act of 1964, 42 U.S.C. 2000e-1, is not forfeited when the organization contracts with a grantee or subgrantee.

(Approved by the Office of Management and Budget under control number 1880-0517)

(Authority: 20 U.S.C. 3474; OMB Circular A-102)

[53 FR 8071 and 8087, Mar. 11, 1988, as amended at 53 FR 49143, Dec. 6, 1988; 60 FR 19639, 19643, Apr. 19, 1995, 69 FR 31711, June 4, 2004]

Appendix C

34 CFR 80.32 Equipment

(a) Title. Subject to the obligations and conditions set forth in this section, title to equipment acquired under a grant or subgrant will vest upon acquisition in the grantee or subgrantee respectively.

(b) States. A State will use, manage, and dispose of equipment acquired under a grant by the State in accordance with State laws and procedures. Other grantees and subgrantees will follow paragraphs (c) through (e) of this section.

(c) Use.

(1) Equipment shall be used by the grantee or subgrantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency.

(2) The grantee or subgrantee shall also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the awarding agency. User fees should be considered if appropriate.

(3) Notwithstanding the encouragement in Sec. 80.25(a) to earn program income, the grantee or subgrantee must not use equipment acquired with grant funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted or contemplated by Federal statute.

(4) When acquiring replacement equipment, the grantee or subgrantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to the approval of the awarding agency.

(d) Management requirements. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, as a minimum, meet the following requirements:

(1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

(2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.

(3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated.

(4) Adequate maintenance procedures must be developed to keep the property in good condition.

(5) If the grantee or subgrantee is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

(e) Disposition. When original or replacement equipment acquired under a grant or subgrant is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency, disposition of the equipment will be made as follows:

(1) Items of equipment with a current per-unit fair market value of less than $5,000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency.

(2) Items of equipment with a current per unit fair market value in excess of $5,000 may be retained or sold and the awarding agency shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the awarding agency's share of the equipment.

(3) In cases where a grantee or subgrantee fails to take appropriate disposition actions, the awarding agency may direct the grantee or subgrantee to take excess and disposition actions.

(f) Federal equipment. In the event a grantee or subgrantee is provided Federally-owned equipment:

(1) Title will remain vested in the Federal Government.

(2) Grantees or subgrantees will manage the equipment in accordance with Federal agency rules and procedures, and submit an annual inventory listing.

(3) When the equipment is no longer needed, the grantee or subgrantee will request disposition instructions from the Federal agency.

(g) Right to transfer title. The Federal awarding agency may reserve the right to transfer title to the Federal Government or a third part named by the awarding agency when such a third party is otherwise eligible under existing statutes. Such transfers shall be subject to the following standards:

(1) The property shall be identified in the grant or otherwise made known to the grantee in writing.

(2) The Federal awarding agency shall issue disposition instruction within 120 calendar days after the end of the Federal support of the project for which it was acquired. If the Federal awarding agency fails to issue disposition instructions within the 120 calendar-day period the grantee shall follow Sec. 80.32(e).

(3) When title to equipment is transferred, the grantee shall be paid an amount calculated by applying the percentage of participation in the purchase to the current fair market value of the property.

(h) The provisions of paragraphs (c), (d), (e), and (g) of this section do not apply to disaster assistance under 20 U.S.C. 241-1(b)-(c) and the construction provisions of the Impact Aid Program, 20 U.S.C. 631-647.

(Approved by the Office of Management and Budget under control number 1880-0517)

(Authority: 20 U.S.C. 3474; OMB Circular A-102)

[53 FR 8071 and 8087, Mar. 11, 1988, as amended at 53 FR 8072, Mar. 11, 1988; 53 FR 49143, Dec. 6, 1988]

Appendix D

8/12/2013
MEMO

To: Nebraska Public School Superintendents
RE: The Use of Federal Grant Funds for Conferences and Meetings

Attached to the Grant Award Notifications (GANs) for each of the Federal Grants NDE has received so far for the 2013-14 school year (FY13), is a *Memorandum to ED Grantees Regarding the Use of Grant Funds for Conferences and Meetings.* For your convenience, the document is attached to this email (Enclosure 7). For most grants received from USDE, NDE is the grantee, and the local districts and/or ESUs are the sub-grantees. The information outlined in Enclosure 7 is pertinent to both the grantee and sub-grantees.

