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Although every effort has been made to ensure this document is accurate, if guidance provided in this document conflicts with federal, state, or local statutes or regulations, the statutes or regulations take precedence and should be followed.

This handbook was developed using federal funds provided under the McKinney-Vento Education for Homeless Children and Youth Program, Subtitle B, Title VII, McKinney-Vento Homeless Assistance Improvements Act of 2001.
# Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Table of Contents</td>
<td>i</td>
</tr>
<tr>
<td>Introduction</td>
<td>1</td>
</tr>
<tr>
<td><strong>Purpose of This Handbook</strong></td>
<td>1</td>
</tr>
<tr>
<td>Structure of the McKinney-Vento Program in Texas</td>
<td>2</td>
</tr>
<tr>
<td><strong>Initial Preparation Activities</strong></td>
<td>4</td>
</tr>
<tr>
<td><strong>Setting the Stage for Proper Grant Management</strong></td>
<td>7</td>
</tr>
<tr>
<td>Hiring Qualified Personnel</td>
<td>7</td>
</tr>
<tr>
<td>Grantee Responsibilities</td>
<td>7</td>
</tr>
<tr>
<td>Program Manager Responsibilities</td>
<td>8</td>
</tr>
<tr>
<td>Business Office Responsibilities</td>
<td>10</td>
</tr>
<tr>
<td>Analyzing Capacity to Comply with Federal Financial Management Standards and Accounting Requirements</td>
<td>12</td>
</tr>
<tr>
<td>Analyzing Technology Capability and Capacity for Complying with Financial Reporting Requirements</td>
<td>13</td>
</tr>
<tr>
<td>Analyzing Capability to Comply with Program Reporting Requirements and Establishing Systems to Facilitate Compliance</td>
<td>13</td>
</tr>
<tr>
<td>Monitoring the Approved Budget and Expenditures</td>
<td>13</td>
</tr>
<tr>
<td>Establishing Policies and Procedures to Provide for Sound Management and Internal Controls</td>
<td>15</td>
</tr>
<tr>
<td><strong>Part I – Uniform Administrative Grant Requirements Applicable to All Federal Education Grants</strong></td>
<td>19</td>
</tr>
<tr>
<td><strong>Introduction to the Uniform Administrative Grant Requirements</strong></td>
<td>19</td>
</tr>
<tr>
<td>Sources of Uniform Administrative Grant Requirements</td>
<td>20</td>
</tr>
<tr>
<td><strong>General Education Provisions Act</strong></td>
<td>23</td>
</tr>
<tr>
<td>“Forward Funding”</td>
<td>24</td>
</tr>
<tr>
<td>Carryover Period</td>
<td>25</td>
</tr>
<tr>
<td>Automatic Extension of Appropriations for a Program</td>
<td>26</td>
</tr>
<tr>
<td>Prohibition of Use of Federal Education Funds for Busing</td>
<td>26</td>
</tr>
<tr>
<td>Equitable Access and Participation</td>
<td>27</td>
</tr>
<tr>
<td>Regulations to Encourage Parental Involvement in Federal Education Programs</td>
<td>28</td>
</tr>
<tr>
<td>Prohibition of Federal Control of Education</td>
<td>29</td>
</tr>
<tr>
<td>State Agency Monitoring and Enforcement</td>
<td>29</td>
</tr>
</tbody>
</table>

Copyright 2015
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Application of Assurances for SEAs</td>
<td>30</td>
</tr>
<tr>
<td>General Application of Assurances for LEAs</td>
<td>31</td>
</tr>
<tr>
<td>Family Educational and Privacy Rights</td>
<td>34</td>
</tr>
<tr>
<td>Protection of Pupil Rights</td>
<td>34</td>
</tr>
<tr>
<td>Recovery of Funds for Disallowed Costs</td>
<td>34</td>
</tr>
<tr>
<td>Remedies for Existing Violations</td>
<td>36</td>
</tr>
<tr>
<td><strong>EDGAR</strong></td>
<td></td>
</tr>
<tr>
<td>Overview of EDGAR</td>
<td>39</td>
</tr>
<tr>
<td>34 CFR Part 75 – Direct Grant Programs</td>
<td>42</td>
</tr>
<tr>
<td>Health and Safety Standards</td>
<td>43</td>
</tr>
<tr>
<td>Compliance with Statutes, Regulations, and Applications</td>
<td>43</td>
</tr>
<tr>
<td>Administration and Supervision of Grant Project</td>
<td>43</td>
</tr>
<tr>
<td>State Procedures for Approving Applications and Ensuring Compliance</td>
<td>43</td>
</tr>
<tr>
<td><strong>Civil Rights and Prohibition of Discrimination</strong></td>
<td>44</td>
</tr>
<tr>
<td>Prohibition of Discrimination on the Basis of Race, Color, or National Origin</td>
<td>45</td>
</tr>
<tr>
<td>Prohibition of Discrimination on the Basis of Sex</td>
<td>46</td>
</tr>
<tr>
<td>Prohibition of Discrimination on the Basis of Age</td>
<td>47</td>
</tr>
<tr>
<td>Prohibition of Discrimination on the Basis of Disability</td>
<td>49</td>
</tr>
<tr>
<td>Prohibition of Discrimination of Groups Affiliated with Boy Scouts of America</td>
<td>52</td>
</tr>
<tr>
<td>School Prayer</td>
<td>53</td>
</tr>
<tr>
<td><strong>Family Educational Rights and Privacy Act (FERPA)</strong></td>
<td>53</td>
</tr>
<tr>
<td><strong>Protection of Pupil Rights Amendment (PPRA)</strong></td>
<td>54</td>
</tr>
<tr>
<td><strong>Parent Involvement</strong></td>
<td>56</td>
</tr>
<tr>
<td>Documentation of Parent Involvement Activities</td>
<td>58</td>
</tr>
<tr>
<td><strong>Lobbying</strong></td>
<td>59</td>
</tr>
<tr>
<td>Lobbying Certification and Disclosure of Lobbying</td>
<td>59</td>
</tr>
<tr>
<td>Lobbying Prohibited in the Federal Cost Principles</td>
<td>60</td>
</tr>
<tr>
<td>Penalties for Non-Compliance</td>
<td>61</td>
</tr>
<tr>
<td><strong>Debarment and Suspension</strong></td>
<td>61</td>
</tr>
<tr>
<td>As It Applies to Subgrants and Subcontracts, Including Purchase Orders</td>
<td>62</td>
</tr>
<tr>
<td>Suspension</td>
<td>63</td>
</tr>
</tbody>
</table>

Copyright 2015
# Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debarment</td>
<td>64</td>
</tr>
<tr>
<td><strong>Construction and Major Remodeling and Renovation</strong></td>
<td>65</td>
</tr>
<tr>
<td><strong>Real Property</strong></td>
<td>66</td>
</tr>
<tr>
<td><strong>Copyrights</strong></td>
<td>66</td>
</tr>
<tr>
<td>Grants Awarded Directly to an Entity from the USDE (No Pass-Through)</td>
<td>66</td>
</tr>
<tr>
<td>Grants Passed Through TEA</td>
<td>67</td>
</tr>
<tr>
<td><strong>Gun-Free Schools Act</strong></td>
<td>67</td>
</tr>
<tr>
<td>Policy Regarding Criminal Justice System Referral</td>
<td>68</td>
</tr>
<tr>
<td><strong>Pro-Children Act of 2001 (Non-Smoking Policy)</strong></td>
<td>68</td>
</tr>
<tr>
<td><strong>Prohibition of Texting and E-Mailing While Driving On Official Grant Business</strong></td>
<td>69</td>
</tr>
<tr>
<td><strong>Prohibition of Trafficking in Persons</strong></td>
<td>69</td>
</tr>
<tr>
<td><strong>Monitoring and Reporting Program Performance</strong></td>
<td>70</td>
</tr>
<tr>
<td>Monitoring</td>
<td>70</td>
</tr>
<tr>
<td>Evaluation and Program Performance Reports</td>
<td>75</td>
</tr>
<tr>
<td>TExSHEP Subgrantees</td>
<td>76</td>
</tr>
<tr>
<td><strong>Part II – Fiscal Requirements Applicable to All Federal Education Grants</strong></td>
<td>78</td>
</tr>
<tr>
<td><strong>Grant Financial Management and Accounting</strong></td>
<td>78</td>
</tr>
<tr>
<td>Federal Standards for Financial Management Systems</td>
<td>78</td>
</tr>
<tr>
<td>Accounting Requirements</td>
<td>81</td>
</tr>
<tr>
<td><strong>Expending Grant Funds</strong></td>
<td>86</td>
</tr>
<tr>
<td>Period of Performance (Previously “Availability of Funds”) (i.e., Grant Period)</td>
<td>86</td>
</tr>
<tr>
<td>Obligation of Funds</td>
<td>87</td>
</tr>
<tr>
<td>Liquidation of Obligations</td>
<td>90</td>
</tr>
<tr>
<td>Determining Allowability of Costs</td>
<td>90</td>
</tr>
<tr>
<td>Federal Cost Principles</td>
<td>95</td>
</tr>
<tr>
<td>Cost Objectives</td>
<td>97</td>
</tr>
<tr>
<td>Direct Costs and Indirect Costs</td>
<td>98</td>
</tr>
<tr>
<td>Allowable Uses of Funds</td>
<td>102</td>
</tr>
<tr>
<td>Documentation of Expenditures</td>
<td>104</td>
</tr>
<tr>
<td>Payroll Costs and Documentation for Grant-Funded Personnel</td>
<td>106</td>
</tr>
<tr>
<td>Matching/Cost-Sharing</td>
<td>111</td>
</tr>
</tbody>
</table>
## Table of Contents

### Supplement, Not Supplant
- What Does Supplement, Not Supplant Mean? ................................................................. 113
- Supplement, Not Supplant in McKinney-Vento ............................................................... 113
- Rebutting the Presumption of Supplanting ................................................................ 114
- Supplement, Not Supplant on Schoolwide Programs ...................................................... 115

### Maintenance of Effort
- Expenditures Included in the Determination of MOE ..................................................... 117
- Expenditures Excluded from the Determination of MOE ............................................... 118
- “Preceding Fiscal Year” Defined ...................................................................................... 118

### Flexibility in the Use of Funds
- Consolidating NCLB Administrative Funds and the Impact on McKinney-Vento ........ 119
- Consolidating Funds on a Title I Schoolwide Program .................................................... 120
- Ed-Flex and the Impact on McKinney-Vento ................................................................. 124

### Procurement (Purchasing Goods and Services)
- Federal Standards for Procurement ............................................................................. 126
- Procurement Through Full and Open Competition ......................................................... 127

### Consultants

### Equipment - Property Management
- Definition of Equipment .................................................................................................. 138
- Insurance and Maintenance of Equipment ..................................................................... 138
- Use of Equipment ............................................................................................................ 139
- Equipment Management – Property Records and Inventory ........................................ 140
- Disposition of Equipment ............................................................................................... 140

### Supplies
- Disposition of Supplies .................................................................................................. 142

### Expenditure Reporting and Grant Payments
- TEXSHEP Subgrantees .................................................................................................... 144

### Cash Management and Interest Earned
- Cash Management – Written Procedures and Internal Controls ................................... 145
- Calculation and Payment of Interest Earned on Advances ............................................ 147
Program Income ................................................................................................................. 148
  Sources of Program Income ................................................................................................. 148
  Approval Required to Add Program Income to Grant Funds .................................................... 150
  Reporting Program Income .................................................................................................. 150
  Earning Program Income after the Grant Period ................................................................... 150
Amending an Application ....................................................................................................... 151
  When to Amend an Application ............................................................................................ 151
  Assembling the Amendment Package .................................................................................... 153
  Where to Submit an Amendment .......................................................................................... 153
  Effective Date for an Amendment .......................................................................................... 154
Audits ...................................................................................................................................... 154
  Annual Independent Audit – Required for Every Texas School District, ESC, and Open-Enrollment Charter School .......................................................................................... 154
  Single Audit – Additional Audit Required When the Grantee Expends $750,000 or more in Total Federal Awards in a Fiscal Year .......................................................................................... 155
  Audits and Special Investigations Conducted by the Awarding Agency or By Another Regulatory Agency .......................................................................................................................... 158
Maintenance of Grant Records, Records Retention, and Access to Records .................... 159
  Maintenance of Grant Records ............................................................................................. 160
  Electronic Records ................................................................................................................ 163
  Records Retention Period ....................................................................................................... 164
  Access to Records .................................................................................................................. 164
  Disposition of Records .......................................................................................................... 164
Identification of High-Risk Grantees and Special Conditions for High-Risk Grantees ........ 166
  Risk Assessment .................................................................................................................... 166
  Special Conditions That May Be Imposed .............................................................................. 166
  Identification as a High-Risk Grantee ................................................................................... 167
Remedies for Noncompliance and Opportunity for a Hearing ............................................ 168
  Remedies for Noncompliance ............................................................................................... 168
  Opportunity to Object, Hearings and Appeals ..................................................................... 169
Grant Close-Out ......................................................................................................................... 169
# Table of Contents

**Termination of the Grant** .................................................................................................................. 171

**Part III – Program Requirements Applicable to McKinney-Vento Homeless Education Grantees** ........... 172

**Purpose of the McKinney-Vento Education for Homeless Children and Youth Program** .................................................. 172

**Definition of Homeless Children and Youth** .............................................................................. 173

**Program Laws Applicable to McKinney-Vento** ............................................................................. 174

**Texas State Plan** ....................................................................................................................... 174

**State Office of Coordinator for Education of Homeless Children and Youth** ...................... 175

**Texas Homeless Education Office** .............................................................................................. 176

**Authorized Activities** ................................................................................................................. 178

**Local Homeless Education Liaison Duties** .................................................................................. 182

**Identifying Students Experiencing Homelessness** ...................................................................... 191

  - Identifying Homeless Preschoolers ............................................................................................ 193

**Enrollment and Attendance of Children and Youth Experiencing Homelessness** .................. 195

  - Enrolling and Retaining Unaccompanied Homeless Youth .................................................. 196

**Serving Homeless Children and Youth According to Their Best Interests** ............................ 198

**Immediate School Access Regardless of Enrollment Documentation** ..................................... 200

  - Expedited Evaluations for Homeless Students ....................................................................... 201

**Enrollment Disputes** .................................................................................................................... 203

**Coordination with Social Service Agencies and Local Housing Agencies** ............................. 206

**Prohibition on Segregating Homeless Students** ......................................................................... 207

**Comparable Services and Location of Services** ......................................................................... 208

  - Location of Services .................................................................................................................. 209

  - Providing Additional Services in a Separate Setting .................................................................. 210

  - Homeless Children Residing in a Domestic Violence Shelter ................................................. 211

**Serving Homeless Students with Title I Funds** ................................................................. 213

  - Coordination with McKinney-Vento in State and Local Title I, Part A Plans ................................. 214

  - Required Reservation of Title I Funds for Homeless Students ................................................. 215

  - Participating in Regular Title I Services ..................................................................................... 216

  - Receiving Additional Title I Services .......................................................................................... 217

  - Serving Students Who Are No Longer Homeless .................................................................... 218

**Transportation for Homeless Students** ...................................................................................... 220

Copyright 2015
# Table of Contents

Adoption of Policies and Practices ................................................................. 223  
Student Records ............................................................................................ 225  
Appendices .................................................................................................... 227  

**Program Appendices**  
McKinney-Vento Homeless Education Contacts for Texas .............................. 229  
Program Resources ........................................................................................ 231  
Program Laws Applicable to McKinney-Vento ............................................ 232  
Excerpts from Related Laws ......................................................................... 238  
Requirements for McKinney-Vento State Plans .......................................... 240  

**Administrative Appendices**  
General Application of Assurances for SEAs .............................................. 242  
General Application of Assurances for LEAs .............................................. 244  
Summary of OMB Grants Management Circulars (Effective for Grants Awarded Prior to December 26, 2014) ................................................................. 246  
Summary of Provisions Related to Selecting and Awarding Competitive Grants - 34 CFR Part 75, Direct Grant Programs ................................................................. 247  
Summary of FERPA Requirements .............................................................. 251  
Family Educational Rights and Privacy Act (FERPA) - Applicable Excerpts from Texas Law ........................................................................................................ 256  
Summary of PPRA Requirements - (Protection of Pupil Rights Amendment) ........................................................................................................ 259  
Intellectual Property Ownership (Copyrights) ............................................. 263  

**Fiscal Appendices**  
Fiscal Compliance Checklist for Grants ......................................................... 265  
TEA FAR Mandatory Account Codes ............................................................. 276  
Basic Principles and Policies of FAR ............................................................ 279  
Shared Services Arrangements ..................................................................... 281  
Federal Cost Principles Applicable to Grants Awarded Prior to December 26, 2014 ........................................................................................................ 283  
Supporting Documentation Associated with Subcontracts, Corporate Credit Cards, and Travel ................................................................. 284  
Recommended Procedures for Documenting Personnel Expenses ................ 289  
Sample Semi-Annual Certification ................................................................. 293  
Sample Daily Time-and-Effort Report ............................................................ 294  
Employee Scenarios – Recommended Documentation for Personnel Expenses .. 295  

Copyright 2015
Valuation of Cost-Sharing and Matching Costs ................................................................. 301
Federal Standards for Procurement .................................................................................. 304
Audit Compliance Supplement - Compliance Requirements Reviewed
  During an Audit ............................................................................................................... 309
Introduction

Purpose of This Handbook

Along with the award of any federal grant comes what can often seem an overwhelming abundance of requirements, restrictions, provisions, and stipulations. Grantees must sort through a myriad of complex federal laws and rules, including federal cost principles, uniform administrative grant requirements, general provisions, federal civil rights laws, regulations, program-specific statutes, and other related program statutes, not to mention an abundance of applicable state laws and rules. To add to the complexity, sometimes the laws, rules, or regulations seem to contradict one another, and the grantee must determine which law or rule takes precedence over the other.

This handbook provides information related to these key laws, regulations, and guidelines so that you and your school district, regional education service center (ESC), or open-enrollment charter school are properly equipped to manage these vast and often complex fiscal and program requirements that come with a federal grant.

Prepared especially for recipients of the McKinney-Vento Homeless Education grant in Texas, fiscal and legal compliance is the focus of this handbook. It is designed to promote excellence in grant management practices, ethical conduct, legal compliance, and public accountability as your organizations expend funds to assist homeless children and youth in achieving success in school. Ultimately, it is designed to help your organization avoid costly monitoring or audit findings.

This compliance handbook specifically contains

- critical information related to ensuring you have proper systems and procedures in place to receive your grant, along with a mindset of strong ethics and compliance (Introduction)
- uniform administrative grant requirements that apply to all federal education grants (Part I)
- state and federal fiscal requirements related to expending and accounting for grant funds (applies to all federal education grants in Texas) (Part II)
- McKinney-Vento statutory program requirements (Part III)
- an Appendices, containing critical and useful information related to the requirements

Where applicable, at the end of each program requirement in Part III is a description of the appropriate uses of McKinney-Vento grant funds as it pertains to implementing that particular requirement.
This handbook is designed to provide both program managers and fiscal personnel with vital information necessary for complying with the variety of laws, regulations, and guidelines that pertain to McKinney-Vento subgrantees in Texas. The requirements and provisions outlined in Parts I and II of this handbook, however, apply to any federal education grant, including Title I, Part A and other programs under the No Child Left Behind Act (NCLB), as well as Part B of the Individuals with Disabilities Education Act (IDEA) and the Carl Perkins Career and Technical Education Act. Attending to the requirements in these parts can aid the reader in demonstrating compliance with the state and federal laws and rules that apply to all federal education grants.

Some information provided in this handbook reflects absolute legal requirements that your organization must comply with. Other information is strongly suggested or recommended to promote transparency and accountability for federal grant funds. The term “must” throughout the handbook means you are legally required to implement it, while the term “should” means it is suggested practice and it can aid your organization in demonstrating compliance.

The terms “organization” and “local educational agency” (LEA) are used synonymously throughout this handbook and mean school district, ESC, or open-enrollment charter school. Additionally, to reduce verbiage and facilitate ease of reading the requirements in this handbook, the term “grantee” means “subgrantee.”

**Structure of the McKinney-Vento Program in Texas**

The McKinney-Vento Education for Homeless Children and Youth program was originally authorized under Subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act in 1987. The current version of Subtitle B was reauthorized and amended in Title X, Part C of the No Child Left Behind Act (NCLB; Public Law 107-110), signed by the President in January 2002. This amendment is cited as the “McKinney-Vento Homeless Education Assistance Improvements Act of 2001” and contains requirements with which all LEAs must comply, whether or not the LEA receives McKinney-Vento grant funds.

McKinney-Vento Education for Homeless Children and Youth funds are appropriated by the United States (U.S.) Congress on a formula basis to all states by the U.S. Department of Education (USDE). In order to receive funds, the state educational agency (SEA) is required to submit an application (i.e., state plan) to the USDE containing information required by the Secretary of Education.

In Texas, funds are awarded to the Texas Education Agency (TEA). TEA serves as state coordinator for the program and is responsible for ensuring that all school districts and open-enrollment charter schools in Texas implement the provisions of the Act, whether or not they receive grant funds. TEA is also ultimately responsible for ensuring that McKinney-Vento grant funds are used in accordance with the
authorizing program statute. See Part III, Program Requirements Applicable to McKinney-Vento Homeless Education Grantees, State Office of Coordinator for Education of Homeless Children and Youth, for more information about the responsibilities of the state coordinator.

TEA awards 100% of the McKinney-Vento grant funds to Region 10 ESC to administer the McKinney-Vento program statewide. Region 10 ESC manages and administers all of the fiscal aspects of the program, including issuing the grant award to McKinney-Vento subgrantees, making payments to subgrantees, and performing other administrative functions related to the subgrants.

Region 10 ESC subcontracts with the Charles A. Dana Center at the University of Texas at Austin to operate the Texas Homeless Education Office (THEO) and provide programmatic support. TEA, Region 10 ESC, and THEO work closely to coordinate and carry out the strategies identified in the state plan to ensure that all Texas children in homeless situations have the opportunity to enroll in, attend, and succeed in school. Additional information pertaining to the role of THEO is provided in Part III, Program Requirements Applicable to McKinney-Vento Homeless Education Grantees, Texas Homeless Education Office.

The McKinney-Vento Homeless Assistance Act requires that at least 75% of the funds awarded to a state be distributed to LEAs in the form of competitive subgrants to facilitate the enrollment, attendance, and success in school of homeless children and youth. Pursuant to the statute, subgrants are awarded on the basis of need and the quality of the applications submitted. The remaining 25% of the funds awarded to the state is used for statewide activities to include

- carrying out the policies of the state in ensuring each homeless child has equal access to a free, appropriate education
- operating the state Office of Coordinator
- preparing and implementing the state plan
- developing and implementing professional development related to McKinney-Vento for school personnel
- administering the subgrant process and making payments to subgrantees
- providing technical assistance and guidance statewide to all LEAs, including McKinney-Vento subgrantees and non-subgrantees

Region 10 ESC develops and publishes the competitive Request for Application (RFA) once every three years in collaboration with THEO and TEA. Region 10 ESC and THEO provide program support statewide for the implementation of the McKinney-Vento statutory requirements. Because certain sections of the Act apply to all LEAs whether or not the LEA receives McKinney-Vento grant funds, THEO and Region 10 ESC assist all school districts, ESCs, and open-enrollment charter schools in Texas
Initial Preparation Activities

Develop policies, procedures, and systems that establish compliance in an ethical environment.

You will want to begin preparing for the receipt of your grant by reading through the information in this Introduction to make sure you understand your responsibilities and have adequate policies, procedures, and systems in place to properly manage a federal grant. You should make every effort to establish an environment of fiscal and program compliance at the onset.

Compliance with federal and state laws and regulations requires ethics, values, and moral principles at every level, beginning with senior management. Management is strongly encouraged to create a culture of “doing it right.” That is, decisions must be aligned with those values and principles; management practices should be built on integrity; and the results of audits and monitoring visits should be the framework for making positive changes to your program.

It is equally important that grant staff and management have credibility so that people will trust their knowledge and have faith in their ability to carry out the program properly. Credibility is gained through competence, integrity, ethical behavior, and the courage to do the right thing. Every person who is associated with the McKinney-Vento Homeless Education grant in any way is responsible for bringing integrity to the program.

Grantees should carry out the daily services and activities associated with the grant and should obligate, expend, and account for grant funds in an environment based on ethical principles. You must be diligent in ensuring that, in the obligation and expenditure of funds, you and your associates avoid any conflicts of interest, real or perceived. Such diligence aids in promoting accountability and transparency and helps build trust among regulatory agencies and stakeholders.

Identifying potential risks for purposeful or accidental misuse of funds is vital to assisting your organization in retaining every federal dollar. Integrating constant checks and
balances into your organization’s policies and procedures will assist you in minimizing risk. Providing a mechanism for continuous feedback to obtain a variety of perspectives from staff will also aid in identifying and minimizing risk.

It is critical that your organization has such policies and procedures in place as soon as possible so that you can immediately begin providing valuable program services to the homeless children and youth in your area so they can be successful in school. As you review the pages in this handbook, you are encouraged to develop thoughtful, deliberate strategies and practices for managing the activities and expenditures of your grant on a daily basis to ensure the grant is implemented effectively, ethically, and legally.

Keep a copy of your approved grant application handy for reference. It is a legally binding contractual agreement.

You should always keep handy an approved copy of your grant application, including the approved budget, for reference. The approved copy of your grant application is incorporated by reference into your Notice of Grant Award (NOGA). In addition, the complete Request for Application (RFA) your organization responded to when you applied for the grant is incorporated by reference into the NOGA. The NOGA is the official award document that contains the name of the grant program, the amount awarded, the beginning and ending dates of the grant project, the name of the grantee, and the signature of the authorized awarding agency official.

All of these documents combined together form a legally binding contractual agreement between your organization and Region 10 ESC, TEA, or other awarding agency. Failure to implement your grant program in accordance with your approved program description or your approved budget could result in your organization being identified as a high-risk grantee and having additional sanctions imposed; the repayment of federal dollars as a result of monitoring or audit findings; or worse, your grant terminated.

So don’t make the mistake of putting your approved application and budget in a drawer and never looking at it again. You will want to consult it along with your original RFA packet frequently and regularly as you implement your approved program and incur expenditures for the grant.

Also remember that when your organization’s authorized official signed the grant application and submitted it to Region 10 ESC (or TEA or other awarding agency), he or she certified that the organization agreed to comply with all of the applicable rules, regulations, and guidelines. Many of these were specifically identified in the various provisions and assurances (Schedules #13A-13D of the TEXSHEP application) that are incorporated by reference into your grant application.
This handbook will illuminate many of the key provisions and assurances related to the uniform administrative grant requirements and fiscal requirements that pertain to all federal education grants. The provisions and assurances not related to these two areas will not be discussed in this handbook. You will need to make sure you are aware of the requirements expressed in those other provisions and assurances and that your organization is complying with them. Many grantees often overlook the provisions and assurances, but they can provide critical information that will assist your organization in achieving compliance.

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**Prepare to implement your grant as soon as it begins.**

Once you have been awarded any grant, you should always be prepared to begin implementing grant activities on the beginning date of the grant. Delaying implementation of the grant will significantly hinder the quality and level of program services provided to participants, the expenditure of grant funds, and ultimately the achievement and success of children and teachers being served by the grant.

The beginning date of the grant, also referred to as the effective date, and the ending date of the grant are specified in several documents:

- in the announcement letter notifying eligible applicants of the availability of grant funding
- in the applicable RFA that was published to solicit applications from grantees
- on the NOGA issued to the grantee along with the copy of the approved application

*These dates set critical parameters for your grant and must be acknowledged. Costs, including personnel costs, can be incurred and charged to the grant program only between the beginning and ending dates of the grant.*

Before the grant actually begins, you should make a list of any supplies, materials, and equipment that were budgeted in your application and that need to be ordered, but you cannot order them or purchase them until on or after the beginning date of the grant. Any purchases made prior to the beginning date of the grant cannot be reimbursed from the grant.

Make sure that none of your purchase orders, purchase requisitions, contracts, invoices, or receipts have a date prior to the beginning date of the grant. None of these can be charged to the grant if you incurred the obligation or expenditure prior to the beginning date. Refer to **Part II – Fiscal Requirements, Expending Grant Funds**, for more information regarding obligations and expenditures.
Setting the Stage for Proper Grant Management

Prior to receiving any federal grant, there are many activities that should occur to set the stage for properly managing the grant. Key staff members should establish their respective roles and responsibilities. Systems and processes should be established or reviewed to ensure they can effectively and efficiently accommodate the various activities that must occur simultaneously.

Hiring Qualified Personnel

As an initial step in implementing your McKinney-Vento Homeless Education Grant, management will want to hire competent, qualified personnel to aid in ensuring success of the grant. All LEAs are required under the McKinney-Vento statute to designate a local homeless education liaison, whether or not the LEA is receiving McKinney-Vento grant funds. The liaison may or may not be an existing staff person, and McKinney-Vento grantees may or may not pay the salary of the liaison from the McKinney-Vento grant. The salary of the liaison may be paid from state or local funds, and Title I, Part A funds may also be used to pay part or all of the salary of the liaison.

The specific duties and responsibilities of the liaison are outlined in Part III – Program Requirements Applicable to McKinney-Vento Homeless Education Grantees, Statutory Program Requirements and Allowable Uses of Funds, Local Homeless Education Liaison. Information on using Title I, Part A funds to pay for the salary of the liaison and other activities is described in the subsection entitled Serving Homeless Students with Title I Funds. Be sure to carefully review these sections to ensure you designate a liaison that has the skills to carry out those duties.

All positions that are to be paid from your McKinney-Vento grant must be budgeted on Schedule #7B Payroll Costs of your McKinney-Vento grant application (i.e., TEXSHEP application). As soon as you are notified that you received the grant award, it is important that you advertise for those positions immediately so they can start work and begin program implementation on or soon after the beginning date of the grant. You should also allow time for any training that will need to be provided for new staff prior to program implementation.

Grantee Responsibilities

Organizations accepting federal grants have many responsibilities which require significant coordination among several different employees of the organization. Staff in the Program Office and in the Business Office must coordinate and communicate with each other regularly and frequently. Program staff must report to organization management on the implementation, operation, challenges, and success of the grant
program, while Business Office staff must report the status of grant expenditures to both the program staff and to management.

The superintendent or executive director of the organization should ensure practices and procedures are in place for program managers and Business Office personnel to report regularly and frequently to senior administrators of the organization. Administrators should regularly inquire about the progress of grant implementation, including successes of the grant as well as any barriers that might be impeding success. This type of reporting to senior administrators has shown to aid in the success of the grant program as a whole. Grant programs with no regular reporting mechanisms to senior administrators tend to falter and sometimes even fail.

**Program Manager Responsibilities**

The program manager, sometimes referred to as the project manager, has the overall responsibility for making sure the grant program is implemented and operated in accordance with the approved grant application, authorizing program statute, and applicable laws, rules, and regulations. Typically, program managers handle the following:

1. Prior to submitting the application, coordinate with the organization’s Business Office in preparing the budget to ensure items are classified in accordance with TEA’s *Financial Accounting and Reporting* (FAR) module of the *Financial Accountability System Resource Guide* (FASRG). (More information about the accounting requirements is specified in *Part II – Fiscal Requirements, Grant Financial Management and Accounting*.)

2. Serve as the primary contact with Region 10 ESC and THEO to negotiate the grant application and answer any questions about the grant application or the grant program.

3. Make copies of the RFA, the approved application, and any other pertinent information for the appropriate personnel in the district, including the Business Office and any program personnel.

4. Coordinate with other state and federal program personnel in the school district, ESC, or open-enrollment charter school to maximize the effectiveness of the grant.

5. Identify and coordinate all resources needed to carry out grant activities, which may or may not have been identified in the grant application. This may require that you coordinate with other business and social service agencies in the community.

6. Provide reasonable opportunities for teachers, parents, and other interested parties to participate in the planning and operation of the grant project. (See *Part I – Uniform Administrative Grant Requirements, General Education*.
Provisions Act, General Application of Assurances for LEAs, Participation by Parents and the Public in Planning and Operation of Programs, for additional information pertaining to this requirement.)

7. Ensure procedures are in place for making the application, evaluation, periodic program plan, or report relating to the grant readily available to parents and other members of the general public. (See Part I - Uniform Administrative Grant Requirements, General Education Provisions Act, General Application of Assurances for LEAs, Availability of Information to Public, for additional information pertaining to this requirement.)

8. Ensure effective procedures have been adopted by the organization for acquiring and disseminating significant information derived from education research, demonstrations, and similar projects to teachers and administrators participating in the grant program. Procedures must also be in place for adopting, where appropriate, promising educational practices developed through the grant. (See Part I - Uniform Administrative Grant Requirements, General Education Provisions Act, General Application of Assurances for LEAs, Sharing Information on Promising Educational Practices, for additional information pertaining to this requirement.)

9. Review each schedule of the approved grant application once it is received for any changes made during negotiation.

10. Ensure that grant funds are expended only for items approved in the application budget and that each expenditure

- is allowable under the federal cost principles
- is reasonable and necessary to carry out the grant program
- is documented with an appropriate receipt, invoice, or voucher
- can be demonstrated as to how it benefits homeless students under the McKinney-Vento Homeless Education grant program (See Part II - Fiscal Requirements, Expending Grant Funds, Eligible Costs, Allocable Costs, for more information on allocating costs that benefit homeless students.)
- was obligated and incurred between the beginning and ending dates of the grant

Failure to expend funds and to properly document expenditures could cause the grantee to repay valuable federal or state dollars and/or could result in termination of the grant.

11. If equipment is purchased with grant funds, ensure that the equipment was approved in the grant application, is used only for the purposes authorized in the applicable program statute (unless the cost is shared with another grant program), and is properly numbered, tagged, and inventoried by the office in your district designated to maintain inventory.
12. If any expenditure records are maintained by the program manager, ensure those records coincide with the records of the Business Office. (Note: The Business Office maintains the official accounting records for audit and monitoring purposes and the program manager should rely on those records. Procedures for approving expenditures prior to incurring the expenditure should include review and approval by the respective program manager. The program manager should coordinate regularly and frequently with the Business Office to review the general ledger and payroll ledger to ensure eligible costs are being charged to the grant program. See Part II, Fiscal Requirements, Expending Grant Funds, Eligible Costs, for more information on determining allowable costs.)

13. Plan, implement, and complete grant activities according to the timeline approved in the application. Failure to implement activities according to the approved timeline could cause the grantee to be identified as a high-risk grantee, resulting in additional sanctions.

14. Monitor program activities daily to ensure they are being conducted in accordance with the approved application and the applicable laws, regulations, and guidelines.

15. Monitor the approved budget closely to determine if and when an amendment to the application is necessary prior to any unauthorized expenditure of funds. Prepare and submit any amendments in a timely fashion and respond to any questions from ESC 10 or THEO regarding the amendments. (See Part II, Fiscal Requirements, Amending an Application, When to Amend an Application, for specific information pertaining to amendments.)

16. Prepare and submit the required program reports, including the Mid-Year Program Reviews and End of Year Final Narrative Evaluation reports.

17. Coordinate with the Business Office to ensure the quarterly and final expenditure reports are completed and submitted to Region 10 ESC in a timely manner.

18. Report regularly and frequently to senior administrators on the status of grant implementation, operations, successes, and barriers to success.

**Business Office Responsibilities**

The Business Manager and personnel of the Business Office have similar but more stringent duties in ensuring grant funds are expended and accounted for properly. Business Office personnel usually conduct the following:

1. Maintain the official audit records of all grant expenditures and expenditure reports, including payroll records, obligations such as purchase orders/requisitions and contracts, receipts, invoices, travel vouchers, etc.
2. Collect and maintain time-and-effort reports (or similar documentation) for split-funded personnel, or 6-month certification reports (or similar documentation) for 100%-funded personnel, and ensure payroll costs reflect these records each month (See Part II – Fiscal Requirements, Expend ing Grant Funds, Payroll Costs and Documentation for Grant-Funded Personnel, for detailed information.

3. Complete and submit the expenditure reports to Region 10 ESC. The Business Office employee who completes and submits the expenditure reports must certify that expenditures are true and correct.

4. Compare actual expenditures to budgeted expenditures to determine if an amendment is necessary, and alert the program manager in the event an amendment becomes necessary.

5. Ensure the district complies with the mandatory accounting requirements outlined in TEA’s FAR.

6. Ensure that grant funds are expended only for items approved in the application and that each expenditure

   ✓ is allowable under the federal cost principles
   ✓ is reasonable in cost based on current market value for similar goods or services
   ✓ is documented with an appropriate receipt, invoice, or voucher
   ✓ is properly coded, classified, and recorded in the district’s accounting system
   ✓ was obligated and incurred between the beginning and ending dates of the grant

Failure to expend funds and to properly document expenditures could cause the grantee to repay valuable federal or state dollars to ESC 10 and/or could result in termination of the grant.

7. If equipment is purchased with grant funds, ensure that the equipment was approved in the grant application, is used only for the purposes authorized in the applicable program statute (unless the cost is shared with another grant program), and is properly numbered, tagged, and inventoried by the office in your district designated to maintain inventory.

8. Ensure policies, procedures, systems, and internal controls are established to enable the district to comply with federal financial management and accounting standards, and monitor employee’s adherence to the policies, procedures, systems, and internal controls.

9. Report regularly and frequently to the program manager and to senior administrators on the status of grant expenditures.
Analyzing Capacity to Comply with Federal Financial Management Standards and Accounting Requirements

All grantees of federal funds, including McKinney-Vento Homeless Education grantees, must comply with certain federal standards for financial management systems and accounting requirements (Title 2, Code of Federal Regulations [CFR], § 200.302). According to these federal financial management standards, grantees must expend and account for grant funds in accordance with State laws and procedures.

Texas state law requires each school district, ESC, and open-enrollment charter school to adopt and install a fiscal accounting system that conforms to generally accepted accounting principles (GAAP) and that meets minimum requirements prescribed by the commissioner of education (Texas Education Code [TEC], § 44.007). The commissioner of education’s minimum accounting requirements, adopted by the State Board of Education (SBOE), are prescribed in Module 1, Financial Accounting and Reporting (FAR), of the Financial Accountability System Resource Guide (FASRG). Texas school districts, ESCs, and open-enrollment charter schools are required to comply with a mandatory minimum 15-digit account code structure for accounting for grant funds, including a 3-digit fund code to identify the specific fund, or grant, being accounted for. Three local option codes are also provided, for a total of 20 maximum digits in the account code structure.

Refer to Part II – Fiscal Requirements, Grant Financial Management and Accounting, for detailed information regarding these standards and requirements. Before accepting any federal grant award and incurring expenditures, you are advised to consult with your Business Office to ensure your school district, ESC, or open-enrollment charter school complies with these federal financial management standards and accounting requirements. Your organization should not receive or expend federal funds until you are certain your Business Office complies.

Failure to comply with these standards and accounting requirements could result in the repayment of federal funds and/or termination of the grant. When an organization is required to repay federal funds due to an audit finding or monitoring citation, the expenditures that were originally charged to the grant must be reclassified to another applicable source of funding, usually state or local funding. This can often have a significant negative financial impact on an organization because it reduces the availability of state and local funds that were originally intended for other educational purposes.
**Analyzing Technology Capability and Capacity for Complying with Financial Reporting Requirements**

FAR also mandates certain financial reporting requirements at pre-determined intervals. Be sure to consult with your Business Office to ensure your organization has the necessary technology hardware and software to comply with the financial reporting requirements. Failure to comply with financial reporting requirements could cause the grant project to be suspended or terminated and payments to the grantee organization to cease.

**Analyzing Capability to Comply with Program Reporting Requirements and Establishing Systems to Facilitate Compliance**

Most federal programs, including the McKinney-Vento Homeless Education grant program, have at least minimal, if not significant, program reporting requirements. General program reporting requirements are discussed in more detail in *Part I – Uniform Administrative Grant Requirements, Monitoring and Reporting Program Performance*.

Some program reporting requirements may be web-based, in which case you need access to the Internet, while others may be completed and submitted via Excel spreadsheets, for example. Make sure your organization has the proper technology hardware and software to complete and submit all required program reports on time.

Additionally, make sure you have processes, procedures, and systems in place to maintain and record the required program data. At the beginning of the grant, examine all of the data elements to be collected and make sure you will be able to collect the required data at the specified time. A delay in submitting required program reports could cause your organization to be identified as a high-risk grantee and have additional sanctions imposed.

**Monitoring the Approved Budget and Expenditures**

Grantees receiving federal funds are required to monitor their approved budget and expenditures on a continuous basis. Ensure your LEA has processes and procedures to frequently and regularly compare the approved budget (the budget approved in your grant application) to the obligations/encumbrances and the actual expenditures. This will require coordination with your Business Office personnel.

One primary purpose for comparing the budget to actual expenditures is to ensure that you are not over-spending or under-spending your grant funds. Federal standards for financial management systems also require that your organization compare the *budget* to the *actual* expenditures. Failure to provide evidence that the
organization is carrying out this requirement could result in an audit or monitoring finding.

**Monitoring the Rate of Expenditures**

Additionally, it is important to monitor the rate of expenditures. Monitoring the rate of expenditures can also assist you in determining whether you are over-expending or under-expending funds. It can also assist in preventing auditors and monitors from having the perception that grant activities might not be occurring according to the approved grant application.

The rate of expenditures as determined from your expenditure reports for the grant should align with the activities and services that actually occur during the grant period. The rate of expenditures can be determined by dividing the total amount expended by the total number of months since the beginning date of the grant. For example, a grant that has payroll budgeted for personnel to conduct activities throughout the entire grant period should exhibit a rate of expenditures for payroll that is fairly stable from month to month.

Expenditures for supplies, materials, and equipment should come early during the grant period so that homeless students can benefit fully from the supplies and equipment. And expenditures for professional development or training for teachers or other school personnel should come early during the grant period so that teachers and school personnel can respond early during the grant period to the needs of homeless students and children.

**Monitoring the Need for an Amendment**

Another reason for continually monitoring the budget and expenditures is to ensure that you are spending funds for items approved in the budget. You must submit an amendment to Region 10 ESC if you wish to purchase an item not approved in your budget BEFORE you purchase the item or before you submit a purchase order/requisition for the item.

You must also submit an amendment if you will exceed the maximum allowable budget variation. Refer to detailed information regarding the maximum allowable budget variation and when you are required to submit an amendment in *Part II – Fiscal Requirements, Amending an Application, When to Amend an Application.*

Failure to submit an amendment when required to do so could result in the expenditures being disallowed. This means you would be required to pay for the unbudgeted items with other sources such as state or local funds.


2 CFR § 200.302

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Establishing Policies and Procedures to Provide for Sound Management and Internal Controls

Organizations receiving federal funds are required to develop and maintain policies and procedures to provide for sound management and internal controls over all cash, property, and assets. Policies and procedures should be effective in preventing or detecting noncompliance.

2 CFR § 200.302; .303; and .514(c)

Sound Management Practices

Your organization was awarded a competitive grant based on demonstrated need, a quality grant application, and your superintendent’s agreement to comply with all requirements. As a recipient of federal grant funds, your organization has the fiduciary duty to protect and spend federal grant funds in a manner that instills trust, confidence, reliance, and good faith in the taxpayers of America.

Sound principles, practices, and standards allow you and your organization to operate in a legal, ethical, and prudent manner. Your organization should have practices that provide for accountability and transparency of grant funds as well as strong financial oversight.

Sound management practices include

- developing and implementing effective internal controls to prevent fraud, waste, and abuse
- acquiring, protecting, and utilizing resources economically and efficiently
- complying with laws, regulations, and rules
- good procurement practices, i.e., acquiring appropriate type, quality, and amount of resources at an appropriate cost and avoiding conflicts of interest in the purchase
- protecting and maintaining resources and appropriate use of resources, including facilities
- avoiding duplication of effort in program services and expenditures, as well as conflicts with other programs
- appropriate staffing, i.e., not under- or over-staffing; hiring qualified personnel; and having a functional organizational structure, job descriptions for each employee, and annual performance assessments
- appropriate decision making processes
- maximizing the use of technology
- appropriate reporting mechanisms
- appropriate, valid, and reliable measures of success of the program
implementing only programs that further the mission of the organization

*TEA’s FASRG, Module 8, Management*

**Internal Controls**

All recipients of federal funds are required to establish and maintain effective internal control over each federal award that provides reasonable assurance that the recipient is managing the federal award in compliance with federal statutes, regulations, and the terms and conditions of the federal award. Per 2 CFR § 200.303(a), these internal controls should be in compliance with certain standards.

Everyone in an organization, including program staff, Business Office staff, and senior management, has responsibility for internal control to some extent. Your superintendent or executive director has the overall responsibility for designing and implementing effective internal controls. He or she sets the tone that affects integrity and ethics and other actions of a positive control environment.

Internal controls are a set of policies, procedures, and activities designed to meet an objective. It means a process designed to provide reasonable assurance that

- Operations are effective and efficient.
- Financial reporting is reliable.
- The grantee complies with applicable laws and regulations.

Having good internal controls reduces the likelihood that employees will vary from processes, which leads to more predictable outcomes. In addition, internal controls can be systematically used to improve effectiveness and efficiency.

Federal regulations also require that grantees:

- Comply with federal statutes, regulations, and the terms and conditions of the federal award.
- Evaluate and monitor the organization’s compliance with the statutes, regulations, and terms and conditions of the award.
- Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.
- Take reasonable measures to safeguard personally protected identifiable information designated as or considered to be sensitive consistent with applicable federal, state, and local laws regarding privacy and obligations of confidentiality.