Please read through the attached document carefully before making plans to use Federal funds for hosting or attending meetings or conferences; particularly those involving food. Your attention is specifically directed to the bulleted items at the bottom of page one of Enclosure 7. Grant funds may be used to pay for costs of attending a meeting/conference if expenses are reasonable and necessary to accomplish the goals and objectives of the grant. A sub-grantee hosting a meeting/conference may not use grant funds to pay for food for meeting/conference attendees unless doing so is necessary to accomplish legitimate conference/meeting business.

Generally, there is a high burden of proof to show that paying for food and beverages with Federal grant funds is necessary to meet the goals and objectives of a grant. Supporting documentation for reimbursement requests and other fiscal grant reviews by NDE will include application of the information contained within Enclosure 7.

For your convenience, *Frequently Asked Questions to Assist U.S. Department of Education Grantees to Appropriately Use Federal Funds for Conferences and Meetings* is also attached.

Please forward this email as appropriate.

If you have questions regarding a specific program, please do not hesitate to contact that program office at NDE.

Scott Swisher, Ed.D.
Deputy Commissioner of Education
(402) 471-5020
Scott.swisher@nebraska.gov

NEBRASKA DEPARTMENT OF EDUCATION

The content of Enclosure 7, as referenced in 8/12/2013 Memo from Dr. Swisher can be found below.

Enclosure 7

UNITED STATES DEPARTMENT OF EDUCATION
Office of the Chief Financial Officer

MEMORANDUM to ED GRANTEES REGARDING THE USE OF GRANT FUNDS FOR CONFERENCES AND MEETINGS

You are receiving this memorandum to remind you that grantees must take Into account the following factors when considering the use of grant funds for conferences and meetings:

- Before deciding to use grant funds to attend or host a meeting or conference, a grantee should:
  - Ensure that attending or hosting a conference or meeting is consistent with its approved application and is reasonable and necessary to achieve the goals and objectives of the grant;
  - Ensure that the primary purpose of the meeting or conference is to disseminate technical information, (e.g., provide information on specific programmatic requirements, best practices in a particular field, or theoretical, empirical, or methodological advances made in a particular field; conduct training or professional development; plan/coordinate the work being done under the grant); and
  - Consider whether there are more effective or efficient alternatives that can accomplish the desired results at a lower cost, for example, using webinars or video conferencing.
- Grantees must follow all applicable statutory and regulatory requirements in determining whether costs are reasonable and necessary, especially the Cost Principles for Federal grants set out at 2 CFR Part 225 (OMB Circular A-87, State, Local, and Indian Tribal Governments), (http:ljwww.gpo.gov/fdsys/pkg/CFR-2011-title2-voll/xmi/CFR-2011-title2-voll-part225.xml); 2 CFR Part 220 (OMB Circular A-21, Educational Institutions), (http://www.gpo.gov/fdsys/pkg/CFR-2011- titte2-vo11/xmi!CFR-2011-title2-voll-part220.xml); and 2 CFR 230 (OMB Circular A-122, Non-Profit Organizations) (http://www.gpo.gov/fdsys/pkg/CFR-2011-tit!e2-voll/xmi/CFR-2011-title2-vol1-part230.xml). In particular, remember that:
  - Federal grant funds cannot be used to pay for alcoholic beverages; and
  - Federal grant funds cannot be used to pay for entertainment, which Includes costs for amusement, diversion, and social activities.
- Grant funds may be used to pay for the costs of attending a conference. Specifically, Federal grant funds may be used to pay for conference fees and travel expenses (transportation, per diem, and lodging) of grantee employees, consultants, or experts to attend a conference or meeting if those expenses are reasonable and necessary to achieve the purposes of the grant.

- When planning to use grant funds for attending a meeting or conference, grantees should consider how many people should attend the meeting or conference on their behalf. The number of attendees should be reasonable and necessary to accomplish the goals and objectives of the grant.