Internal controls are reviewed annually by your organization’s independent auditor and as needed by other auditors and monitors, such as TEA, USDE, and OIG (Office of Inspector General). Check with your Business Office to ensure your
organization has policies and procedures that provide for effective internal controls. For example, these might include policies and procedures to

- Ensure payments to third parties are for valid services rendered.
- Provide for segregation of duties, such as one designated person reviews a transaction (such as for allowability and reasonableness) and another designated person approves the transaction; one person authorizes a purchase and another person writes the check.
- Ensure appropriate documentation is maintained to support transactions.
- Ensure accounts are reconciled regularly.
- Safeguard, account for, and protect property and assets.
- Prevent or detect error or fraud, including performing a fraud risk assessment and assessment of internal controls by identifying scenarios in which theft or loss could occur and determining if adequate controls exist.
- Provide for supervising and monitoring program operations by observing and reviewing ongoing operations.
- Ensure property and assets are safeguarded against theft, vandalism, and misuse and are properly inventoried.
- Provide for senior management reviews of goals and plans, periodic and regular operational reviews, and comparison of actual performance to goals, plans, and objectives.
- Provide for IT security (passwords, etc.) to ensure access to only authorized personnel to secure systems.
- Ensure information/data is processed correctly, such as edit checks of data entered, accounting for transactions in numerical sequences, comparing file totals with control accounts, and controlling access to data, files, and programs.

For compliance with federal programs, internal controls means a process designed to provide reasonable assurance that

- Transactions are properly recorded and accounted for to
  - Permit the preparation of reliable financial statements and federal reports.
  - Maintain accountability over assets.
Demonstrate compliance with laws, regulations, and the terms and conditions of the federal award.

- Transactions are executed in compliance with
  - laws, regulations, and the terms and conditions of the grant agreement that could have a direct and material effect on a federal program
  - any other laws and regulations that are identified in the Audit Compliance Supplement (See Part II, Fiscal Requirements, Audits, Single Audit, for more information on the Compliance Supplement.)

- Funds, property, and other assets are safeguarded against loss and from unauthorized use or disposition.

Effective internal controls occur when

- Only valid or authorized transactions are processed.
- Transactions occurred during the grant period and were processed timely.
- No proper transactions were omitted from the accounting records.
- Transactions are calculated using an appropriate methodology.
- Transactions appear reasonable relative to other data.

Refer to TEA’s Internal Controls Handbook (on the EDGAR webpage) for comprehensive information pertaining to an effective internal controls system.

As previously stated, internal controls will be reviewed annually by your organization’s independent auditor and may also be reviewed at any time by regulatory agencies such as TEA. You are encouraged to ask your Business Office for a copy of these policies and procedures and to become familiar with them.

- 2 CFR §§ 200.61; .62; and .303
- Committee of Sponsoring Organizations of the Treadway Commission (COSO), Internal Control-Integrated Framework
Part I – Uniform Administrative Grant Requirements

Applicable to All Federal Education Grants

Introduction to the Uniform Administrative Grant Requirements

In addition to program-specific requirements, most federal grant agreements specify numerous terms and conditions governing the award and operation of the grant program. Many of these terms and conditions are government-wide, meaning they apply to every federal grant, regardless of the federal awarding agency. The various parts in Subtitle A of Title 2 of the Code of Federal Regulations (CFR), Grants and Agreements, are examples of some of these government-wide requirements.

In addition, each federal agency also usually has its own set of administrative requirements, codified in the CFR, that apply to every grant awarded by that particular agency. For example, the U.S. Department of Education (USDE) promulgated its own administrative regulations, codified in Title 34 of the CFR. These regulations are included in a user-friendly (unofficial) compilation of administrative requirements known as EDGAR, the Education Department General Administrative Regulations. The requirements in EDGAR apply to all federal education programs unless otherwise specified in program statute or regulations. (For more information on EDGAR, see the section in this Part I on EDGAR.)

Together, the government-wide and federal agency-specific requirements form what is known as the uniform administrative grant requirements. While some are administrative in nature and others are fiscal in nature, these uniform administrative requirements are designed to bring uniformity and consistency to managing federal grants. The purpose of this part of the handbook is to bring together for the reader essential information related to these administrative grant requirements that apply uniformly to every federal education program unless otherwise specified in specific program statute or regulations promulgated by the U.S. Secretary of Education.

Many of the provisions, especially those in 2 CFR Part 200, effective for grants awarded on or after December 26, 2014, call for the development of written policies and procedures in many cases to ensure the requirements are implemented properly. As you review this part of the handbook, you may want to contemplate which policies and procedures you would like to review to familiarize yourself with how your local agency addresses the requirements. If you see that a necessary policy and/or procedure is not in place, you may want to recommend the development of such in order to facilitate your agency’s compliance with the requirements.
Sources of Uniform Administrative Grant Requirements

Understanding the origin of the uniform administrative grant requirements pertaining to Education can aid the reader in understanding the importance and impact of the requirements. Uniform administrative grant requirements for Education actually stem from a variety of legal sources such as

- the U.S. Constitution
- federal Civil Rights laws and their implementing regulations
- federal statutes, such as the General Education Provisions Act, as amended; the Gun-Free Schools Act; and the Federal Funding Accountability and Transparency Act (FFATA)
- executive orders (EO), such as EO 12372 (Intergovernmental Review of Federal Programs) and EO 12549 (Debarment and Suspension)
- the Code of Federal Regulations (CFR)
- EDGAR (the USDE’s unofficial compilation of administrative requirements for grants)

For example:

1. The hearing and dispute procedures used by many federal agencies, including the USDE, stem from due process established in the Fifth Amendment of the U.S. Constitution. Nondiscrimination and equal opportunity stem from equal protection under the Constitution and are furthered in federal laws such as the Civil Rights Act.

2. Executive orders, which may be government-wide or may apply only to certain federal agencies, are official legally-binding orders or directives, numbered consecutively, issued by the President to manage the operations of the federal government. The text of an executive order is published in the Federal Register once it is signed by the President.

3. Federal agencies, such as the USDE, promulgate rules to implement many of the requirements specified in statutes, executive orders, and federal regulations. Rules proposed by any federal agency must first be published in the Federal Register for public comment. Once the rules are again published in the Federal Register as final, they are then codified as regulations in the appropriate title of the CFR.

Title 34 of CFR contains the regulations for Education, including the regulations for major programs such as Title I, Part A and IDEA (Individuals with Disabilities Education Act). The provisions in 2 CFR Part 200 also apply to all federal education grants unless otherwise stated by the USDE. For handy
reference, the *uniform administrative regulations* pertaining to Education are also compiled by the USDE in a single unofficial publication called EDGAR. EDGAR will be discussed in more detail later (see the section in this Part I on EDGAR).

All executive orders, OMB circulars, and regulations are mandatory and binding on grantees (unless the program statute or regulations exempt grantees from a particular requirement), take the full force and effect of law, and are uniformly applied and enforced throughout the 50 states and territories.

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**All Executive Orders, OMB Circulars, and Regulations**

Executive orders, OMB circulars, and regulations are mandatory and binding on grantees (unless the program statute or regulations exempt grantees from a particular requirement). These orders take the full force and effect of law, and are uniformly applied and enforced throughout the 50 states and territories.

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**Special Note – Uniform Guidance Applicable to Grants Awarded on or After December 26, 2014**

The uniform guidance which took effect December 26, 2014, includes *administrative requirements, federal cost principles, and audit requirements.* These requirements apply to all federal grants awarded on or after December 26, 2014. This guidance, located in 2 CFR Part 200, combined eight previous and separate OMB circulars into one single set of guidance and is applicable uniformly to all types of grantees, including LEAs, ESCs, open-enrollment charter schools, and nonprofit organizations. The U.S. Department of Education (USDE) adopted the guidance in 2 CFR Part 200 in its entirety with the exception of two minor exceptions in 2 CFR Part 3474.

Prior to this time, there were six different OMB circulars pertaining to federal grants. Each organization was covered by three of them, depending on the type of entity. A table of these circulars is provided for your convenience in the *Appendices, Summary of OMB Grants Management Circulars (Effective for Grants Awarded Prior to December 26, 2014).*

Grant agreements may also include special conditions or requirements that do *not* stem from any of these common sources. Such conditions or requirements may stem from state law or individual state agency policy. When an applicant submits an application and accepts the award, it is contractually bound to comply with these conditions and requirements as well. For grants awarded by TEA, or by an agency on behalf of TEA, those state-specific conditions and requirements are specified in the *General Provisions and Assurances.*

**Special Note About Precedence:** In most cases, the uniform administrative grant requirements are *in addition to* the program-specific requirements identified in the grant-enabling legislation and should be *read in conjunction* with them. However, it is important to note that some of the requirements may appear to contradict one another or to be inconsistent. In this case, the requirement that is more *specific* in its wording takes precedence.
For example, the federal cost principles in 2 CFR Part 200, Subpart E, § 200.474, Travel Costs, permit employees who travel on official grant business to charge travel costs on an actual cost basis or on a per diem basis. However, TEA’s guidelines for travel mirror the language in the state appropriations bill, which permits the reimbursement of travel only on an actual cost basis, not to exceed the federal rate for the locale, or local policy, whichever is less.

TEA’s policy is more specific than the policy stated in the federal cost principles. Therefore, TEA’s policy prevails.

Additionally, if a specific provision in the uniform administrative grant requirements differs from or contradicts a provision in the specific program-enabling statute or regulations, then the program-enabling statute or regulations take precedence.

The administrative requirements that are fiscal in nature, such as the federal standards for financial management systems, accounting for grant funds, and the federal cost principles, are discussed in Part II – Fiscal Requirements Applicable to All Federal Education Grants. The following sections in this Part I provide an overview of the key administrative grant requirements that affect the operation of federal grant programs, including

- GEPA (General Education Provisions Act)
- EDGAR
- Civil Rights
- Family Educational Rights and Privacy Act (FERPA)
- Protection of Pupil Rights Amendment (PPRA)
- Parent Involvement
- Lobbying
- Debarment and Suspension
- Copyrights
- Gun-Free Schools Act
- Pro-Children Act of 2001
- Prohibition of Texting and Emailing While Driving on Grant Business
- Prohibition of Trafficking in Persons
- Monitoring and Reporting Program Performance

These uniform administrative grant requirements provide the foundation for the operation of federal education programs. Although the requirements outlined in the following sections are mandatory, grantees and subgrantees are often permitted to use a variety of effective approaches to demonstrate compliance with the requirements.
General Education Provisions Act


Amended frequently over the years, GEPA establishes a set of general requirements and conditions for operating and administering federal education programs and also sets forth the general authority of the Secretary of Education. GEPA sets forth a set of basic rules and incorporates provisions from a variety of other federal laws to form a set of general provisions under which every federal education program is required to operate. In general, GEPA addresses

- provisions pertaining to appropriations for federal education programs
- planning and evaluation of federal education activities
- administration of education programs and projects by States and LEAs
- records retention and availability of records
- privacy of student records and rights of parents to review their child’s records
- the authority to withhold funds and take other enforcement actions for noncompliance
- the authority to recover disallowed costs

GEPA can be and often is amended by various acts relating to education. For example, GEPA was most recently amended in the

- Goals 2000: Educate America Act
- Improving America’s Schools Act of 1994
- No Child Left Behind Act of 2001

GEPA is codified in Title 20 of the United States Code (USC) Annotated, Chapter 31. The Secretary of Education also promulgated rules and regulations around many of the provisions in GEPA.

The preamble of GEPA sets forth the policy of the United States concerning public education in reaffirming as high priority the Nation’s goal of equal educational opportunity and declaring that every citizen is entitled to an education to meet his or her full potential without financial barriers. GEPA authorizes the U.S. Secretary of Education to make, promulgate, issue, rescind, and amend rules and regulations governing
programs administered by the USDE. A “regulation” is defined in GEPA as any generally applicable rule, regulation, guideline, interpretation, or other requirement that is:

- prescribed by the Secretary or the USDE
- has a legally binding effect

GEPA contains provisions that apply to all federal programs administered by the USDE unless otherwise specified in the authorizing program statute or the program regulations promulgated by the Secretary of Education. Thus, GEPA applies to all federal formula education grants received by an LEA, as well as all federal education discretionary grants received by an LEA, whether awarded by TEA, through TEA, or directly from the USDE.

GEPA contains several provisions, or key concepts, that directly impact the appropriation of federal education funding by the U.S. Congress. Key concepts discussed in the following subsections include

- forward funding
- carryover period
- automatic extension of a program

Other GEPA provisions and requirements applicable to all federal education programs are summarized in the following subsections:

- prohibiting the use of federal funds for busing
- equitable access and participation
- parental involvement in federal education programs
- non-compliance with civil rights
- state agency monitoring and enforcement
- general application of assurances for SEAs and LEAs
- family educational and privacy rights
- protection of pupil rights
- recovery of funds for disallowed costs

Title 20 USC, Chapter 31 – General Provisions Concerning Education, §§ 1221-1 and 1221e-3; 1232

“Forward Funding”

The first key concept related to funding appropriated by Congress for education is known as “forward funding.” “Forward funding” authorizes payments under applicable education programs to be included in the federal appropriations Act for the fiscal year preceding the fiscal year during which the activities will be carried out.

The federal fiscal year is October 1 through September 30. Funding for most federal grants, such as for transportation, health and human services, defense, etc., is
effective beginning on October 1 of every year. However, Congress recognized that
school districts begin operations for the next school year prior to the October 1 start
of the federal fiscal year, and authorized appropriations for education to be effective
for three months prior to the federal fiscal year in which the funds are appropriated,
i.e., July, August, and September. GEPA also provides that appropriations may be
made available for obligation by the recipient on the basis of an academic or school
year different from the federal fiscal year.

Therefore, the USDE issues a federal NOGA with an effective date of July 1 each year
for education programs that allocate funds based on formula to the states. The
three-month “forward funding” period (July, August, and September), plus the 12
months for the regular fiscal year (October through September) provide a federal
award period of 15 months.

TEA, then, awards federal formula funds to grantees on the basis of a school year
beginning July 1 of each year. Discretionary grants, grants that school districts
typically compete for, may be awarded at various times of the year.

McKinney-Vento is allocated to the states on a formula basis. SEAs are then required
to distribute funds to grantees on a competitive basis. TEA awards McKinney-Vento
funds to Region 10 ESC July 1 of each year.

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**Carryover Period**

Another key concept contained in GEPA related to education funding appropriated by
Congress is the “12-month carryover period”, also known as the Tydings
amendment.

According to this provision, unless otherwise prohibited, any funds not obligated and
expended during the fiscal year appropriated, will remain available for obligation and
expenditure during the succeeding fiscal year, or an additional 12 months. This is
commonly known as a “12-month carryover period.” When funds are available during
a carryover period, the carryover funds must be used in accordance with the
applicable program statute and any plan or application submitted for the carryover
period.

Thus, when you combine the 3 months provided under forward funding, plus the 12
months of the regular appropriation year, plus the 12 months carryover, the first-tier
grantee (TEA, in this case) has a total of 27 months to expend the funds. For federal
programs that typically award grants to LEAs based on a formula prescribed in
statute, any unexpended funds are “carried over” to the next school year and are
used in accordance with their approved application for that year.
TEA receives a federal NOGA each year for the McKinney-Vento Homeless Education program with an effective date of July 1 and then issues a grant to Region 10 ESC with an effective date of July 1 each year. Region 10 ESC then awards subgrants to LEAs with an effective date of September 1 through August 31 of each year. Any funds remaining from the subgrants after the subgrant ending date of August 31 are used by Region 10 ESC to either fund a set of subgrants the following year or to reimburse expenditures using carryover funds until all of the carryover funds are expended. The individual LEA is not awarded their specific carryover funds the subsequent year.

Title 20 USC, Chapter 31 – General Provisions Concerning Education, § 1225

Automatic Extension of Appropriations for a Program

A third key concept related to education funding appropriated by Congress is the automatic extension of a program that is terminating or is not yet reauthorized by Congress. This provision automatically extends a program authorized in statute for one additional fiscal year unless Congress passes law that extends or repeals the authorization. The amount of the appropriation by Congress will be the same during the extension as it was during the last year of the authorization (“terminal fiscal year”).

This provision allows grantees and subgrantees to continue obligating and expending funds during a carryover period if the authorization for the program has expired. Typically, appropriations for education programs such as NCLB programs are authorized for a 5- or 6-year period in the authorizing program statute. However, Congress may or may not actually appropriate the amounts authorized in the program statute. The actual amount of funds appropriated comes from the annual Appropriations Act approved by Congress and signed by the President.

The McKinney-Vento Homeless Assistance Act does not contain such language authorizing the program for a certain number of years. Because Title VII, Subtitle B, Education for Homeless Children and Youth, contains requirements that apply to all LEAs, whether or not they receive McKinney-Vento funds, the Act will remain in effect until it is either amended or repealed. Funding for subgrants each year is contingent upon appropriations by Congress.

Title 20 USC, Chapter 31 – General Provisions Concerning Education, § 1226-a

Prohibition of Use of Federal Education Funds for Busing

Federal funds, except for federal funds appropriated specifically for this purpose, may not be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any
school or school system. Federal funds may also not be used to carry out a plan of racial desegregation of any school or school system, except for funds specifically appropriated for that purpose.

Title 20 USC, Chapter 31 – General Provisions Concerning Education, § 1228

Equitable Access and Participation

Each applicant receiving federal education funds is required to develop and describe in their application the steps the applicant proposes to take to ensure equitable access to, and participation in, the project or activity by addressing the special needs of students, teachers, and other program beneficiaries in order to overcome barriers to equitable participation, including barriers based on gender, race, color, national origin, disability, and age. This requirement is known as Section 427 of GEPA.

As stated in Section 427, the purpose is to assist the U.S. Department of Education in implementing the Department’s mission to ensure equal access to education and to promote educational excellence throughout the Nation by

- ensuring equal opportunities to participate for all eligible students, teachers, and other program beneficiaries in any project or activity carried out under an education program
- promoting the ability of students, teachers, and beneficiaries to meet high standards

Every grant application with funding made available by the U.S. Department of Education will require that equitable access and participation be addressed. All federally funded grant applications administered by TEA contain an Equitable Access and Participation schedule that must be completed by the applicant for each program included in the application.

Your McKinney-Vento Homeless Education grant application addresses the equitable access and participation requirement through Schedule 9, Equitable Access and Participation. On Schedule 9, your LEA identified the barriers to equitable access and participation in McKinney-Vento activities and described the strategies that would be implemented to ensure equitable access and participation for students, teachers, and others. The instructions to completing this form state that the applicant must be prepared to produce the relevant policies and procedures during the compliance review and at any other point over the duration of the project.

It is important that you maintain not only the policies and procedures but also documentation that your LEA did, in fact, incorporate the identified strategies into the services and activities. Any auditor or monitor may request a copy of the
policies, procedures, and appropriate documentation during an audit or monitoring visit. Failure to demonstrate compliance with the strategies proposed in your application could result in a finding.

Title 20 USC, Chapter 31 – General Provisions Concerning Education, § 1228a
Section 427, General Education Provisions Act

Regulations to Encourage Parental Involvement in Federal Education Programs

For any program in which the Secretary of Education determines parental participation at the state or local level would increase the effectiveness of the program in achieving its purposes, the Secretary is required to promulgate regulations designed to encourage parental participation.

If the program provides payments to LEAs, GEPA further directs the Secretary of Education to

- set forth policies and procedures as will ensure that programs and projects assisted under the application have been planned and developed, and will be operated, in consultation with, and with the involvement of, parents of the children to be served by the programs and projects
- be submitted with assurance that parents of participating students have had an opportunity to present their views with respect to the application
- set forth policies and procedures for adequate dissemination of program plans and evaluations to parents of participating students and to the public

Parental Involvement in Title I, Part A Programs

An example of regulations promulgated by the Secretary pertaining to parent involvement can be seen in the regulations pertaining to Title I, Part A, codified in 34 CFR Part 200. Specific language pertaining to the involvement of parents is integrated throughout several requirements, including

If an LEA identifies a school for improvement, corrective action, or restructuring

- communicating with parents of each child in a language that parents can understand
- coordinating with parents on public school choice
- coordinating supplemental services for students
- informing parents they have a right to know the qualifications of their students’ teachers
Title I schoolwide programs must

- have a parental involvement policy that includes strategies for increasing parental involvement
- develop a comprehensive schoolwide plan with the involvement of parents

*Title 20 USC, Chapter 31 – General Provisions Concerning Education, § 1231d
34 CFR 200.37, 200.38, 200.44, 200.45, 200.61*

**Prohibition of Federal Control of Education**

GEPA prohibits any federal department, agency, officer, or employee of the United States from

- exercising any direction, supervision, or control over the curriculum, instruction, administration, personnel, or school
- exercising any direction, supervision, or control over selection of library resources, textbooks, or other materials
- requiring the assignment or transportation of students or teachers to overcome racial imbalance

*Title 20 USC, Chapter 31 – General Provisions Concerning Education, § 1232a*

**State Agency Monitoring and Enforcement**

State educational agencies (SEAs) are required to monitor LEAs for compliance with applicable laws and regulations. The Secretary of Education may require a state to submit a plan for monitoring LEAs’ compliance with federal requirements and for enforcement of the requirements. The Secretary may also require the state to develop a plan to provide for

- periodic visits to LEAs by state personnel to determine compliance with applicable requirements
- periodic audits of expenditures by auditors of the state or other independent auditors
- investigating and resolving all complaints relating to administration of the program
To enforce federal requirements, a state may

- Withhold approval of an LEA’s application until the state is satisfied the requirements are met. The state must offer an opportunity for a hearing before it can finally disapprove an application.
- Suspend payments to the LEA for that particular application if the state has reason to believe the LEA has substantially failed to comply. The state must wait 15 days before suspending payments after giving the LEA an opportunity to show cause why such suspension should not be taken; suspension shall not continue past 60 days unless the state offers an opportunity for a hearing.
- Withhold payments if the state finds, after reasonable notice and opportunity for hearing, that the LEA has failed substantially to comply.

The state is required to continue withholding payments until the state is satisfied there is no longer failure to substantially comply.

*Title 20 USC, Chapter 31 – General Provisions Concerning Education, § 1232c*

**General Application of Assurances for SEAs**

GEPA requires that each SEA applying for funds from the Secretary of Education submit a *single application of assurances* to the Secretary that is in effect for the duration of the program(s) it covers. The SEA must assure that it will comply with provisions pertaining to

- the administration of federal programs
- public control of funds and of property
- monitoring and providing technical assistance to subgrantees and correcting deficiencies identified through monitoring and evaluation
- evaluating program effectiveness
- using proper fiscal control and fund accounting procedures
- reporting to the USDE
- providing opportunities for agencies and interested parties to participate in the planning for and operation of each program
- prohibiting financial benefit to the grantee organization or its employees in purchasing equipment, including computer software

The full language to the complete set of general assurances for SEAs is included in the *Appendices, General Application of Assurances for SEAs*, for your reference.
Many of these assurances provide the impetus for the policies, procedures, and practices that an SEA may develop for their subgrantees. If you have reviewed TEA’s General Provisions and Assurances that accompany a grant application, you should be familiar with some of them.

Title 20 USC, Chapter 31 – General Provisions Concerning Education, § 1232d
34 CFR 76.101

General Application of Assurances for LEAs

Similar to the requirement for a state to submit a general application of assurances to the Secretary of Education, each LEA which participates in a federal education program must submit to the state agency a general application containing assurances that apply to all federal education programs.

The LEA must assure that it will comply with provisions pertaining to

- the administration of federal programs
- public control of funds and property
- use of proper fiscal control and fund accounting procedures
- reporting to the SEA and to the USDE
- providing reasonable opportunities for teachers, parents, and other interested parties to participate in the planning for and operation of each program
- making grant applications and reports available to parents and the public
- complying with statutes applicable to construction of school facilities
- adopting effective practices for acquiring and disseminating information to teachers and administrators on educational research and for adopting promising educational practices
- prohibiting financial benefit to the grantee organization or its employees in purchasing equipment, including computer software

The full language to the complete set of general assurances for LEAs is included in the Appendices, General Application of Assurances for LEAs, for your reference.

TEA, as the state educational agency, administers the LEA General Application of Assurances for participation in federal programs. As a new open-enrollment charter school is established, or if school districts merge or consolidate, the General Application of Assurances must be signed by the Superintendent or Chief Operating Officer and submitted to TEA prior to TEA making any federal payments to the new charter school or the newly merged school district.

Also, if the assurances in the general application are changed by an amendment to GEPA, TEA is required to obtain a signed revised/updated General Application of Assurances from each school district, open-enrollment charter school, and ESC.
Some of the assurances contained in the *LEA General Application of Assurances* warrant special attention.

**Participation by Parents and the Public in Planning and Operation of Programs**

Number 5 in the *LEA General Application of Assurances* requires an LEA to provide reasonable opportunities for teachers, parents, and other interested agencies, organizations, and individuals to participate in the planning for and operation of each federal education program. To comply with this requirement, the LEA should have policies and procedures that require program managers at the local level to communicate and collaborate with teachers, parents, and other interested parties in the planning for and operation of the program. In the case of the McKinney-Vento program, the local homeless education liaison might also be the program manager who would implement these procedures.

Communication and collaboration with teachers, parents, and other interested parties should occur up front before any major decisions are made that impact the services and activities to be provided under the program and should continue to occur frequently and regularly during the ongoing operation of the program. Soliciting participation and feedback in the planning and operation of programs should be meaningful and might be accomplished in a number of ways, including

- phone calls to teachers, school staff, and other parties
- emails to teachers, school staff, and other parties
- letters (hand-carried to parents if appropriate)
- brochures (hand-carried to parents if appropriate)
- meetings
- trainings
- internal websites for teachers and school staff
- surveys or questionnaires for teachers, parents, and interested parties
- including them in the needs assessment

In any case, it is important that you document that your LEA has policies and procedures for providing for meaningful participation by teachers, parents, and other interested parties in the planning for and operation of the program and that you document the means for communicating and collaborating with those parties. See the section on *Parent Involvement, Documentation of Parent Involvement*
Activities, in this Part I for suggestions for providing adequate documentation of activities.

**Availability of Information to Public**

Number 6 in the *LEA General Application of Assurances* requires that any application, evaluation, periodic program plan or report relating to each program be made readily available to parents and other members of the general public for public inspection. (See also 34 CFR 76.304.)

Because most information related to federal grants is public information, LEAs should have procedures in place for notifying parents and members of the public about the federal programs available to the LEA. Notification might include posting the grant applications, evaluations, program plans, reports, and even expenditures on the LEA’s website along with a brief description of the purpose of each federal program. Such notification can aid the LEA in demonstrating transparency and accountability for federal grant funds. It can also aid the LEA in soliciting participation by parents in the planning and implementation of the grant programs.

**Sharing Information on Promising Educational Practices**

Number 8 in the *LEA General Application of Assurances* requires that LEAs adopt effective procedures for acquiring and disseminating significant information from educational research, demonstrations, and similar projects to teachers and administrators participating in each program. LEAs are also required to adopt, where appropriate, promising educational practices developed through such projects.

This assurance requires that LEAs have procedures (preferably written) for providing information on federal programs to teachers and administrators, particularly where program activities have led to promising educational practices that can be shared, transferred, modeled, or replicated within the LEA and outside the LEA. LEAs are encouraged to take advantage of the technology available for sharing information on promising education practices through a variety of effective means.

- Title 20 USC, Chapter 31 – General Provisions Concerning Education, § 1232e
- 34 CFR 76.301
Family Educational and Privacy Rights

Section 1232g of GEPA incorporates the provisions of the *Family Educational Rights and Privacy Act (FERPA)* of 1974. FERPA was enacted by Congress to protect the privacy of students and their parents. In general, educational institutions that receive federal education funds must implement policies, procedures, and practices that provide for the inspection and review of educational records by a student’s parents within a reasonable time frame, and parents must be afforded an opportunity to challenge the contents of their child’s records.

The provisions of FERPA are enforced by the Family Policy Compliance Office of the USDE.

Because of the importance of FERPA and the potential lawsuits that could arise from noncompliance with the provisions, an entire section is dedicated to the requirements of FERPA in this Part I. See Part I – Uniform Administrative Grant Requirements, Family Educational Rights and Privacy Act (FERPA).

*Title 20 USC, Chapter 31 – General Provisions Concerning Education, § 1232g*

Protection of Pupil Rights

Section 1232h of GEPA incorporates the *Protection of Pupil Rights Amendment (PPRA)*, originally enacted in 1978 by Congress to provide parents with rights relative to their child’s participation in surveys and certain non-emergency physical examinations conducted by schools. PPRA also permits parents to review all instructional materials used to teach their children. All LEAs that receive federal education funds must comply with the provisions of the Act.

PPRA is another significant law that could result in potential lawsuits from noncompliance with the provisions. An entire section is dedicated to the requirements of PPRA in Part I – Uniform Administrative Grant Requirements, Protection of Pupil Rights Amendment (PPRA).

*Title 20 USC, Chapter 31 – General Provisions Concerning Education, § 1232h*

Recovery of Funds for Disallowed Costs

When the Secretary of Education determines that a recipient, including an SEA or LEA, must return funds because the recipient made an unallowable expenditure or failed to properly account for funds, the Secretary must give written notice of a preliminary decision, including notice of the right to have the decision reviewed (in a hearing) and to request mediation.

In recovering funds, the Secretary must establish a prima facie case based on the value of harm done to the federal government. The facts upon which the case is based may come from an audit report, investigative report, monitoring report, or other evidence. Failure of the recipient to maintain records in accordance with law, or
to allow access to the Secretary to records, constitutes a prima facie case in and of itself.

Section 1234a, USC, outlines the procedure for requesting the review (i.e., hearing) and the timeframe for conducting the hearing. The burden is on the recipient to demonstrate that it should not be required to return funds. Once the hearing is conducted, a final decision is issued by the Secretary.

**Five-year statute of limitations:** A recipient is not liable to return funds if the funds were expended more than five years before receiving written notice of a preliminary decision from the Secretary.

**Amount to be Returned**

A recipient determined to have made an unallowable expenditure or to improperly account for funds must return funds in an amount proportionate to the harm done to an “identifiable federal interest” associated with the federal program.

An” identifiable federal interest” includes but is not limited to

- serving only eligible beneficiaries
- providing only authorized services or benefits
- complying with expenditure requirements and conditions, such as
  - set-aside
  - excess cost
  - maintenance of effort
  - comparability
  - supplement-not-supplant
  - matching requirements
- preserving the integrity of planning, application, recordkeeping, and reporting requirements
- maintaining accountability for the use of funds

**Mitigating Circumstances**

An amount to be returned may be reduced by an amount that is proportionate to the extent a mitigating circumstance caused the violation. The burden of demonstrating a mitigating circumstance is upon the SEA or LEA.

Mitigating circumstances exist only when it would be unjust to compel the recovery of funds because the SEA or LEA

(A) actually and reasonably relied upon erroneous written guidance provided by the USDE

(B) made an expenditure or engaged in a practice after -
(i) the SEA or LEA submitted to the Secretary, in good faith, a written request for guidance with respect to the expenditure or practice at issue, and

(ii) a USDE official did not respond within 90 days of receipt by the USDE of such request

(B) actually and reasonably relied upon a judicial decree issued to the recipient

To demonstrate the existence of a mitigating circumstance when it pertains to a written request for guidance, the SEA or LEA must demonstrate that it reasonably believed the proposed expenditure or practice was permissible.

**Written Request for Guidance**

Written request for guidance from the USDE must be sent to the Secretary via certified mail, return receipt requested. The written request must

- accurately describe the proposed expenditure or practice and include the facts necessary for a determination of its legality

- contain a certification of the chief legal officer of the SEA that such officer had examined the proposed expenditure or practice and believed it was permissible under the applicable state or federal law

If the Secretary responds to written request for guidance more than 90 days after receipt of the request, the SEA or LEA that submitted the request must comply with the guidance received at the earliest practicable time.

The Secretary is required to periodically review written requests for guidance to determine the need for new or supplementary guidance. The USDE publishes all guidance letters by topic on its website for reference by others. These letters can be viewed by anyone and provide valuable information that can aid grantees in compliance.

- Title 20 USC, Chapter 31 – General Provisions Concerning Education, § 1234a and b

**Remedies for Existing Violations**

When the Secretary has reason to believe a recipient is failing to comply substantially with any requirement of law, the Secretary may

- *withhold further payments*, in whole or in part, to the recipient

- issue a complaint to compel compliance through a *cease and desist order*

- enter into a *compliance agreement* with the recipient to bring it into compliance

- take any other legal action
Enforcing any of these remedies does not preclude the Secretary from seeking recovery of funds.

**Withholding Payments**

Before withholding payments, the Secretary must notify the recipient in writing of

1. the intent to withhold payments
2. the factual and legal basis for the Secretary's belief that the recipient has failed to comply substantially with a requirement of law
3. an opportunity for a hearing to be held on a date at least 30 days after the notification has been sent to the recipient

Pending the outcome of any hearing, the Secretary may suspend payments, suspend the authority to obligate federal funds, or both. Before suspension of funds, the Secretary must give the SEA or LEA reasonable notice and an opportunity to show cause in a hearing why future payments or authority to obligate federal funds should not be suspended.

Upon completion of the hearing and a review of the findings of fact, the decision will be final if supported by substantial evidence, or the Secretary may remand the case for further evidence for good cause, which may result in new or modified findings of fact.

**Cease and Desist Order**

The Secretary may issue a complaint which describes the factual and legal basis for the belief that the SEA or LEA is failing to comply substantially with a legal requirement and provides notice of opportunity for hearing. The recipient must show cause in the hearing why a cease and desist order should not be issued.

After the hearing, the Secretary will issue a written report, and if the Secretary believes the recipient is in violation, will issue the cease and desist order. The Secretary can enforce the final order by withholding payments or referring the matter to the Attorney General for enforcement.

**Compliance Agreement**

The Secretary may enter into a compliance agreement to bring a recipient into compliance. Entering into a compliance agreement does not excuse or remedy past violations.

Before entering into a compliance agreement, the Secretary must hold a hearing at which students, parents, and other interested parties are invited to participate. The recipient has the burden of persuading the Secretary that full compliance is not feasible until a future date.
The compliance agreement will specify the date by which the recipient must comply, but in no case later than three years from the effective date of the agreement, and the terms and conditions with which the recipient must come into full compliance. If the recipient fails to comply with the terms and conditions of the agreement, the Secretary may consider the agreement to be no longer in effect and may take other legal action against the recipient.

**Judicial Review**

Any recipient adversely affected by the Secretary’s final action for recovery of funds, withholding payments, or a cease and desist order, and any SEA entitled to receive funds whose application has been disapproved, is entitled to judicial review of the action. The Secretary may not take the final action until the judicial review is complete.

The recipient must request judicial review within 60 days of receiving notice of the final action with the U.S. Court of Appeals circuit in which the recipient is located. A copy of the court petition must be transmitted to the Secretary.

The Secretary’s findings of fact will be conclusive, but the court could remand the case to the Secretary to take further evidence. The Secretary may make new or modified findings of fact, which will be conclusive if supported by evidence.

The circuit court can affirm the action of the Secretary or set it aside. The judgment of the court is subject to review by the U.S. Supreme Court.

**Use of Recovered Funds**

Whenever the Secretary recovers funds, the Secretary may consider those funds to be additional funds for the program and may arrange to repay not more than 75% to the recipient who originally repaid the funds (termed a “grantback”). The Secretary must determine that the practices or procedures that resulted in the violation have been corrected and the recipient is otherwise in compliance. The recipient must submit a plan to the Secretary for the proper use of funds for the program and benefit of the population most affected by the violation.

The Secretary may require the recipient to submit periodic reports on the use of funds and to consult with students, parents, and other beneficiaries. The funds will remain available for expenditure for the period of time deemed reasonable by the Secretary but in no case not to exceed three fiscal years.

*Title 20 USC, Chapter 31 – General Provisions Concerning Education, § 1234e-h*
EDGAR

The USDE publishes an unofficial version of the *Education Department General Administrative Regulations*, known as EDGAR, codified at 34 CFR Parts 75-79, 81-86, and 97-99. EDGAR is a compilation of the regulations that implement many of the provisions in GEPA and other federal laws that apply to all federal education grants.

All of the provisions and requirements in EDGAR apply respectively to the applicable federal programs unless otherwise stated in the authorizing program statute, program regulations, or program guidelines. The regulations in EDGAR take the full force and effect of law, as do all federal regulations.

**Overview of EDGAR**

For federal education awards made prior to December 26, 2014, 34 CFR Parts 74 and 80 still apply. For awards made on or after December 26, 2014, 2 CFR Part 200, which includes the substance formerly in Parts 74 and 80, applies.

As of December 19, 2014, EDGAR specifically consists of the following parts of Title 34 of the CFR:

<table>
<thead>
<tr>
<th>Part</th>
<th>Applicable To</th>
<th>Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Part 75 – Direct Grant Programs</strong></td>
<td>Any grant program from the USDE other than a program that provides a formula to eligible states; usually, but not always, awarded on a competitive basis. Direct grant programs are not passed through another administering agency such as TEA.</td>
<td>Provides the regulations for direct grant programs that do not have their own program regulations. These regulations must be used in combination with GEPA and the authorizing program statute.</td>
</tr>
<tr>
<td><strong>Part 76 – State-Administered Programs</strong></td>
<td>Each program administered by the State, including program funds allocated to states on a formula basis</td>
<td>Provides the regulations for federal programs administered by an SEA. These regulations must be used in combination with GEPA, the authorizing program statute, and any program regulations.</td>
</tr>
<tr>
<td>Part 76 – Definitions That Apply To Department Programs</td>
<td>The regulations in Title 34 of the CFR for education.</td>
<td>Provides definitions of federal terms used in parts of 34 CFR.</td>
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<tr>
<td>Part 77 – Intergovernmental Review of Department of Education Programs and Activities</td>
<td>The Secretary publishes a list in the Federal Register of the programs subject to EO 12372. States may develop their own process for intergovernmental review and may select any program from the list published in the Federal Register for review. Currently Texas does not have a process, but entities may submit comments on grant applications directly to the USDE.</td>
<td>Implements Executive Order (EO) 12372, “Intergovernmental Review of Federal Programs,” issued July 14, 1982. Intended to foster an intergovernmental partnership by relying on state processes and coordination among regional and local agencies for review of federal grant applications.</td>
</tr>
<tr>
<td>Part 81 – General Education Provisions Act - Enforcement</td>
<td>All federal education programs administered by the USDE. Specific sections of GEPA may not apply as specified in a specific program statute or implementing program regulations.</td>
<td>Governs the enforcement of the legal requirements in GEPA and implements the enforcement provisions of GEPA.</td>
</tr>
<tr>
<td>Part 82 – New Restrictions on Lobbying</td>
<td>All federal grants (government-wide)</td>
<td>Implements Section 319 of P.L. 101-121, also known as the “Byrd Amendment”, which prohibits the use of federal funds for lobbying members or staff of Congress. Part 82 establishes the requirement for the Lobbying Certification and Disclosure of</td>
</tr>
<tr>
<td>Part 84 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)</td>
<td>Lobbying.</td>
<td>Entities that receive grants directly from the USDE or from any other federal agency. It does not apply to LEAs that only receive funds through TEA or another pass-through agency.</td>
</tr>
<tr>
<td>Part 86 – Drug and Alcohol Abuse Prevention</td>
<td></td>
<td>IHEs, i.e., colleges and universities, receiving federal funds from the USDE or any other federal agency</td>
</tr>
<tr>
<td>Part 97 – Protection of Human Subjects</td>
<td></td>
<td>All research involving human subjects conducted, supported, or otherwise subject to regulation by the USDE or any other federal department or agency that makes it applicable. There are exemptions for certain educational activities.</td>
</tr>
<tr>
<td>Part 98 – Students Rights in Research, Experimental Programs, and Testing</td>
<td></td>
<td>All programs administered by the USDE unless specifically exempted in the regulations</td>
</tr>
<tr>
<td>Part 99 – Family Educational Rights and Privacy</td>
<td></td>
<td>All entities receiving federal education funds</td>
</tr>
<tr>
<td>2 CFR Part 200 – Uniform Administrative Requirements, Cost</td>
<td></td>
<td>All federal grants awarded on or after December 26, 2014</td>
</tr>
</tbody>
</table>
Many of the key provisions and requirements in EDGAR are discussed in separate individual sections within Part I – Uniform Administrative Grant Requirements Applicable to All Federal Education Grants and in Part II – Fiscal Requirements Applicable to All Federal Education Grants.

Following is a brief summary of the pertinent parts in EDGAR that are not discussed elsewhere in Parts I or II.

**34 CFR Part 75 – Direct Grant Programs**

Among other requirements pertaining to grants awarded directly by the USDE, Part 75 of CFR establishes the general procedures and rules for selecting, awarding, and administering grants awarded directly by the Secretary of Education to entities.

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without passing the funding through a state agency. Because these procedures provide for consistency and standardization, are reasonable, and protect the interest of TEA as well as competitive applicants, TEA patterns many of its procedures and processes for selecting and awarding competitive grants after the provisions in Part 75. Refer to the table in the Appendices entitled Summary of Provisions Related to Selecting and Awarding Competitive Grants, 34 CFR Part 75, Direct Grant Programs, for a summary of these provisions.

34 CFR Part 75

Health and Safety Standards

Grantees must comply with any federal (and state) health or safety requirements that apply to the facilities that the grantee uses for the grant project.

34 CFR §§ 75.683 and 76.683

Compliance with Statutes, Regulations, and Applications

Grantees must comply with the State plan and with applicable statutes, regulations, and approved applications, and must use funds in accordance with those statutes, regulations, plan, and applications.

34 CFR §§ 75.700 and 76.700

Administration and Supervision of Grant Project

Grantees must directly administer or supervise the administration of each grant project/program.

34 CFR §§ 75.701 and 76.701

State Procedures for Approving Applications and Ensuring Compliance

Each state is required to have procedures for reviewing and approving applications and amendments, for providing technical assistance, for evaluating projects, and for performing other administrative responsibilities as necessary to ensure compliance with applicable statutes and regulations. TEA has appropriate procedures in place for addressing these requirements.

34 CFR § 76.770
Civil Rights and Prohibition of Discrimination

Several federal civil rights laws prohibit discrimination in programs or activities that receive federal funds from the USDE. These laws prohibit discrimination on the basis of race, color, and national origin; sex; disability; and age. The civil rights laws extend to all SEAs, elementary and secondary school systems, colleges and universities, vocational schools, proprietary schools, state vocational rehabilitation agencies, libraries, and museums that receive USDE funds.

The four primary civil rights laws are as follows:

<table>
<thead>
<tr>
<th>Subject</th>
<th>Statute</th>
<th>Regulation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discrimination on the basis of race, color, or national origin</td>
<td>Title VI of the Civil Rights Act of 1964 (45 USC §§ 2000d-2000d-4)</td>
<td>34 CFR Part 100</td>
</tr>
<tr>
<td>Discrimination on the basis of sex</td>
<td>Title IX of the Education Amendments of 1972 (20 USC §§ 1681-1683)</td>
<td>34 CFR Part 106</td>
</tr>
<tr>
<td>Discrimination on the basis of handicap</td>
<td>Section 504 of the Rehabilitation Act of 1973 (29 USC § 794)</td>
<td>34 CFR Part 104</td>
</tr>
<tr>
<td>Discrimination on the basis of age</td>
<td>The Age Discrimination Act (42 USC §§ 6101 et seq.)</td>
<td>34 CFR Part 110</td>
</tr>
</tbody>
</table>

Each LEA must comply with the provisions pertaining to all four of these civil rights statutes and their implementing regulations to be eligible to receive any federal education funds. GEPA requires the Secretary of Education to reduce an allotment to a state for any LEAs not in compliance with any of these four civil rights laws.

Title 20 USC, Chapter 31 – General Provisions Concerning Education, § 1231e

Other federal laws that prohibit discrimination include Title II of the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability by public entities, whether or not they receive federal funding. The Boy Scouts of America Equal Access Act amends the Elementary and Secondary Education Act (ESEA) of 1965 in the No Child Left Behind Act (NCLB) of 2001, Section 9525. This Act prevents public schools, LEAs, and SEAs from discriminating against patriotic youth societies, including
Boy Scouts of America, by insuring equal access to meet on school premises and in school facilities.

Each civil rights law is discussed in more detail below. These laws require that all recipients of federal funds ensure their educational programs are administered in a manner that prohibits discrimination in the participation of federal programs. The USDE Office for Civil Rights (OCR) enforces these laws and their implementing regulations.

**Prohibition of Discrimination on the Basis of Race, Color, or National Origin**

Title VI of the Civil Rights Act of 1964 prohibits discrimination in the participation of federal programs on the basis of race, color, or national origin. No person shall be excluded from participation in, be denied the benefits of, or be subjected to any form of discrimination in, any federal program on the basis of race, color, or national origin.

Specific discriminatory actions that are prohibited include

- denying an individual any service or other benefit provided under the program
- providing any service or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program
- subjecting an individual to segregation or separate treatment in any matter related to his or her receipt of any service or other benefit under the program
- restricting an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or other benefit under the program
- treating an individual differently from others in determining whether he or she satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service or other benefit provided under the program
- denying an individual an opportunity to participate in the program through the provision of services or otherwise or afford him or her an opportunity to do so which is different from that afforded others under the program
- denying a person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program

Every application for federal assistance must include an assurance that the grantee complies with these provisions. The assurance is included in the TEA General Provisions and Assurances, Section EE.2.
Recipients of federal funds may be required to submit to the USDE OCR records that demonstrate compliance with the provisions. Recipients must also permit on-site access to records by USDE OCR staff to verify compliance.