- A grantee hosting a meeting or conference may not use grant funds to pay for food for conference attendees unless doing so is necessary to accomplish legitimate meeting or conference business.
  - A working lunch is an example of a cost for food that might be allowable under a Federal grant if attendance at the lunch is needed to ensure the full participation by conference attendees in essential discussions and speeches concerning the purpose of the conference and to achieve the goals and objectives of the project.
- A meeting or conference hosted by a grantee and charged to a Department grant must not be promoted as a U.S. Department of Education conference. This means that the seal of the U.S. Department of Education must not be used on conference materials or signage without Department approval.
  - All meeting or conference materials paid for with grant funds must include appropriate disclaimers, such as the following:

    The contents of this (insert type of publication; e.g., book, report, film) were developed under a grant from the Department of Education. However, those contents do not necessarily represent the policy of the Department of Education, and you should not assume endorsement by the Federal Government.
- Grantees are strongly encouraged to contact their project officer with any questions or concerns about whether using grant funds for a meeting or conference is allowable prior to committing grant funds for such purposes.
  - A short conversation could help avoid a costly and embarrassing mistake.
- Grantees are responsible for the proper use of their grant awards and may have to repay funds to the Department if they violate the rules on the use of grant funds, including the rules for meeting- and conference-related expenses.

June 2012

FREQUENTLY ASKED QUESTIONS TO ASSIST U.S. DEPARTMENT OF EDUCATION GRANTEES

The contents of the following information were developed under a grant from the U.S. Department of Education. However, those contents do not necessarily represent the policy of the U.S. Department of Education, and you should not assume endorsement by the Federal Government.

To Appropriately Use Federal Funds for Conferences and Meetings

Using Federal Grant (Discretionary and Formula) Funds to Host a Meeting or Conference

1. **May a grantee receiving funds from the U.S. Department of Education (Department) use its Federal grant funds to host a meeting or conference?**
   Yes. Federal grant funds may be used to host a meeting or conference if doing so is:
   a. Consistent with its approved application or plan;
   b. For purposes that are directly relevant to the program and the operation of the grant, such as for conveying technical information related to the objectives of the grant; and
   c. Reasonable and necessary to achieve the goals and objectives of the approved grant.

2. **What are examples of "technical information" that may be conveyed at a meeting or conference?**
   Examples of technical information include, but are not limited to, the following, each of which must be related to implementing the program or project funded by the grant:
   - Specific programmatic, administrative, or fiscal accountability requirements;
   - Best practices in a particular field;
   - Theoretical, empirical, or methodological advances in a particular field;
   - Effective methods of training or professional development; and
   - Effective grant management and accountability.

3. **What factors should a grantee consider when deciding whether to host a meeting or conference?**
   Grantees should consider whether a face-to-face meeting or conference is the most effective or efficient way to achieve the desired result and whether there are alternatives, such as webinars or video conferences, that would be equally or similarly effective and more efficient in terms of time and costs than a face-to-face meeting. In addition, grantees should consider how the meeting or conference will be perceived by the public; for example, will the meeting or conference be perceived as a good use of taxpayer dollars?

4. **Are there conflict-of-interest rules that grantees should follow when selecting vendors, such as logistics contractors, to help with a meeting or conference?**

Grantees, other than States, must, as appropriate, comply with the minimum requirements in 34 CFR 74.42 and 80.36(b)(3) and should follow their own policies and procedures (or their local or State policies, as applicable) for ensuring that there are no conflicts of interest in the procurement process.

5. **When a meeting or conference is hosted by a grantee and charged to a Federal grant, may the meeting or conference be promoted as a U.S. Department of Education event?**
   No. Meetings and conferences hosted by grantees are directed by the grantee, not the U.S. Department of Education. Therefore, the meeting or conference may not be promoted as a U.S. Department of Education meeting or conference, and the seal of the U.S. Department of Education must not be used on conference materials or signage without Department approval. In addition, all meeting or conference materials paid for with Federal grant funds must include appropriate disclaimers, such as the following, which is provided in EDGAR § 75.620 and states:

Using Federal Grant Funds to Pay for Food

6. **When a grantee is hosting a meeting, may the grantee use Federal grant funds to pay for food, beverages, or snacks?**
   Generally, there is a very high burden of proof to show that paying for food and beverages with Federal funds is necessary to meet the goals and objectives of a Federal grant. When a grantee is hosting a meeting, the grantee should structure the agenda for the meeting so that there is time for participants to purchase their own food, beverages, and snacks. In addition, when planning a meeting, grantees may want to consider a location in which participants have easy access to food and beverages.
   While these determinations will be made on a case-by-case basis, and there may be some circumstances where the cost would be permissible, it is likely that those circumstances will be rare. Grantees, therefore, will have to make a compelling case that the unique circumstances they have identified would justify these costs as reasonable and necessary.
   If program offices have questions, they should consult with their program attorney.