Any person who believes to have been the subject of discrimination may file a written complaint with the USDE OCR not later than 180 days following the alleged discrimination. OCR staff will promptly investigate the complaint and attempt to resolve it informally. If the complaint cannot be resolved informally, the USDE has the right to suspend or terminate federal funding for the program affected. The USDE must provide an opportunity for a hearing prior to suspension or termination of the program.

The regulations that implement Title VI of the Civil Rights Act for educational institutions are in 34 CFR Part 100.

- Title VI of the Civil Rights Act of 1964
- 34 CFR Part 100
- 34 CFR §§ 75.500 and 76.500

**Prohibition of Discrimination on the Basis of Sex**

**Title IX of the Education Amendments of 1972** prohibits discrimination on the basis of sex in any federal program. No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity.

The regulations in **34 CFR Part 106** implement the provisions of Title IX. These regulations require that

- each recipient of federal funds designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX, including investigating any complaint communicated to the recipient alleging its noncompliance with Title IX. The recipient must notify all of its students and employees of the name, office address, and telephone number of the employee or employees appointed to carry out the requirements of Title IX.

- each recipient adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action which would be prohibited by Title IX

- each recipient implement specific and continuing steps to notify students, parents and employees that it does not discriminate on the basis of sex in the educational programs or activities which it operates, and that it is required by Title IX and 34 CFR Part 106 not to discriminate in such a manner. Each recipient must publish in any document used to recruit students or employees
the policy that states that the agency does not discriminate on the basis of sex.

There are certain exceptions, such as allowing boys and girls to be separated in physical contact activities, such as football, soccer, basketball, boxing, etc.

A recipient of federal funds must not discriminate on the basis of a student’s pregnancy. A recipient must also not discriminate on the basis of sex in the employment of personnel, compensation, fringe benefits, or work assignments under any federal programs.

Every application for federal assistance must include an assurance that the grantee complies with these provisions. The assurance is included in the TEA General Provisions and Assurances, Section EE.3.

- Title IX of the Education Amendments of 1972
- 34 CFR Part 106
- 34 CFR §§ 75.500 and 76.500

**Prohibition of Discrimination on the Basis of Age**

The Age Discrimination Act of 1975 prohibits discrimination based on age in programs or activities that receive federal financial assistance. The regulations in 34 CFR Part 110 implement the Age Discrimination Act and describe conduct that violates the Act.

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. A recipient may not, in any program or activity receiving federal financial assistance, directly or through contractual, licensing, or other arrangements, use age distinctions or take any other actions that have the effect, on the basis of age, of

1. excluding individuals from, denying them the benefits of, or subjecting them to discrimination under a program or activity receiving federal financial assistance

2. denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance

These regulations do not apply to

1. an age distinction contained in that part of a federal, state, or local statute or ordinance adopted by an elected, general purpose legislative body that

   (i) provides any benefits or assistance to persons based on age

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(ii) establishes criteria for participation in age-related terms

(iii) describes intended beneficiaries or target groups in age-related terms

(2) any employment practice of any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program, except any program or activity receiving federal financial assistance for employment under the Job Training Partnership Act (29 U.S.C. 1501 et seq.).

The regulations do not apply where age is a factor in conducting normal operations of the recipient. For example, where a recipient is operating a program or activity that provides special benefits to children, the use of age distinctions is presumed to be necessary to the normal operation of the program or activity.

Age discrimination in employment is covered under the Age Discrimination in Employment Act. Complaints of employment discrimination based on age may be filed with the U.S. Equal Employment Opportunity Commission.

Recipients of federal funds must take steps to comply and maintain records demonstrating compliance. Recipients may be required to submit to the USDE OCR records that demonstrate compliance with the provisions and must also permit on-site access to records by USDE OCR staff to verify compliance. Each recipient must

- Designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under the Age Discrimination Act, including investigating any complaint communicated to the recipient alleging its noncompliance with the Act. The recipient must notify all its students of the name, office address, and telephone number of the employee or employees appointed to carry out the requirements of the Act.

- Adopt and publish grievance procedures providing for prompt and equitable resolution of student complaints alleging any action which would be prohibited by the Age Discrimination Act.

The USDE may conduct compliance reviews, pre-award reviews, and other similar procedures to investigate and correct violations of the Act and of the regulations, even in the absence of a complaint against a recipient. The review may be as comprehensive as necessary to determine whether a violation of the regulations occurred.

If a compliance review or pre-award review indicates a violation of the Act or of the regulations, the USDE attempts to achieve voluntary compliance with the Act. If voluntary compliance cannot be achieved, the USDE arranges for enforcement.

Any person who believes to have been the subject of age discrimination may file a written complaint with the USDE OCR not later than 180 days following the alleged discrimination. OCR staff is required to promptly refer the complaint for mediation. If the complaint cannot be resolved through mediation, the USDE will conduct an
investigation and attempt to achieve voluntary compliance by the recipient. If the recipient does not comply, the USDE has the right to suspend or terminate federal funding for the program affected. The USDE must provide an opportunity for a hearing prior to suspension or termination of the program.

The Act prohibits retaliation for filing a complaint with OCR or for advocating for a right protected by the Act.

Recipients are required to inform subrecipients of the requirements of the Age Discrimination Act and 34 CFR Part 110. An assurance that the grantee complies with these provisions is included in the TEA General Provisions and Assurances, Section EE.5.

- Age Discrimination Act of 1975
- 34 CFR Part 110
- 34 CFR §§ 75.500 and 76.500

Prohibition of Discrimination on the Basis of Disability

You may be familiar with the Individuals with Disabilities in Education Act (IDEA), whereby school districts and open-enrollment charter schools receive federal formula and discretionary funds to meet the special educational needs of children with disabilities. But there are two other laws pertaining to non-discrimination on the basis of disability that you should be aware of:

- Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in programs or activities that receive federal financial assistance from the USDE
- Title II of the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability by state and local governments, regardless of whether they receive any federal financial assistance

Section 504 of the Rehabilitation Act of 1973, effective May 1977, is widely recognized as the first civil-rights statute for persons with disabilities. Because it was successfully implemented over the next several years, it helped to pave the way for the 1990 Americans with Disabilities Act. The Americans with Disabilities Act Amendments Act of 2008 (Amendments Act), effective January 1, 2009, amended the Americans with Disabilities Act of 1990 (ADA) and included a conforming amendment to the Rehabilitation Act of 1973 (Rehabilitation Act) that affects the meaning of disability in Section 504.

Section 504 and Title II of ADA are both unfunded mandates with which all school districts, ESCs, and open-enrollment charter schools must comply. It is important to recognize that, while a specific child enrolled in an LEA may not be
eligible for services under IDEA, the child may be eligible for protection under Section 504. Failure to comply with Section 504 could result in costly hearings and potential lawsuits.

**Section 504**

Section 504 states that no otherwise qualified individual with a disability in the United States shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Section 504 defines *individuals with disabilities* as "persons with a physical or mental impairment which substantially limits one or more major life activities." However, a student protected under Section 504 may also have a record of such an impairment or be regarded as having such an impairment.

*Physical or mental impairment* means, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. It includes any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, as well as any mental or psychological disorder.

*Major life activities* were expanded in the Amendments Act and now include:

- caring for oneself  
- performing manual tasks  
- seeing  
- hearing  
- eating  
- sleeping  
- walking  
- standing  
- lifting  
- bending  
- speaking  
- breathing  
- learning  
- reading  
- concentrating  
- thinking  
- communicating  
- working

The regulations implementing Section 504 in the context of educational institutions appear at 34 CFR Part 104. These regulations require a school district to provide a "free appropriate public education" (FAPE) to each qualified student with a disability who is in the school district's jurisdiction, regardless of the nature or severity of the disability. Under Section 504, FAPE consists of the provision of regular or special education and related aids and services designed to meet the student's individual educational needs as adequately as the needs of nondisabled students are met.

Determining whether a child is a *qualified disabled student* under Section 504 begins with the evaluation process. Section 504 requires the use of evaluation procedures that ensure that children are not misclassified, unnecessarily labeled as having a disability, or incorrectly placed, based on inappropriate selection, administration, or interpretation of evaluation materials.
School districts must establish standards and procedures for initial evaluations and periodic re-evaluations of students who need or are believed to need special education and/or related services because of disability. The Section 504 regulations require school districts to individually evaluate a student before classifying the student as having a disability or providing the student with special education. In addition, evaluation and the provision of appropriate accommodations are required regardless of any methods the student might be using to mitigate the impairment.

Costs related to provisions under Section 504 must come from state or local funds. Such expenditure must not be paid from federal grant funds.

**Title II of ADA**

*Title II of the Americans with Disabilities Act of 1990* extends this prohibition against discrimination to the full range of state and local government services, programs, and activities (including public schools) *regardless of whether they receive any federal financial assistance.*

However, "for purposes of employment," *Qualified Individuals with Disabilities* must also meet "normal and essential eligibility requirements," such that:

"*Qualified Individuals with Disabilities* are persons who, with *Reasonable Accommodation*, can perform the essential functions of the job for which they have applied or have been hired to perform."

"*Reasonable Accommodation* means an employer is required to take reasonable steps to accommodate [one's] disability unless it would cause the employer undue hardship."

That is, *Qualified Individuals with Disabilities* must be able to perform the job duties (with reasonable accommodation) associated with the job for which they will be hired.

**Enforcement of Section 504 and Title II of ADA**

The USDE OCR enforces the provisions of *Section 504* and the provisions of *Title II of ADA* as it applies to LEAs. An assurance that the grantee complies with these provisions is included in the TEA *General Provisions and Assurances*, Sections EE.1. and EE.4.

Although the implementing regulations for *Title II of ADA* in *28 CFR Part 35* are enforced by the U. S. Department of Justice (DOJ), the USDE Office of Civil Rights is designated by DOJ to resolve complaints filed against SEAs and LEAs.
Prohibition of Discrimination of Groups Affiliated with Boy Scouts of America

Under this Act, an LEA that sponsors any group affiliated with Boy Scouts of America or any other patriotic youth society must not discriminate against such youth or deny equal access to, or fair opportunity to meet in, school facilities or on school premises. Patriotic youth societies include, among others, Big Brothers Big Sisters, Boys and Girls Clubs of America, Girl Scouts of the U.S.A., and Little League Baseball, Inc. This does not require an LEA to sponsor a group affiliated with Boy Scouts of America or similar patriotic youth society.

The U.S. Supreme Court has ruled that the Boy Scouts have the right to set their own standards for leadership. Schools must respect that right and not exclude the Boy Scouts because of its membership and leadership policies and oath of allegiance to God and country.

34 CFR Part 108 implements the provisions of the Act. No covered entity shall deny access or opportunity or discriminate for reasons including the membership or leadership criteria or oath of allegiance to God and country of the Boy Scouts or of a similar patriotic youth society.

Any group officially affiliated with the Boy Scouts or officially affiliated with any other patriotic youth society that requests to conduct a meeting in the LEA’s facilities or on school grounds must be given equal access to school premises or facilities to conduct meetings. Such groups must also be given equal access to any other benefits and services provided to other groups that are allowed to meet on school premises or in school facilities. These benefits and services may include, but are not necessarily limited to, school-related means of communication, such as bulletin board notices and literature distribution, and recruitment.

Any decisions relevant to the provision of equal access must be made on a nondiscriminatory basis. Any determinations of which youth or community groups are outside groups must be made using objective, nondiscriminatory criteria, and these criteria must be used in a consistent, equal, and nondiscriminatory manner.

The USDE OCR enforces the requirements of the Act.
School Prayer

A related provision applies to constitutionally protected prayer in public schools. As a condition of receiving NCLB funds, an LEA must certify in writing that no policy of the LEA prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary and secondary schools. Per statute, the certification must be provided to the SEA by October 1 of each year. However, TEA includes the certification in the federal NCLB Consolidated Application each year in the NCLB Provisions and Assurances, Section N, thus eliminating the need for LEAs to submit a separate certification.

The provision also requires the Secretary to provide guidance to SEAs and LEAs and to publish the guidance on the Internet. A link to the guidance is provided below.

- ESEA, as Amended by the No Child Left Behind Act of 2001, § 9524
- USDE Guidance on Constitutionally Protected Prayer in Public Schools

Family Educational Rights and Privacy Act (FERPA)

FERPA is the primary piece of federal legislation designed to protect the rights of students and parents with regard to the educational records of students. It provides the right to parents to

- inspect and review the educational records of their children
- contest the contents of those educational records
- deny the release of records to third parties without written consent

FERPA also requires that LEAs maintain certain records of information released to third parties.

Texas state law also recognizes parental access to student records. Texas Government Code, Chapter 552, known as the Public Information Act, specifies that education records are not required to be released except in accordance with FERPA. Student records are to be released at the request of authorized LEA personnel; the student’s parent, legal guardian, or spouse; or a person conducting a child abuse investigation.

The full excerpts of the Texas laws related to FERPA are included in the Appendices, Summary of FERPA Requirements, Applicable Excerpts from Texas Law.

Special Note: Refer to the Appendices for a Summary of FERPA Requirements. The summary provides high-level information only of the main requirements of FERPA. Because FERPA is highly complex and can ultimately result in potential
lawsuits or the termination of federal education funding for noncompliance, you are advised to consult your LEA’s policies and procedures, your superintendent, and potentially your LEA’s attorney, to seek guidance to ensure compliance with the requirements.

You can also review 34 CFR Part 99, which is provided in user-friendly question and answer format to assist LEAs in complying with the requirements of FERPA. Other resources available on FERPA include FAQs on TEA’s website and information on the USDE website. Links to those resources are provided below and in the Appendices, Summary of FERPA Requirements, Applicable Excerpts from Texas Law.

All LEAs must comply with FERPA to be eligible to receive any federal education funds.

GEPA prohibits the Secretary of Education from making federal education funds available to an educational institution that does not comply with the provisions of FERPA. The term "educational agency or institution" means any public or private agency or institution which is the recipient of federal education funds. This includes all LEAs and all colleges and universities that receive federal education funds.

- Title 20 USC, Chapter 31 – General Provisions Concerning Education, § 1232g
- 34 CFR §§ 75.740(a) and 76.740(a)
- 34 CFR Part 99
- Texas Government Code, §§ 552.026 and .114
- Texas Education Code, § 26.004 and 26.013
- USDE Guidance on FERPA
- FAQs on TEA’s website on the Public Information Act

Protection of Pupil Rights Amendment (PPRA)

A second piece of federal legislation that protects the rights of students is the Protection of Pupil Rights Amendment (PPRA). The provisions of this Act are incorporated into GEPA in section 1232h and provide that LEAs must have a written policy developed in consultation with parents that permits parents to review surveys and instructional materials. Of particular interest is protecting the rights of students with regard to surveys or questionnaires that ask students questions of a personal nature. The federal regulations implementing this Act are found in 34 CFR Part 98.

“Instructional materials” includes any materials which will be used in connection with any research or experimentation program or project that is designed to explore or develop new or unproven teaching methods or techniques (34 CFR § 98.3).

Texas law incorporates similar provisions in TEC § 26.006, Access to Teaching Materials, but expands the scope of the provisions in PPRA to include tests after they are administered. This section in TEC gives parents the right to review
• all teaching materials, instructional materials, and other aids used in the classroom
• each test administered, after the test is administered

State law requires that LEAs make materials and tests readily available for review and that the parent may request the student take home any instructional materials used by the student, subject to availability of materials. The student must return the materials at the beginning of the following school day if requested to do so by the teacher.

Texas law (TEC, § 26.009) also requires LEAs to obtain written consent from a parent before

• conducting a psychological examination, test, or treatment that is not required under state or federal law for special education
• making a videotape of a child or recording the child’s voice unless using the videotape or recording for
  o safety, including maintenance of order and discipline in common areas of the school or on school buses
  o a purpose related to a co-curricular or extracurricular activity
  o a purpose related to regular classroom instruction
  o media coverage of the school

Special Note: Refer to the Appendices for a Summary of PPRA Requirements. Similar to the section on FERPA, the summary on PPRA provides high-level information only of the main requirements of PPRA and the applicable state laws. Because PPRA is highly complex and can ultimately result in potential lawsuits or the termination of federal education funding for noncompliance, you are advised to consult your LEA’s policies and procedures, your superintendent, and potentially your LEA’s attorney, to seek guidance to ensure compliance with the requirements.
Parent Involvement

Parents can be an important influence in helping their children to achieve high academic standards. When schools collaborate with parents to help their children learn, and when parents participate in school activities and decision-making about their children’s education, children achieve at higher levels. As a result of decades of research on how parents can impact the achievement of their children, many federal programs require parent involvement in the design and implementation of the program.

Statutory requirements for parent involvement can be stated in many different forms and may sometimes be very prescriptive. Each individual authorizing program statute will outline the requirements applicable to that particular program. For example, Title I, Part A has an entire section dedicated solely to parental involvement. LEAs receiving Title I, Part A funds are, among other things, required to

- Describe in their local Title I, Part A plan how information will be provided to parents on the progress being made toward meeting student academic achievement standards.

- Plan and implement programs, activities, and procedures for the involvement of parents with meaningful consultation of parents of participating children.

- Develop jointly with, agree on with, and distribute to, parents a written parent involvement policy that is incorporated into the LEA’s Title I, Part A plan and that establishes the expectations for parent involvement.

- Reserve not less than 1% of their Title I, Part A allocation to carry out parental involvement activities, including promoting family literacy and parenting skills. Parents must be involved in decisions for how these funds are used. (Reservation required only for LEAs receiving $500,000 or more in Title I, Part A.)

- Convene an annual meeting with parents to explain LEA requirements and parents’ rights.

- Involve parents in an “organized, ongoing, and timely way” in the planning, review, and improvement of Title I programs.

- Build capacity for parent involvement to improve student academic achievement by providing materials and training to parents, sending information to parents’ homes, coordinating with other federal programs to integrate parent involvement, and providing literacy training to parents as appropriate, among other things. Information and meetings must be provided in a language parents can understand.
Each Title I, Part A school must develop a school-parent compact with the parents of participating children that outlines how parents, school staff, and students will share responsibility for improved student academic achievement and how they will develop and maintain a partnership to help children achieve high standards.

Other programs, such as the *Education of Migratory Children*, require the LEA to establish a parent advisory council, and family literacy programs are highly encouraged in areas where parents of migratory children may have low levels of literacy. LEAs receiving migrant education funds are required to provide for the same parental involvement as required under Title I, Part A and to provide for advocacy and outreach activities for migratory children and their families when feasible.

In the same token, *Subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act* contains several requirements related to the involvement of parents, including:

- In determining the quality of applications for award, the SEA must consider the involvement of parents or guardians of homeless children in the education of their children.
- Parents are notified if their child needs immunizations or medical records for enrollment.
- Parents are involved in determining the “best interest” of their child in where to place the child.
- Parents or guardians are provided a written explanation if a dispute arises over enrollment, including their rights.
- Parents or guardians are fully informed of all transportation services available to their children, and transportation is provided at the request of the parent.
- Parents or guardians are informed of the educational and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children.

Allowable activities with McKinney-Vento grant funds include the provision of education and training to the parents of homeless children about the rights of, and resources available to, their children. Since homeless children are automatically eligible for Title I, Part A services due to their status as homeless, LEAs receiving McKinney-Vento funds and Title I, Part A funds should coordinate parent involvement activities to ensure activities are provided in a comprehensive, cohesive manner.
Documentation of Parent Involvement Activities

In the same manner that grantees are required to document expenditures, grantees are also required to document program activities for monitoring and auditing purposes. Documentation of program activities provides evidence to monitors and auditors that the grantee did, in fact, comply with program requirements; carried out allowable program activities; and carried out program activities described in their approved grant application.

Oftentimes an LEA may be cited by a monitor or auditor for non-compliance with one or more program requirements due to the lack of evidence, or documentation, that the activities actually occurred. Verbally stating to a monitor or auditor that the activities occurred only tells half of the story. The other half of the story is told through providing written documentation or evidence that the activities actually occurred.

You can document parent involvement activities and other program activities through various means, including

- notes to file of conversations with parents
- copies of written notices or letters to parents
- copies of materials provided to parents
- calendar dates of parent meetings and tasks
- parent meeting agendas
- written notes from meetings with parents
- parent training agendas
- copies of materials provided at training
- sign-in sheets of parents

ESEA, Title I, Part A, § 1112(b)(1)(A)
ESEA, Title I, Part A, § 1118
USDE Non-Regulatory Guidance, Parental Involvement: Title I, Part A, April 2004
McKinney-Vento Homeless Assistance Act, Title VII, Subtitle B, § 722(g)(1)(J); (g)(3); and (g)(6)
McKinney-Vento Homeless Assistance Act, Title VII, Subtitle B, §723(c)(3)(C) and (d)(10)
Lobbying

Federal funds must NOT be used to pay any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, or an employee of a member of Congress in connection with

- the awarding of a federal contract
- the making of any federal grant
- the making of any federal loan
- entering into any cooperative agreement
- extending, continuing, renewing, amending, or modifying a federal contract, grant, or cooperative agreement

"Influencing or attempting to influence" means any communication with or appearance before one of these parties.

It is permissible for your organization to pay an employee or contractor to conduct legislative liaison activities not directly related to awarding a particular federal grant or contract, as long as such activities are not carried on in support of or in knowing preparation for an effort to engage in lobbying. It is also permissible at any time to provide any information specifically requested by a federal agency or member of Congress in response to a documented request, as well as technical and factual presentations on topics directly related to the performance of a grant or contract. For example, data and/or testimonials related to a specific program may be requested by a member of Congress in preparation for the reauthorization of or the appropriations for the program.

Lobbying Certification and Disclosure of Lobbying

Each organization requesting a federal grant or contract exceeding $100,000 must file a certification (i.e., Lobbying Certification) with the awarding agency. The certification attests to the requirement that the organization has not and will not use federal funds to pay a registered lobbyist.

Each organization requesting a federal grant or contract exceeding $100,000 must also file a disclosure form (i.e., Disclosure of Lobbying) if non-federal funds have been or will be used to pay a registered lobbyist. If the organization is not using any funds to lobby, then the Disclosure of Lobbying form is not required to be completed and submitted.

The completed Lobbying Certification and Disclosure of Lobbying (if disclosing lobbying) forms are submitted with each federal grant or contract in excess of
$100,000 as part of the Provisions and Assurances. If a grant or contract is initially awarded at $100,000 or less, and the grant or contract is amended at a later date to exceed $100,000, then the Lobbying Certification and Disclosure of Lobbying must be filed with the amendment.

If the organization uses non-federal funds to lobby, and therefore, has completed the Disclosure of Lobbying for a grant, the organization must amend the Disclosure if either of the following occurs:

- The amount paid to the registered lobbyist increases by $25,000 or more.
- The name of the registered lobbyist changes.

The Lobbying Certification and Disclosure of Lobbying must also be included by a grantee in all tiers of all subgrants exceeding $100,000 and all subcontracts exceeding $100,000. Any completed and signed Disclosure of Lobbying must be forwarded from the lowest tier to the highest tier and eventually to the program contact person at the USDE.

Thus, for the McKinney-Vento Homeless Education grant, a completed Disclosure of Lobbying is submitted to Region 10 ESC as part of the application. Region 10 would then forward the Disclosure to the TEA Chief Grants Administrator, who would forward the Disclosure to the USDE.

**Lobbying Prohibited in the Federal Cost Principles**

The federal cost principles prohibit the use of federal grant funds for lobbying and states that lobbying will be governed by the common rule, New Restrictions on Lobbying (34 CFR Part 82). 2 CFR § 200.450.

**Memberships in Organizations Whose Primary Purpose is Lobbying:** Section 200.454(e) of 2 CFR prohibits the use of grant funds for memberships in organizations whose primary purpose is lobbying. Any portion of an organization’s dues that is used for lobbying cannot be charged to any federal grant; that portion used for lobbying must be paid from local funds. If the organization does not notify their members of the portion of membership dues that is used for lobbying, the grantee should request that information prior to paying the membership dues. If the organization cannot or does not provide that information, the entire membership must be paid from local funds to avoid an audit exception. All memberships in all organizations must be in the name of the grantee organization, and not in the name of an individual.

You are advised to not use federal funds to pay the membership of an organization if the membership organization cannot break down for you the amount or percentage
of membership dues that is used for lobbying. The entire membership fee could be disallowed by an auditor if it is determined that the organization’s primary purpose is lobbying.

Penalties for Non-Compliance

Penalties for non-compliance with these provisions can be quite severe. Using federal funds to influence or attempt to influence will be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each payment made to a registered lobbyist. Failure to submit the Disclosure of Lobbying form when required, or to amend the form when required, will result in a civil penalty of not less than $10,000 and not more than $100,000 for each failure. The United States may pursue all available remedies for failure to file an accurate Disclosure of Lobbying when one is required.

The head of each federal agency, in this case, the Secretary of Education, is required to collect and compile the disclosure reports on May 31 and November 30 of each year and submit a report to the Secretary of the Senate and the Clerk of the House of Representatives. The Inspector General of each agency, in this case, the USDE Office of Inspector General (OIG), must also each year prepare and submit a report to Congress containing an evaluation of compliance with and effectiveness of the requirements.

Debarment and Suspension

Applicants of federal funds must certify in their application that they are not debarred or suspended from receiving federal funds. This requirement is part of a government-wide system of debarment and suspension for all federal agencies that is designed to protect the public interest by conducting business only with responsible persons. Persons who are not responsible, i.e., persons who are debarred or suspended, are excluded from doing business with federal programs.

For the purposes of this requirement, a person means “any individual, corporation, partnership, association, unit of government, or legal entity, however organized.”

A person who is excluded from doing business with federal programs may not be a party in signing a federal grant or contract as the authorized official or act as a principal in the grant or contract. Principal, in this case, means
• an officer, director, owner, partner, principal investigator, or other person within the organization with management or supervisory responsibilities related to the grant or contract

• a consultant or other person, whether or not employed by the organization or paid with federal funds, who
  - is in a position to handle federal funds
  - is in a position to influence or control the use of funds
  - occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the grant or contract

Persons who are excluded or disqualified (i.e., debarred or suspended) are identified in the federal System for Federal Award (SAM) maintained by the General Services Administration (GSA). When a person is debarred or suspended, a grantee, subgrantee, contractor, or subcontractor under any tier shall not do business with that person or with anyone who is under that person’s direct or indirect supervision.

As It Applies to Subgrants and Subcontracts, Including Purchase Orders

If your organization awards any

• subgrants, regardless of the dollar amount, or
• any subcontracts, including purchase orders, equal to or exceeding $25,000,

you must verify that the person with whom you intend to do business is not excluded or disqualified (i.e., debarred or suspended) from receiving federal funds. This requirement must be passed down through each tier (i.e., each level of subgrantee and each level of subcontractor/vendor) receiving federal funds that equal or exceed $25,000.

You may verify the person is not excluded or disqualified by doing one of three things:

- checking the excluded list at www.sam.gov
- collecting a signed certification from the person stating he or she is not debarred or suspended
- adding a clause or provision to the subgrant or subcontract/purchase order that he or she must notify you if he or she is debarred or suspended (or later becomes debarred or suspended) and is not eligible to receive the subgrant or subcontract/purchase order
Your organization is prohibited from entering into a subgrant or subcontract, including a purchase order, with a person who is excluded or disqualified from receiving federal funds. Your organization is also prohibited from entering into a subgrant or subcontract/purchase order with an organization if you know a principal (as defined above) of the subgrant or subcontract/vendor is excluded or disqualified. If a person in an organization knowingly does business with an excluded or disqualified person, the USDE, TEA, or Region 10 ESC may

- disallow costs
- annul or terminate your organization’s grant or contract
- issue a stop work order
- debar or suspend the persons involved in making the subgrant or subcontract
- take other remedies as appropriate

**Suspension**

Suspension is a temporary status of ineligibility for contracts or grants, pending completion of an investigation or legal proceedings. Usually suspension occurs prior to debarment.

Before a person can become suspended, the suspending official must have adequate evidence that there may be a cause for debarment of the person and conclude that immediate action (i.e., suspension) is necessary to protect the federal interest. Cause for suspension may include

- an indictment
- a conviction
- other adequate evidence that the person has committed irregularities which seriously reflect on the propriety of further federal government dealings with that person

The suspending official promptly notifies the person of the suspension, giving the person an opportunity to contest the suspension and have it filed. A fact of finding may be conducted if appropriate.
Debarment

A person may be debarred for:

- conviction of or civil judgment for
  - committing fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement, grant, or contract
  - violating federal or state anti-trust statutes, including those prescribing price fixing between competitors, allocation of customers between competitors, and bid rigging
  - committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice
  - committing any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the person’s present responsibility

- violating the terms of a public agreement, grant, or contract so serious as to affect the integrity of the federal program, such as
  - willfully failing to perform in accordance with the terms of one or more public agreements, grants, or contracts
  - having a history of failing to perform or of unsatisfactory performance of one or more public agreements, grants, or contracts
  - willfully violating a statutory or regulatory provision or requirement applicable to a public agreement, grant, or contract

- knowingly doing business with an ineligible person

- failing to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and over-payments), to the federal government

- violating the provisions of the Drug-Free Workplace Act of 1988

- any other cause so serious or compelling in nature that it affects the person’s present responsibility

A person who is debarred will receive a Notice of Proposed Debarment from the USDE or other federal agency. The person has an opportunity to contest the proposed debarment, and a finding of fact will be conducted if appropriate. If the person is actually debarred, the length of the debarment will be based on the seriousness of the cause of debarment.
The Debarment and Suspension Certification is provided in the Provisions and Assurances for each federally-funded grant application. Grantees and subgrantees must include a similar certification in all subcontracts/purchase orders greater than $25,000, and in all subgrants, regardless of the dollar amount.

- 34 CFR §§ 74.13 and 80.35
- 2 CFR Part 180
- 2 CFR Part 3485
- P.L. 103-355, § 2455
- Executive Order 12549

Construction and Major Remodeling and Renovation

Construction is not permitted with federal grant funds unless the authorizing program statute or implementing regulations specifically permit construction. Major remodeling and renovation is also defined as construction.

The term construction does not include minor remodeling and renovation.

Minor remodeling as defined in 34 CFR Part 77 means

“minor alterations (that do not affect structural supports) in a previously completed building. The term also includes the extension of utility lines, such as water and electricity, from points beyond the confines of the space in which the minor remodeling is undertaken but within the confines of the previously completed building. The term does not include building construction, structural alterations to buildings, building maintenance, or repairs.”

The purchase of a portable building is a capital purchase (i.e., equipment) and may be allowable under certain federal programs if necessary to carry out the objectives of the grant program, if appropriate for the circumstances, and if approved in the applicable grant application. However, preparing the site for the installation of the portable building, including ground leveling, electrical wiring, plumbing, and constructing a sidewalk and steps, is considered construction and is not allowable from a grant unless the authorizing program statute specifically permits construction and it is approved in your grant application.

If construction and/or major remodeling and renovation are allowable under a particular federal program, there are numerous laws and regulations with which the grantee must comply if such construction and/or major remodeling and renovation is approved in the grant application. Grantees should refer to all of the provisions included in the references below before beginning a construction project, including the Davis-Bacon and
related Acts. Failure to comply with these requirements could result in the repayment of funds used for construction.

- 34 CFR §§ 75.533, 75.600 - .615, and 76.533
- 34 CFR § 77.1
- Davis-Bacon Act

Real Property

“Real property” means land, including land improvements, structures, and appurtenances thereto, but excludes movable machinery and equipment. Grant funds may not be used for the acquisition of real property unless specifically permitted in the authorizing program statute or implementing regulations for the program and unless it is specifically approved in your grant application.

- 34 CFR §§ 75.533 and 76.533

Copyrights

Grants Awarded Directly to an Entity from the USDE (No Pass-Through)

A grantee awarded funds directly from the USDE may decide the format and content of project materials that it publishes or arranges to have published. “Project materials” means a copyrightable work developed with funds from a grant of the USDE.

The grantee must provide the following statement in any published materials:

“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.”

The USDE authorizes a direct grantee the right to copyright any work developed under an award or for which ownership was purchased under an award. However, the USDE reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use any such work, and to authorize others to use, for federal government purposes the following:

- the copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant
any rights of copyright to which a grantee, subgrantee, or a contractor purchases ownership with grant support

Grants Passed Through TEA

When grants are passed through TEA, TEA, as a state agency, retains the copyrights on all works developed by the grantee, subgrantee, contractor, or subcontractor, using grant funds. Grantees, subgrantees, contractors, and subcontractors do not have the authority to copyright a work **without express written permission from TEA**. TEA may choose to enter into a nonexclusive license or royalty agreement whereby TEA and the grantee, subgrantee, contractor, or subcontractor would have “joint” ownership of the works.

If the works are produced using **federal** grant funds, the federal government also is joint owner and reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or use the works.

The specific language as provided in the TEA **General Provisions and Assurances, Section U, Intellectual Property Ownership**, is included in the Appendices, **Intellectual Property Ownership (Copyrights), Section U., TEA General Provisions and Assurances**.

It is important that your LEA management understands that it does not have the legal authority to give copyright to any contractor, subcontractor, or subgrantee **when federal or state grant funds are used to develop the Works**. Your LEA must include a provision in all subcontracts and subgrants that retains copyright for TEA.

- **2 CFR § 200.315(b)**
- **34 CFR §§ 75.620 - .622**
- **TEA Standard Application System, General Provisions and Assurances, Section U**

Gun-Free Schools Act

The **Gun-Free Schools Act** requires that each state receiving NCLB funding have a state law in effect requiring LEAs to expel from school any student for a period of no less than one year who is determined to have brought a firearm to school or possessed a firearm at school. Section 37.007(e) of the Texas Education Code meets this requirement.

In order to receive any NCLB funding, each LEA must annually report to the state on any expulsion. LEAs in Texas report campus and district information on the number of students expelled from school for possessing a firearm at school in the annual **NCLB Compliance Report**. The state must then submit the information to the Secretary of Education on an annual basis.
Policy Regarding Criminal Justice System Referral

To receive NCLB funds, an LEA must also have a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to school. When an LEA in Texas applies for NCLB funding in the NCLB Consolidated Application, the LEA certifies it has such a policy in the NCLB Provisions and Assurances, Section J.

- NCLB, Title IV, Part A, Subpart 3, § 4141
- USDE Guidance Concerning the Gun-Free Schools Act
- TEC § 37.007(e)

Pro-Children Act of 2001 (Non-Smoking Policy)

The Pro-Children Act of 2001 was effective on the date of enactment of NCLB. The Act prohibits an LEA or any other entity that provides services to children, and that receives federal funds directly or through subgrants or subcontracts, from permitting smoking within any indoor facility used to provide routine or regular kindergarten, elementary, or secondary education or library services to children. It also applies to facilities that provide health care, day care, or Head Start services to children. It does not apply to private residences unless they provide day care to children.

This requirement applies whether the facility is owned, leased, or contracted. It also applies to any individual who owns or operates or otherwise controls and provides such services to children.

Any LEA or individual who violates this Act may be liable to the United States for a civil penalty in an amount not to exceed $1,000 for each violation; may be subject to an administrative compliance order by the Secretary of Education; or both. Each day a violation continues constitutes a separate violation. Failure to pay the penalty assessed or to comply with an order issued could be referred to the U.S. Attorney General.

LEAs are advised to have a written policy that enforces the provisions of the Pro-Children Act of 2001. An LEA in Texas assures that it is in compliance with the Act when it submits any application to TEA or to another entity on behalf of TEA (See the SAS General Provisions and Assurances, Section EE.8.)

- NCLB, Title IV, Part C, §§ 4301 - 4304
Prohibition of Texting and E-Mailing While Driving On Official Grant Business

The purpose of E.O. 13513 is to demonstrate federal leadership in improving safety on roads and highways. The order mandates that employees of federal agencies are prohibited from text messaging while driving an organization-owned vehicle, or while driving their own privately owned vehicle, during official Grant business. Federal personnel are also prohibited from using organization-supplied electronic equipment to text message or email while driving during official Grant business. The order further requires federal agencies to encourage their recipients, subrecipients, contractors, and subcontractors to adopt and enforce policies that ban these activities.

The USDE officially adopted the policy for its grantees, subgrantees, contractors, and subcontractors. SEAs agree to comply with the policy as a condition of award. Therefore, when an LEA in Texas submits an application to TEA or to an entity on behalf of TEA, the LEA agrees to comply with this requirement in the General Provisions and Assurances, Section EE.12. Any employees funded in whole or in part with federal education funds must comply with these requirements.


TEA SAS General Provisions and Assurances, Section EE.12.

Prohibition of Trafficking in Persons

The Trafficking Victims Protection Act of 2000 (TVPA), as amended, makes human trafficking a federal crime. Under this act, the President is required to ensure that any grant, contract, or cooperative agreement, funded in whole or in part with federal funds to be provided to a private entity, include a condition that authorizes the agency to terminate the grant, contract, or cooperative agreement, without penalty, if the grantee, or any subgrantee, or the contractor, or any subcontractor, engages in any of the following activities:

- Engage in severe forms of trafficking in persons during the period of time that the grant award is in effect.
- Procure a commercial sex act during the period of time the award is in effect.
- Use forced labor in the performance of the award or subaward.

“Human trafficking” is the illegal trade of human beings for the purposes of sexual exploitation, reproductive slavery, forced labor, or a modern-day form of slavery.

“Private entity” means any entity other than a state, local government, Indian tribe, or foreign public entity and includes
- nonprofit organizations, including any nonprofit institution of higher education or hospital. This would include a nonprofit charter holder of a charter school.
- a for-profit organization

**Title 2 CFR Part 175** of the CFR implements the requirements of the Act in establishing a government-wide award term for grants, contracts, and cooperative agreements. The regulations state that in each federal agency award under which funding is provided to a private entity, **or to a State or local government, if funding could be provided under the award to a private entity as a subrecipient,** the federal agency must include a condition that authorizes the agency to terminate the award, without penalty, if the recipient or subrecipient engages in any of the identified activities.

SEAs agree to comply with the policy as a condition of award. LEAs and other recipients of TEA grants agree to comply with this requirement when submitting an application to TEA. (See **TEA’s General Provisions and Assurances**, Section EE.13.) **All grantees must include this provision in any subaward (including a subgrant or subcontract) made to private entity.**

Grantees must inform the proper authorities and TEA immediately of any information it receives from any source alleging a violation of the applicable prohibitions of this provision. The award may be unilaterally terminated, without penalty, if an entity violates the provisions of the Act.

**22 USC § 7104(g)**

**2 CFR Part 175**


**Monitoring and Reporting Program Performance**

Critical functions that contribute to the success of a grant program include the **monitoring function**, both by the awarding agency and by the grantee organization itself, and the program reporting function. Not only are both of these functions required, but they can serve as valuable tools in aiding the grantee organization in not only complying with the fiscal and program requirements, but also in accomplishing all of the intended goals, objectives, and activities designed for the program and in realizing the intended results of the program.

**Monitoring**

Monitoring is a systematic process for assessing an organization’s compliance with applicable statutes, rules, and regulations. Monitoring may encompass assessment of compliance with fiscal requirements and with program requirements. Monitoring may
also be for the purpose of determining an organization’s progress or status in implementing a particular federal program.

Monitoring encompasses a broad range of activities by several different types of agencies. Monitoring by agencies may come in the form of desk monitoring, on-site monitoring, and self-monitoring and reporting. Monitoring is conducted at several levels:

- by the federal awarding agency, such as the USDE
- by the state agency or grantee organization administering the grant, such as TEA
- by an agency administering a grant on behalf of TEA, such as ESC Region 10
- by other federal oversight agencies, such as the General Accountability Office (GAO) or USDE’s Office of Inspector General (OIG)
- by the subgrantee organization itself

**TEA Monitoring**

GEPA, in the *General Application of Assurances for SEAs*, requires that an SEA assure that it will adopt and use proper methods of administering each applicable program, including monitoring of organizations responsible for carrying out each program, and the enforcement of any obligations imposed on those organizations under law. An SEA must also assure that it will evaluate the effectiveness of covered programs in meeting their statutory objectives and will report to the Secretary of Education as requested. (See Part I, *General Education Provisions Act, General Application of Assurances for SEAs*, for more information.)

In most cases, a grantee agency such as TEA must also describe in its federal applications and state plans for each program how it will monitor subgrantees. As part of the annual single audit required in 2 CFR Part 200, Subpart F, Audit Requirements, state agencies such as TEA are audited annually to determine their compliance with the requirements for monitoring their subgrantees. (See *Part II – Audits* for additional information on the single audit.)

State agencies such as TEA are also monitored on an annual basis by the USDE, especially for the larger grant programs. Smaller grant programs are monitored on a less frequent basis. The monitoring may occur in the form of a telephone call, desk review, on-site monitoring review, or even a teleconference.

The federal regulations (2 CFR § 200.331[d]) also require that pass-through entities, in this case, TEA, or ESC Region 10, who administers the McKinney-Vento Homeless Education grant on behalf of TEA, monitor the subgrantee as necessary to ensure that the subaward is used for authorized purposes, in
compliance with federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved.

Per the regulations, monitoring must include

- reviewing financial and programmatic reports required by TEA
- following up and ensuring that the subgrantee takes timely and appropriate action on all deficiencies pertaining to the award detected through audits, on-site reviews, and other means
- issuing a management decision for audit findings pertaining to the award

**Risk Assessment**

TEA, as a state agency, is also required under 2 CFR § 200.331(b) to evaluate each subgrantee’s risk of noncompliance with federal statutes, regulations, and the terms and conditions of the award for purposes of determining the appropriate subgrantee monitoring. The risk assessment may include:

- the subgrantee’s prior experience with the same or similar awards
- the results of previous audits including whether or not the subgrantee receives a Single Audit in accordance with Subpart F of 2 CFR Part 200, and the extent to which the same or similar award has been audited as a major program
- whether the subgrantee has new personnel or new or substantially changed systems
- the extent and results of USDE monitoring if the subgrantee also receives federal awards directly from the USDE

Depending on the subgrantee’s assessment of risk by TEA, TEA may use the following monitoring tools (not all-inclusive) to ensure proper accountability and compliance with program requirements and achievement of performance goals:

- performing desk reviews of certain information
- providing the subgrantee with training and technical assistance on program-related matters
- performing on-site reviews of the subgrantee’s program operations
- arranging for agreed-upon-procedures engagements as described in 2 CFR § 200.425 Audit services
TEA will also consider taking any enforcement action (i.e., remedies for noncompliance) against the subgrantee if it is found to be in noncompliance. See Part II, Fiscal Requirements Applicable to All Federal Education Grants, Remedies for Noncompliance and Opportunity for a Hearing, for more information about enforcement actions.

**Special Conditions**

Based on the evaluation of risk, pursuant to the requirements in 2 CFR § 200.207(a), TEA must consider imposing one or more of the following specific conditions upon the subgrantee as additional terms and conditions of the award if appropriate:

- requiring payments as reimbursements rather than advance payments
- withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance
- requiring additional, more detailed financial reports
- requiring the subgrantee to obtain technical or management assistance
- establishing additional prior approvals

TEA is required to notify the subgrantee as to:

- the nature of the additional requirements
- the reason why the additional requirements are being imposed
- the nature of the action needed to remove the additional requirements, if applicable
- the time allowed for completing the actions, if applicable, and
- the method for requesting reconsideration of the additional requirements imposed

TEA must promptly remove any special conditions once the condition that prompted them has been corrected.

**Self-Monitoring**

Pursuant to the requirements in 2 CFR § 200.328, each grantee is responsible for overseeing the operations of its federally supported activities and is required to monitor its activities under federal awards to assure compliance with applicable
federal requirements and performance expectations are achieved. Monitoring must cover each program, function, or activity. Additionally, each grantee must directly administer or supervise the administration of each grant project (34 CFR § 76.701).

Ongoing monitoring should occur in the course of operations. It should include regular management and supervisory activities and other actions personnel take in performing their duties. The scope and frequency of self-monitoring should depend primarily on an assessment of risks and the effectiveness of ongoing monitoring procedures.

Implementing the appropriate and required internal controls and monitoring for compliance with internal controls should be one of the tools for self-monitoring. Any discrepancies or deficiencies detected or discovered should be immediately corrected and processes or systems put into place to ensure such discrepancies or deficiencies do not occur again.

The grantee should develop a self-monitoring assessment that is administered at the end of every year. Corrective actions, including the actions required, the persons responsible, and the target date for completion, should be developed to address any deficiencies.

As part of the monitoring process, TEA requires that LEAs complete self-monitoring assessments for various programs. For example, TEA requires that all LEAs receiving NCLB funds annually complete the NCLB Initial Compliance Review (ICR), which assesses compliance with funding and reporting requirements for NCLB programs. LEAs staged in intervention due to noncompliance must complete the subsequent Initial Compliance Analysis (ICA). The purpose of this analysis is to provide an ongoing self-analysis process focused on improving implementation and coordination of NCLB programs that facilitates continuous feedback and the use of information to support student performance, program improvement, and data accuracy.

Self assessments are also provided for the McKinney-Vento Homeless Education program. For example, since all LEAs must comply with the requirements for identifying and serving homeless students, the Checklist for Local Educational Agency (LEA) Services to Children and Youth in Homeless and Highly Mobile Situations may help LEAs ensure they are meeting the minimal requirements for services to homeless children and youth.
Evaluation and Program Performance Reports

Federal regulations require that grantees cooperate in any evaluation of the program. States may require subgrantees to furnish reports that the state needs to carry out its evaluation and performance reporting duties. Evaluation reports must include

- the grantee’s progress in achieving the objectives in its approved application
- the effectiveness of the project in meeting the purposes of the program
- the effect of the project on participants being served by the project

Federal regulations also require that grantees, in this case, TEA, submit, at a minimum, annual performance reports to the federal awarding agency. The federal awarding agency may also require quarterly or semi-annual reports. Performance reports must contain, for each grant, brief information on the following:

- a comparison of actual accomplishments to the objectives established for the project period
- the reasons for slippage if established objectives were not met
- additional pertinent information including, when appropriate, analysis and explanation of high unit costs

Grantees must adhere to the same standards in prescribing performance reporting requirements for subgrantees.