7. **May Federal grant funds be used to pay for food and beverages during a reception or a "networking" session?**
   In virtually all cases, using grant funds to pay for food and beverages for receptions and "networking" sessions is not justified because participation in such activities is rarely necessary to achieve the purpose of the meeting or conference.

8. **May a grantee enter into a contract with a hotel under which Federal grant funds will be used to provide meals, snacks, and beverages as part of the cost for meeting rooms and other allowable conference-related costs?**
   Federal grant funds may only be used for expenses that are reasonable and necessary. In planning a conference or meeting and negotiating with vendors for meeting space and other relevant goods and services, grantees may only pay for allowable costs. If a hotel vendor embeds food and beverage costs into a hotel contract for meeting space, the grantee should work with the hotel to have the food and beverage costs identified and "backed out" of the contract, and have the price they are paying for meeting space appropriately adjusted to reflect the fact that food and beverages are not being purchased. The fact that food and

beverages are embedded in a contract for meeting space does not mean that the food and beverages are being provided at no cost to the grantee.

9. **What if a hotel or other venue provides "complimentary" beverages (e.g., coffee, tea) and there is no charge to the grantee hosting the meeting?**
   The grantee has an obligation, under these circumstances, to confirm that the beverages are truly complimentary and will not be reflected as a charge to the grant in another area. For example, many hotels provide complimentary beverages to all guests who attend a meeting at their facility without reflecting the costs of those beverages in other items that their guests or, in this case, the grantee purchases. As noted above, it would not be acceptable for a vendor to embed the cost of beverages in other costs, such as meeting space.

10. **May indirect cost funds be used to pay for food and beverages**?
    The cost of food and beverages, because they are easily associated with a specific cost objective, such as a Department grant, are properly treated as direct costs, rather than indirect costs. As noted above, Federal grant funds cannot be used to pay for food and beverages unless doing so is reasonable and necessary.

11. **May Federal grant funds be used to pay for alcoholic beverages?**
    No. Use of Federal grant funds to pay for the cost of alcoholic beverages is strictly prohibited.

12. **May a grantee use non-Federal resources (e.g., State or local resources) to pay for food or beverages at a meeting or conference that is being held to meet the goals and objectives of its grant?**
    Grantees should follow their own policies and procedures and State and local law for using non-Federal resources to pay for food or beverages, including its policies and procedures for accepting gifts or in-kind contributions from third parties. However, if non-Federal funds are used to pay for food at a grantee-sponsored meeting or conference, the grantee should make clear through a written disclaimer or announcement (e.g., a note on the agenda for the meeting) that Federal grant funds were not used to pay for the cost of the food or beverages. Grantees should also be sure that any food and beverages provided with non-Federal funds are appropriate for the grantee event, and do not detract from the event's purpose.

13. **May grantees provide meeting participants with the option of paying for food and beverages (e.g., could a grantee have boxed lunches provided at cost for participants)?**
    Yes. Grantees may offer meeting participants the option of paying for food (such as lunch, breakfast, or snacks) and beverages, and arrange for these items to be available at the meeting.

Using Federal Grant Funds to Pay for Costs of Attending a Meeting or Conference Sponsored by ED or a Third Party

14. **May grantees use Federal grant funds to pay for the cost of attending a meeting or conference?**
    If attending a meeting or conference is necessary to achieve the goals and objectives of the grant, and if the expenses are reasonable (based on the grantee's own policies and

procedures, and State and local laws), Federal grant funds may be used to pay for travel expenses of grantee employees, consultants, or experts to attend a meeting or conference. To determine whether a meeting or conference is "necessary," grantees should consider whether the goals and objectives of the grant can be achieved without the meeting or conference and whether there is an equally effective and more efficient way (in terms of time and money) to achieve the goals and objectives of the grant (see question #3). To determine whether the expenses are "reasonable," grantees should consider how the costs (e.g., lodging, travel, registration fees) compare with other similar events and whether the public would view the expenses as a worthwhile use of Federal funds.