In addition, events may occur between the scheduled performance reporting dates which have significant impact upon the grant or subgrant activities. In such cases, the regulations require the subgrantee to inform the grantee, and the grantee to inform the federal awarding agency, if appropriate, as soon as either of the following conditions become known:

- problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.
- favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more beneficial results than originally planned

The USDE or TEA may make site visits as warranted by program needs.
Program reporting requirements are specified in the *Program Guidelines* accompanying each RFA published by TEA or other awarding agency. The program manager/director assigned to the program is responsible for ensuring mechanisms and systems are in place for collecting and analyzing any and all required data and/or information and for reporting such data and/or information in accordance with TEA or other awarding agency’s requirements.

**TEXSHEP Subgrantees**

McKinney-Vento grantees in Texas (TEXSHEP subgrantees) have a multi-part process for reviewing and evaluating progress. This process begins each year with each TEXSHEP subgrantee completing the *Ongoing Improvement Self-Assessment Guide: Program and Fiscal Performance for Texas Support for Homeless Education Program (TEXSHEP) Subgrant Recipients*. This mid-year self-assessment guide is intended to help the subgrantee identify the program and fiscal strengths of the project as well as areas where improvements might be needed. It is also designed to help the subgrantee determine the extent to which it complies with McKinney-Vento and other federal laws and state laws. The assessment examines program implementation, evaluation design, use of data, collaboration and coordination with Title I and with other programs and agencies, and compliance with financial and fiscal requirements.

TEXSHEP subgrantees are also required to complete the end-of-year summary report (*Final Narrative Evaluation*) at the end of each year of the three-year cycle. The end-of-year reports for the prior school year are due October of the following year. The third and final *Narrative Evaluation* report summarizes the entire three-year grant cycle.

The results of the Self-Assessment Guide, the supporting documentation submitted with the Self-Assessment Guide, and the annual year-end report are reviewed by a THEO project reviewer to complete the *Program and Fiscal Performance Review Report for TEXSHEP Subgrant Recipients*, usually occurring sometime between November and February of each year, subject to change as needed. The *Review Report* provides a comprehensive assessment of the McKinney-Vento project’s progress and successes and identifies any areas where improvement might be needed. Subgrantees receive a written copy of the completed report, along with any corrective actions that may have been identified. Subgrantees must respond to corrective actions.

Every TEXSHEP subgrant also receives at least one on-site mid-year review during the three-year cycle of the grant. In years when a subgrantee does not receive an on-site mid-year review, it will receive a review via telephone. In addition, subgrantees may be prioritized for on-site reviews. For example, a new subgrantee will most likely receive an on-site visit in the first year. Other situations, such as a new homeless education liaison, or the results of the mid-year or final reports, could also trigger an on-site review.
TEXSHEP subgrantees are also reviewed for compliance with the statutory requirements at least once during the three-year cycle. The compliance review will occur during the first year for new subgrantees.

And finally, TEXSHEP subgrantees are required to report data through PEIMS each school year about the numbers of homeless students in the district(s); numbers of homeless, unaccompanied youth in the district(s), and services provided to homeless students and non-homeless at-risk students. During the mid-year review, the reviewer will ask for evidence that required data are being collected in a timely and accurate manner. The reviewer will also look at systems that are in place to collect other data that inform the subgrant staff about the progress the project is making toward achieving its desired outcomes.

- [2 § CFR 200.328](#)
- [34 §§ CFR 75.590, .591; and .720](#)
- [34 §§ CFR 76.591 and .722](#)
- [TEA’s Guidance on NCLB Monitoring and Intervention](#)
Part II – Fiscal Requirements Applicable to All Federal Education Grants

The requirements discussed in Part I – Uniform Administrative Grant Requirements Applicable to All Federal Education Grants, are related to a variety of important administrative issues not particularly related to fiscal and financial accountability. However, the uniform administrative grant requirements also incorporate many of the government-wide fiscal and accounting requirements for federal grants, such as federal standards for financial management systems, period of performance, obligation of funds, the federal cost principles, payments to grantees, cash management and interest earned, procurement/contracting, financial reporting, and records retention.

This Part II of the handbook will discuss in detail these uniform fiscal and accounting requirements, including those specific to Texas school districts, ESCs, and open-enrollment charter schools. The requirements discussed in this part apply uniformly to all such entities receiving federal funds directly from the USDE, from another federal agency, or passed through TEA or another pass-through agency.

Compliance with these fiscal and accounting requirements is mandatory. Failure to comply with any of the requirements could result in an audit finding or monitoring exception and potentially the repayment of grant funds. Therefore, a Fiscal Compliance Checklist for Grants is provided in the Appendices to aid your organization in achieving fiscal compliance and in possibly preventing audit findings related to the expenditure of and accounting for grant funds. You are encouraged to use the checklist on a regular basis as a self-monitoring and self-correction tool.

Grant Financial Management and Accounting

Federal Standards for Financial Management Systems

The financial management systems of recipients must meet certain federal standards. Regulations dictate that fiscal control and accounting procedures of grantees and subgrantees must be sufficient to:

- permit the preparation of reports required by general and program-specific terms and conditions of the grant, and
- permit the tracing of funds to a level of expenditures adequate to establish that funds have been used according to the federal statutes, regulations, and the terms and conditions of the federal grant.
Every organization receiving federal funds, with the exception of for-profit entities, must adhere to the following federal financial management standards. Failure to adhere to these minimum standards could result in questioned costs and the repayment of funds.

**Identification of All Federal Awards** – Grantees must identify, in its accounting records, all federal awards received and expended and the federal programs under which they were received. Such identification must include, as applicable, the CFDA title and number, federal award identification number and year, name of the federal awarding agency, and name of the pass-through agency, if any. All of this information will be provided by TEA for grants that pass through TEA.

**Financial Reporting** – Grantees must provide accurate, current, and complete disclosure of the financial results of each federal award or program in accordance with the financial reporting requirements of the grant. Accurate, current, and complete disclosure means all accounting transactions must be recorded contemporaneously (as revenues, obligations, and expenditures occur). Grantees must be able to produce financial reports that are complete and up to date.

**Accounting Records** – Grantees must maintain records which adequately identify the grant funding source and use of funds. Records must contain information pertaining to

- awards and authorizations to expend funds (i.e., award amounts and budgets)
- revenues (i.e., payments received by the grantee organization)
- obligations (i.e., legal commitments to pay others)
- fund balances, including unobligated balances
- assets
- liabilities
- expenditures
- program income and interest earned

All records must be supported by original, detailed source documentation (i.e., purchase orders/requisitions, invoices, receipts, travel vouchers, time-and-effort documentation or similar and employee salary records, copies of checks, bank statements, etc.). **Expenditures not supported by appropriate source documentation cannot be charged to the grant.** (See the section in this Part II entitled Expending Grant Funds, Documentation of Expenditures, for more specifics on supporting documentation for expenditures.)

**Internal Control** – Effective control and accountability must be maintained for all grant funds, real and personal property, and other assets. Grantees must
adequately safeguard all property purchased with grant funds and must assure that it is used solely for authorized purposes. (A description of internal controls is provided in the Introduction to this handbook, Setting the Stage for Proper Grant Management, Establishing Policies and Procedures to Provide for Sound Management and Internal Controls.)

**Budget Control** – Grantees must compare actual expenditures to budgeted amounts for each grant on a regular basis. To facilitate a ready comparison, the general ledger must contain both the budget and the expenditures by object (i.e., category) of expenditure. (More information on comparing actual expenditures to budgeted expenditures is provided in the Introduction, Setting the Stage for Proper Grant Management, Monitoring the Approved Budget and Expenditures.)

**Allowable Cost** – Grantees must maintain and follow written procedures for determining the allowability of costs charged to the grant. The grantee must take into consideration the federal cost principles, the program statute and regulations, and the terms of the grant agreement in determining the reasonableness, allowability, and allocability of costs. The independent auditor will verify that the grantee has written procedures for determining the allowability of costs and is adhering to them. (See the sections in this Part II entitled Expending Grant Funds, Federal Cost Principles and Allowable Uses of Funds, for more information on determining allowable costs.)

**Cash Management** – Grantees must establish written procedures and internal controls that minimize the time elapsing between the receipt of grant payments and the disbursement (i.e., pay out) of funds. Grantees must be able to prepare complete and accurate reports of cash balances and cash disbursements. The grantee must make draw-downs of funds as close as possible to the time of making disbursements. TEA, as the state agency, is required to monitor cash draw-downs by grantees to assure they conform substantially to these requirements. The independent auditor will also review the written procedures and obtain evidence that the grantee is adhering to the procedures. (See the section in this Part II entitled Cash Management and Interest Earned for more detailed information on cash management requirements.)

To ensure that your organization is not required to repay federal dollars for noncompliance with these financial management standards, program managers and fiscal managers at the local level are strongly encouraged to confirm with their Business Manager that the organization’s financial management system does, in fact, comply with these standards.

[2 CFR §§ 200.300, .302, and .305]
[34 CFR §§ 75.702 and 76.702]
Accounting Requirements

Implementing and maintaining a proper accounting system is a fiduciary responsibility associated with receiving a federal grant. Grantees must adhere to a set of strict standards and conduct business in a manner that instills confidence and trust in the grantor agency. The Government Accountability Office (GAO) states in their generally accepted accounting principles for the federal government, that the acceptance of an award from the federal government creates a legal duty on the part of the recipient to use the funds or property made available under the grant in accordance with the terms and conditions of the grant (Accounting Principles, Standards, and Requirements – Title 2 Standards Not Superceded by FASAB Issuances, November 2001, G10, Grants and Cooperative Agreements).

The approved grant application itself constitutes an accounting document in that it establishes the purpose and amount of the grantor agency’s obligation to the grantee. In turn, it establishes a commitment by the grantee to perform and expend funds in accordance with the approved grant agreement.

Federal regulations require that a state and its subgrantees expend and account for federal grant funds according to the same laws and procedures they use to expend and account for other funds. Thus, TEA uses the same procedures to account for federal grant funds as it does for state-appropriated funds.

Accounting requirements for Texas school districts, ESCs, and open-enrollment charter schools constitute the basic elements that should be incorporated into any accounting system. Texas requirements are established through a pyramid consisting of

- federal regulations
- Texas Education Code (TEC)
- Texas Administrative Code (TAC), Title 19
- TEA’s Financial Accountability System Resource Guide (FASRG)

The federal standards for financial management systems as established in federal regulation were discussed in the previous subsection, Federal Standards for Financial Management Systems. The mandatory accounting requirements established by TEA in the Financial Accountability System Resource Guide (FASRG) conform to these federal financial management standards. Thus, if a grantee has the proper internal controls established and complies with the mandatory account code system as described on the following pages; uses grant funds only for allowable purposes; has the ability to produce the specified financial reports; maintains appropriate source documentation for all expenditures; and properly manages cash, it will automatically comply with the federal financial management standards.
Texas Law and Rule

TEC, Section 44.007 requires the State Board of Education (SBOE) to establish a mandatory fiscal accounting system with which all school districts, ESCs, and open-enrollment charter schools in Texas must comply. TEC further requires each school district and open-enrollment charter school to adopt and install a standard accounting system that conforms to generally accepted accounting principles (GAAP) and that meets the minimum requirements prescribed by the commissioner of education. It also requires these entities to maintain records of all revenues and expenditures.

Title 19 of the Texas Administrative Code (19 TAC), Chapter 109, establishes the SBOE rule for school district budgeting, accounting, and financial reporting. The detailed requirements of the financial accounting system adopted by the SBOE are published in TEA’s FASRG, adopted and incorporated by reference as TEA’s official rule.

FASRG currently consists of the following 11 modules:

- Module 1 – Financial Accounting & Reporting (FAR)
- Module 2 – Budgeting
- Module 3 – Purchasing
- Module 4 – Auditing
- Module 5 – Site-Based Decision Making
- Module 6 – Accountability
- Module 7 – Data Collection & Reporting
- Module 8 – Management
- Module 9 – State Compensatory Education
- Module 10 – Special Supplement – Charter Schools
- Module 11 – Special Supplement – Non-profit Charter School Chart of Accounts

Module 1, Financial Accounting and Reporting (FAR), details a mandatory account code structure which all school districts, ESCs, and open-enrollment charter schools operated by an IHE or LEA must use in accounting for all funds received and expended, including state and local funds and grant funds. A special supplement to FAR (Module 11) outlines the chart of accounts for open-enrollment charter schools operated by a nonprofit organization.

FAR requires that each entry in the accounting system, including each grant payment received and each expenditure, be designated with a three-digit fund code, which designates the funding source.
Note: For open-enrollment charter schools operated by a nonprofit organization, the three-digit fund code is referred to as a “net asset code.” However, for ease of terminology in the guidance that follows, the term “fund code” will be used and means “net asset code” for nonprofit open-enrollment charter schools.

For example, the three-digit fund code for the McKinney-Vento Homeless Education grant is 206. All revenues and expenditures for the McKinney-Vento Homeless Education program must be recorded in the accounting records using this specific fund code.

- TEC, § 44.007
- 19 TAC, Chapter 109, Budgeting, Accounting, and Auditing
- TEA’s Financial Accountability System Resource Guide (FASRG)

**Mandatory FAR Account Code Structure**

Based on generally accepted accounting principles (GAAP), FAR constitutes minimum budgeting, accounting, auditing, and reporting requirements for Texas school districts, ESCs, and open-enrollment charter schools. FAR establishes uniformity in governmental accounting and specifies a mandatory account code structure consisting of a minimum of 15 digits, plus 5 digits used at local option (for a total of 20 possible digits).

For each accounting transaction, the minimum 15-digit account code structure consists of a fund code, function code, object code, organization code, fiscal year code, and program intent code, each serving a different purpose in designating the use of funds, campus served, and student population served. An overview of each of the FAR mandatory account codes is provided in the Appendices, TEA FAR Mandatory Account Codes.

The mandatory account code structure begins with a 3-digit fund code, which designates the funding source, e.g., the general fund, food service fund, a specific grant (referred to as a special revenue code), etc. A different 3-digit fund code is provided for fiscal agents of a shared services arrangement (SSA). Each accounting transaction must begin with the 3-digit fund code (net asset code for nonprofit open-enrollment charter schools).

For example, the fiscal agent of a McKinney-Vento Homeless Education grant uses fund code 295 to account for revenues and expenditures for the McKinney-Vento program. Members of a McKinney-Vento SSA use the same fund code as McKinney-Vento grantees who are not members of an SSA – fund code 206.
See the following subsection, entitled *Shared Services Arrangements*, for more information on SSAs.

Local program managers are encouraged to request a copy of the general ledger and payroll ledger from the Business Office on a regular basis for use as a monitoring tool. The local program manager should monitor expenditures regularly to ensure grant funds are expended for positions and items approved in the application. The general ledger is also the primary tool for aiding the program manager in monitoring the level of expenditures and the potential need for an amendment to the budget as discussed in *Part I – Introduction, Monitoring the Approved Budget and Expenditures*.

The mandatory FAR account code structure is illustrated below. To avoid an audit exception for your organization and the potential repayment of grant funds, ensure your Business Office records expenditures in accordance with this structure.
Basic Principles and Policies of FAR

FAR establishes a set of principles and policies for minimum budgeting, accounting, auditing, and reporting for Texas school districts, open-enrollment charter schools, and ESCs. These principles and policies, adopted by the SBOE as official rule, coincide with the federal standards for financial management systems and are described in general in the Appendices, Basic Principles and Policies of FAR. Of primary importance is that school districts, ESCs, and open-enrollment charter schools must use the fund codes, account classifications, terminology, and account code structure prescribed in FAR throughout the budgeting, accounting, and financial reporting system.

TEA’s Financial Accounting and Reporting (FAR) Module 1

Shared Services Arrangements (SSAs)

A shared services arrangement (SSA) is a fiscal agreement, usually mutually beneficial, between two or more Texas school districts, open-enrollment charter schools, and/or ESCs, that provides services, such as shared purchases or shared employment of personnel, for the entities involved. A common term used in some federal program statutes for such an arrangement is consortium or cooperative.

An SSA is specific to a particular grant program. Each SSA must designate a fiscal agent which is responsible for conducting various administrative duties on behalf of the members of the SSA, including developing and submitting the grant application. The fiscal agent can receive services under the grant program, or it can be the administrator of the arrangement and not receive services.

The fiscal agent usually performs the budgeting, accounting, and personnel responsibilities related to the arrangement. The fiscal arrangement can be in one of three different configurations:

- The fiscal agent retains 100% of the funds and provides all related services to the member districts. The fiscal agent purchases all goods and services and pays all grant personnel on behalf of the member districts.
- The fiscal agent retains a portion of the funds to administer the SSA and possibly provide some services, and flows through the remaining funds to the member districts. The member districts then purchase goods and services or pay personnel in accordance with the approved grant application.
The fiscal agent flows through 100% of the funds to the member districts. The member districts purchase goods and services and pay personnel in accordance with the approved grant application.

Each SSA must have a written shared services agreement detailing the responsibilities and liabilities of the fiscal agent and member districts, as well as the ownership of any equipment purchased under the SSA. The fiscal agent is generally responsible for ensuring that funds are used in accordance with the approved grant application and the grant provisions. If monies are not used in accordance with the approved application and provisions, the fiscal agent may be financially responsible for the consequences of non-compliance. The fiscal agent may also be financially responsible if a member district is unable to pay back its respective portion of questioned costs. These liabilities should be spelled out in the written agreement. Refer to the Appendices, Shared Services Arrangements, for more detailed information about the written agreement and the roles and responsibilities of the fiscal agent and member districts.

As member districts receive funds from the fiscal agent, the district must record revenues in the appropriate revenue code and charge expenditures to the appropriate object code. Refer to Module 1, FAR, Section 1.3.1 for detailed information on accounting for revenues and expenditures for SSAs as well as an explanation of the responsibilities of the fiscal agent and member districts.

Expending Grant Funds

Expending grant funds may appear to be as simple as purchasing what you think you need for the grant program. But the expenditure of grant funds carries with it many significant responsibilities and the understanding of several key concepts. This section provides basic information related to those responsibilities and key concepts.

As you read through this section, bear one primary thing in mind: Honest mistakes are sometimes made in recording accounting transactions. If you notice a mistake was made in charging a particular expenditure to a grant, correct it immediately. An auditor will look favorably on your promptness. Business Office staff should review accounting transactions regularly to ensure mistakes are caught and corrected early.

Period of Performance (Previously “Availability of Funds”) (i.e., Grant Period)

The first key concept related to the expenditure of funds is known as the “period of performance,” previously known as the “period of availability.” The period of performance means the time during which the grantee may incur new obligations to
carry out the work authorized under the federal grant. It is essentially the period between the beginning date of the grant and the ending date of the grant as specified on the NOGA. This period is commonly referred to as the “grant period.”

All goods and services must be obligated and received within the grant period, or within the period of performance. Therefore,

- No contract can be signed prior to the beginning date of the grant.
- No purchase order can be dated with a date prior to the beginning date of the grant.
- No purchases can be made prior to the beginning date of the grant.
- No travel can occur prior to the beginning date of the grant.
- No employees can be paid prior to the beginning date of the grant.

Pre-award costs that are approved in writing by TEA or other awarding agency may also be charged to the grant. Pre-award costs are those costs that were incurred prior to the beginning date of the grant directly pursuant to the negotiation and in anticipation of the federal award where such costs are necessary for efficient and timely performance of the scope of work.

It is important that grantees understand when certain obligations are made, as it depends on the type of property and services. (See the next subsection on Obligation of Funds.)

2 CFR §§ 200.77; .309; and .458
34 CFR § 76.707

Obligation of Funds

A grantee may use funds only for obligations it makes during the grant period. Obligations are defined in federal regulation as

“orders placed for property and services, contracts and subawards made, and similar transactions during a given period that will require payment by the grantee during the same or a future period.”

Essentially, an obligation is a commitment to pay. An obligation occurs, depending upon the type of expenditure, as follows:
<table>
<thead>
<tr>
<th>Type of Expenditure</th>
<th>When the Obligation Occurs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acquisition of property</td>
<td>On the date which the grantee makes a binding written commitment to acquire the property (such as a purchase order/requisition)</td>
</tr>
<tr>
<td>Services by an employee</td>
<td>When the services are actually performed by the employee (i.e., when the employee works on the grant program)</td>
</tr>
<tr>
<td>Services by a contractor or a consultant</td>
<td>The date of a binding written commitment, such as a contract or other written agreement, to obtain services from the contractor</td>
</tr>
<tr>
<td>Public utility services</td>
<td>When the utility services are received</td>
</tr>
<tr>
<td>Travel</td>
<td>• for hotel lodging, meals, and mileage, when the travel actually occurs</td>
</tr>
<tr>
<td></td>
<td>• for the purchase of a plane ticket, when the ticket is actually purchased</td>
</tr>
<tr>
<td></td>
<td>• for registration fees associated with travel, at the time payment of the fee is due and payable</td>
</tr>
<tr>
<td>Rental or lease of property</td>
<td>When the rented or leased property is actually used or occupied</td>
</tr>
<tr>
<td>A pre-agreement cost that was properly approved by the awarding agency prior to the obligation</td>
<td>On the first day of the grant project period</td>
</tr>
</tbody>
</table>

Governmental accounting calls for *encumbrance* accounting. *Encumbrances* reserve funds to cover outstanding obligations, or commitments to pay. Whether an entity refers to the commitment as an *obligation* or as an *encumbrance*, both an *obligation* and an *encumbrance* require the reservation or set-aside of funds for a future expenditure and should be recorded in the *Encumbrance* column in the general ledger under the proper fund code.

Encumbrance accounting helps ensure you always have an accurate balance of unobligated, or uncommitted, funds. The real danger in not encumbering obligations in the accounting system is that the grantee can over-obligate (i.e., over-commit) funds.
For example, when an employee is approved for travel on grant business, the organization should encumber the total amount of estimated travel expenses at the time the travel is approved and prior to the travel occurring. This encumbrance reserves the funds to cover the employee’s travel expenses. Then, when the travel has occurred and the employee submits a travel voucher documenting the actual amount expended for travel, the encumbrance is liquidated and the actual expenditures are recorded.

Not only must all obligations occur during the grant period, but all goods must be received and all services must be provided or delivered in time to substantially benefit the population being served in the current grant period. This is required in order to document that the expenditures were necessary to accomplish the objectives of the grant.

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

As previously stated, it is important that program managers know the status of obligations and encumbrances so they can ensure grant funds are not over expended.

Obligating Funds During a Carryover Period

Certain formula grant programs, such as Title I, Part A and Title II, Part A, allow the grantee to carry over unobligated funds to the subsequent fiscal year. TEA manages the carryover process for these grants.

Any carryover funds not obligated by the end of the carryover period must be returned to the federal government.