15. What should a grantee consider when planning to use Federal grant funds for attending a meeting or conference?

Among other considerations, grantees should consider how many people should attend a meeting or conference on its behalf. The number of attendees should be reasonable and necessary to accomplish the goals and objectives of the grant. The grantee should also determine whether it is necessary to attend the entire meeting or conference, or whether attending only a portion of the meeting or conference is reasonable and necessary.

16. What travel expenses may be paid for with Federal grant funds?

Grantees may use Federal grant funds for travel expenses only to the extent such costs are reasonable and necessary and do not exceed charges normally allowed by the grantee in its regular operations consistent with its written travel policies. In the absence of an acceptable written policy regarding travel costs, grantees must follow the Federal travel and subsistence rates established by the General Services Administration. 48 CFR 31.205-46(a) (established under subchapter I of Chapter 57, Title 5, United States Code ("Travel and Subsistence Expenses; Mileage Allowances")). Federal grant funds may be used to pay expenses for transportation, per diem, and lodging if the costs are reasonable and necessary. Grantees should follow their own travel and per diem rules and costs when charging travel expenses to their Federal grant. As noted in the cost principles, grantees that do not have travel policies must follow:

> …the rates and amounts established under subchapter I of Chapter 57, Title 5, United States Code ("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 shall apply to travel under sponsored agreements (48 CFR 31.205-46(a)).
> See 2 CFR Parts 220, 225, and 230.

Questions Regarding the Allowable Use of Federal Grant Funds

17. What resources are available to help grantees determine whether costs associated with meetings and conferences are reasonable and necessary?

Grantees must follow all applicable statutory and regulatory requirements in determining whether costs are reasonable and necessary, especially the U.S. Office of Management and Budget's Cost Principles for Federal grants that are set out at:

- 2 CFR Part 225 (OMB Circular A-87; State, Local, and Indian Tribal Governments), (http://www.gpo.gov/fdsys/pkg/CFR-2011-title2-vol1/xml/CFR-2011-title2-vol1-part225.xml);
- 2 CFR Part 220 (OMB Circular A-21; Educational Institutions), (http://www.gpo.gov/fdsys/pkg/CFR-2011-title2-vol1/xml/CFR-2011-title2-vol1-part220.xml); and
- 2 CFR 230 (OMB Circular A-122; Non-Profit Organizations) (http://www.gpo.gov/fdsys/pkg/CFR-2011-title2-vol1/xml/CFR-2011-title2-vol1-part230.xml).

18. May Federal grant funds be used to pay for entertainment?

Federal grant funds may not be used to pay for entertainment, which includes costs for amusement, diversion, and social activities.

19. Is it allowable for a person whose travel costs are being paid with Federal grant funds to attend a conference in Washington, DC, and lobby members of Congress while in town?

Appropriated funds may not, except under very limited circumstances,[1] be used for expenses related to any activity designed to influence the enactment of legislation, appropriations, regulations, administrative actions, or Executive Orders proposed or pending before the Congress or the Administration. To the extent that a portion of time at a conference is spent on lobbying activities, costs associated with the lobbying, including transportation to and from Washington, DC, lodging, and per diem, may not be charged to the Federal grant. For example, if a meeting or conference lasts for two days and a visit to lobby a member of Congress requires an additional day of travel, 1/3 of all costs involved in attending the meeting or conference, including travel to and from Washington, DC, may not be charged to the grant.

20. What are the consequences of using Federal grant funds on unallowable expenses?

The Department may seek to recover any Federal grant funds identified, in an audit or through program monitoring, as having been used for unallowable costs, including unallowable conference expenses.

21. Whom should grantees call if they have specific questions about the allowable use of Federal grant funds?

Grantees are encouraged to contact their U.S. Department of Education program officer to discuss the allowable use of Federal grant funds, including the allowable use of Federal grant funds for meetings and conferences.

[1] 2 CFR Part 230 (Cost Principles for Non-Profit Organizations), Appendix B., 25(b) and 2 CFR Part 220 (Cost Principles for Educational Institutions), 28(b).