Obligations made during a carryover period are subject to the current statutes, regulations, and application that is submitted for the carryover period. The application and corresponding NOGA will include funds allocated for the current period plus any carryover funds.

\[34 \text{ CFR §§ 75.703 and .707; 76.707, .708, .709, and .710}\]

\[\text{TEA’s Financial Accounting and Reporting (FAR) Module 1}\]


**Liquidation of Obligations**

Once the grantee receives all of the goods and services pertaining to a particular obligation and the corresponding invoices, the grantee “liquidates” the obligation in the accounting system by making the final payment. Grantees must “liquidate all obligations” incurred under the award to coincide with the submission of the final expenditure report (usually due 30 days after the ending date of the grant). The final expenditure report can only include expenditures for goods and services which were actually received before or by the ending date of the grant.

Any obligations that were not satisfied with the delivery of goods or services on or before the ending date of the grant must be removed from the accounting ledger and cannot be charged to the grant.

Refer to the section in this *Part II, Expenditure Reporting*, for more information pertaining to reporting expenditures.

2 CFR § 200.343

**Determining Allowability of Costs**

Grantees frequently are required to repay grant funds for one federal grant or another due to the determination by an auditor or monitor that the cost was unallowable to be charged to the grant. Federal regulations require grantees to have written procedures for determining the allowability of costs charged to federal grants. All costs must be allowable under the federal cost principles in 2 CFR Part 200, Subpart E, and under the terms and conditions of the specific federal award. Therefore, it is important that both program managers and fiscal managers understand the “tests” for allowability of a cost.

The written procedures should provide for reviewing the proposed cost to determine whether it is an allowable use of federal grant funds before obligating and spending those funds on the proposed goods or services. The regulations require that the following general criteria must be met in order for a cost to be allowable under the federal award. Each cost must:

✓ **Be Necessary and Reasonable for the performance of the federal award.**

*Reasonable Costs*: A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision to incur the cost was made.
In general, “reasonable” means that sound business practices were followed, and purchases were comparable to current market prices.

A cost can be reasonable if it meets all of the following conditions:

- Prudence was used in making the decision to incur the cost, considering the person’s responsibilities to the grantee organization, its employees, the public, and the federal government.
- It is necessary to carry out the objectives of the grant program or is recognized as an ordinary cost to operate the organization.
- The grantee applied sound business practices; arm’s-length bargaining (i.e., the transaction was with an unrelated third party); federal, state, and other laws and regulations; and the terms and conditions of the award in making the decision.
- The price is comparable to that of the current fair market value for equivalent goods or services.
- There were no significant deviations from the established practices of the grantee organization which may unjustifiably increase the cost. 2 CFR § 200.404

**Necessary Costs**: While the federal regulations do not provide specific descriptions of what satisfies the “necessary” element beyond its inclusion in the reasonableness analysis above, necessary is determined based on the needs of the program. Specifically, the expenditure must be necessary to achieve an important program objective. It means it is vital or required in order to meet the objectives of the grant or for the grant to be successful.

Necessary does not mean “nice to have,” which means it is not necessary to accomplish the objectives of the program in that it is not vital or required for the success of the program. For example, if you catch yourself or someone else saying, “It would be nice to have ...,” then most likely it is not necessary to accomplish the objectives of the program in that it is not vital or required, and it could be disallowed by an auditor or monitor.

A key aspect in determining whether a cost is necessary is whether the district can demonstrate that the cost addresses an existing need and can prove it. For example, the district may deem a language skills software program necessary for a limited English proficiency program.

When determining whether a cost is necessary, the grantee must consider:

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

Be Allocable to the federal award.

Demonstrating how a cost is allocable to a particular grant program often proves to be challenging for grantees and frequently results in audit exceptions and the repayment of grant dollars. For a cost to be eligible to be charged to a grant, it must be allocable to the grant. Therefore, it is important that grantees understand this concept and apply it appropriately.

A cost is allocable to a particular grant if the goods or services involved are chargeable or assignable to the grant in accordance with the relative benefits received by the program. This means grantees must be able to demonstrate how a particular cost benefits the specific population being served in the grant. For example, McKinney-Vento grantees must be able to document how each cost benefitted one or more homeless students.

If the cost benefits only one grant program, the entire cost can be charged to that single grant program. If a cost benefits more than one grant program, the cost must be allocated among the grant programs (i.e., split-funded) in accordance with the relative benefits received by each program.

For example, a district purchases a set of computers that will be used by students participating in the Title III English Language Acquisition program 40% of the time, and by students participating in Title I, Part A the remaining 60% of the time. The cost of the computers must be prorated accordingly, with 40% charged to Title III and 60% charged to Title I, Part A.

A cost that cannot be appropriately allocated to a specific grant cannot be charged to another grant program. That cost must be paid from undesignated state or local funds.

Be allowable under the federal cost principles and under the terms and conditions of the federal grant.
✓ **Be consistent with policies and procedures** that apply uniformly to both federally-financed and other activities of the grantee organization. For example, personnel whose travel is paid with federal funds is reimbursed at the same rates as personnel whose travel is paid with state or local funds, and the grant is charged accordingly.

✓ **Conform to any limitations or exclusions set forth as cost principles** in 2 CFR Part 200, Subpart E, or in the terms and conditions of the federal award.

✓ **Be treated consistently.** A cost cannot be assigned to a federal grant as a *direct* cost if any other cost incurred for the same purpose in like circumstances has been assigned as an *indirect* cost under another grant.

✓ **Be adequately documented.** All expenditures must be properly documented with original source documentation that is clearly written and maintained on file (either electronically or on paper) with accounting records. Documentation includes purchase orders/requisitions, invoices, receipts, verification of receipt of goods and services, travel authorizations and vouchers, contracts, time-and-effort records (or similar documentation), copies of checks, bank statements, etc. Expenditures that are not supported by source documentation cannot be charged to the grant.

✓ **Be determined in accordance with generally accepted accounting principles (GAAP), unless provided otherwise in 2 CFR Part 200.**

✓ **Not be included as a match or cost-share of another federal program,** unless the specific federal program authorizes federal costs to be treated as such. Some federal program statutes require the grantee to contribute a certain amount of non-federal resources to be eligible for the federal program.

✓ **Be the net of all applicable credits.** The term “applicable credits” refers to those receipts or reduction of expenditures that operate to offset or reduce expense items allocable to the federal award. Typical examples of such transactions are: purchase discounts; rebates or allowances; recoveries or indemnities on losses; and adjustments of overpayments or erroneous charges, such as credits. To the extent that such credits accruing to or received by the grantee relate to the federal grant, they must be credited to the federal grant, either as a cost reduction or a cash refund, as appropriate.

*Treatment of miles, points, or awards accrued for travel:* Any miles, points, credits, or awards accrued or earned for employee travel using an organization-issued credit card (where the credit card bill is paid directly by
the organization) are the property of the grantee organization and will be used for employees travelling on behalf of the organization to reduce the overall cost to the organization. Any such miles, points, credits, or awards accrued will not be used for personal travel.

"Most Restrictive" Rule: Grantees often receive an audit or monitoring finding because they did not follow the “most restrictive” rule in determining allowable costs. For certain types of costs, state law or local policy is more restrictive than the federal regulations. In other cases, the federal regulations are more restrictive than the state law or local policy. In each individual case, the “most restrictive rule” must be followed. For example, state law and TEA rule is more restrictive than federal regulation pertaining to allowable travel costs. In this case, the stricter State/TEA rule must be followed.

Requesting Prior Written Approval

Some costs require prior written approval from the awarding agency. For TEA grants, prior written approval must be requested in accordance with TEA’s process and instructions. This means usually the grantee must either specifically budget the item in the grant application or must submit the request in writing to the TEA Chief Grants Administrator. The Chief Grants Administrator may request additional information, as applicable, and may meet or consult with applicable TEA staff prior to responding to the grantee in writing.

In addition, for certain costs that it may be difficult to determine reasonableness or allocability, the grantee may seek prior written approval for “special or unusual costs” not identified in the regulations in advance of the incurrence of such costs. This may prevent future disallowance or dispute based on “unreasonableness” or “non-allocability.” Prior written approval should include the timeframe or scope of the agreement. 2 CFR § 200.407

Allowable Costs

In summary, for a cost to be allowable under a grant program, it must meet all of the following conditions. A cost that does not meet all of these conditions could be questioned during an audit or monitoring visit and could require repayment to the grantor agency. The cost must be

- reasonable in cost (as described above)
- necessary to accomplish the objectives of the grant program
- appropriate under the authorizing program statute
- allocable to the grant based on the relative benefits received (as described above)
- authorized or not prohibited under state or local laws or regulations
✓ consistent with policies, regulations, and procedures that apply to all activities, including other grants and state and local activities
✓ treated consistently as either a direct cost or as an indirect cost
✓ determined in accordance with GAAP
✓ not used to meet cost sharing or matching requirements of another grant (unless specifically permitted in the other program statute or regulations)
✓ consistent with the terms and conditions of the grant award
✓ adequately documented with appropriate supporting original source documentation
✓ the net of any applicable credits such as rebates or discounts
✓ allowable under the federal cost principles (see the following subsection on Federal Cost Principles for more information)
✓ in most cases, supplemental to the core foundation program of the school and to other activities normally conducted by the school (i.e., supplement, not supplant) (see the section in this part on Supplement, Not Supplant for more information about this requirement)
✓ if the school is a Title I schoolwide program, the grant program must be included in the schoolwide plan, the school must have conducted a comprehensive needs assessment, and the plan must contain the required components specified in statute (see Title I, Part A, §1114[b]).

Grantees can only charge actual costs to the grant, to the penny. They cannot earn a profit or a fee from the grant. Allowable costs include payments to subcontractors for fixed-price contracts or reasonable fees or profit for cost reimbursement contracts. Refer to the section in this Part II, Procurement (Purchasing Goods and Services) for more information on subcontracting.

2 CFR § 200.302(7)
2 CFR Part 200, Subpart E – Cost Principles

Federal Cost Principles

As previously stated, for a cost to be allowable under a federal grant, it must meet several conditions, including that it must be allowable under the federal cost principles. The cost principles are designed to provide that the federal government bear its fair share of the costs associated with federal awards and are provided in 2 CFR Part 200, Subpart E – Cost Principles. This same set of federal cost principles applies to all recipients of federal funds, including school districts, ESCs, and open-enrollment charter schools.

For grants that were awarded prior to December 26, 2014, one of three different sets of federal cost principles applied depending on the type of organization. Refer to the
Appendices, Federal Cost Principles Applicable to Federal Grants Awarded Prior to December 26, 2014, for more information about these applicable cost principles.

The federal cost principles direct grantees to employ efficient and effective methods to administer their grants through sound management practices and to conduct activities in a manner consistent with the grant agreement, the program objectives, and the terms and conditions of the award.

Specific items of cost are listed alphabetically in the federal cost principles. However, the list is not all-inclusive. For those items listed, the cost principles specify whether the item is allowable, unallowable, or allowable under certain conditions. In all cases, whether the item is listed as allowable or is not included, the cost must be reasonable and necessary to accomplish the objectives of the grant and must meet all conditions previously specified.

It is also important to note that, while a cost may be specified in the cost principles as allowable, it may not be appropriate or allowable under a particular grant program or under state law. Grantees must closely scrutinize costs and use comprehensive, detailed written procedures to determine allowability to avoid the disallowance by an auditor or monitor and the repayment of funds. Remember, grantees are required to have written procedures for determining the allowability of costs charged to federal grants. Auditors and monitors will request a copy of those written procedures and will verify if the grantee is following the procedures.

Resources Available

TEA developed the Budgeting Costs Guidance Handbook (formerly Guidelines Related to Specific Costs; scroll down to Allowable Cost and Budgeting Guidance), which highlights costs that commonly raise questions or may cause issues for grantees. This document provides TEA’s position in more detail on those particular costs and should be bookmarked for future reference. Adhering to the guidance in this document will aid the grantee in avoiding audit and monitoring exceptions for disallowed costs.

- 2 CFR Part 200, Subpart E – Cost Principles
- 34 CFR §§ 75.530, 76.530
Cost Objectives

It is important to understand the concept of a “cost objective” in determining allowable costs under the cost principles. The formal definition of a cost objective is a

“program, function, activity, award, organizational subdivision, contract, or work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capital projects, etc. A cost objective may be a major function of the grantee organization, a particular service or project, a federal grant, or an indirect cost activity.”

The simplest way to think about a cost objective is to think of it as a particular grant program, activity, or other category of costs that requires a grantee to track specific cost information.

A particular cost, including salaries and wages, can be assigned to a single cost objective or to multiple cost objectives, depending on how many programs or activities benefit from the cost.

If a cost benefits only one grant program, project, or activity, it is benefitting a single cost objective. If a cost benefits more than one grant program, project, or activity, it is benefitting multiple cost objectives. Charging a cost to multiple cost objectives means splitting the cost among all of the programs or activities that benefitted from the cost, in proportion to the benefit received by each program.

In general, an employee is considered to work on multiple cost objectives if he or she works on

- more than one federal award/program
- one or more federal programs and one or more non-federal programs
- an indirect cost activity and a direct cost activity (see discussion below about direct and indirect costs)
- two or more indirect activities which are allocated using different allocation bases
- a federal program with specific set-asides (earmarking) or cost-share/matching requirements
- an allowable activity and an unallowable activity

Cost objectives can come in many forms. For example, the required set-asides in Title I, Part A, create cost objectives for which cost information must be tracked.
LEAs receiving $500,000 or more in Title I, Part A must spend at least 1% of their Title I, Part A allocation on parent involvement activities. The LEA must demonstrate compliance with this requirement by documenting expenditures for the cost objective of the parent involvement set-aside.

An LEA must also set aside an appropriate amount of Title I, Part A funds to serve homeless students who attend non-Title I schools if all schools in the LEA are not Title I. This is another example of a cost objective for which an LEA must track expenditures.

Or a cost objective might be a single initiative, such as a parent involvement initiative, funded from several eligible funding sources, such as Title I, Part A and Title III, English Language Acquisition. Each funding source would be charged the appropriate proportion of costs in accordance with the benefits received by each program.

The concept of cost objectives comes into play with all expenditures related to federal grants, including expenditures for salaries and wages. Keep this concept in mind as you review the following subsections. It has a major impact on time-and-effort record keeping, as you will see in that section (see the section on Payroll Costs and Documentation for Grant-Funded Personnel).

**Direct Costs and Indirect Costs**

Another concept in the federal cost principles is the division of costs into two major categories:

- direct costs
- indirect costs

All costs charged to a grant fit into one of these two categories. Once it is determined whether a cost is a direct cost or an indirect cost, it is essential that the cost be treated consistently in like circumstances among the various sources of funding. The same type of cost should not be classified as a direct cost for one program, and an indirect cost for another program. Your Business Manager should already understand the differences between these two types of costs and should ensure that costs are charged appropriately. Each is discussed in more detail below.

**Direct Costs**

A direct cost is a cost that can be identified with a specific cost objective relatively easily with a high degree of accuracy. Remember, a cost can benefit either a single cost objective or a multiple cost objective.
Typical direct costs charged to a grant are

- salaries and benefits for employees who devote time to a specific grant program (6100) (see Indirect Costs subsection below with regard to the salaries of administrative and clerical staff)
- purchased and contracted services for a specific grant program (6200)
- cost of materials purchased for a specific grant program (6300)
- travel costs associated with a specific grant program (6400)
- equipment purchased for use in a specific grant program (1500*/6600)

*Net asset code 1500 is used for nonprofit charter schools

Notice all of the examples above are costs that benefit a specific grant program. However, direct costs can benefit more than one grant program, or cost objective, in which case those costs must be charged proportionately to the grant programs they benefit. Direct costs are easy to recognize because they are the costs that should be budgeted in your grant application in the corresponding budget categories (6100 – 6600).

**Indirect Costs**

Indirect costs, on the other hand, are administrative costs that

- cannot be specifically identified with a particular grant program without effort disproportionate to the benefits received
- are incurred for common or joint purposes
- benefit multiple cost objectives (e.g., more than one federal grant, project, or activity)
- usually support areas such as
  - Accounting
  - Budget
  - Human Resources
  - Purchasing
  - Building Maintenance, etc.

Per the regulations in 2 CFR § 200.413(c), the salaries of administrative and clerical staff should normally be treated as indirect costs. Direct charging of these costs may be appropriate only if all of the following conditions are met:

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

*Indirect costs* are budgeted in your grant application in the corresponding *Indirect Cost* line item. Your organization must have a current indirect cost rate agreement and approved rate in order to charge indirect costs to a grant.

Federal regulations require that the state educational agency approve the indirect cost rates for LEAs based on a plan approved by the Secretary of Education. Indirect cost rates are issued annually by TEA for school districts, ESCs, and open-enrollment charter schools for the period covering July 1 to June 30 of each year and are calculated using costs specified in the indirect cost plan/proposal submitted to TEA.

**Items that are included in an *indirect* cost agreement, and thus in calculating the indirect cost rate, cannot be also charged as a *direct* cost to the grant.** Therefore, it is important that program managers and fiscal managers consult the Business Manager to ensure that costs are not already included in the indirect cost plan. Once a cost is included in the indirect cost agreement as an indirect cost, it must remain an indirect cost for all grant programs that use the federal indirect cost rate.

TEA issues both a *restricted* rate and an *unrestricted* rate in accordance with federal regulations. Federal grants with the *supplement, not supplant* provision are limited to a maximum of 8%, or the approved *restricted* indirect cost rate, whichever is less.

The correct indirect cost rate in effect at the time must be applied for the expenditures incurred during that same time period.

**For example,** the indirect cost rate is approved for the period covering July 1 to June 30. Many formula grants start July 1 of every year and end September 30. Therefore, the grantee would use one rate covering the period July 1 to June 30, and a different rate covering the period July 1 through September 30.

Each grant application package will contain information related to indirect costs. General information about indirect costs is provided on TEA’s *Administering a Grant* web page. Under *Handbooks and Other Guidance*, click on *Indirect Cost Handbook, which contains information, guidance, and a maximum indirect costs worksheet.*

**One final but important note on indirect costs:** Indirect costs can only be charged based on the *actual expenditures of direct costs.* Therefore, if a grantee does not expend all of its funds during the grant...
period, the maximum amount of indirect costs based on the total grant award cannot be charged to the grant. The grantee must adjust the final amount charged to indirect costs based on the actual expenditures. Failure to make this correction at the end of the grant period has resulted in many districts repaying funds to TEA.

34 CFR §§ 75.560, .561, .563
34 CFR §§ 76.560, 76.561 - .569
2 CFR Part 200, Subpart E – Cost Principles

Limitation on Administrative Costs

Many federal grants, as well as many state grants awarded by TEA, limit the amount of grant funds that may be used to administer the grant program. For example, some grants limit the total amount of administrative funds to 5% of the total grant award, while others limit the total amount to 2.5% or 3%.

Indirect costs are administrative costs; thus, administrative costs include both direct administrative costs and indirect costs. Therefore, where there is a limitation on the amount of administrative costs, the amount of indirect costs budgeted and charged to the grant, plus the total amount of direct administrative costs budgeted and charged to the grant, cannot exceed the specified limit.

For example, the limitation on administrative costs is 5%. The grantee budgets and expends 1.2% indirect costs based on its approved indirect cost rate. The grantee could budget and expend no more than 3.8% direct administrative costs.

In this scenario, if it is necessary to budget more direct administrative costs in order to ensure success of the program, then the grantee would need to reduce the amount of indirect costs charged to the grant so that no more than 5% total administrative costs were charged to the grant.

Refer to the grant application guidelines in the specific application package to determine if there is a limitation on administrative costs for a particular grant program.

Direct Administrative Costs

Direct administrative costs must be budgeted among the direct cost categories (i.e., 6100 – 6600) in the application and may include those costs associated with the following:
• Accounting and other fiscal activities specific to the grant, including reporting expenditures to TEA, provided these functions are not already included as an indirect cost in the indirect cost plan
• Auditing, provided these costs are not already included as an indirect cost in the indirect cost plan
• Overall program administration, such as a Director of Federal Programs, split-funded among the federal programs for which he/she is responsible
• Evaluating and reporting on the progress and results of the grant program
• Monitoring compliance with the program requirements
• Salaries and benefits for staff who supervise the activities of program staff
• Insurance that protects the grantee, provided insurance is not already included in the indirect cost plan or in another cost allocation plan
• The proportionate share of any direct administrative costs included in an approved direct cost allocation plan

In all cases, whether or not administrative costs are limited to a certain percentage, all direct administrative charges must be reasonable in cost and must be necessary to accomplish the objectives of the grant program. In general, the USDE interprets “reasonable” administrative charges to be no more than 5% of the total award. Sufficient justification would need to be provided to an auditor or monitor if administrative costs exceed this amount.

Allowable Uses of Funds

As previously stated, in determining allowable costs, the grantee must also consult the authorizing program statute and any regulations to determine allowable uses of funds. The program guidelines published by the awarding agency will also outline the allowable and unallowable uses of funds for a particular grant program. Grantees should consult the program guidelines and the authorizing program statute, as well as any regulations, where applicable, on a regular and frequent basis to ensure funds are being expended for allowable uses.

A state has the authority to identify priorities and to restrict the uses of funds further than the federal statute in some cases, especially for discretionary grants. A state does not have the authority, however, to expand the uses of funds specified in statute. Any state priorities or restrictions in the use of funds will be detailed in the applicable program guidelines.

Supplement, Not Supplant

The supplement, not supplant provision must also typically be considered in determining the allowable uses of funds. Not only must the activity or cost be allowable under the authorizing program statute and the federal cost principles as
discussed in the previous sections and be budgeted in the approved application, it must also usually \textit{supplement and not supplant} activities and costs already provided by the grantee.

Refer to the full section on \textit{Supplement Not Supplant} in this Part II for more detailed information. Also refer to TEA’s \textit{Supplement, Not Supplant Handbook: A Guide for Grants Administered by the Texas Education Agency} (scroll down under \textit{Handbooks and Other Guidance}). It is critical that program managers understand the concepts associated with \textit{supplement, not supplant} to avoid audit and monitoring exceptions.

\begin{quote}
\textbf{Special Note:} In addition to demonstrating supplement, not supplant, grantees must also demonstrate \textbf{how the cost benefits the grant program from which the cost is paid}. Grantees have been cited on numerous counts based on this single factor. If a grantee cannot effectively verbalize or document how a cost benefits the particular program, the grantor agency may likely question the cost and the grantee would be required to repay the funds.

So even if the cost meets all of the other conditions as discussed in the previous subsections, if the grantee cannot demonstrate how a particular cost benefitted that particular grant program, an auditor or monitor may disallow the cost.
\end{quote}

\textit{Use of Funds for Religion Prohibited}

Without exception, federal funds shall NOT be used to pay for any of the following:

- religious worship, instruction, or proselytization
- equipment or supplies to be used for any of those activities
- construction, major repair or renovation of any private school facility unless specifically permitted in the authorizing program statute and specifically approved in the applicable application
- memberships in religious organizations

\footnote{34 CFR §§75.532 and .53; 76.532 and .533}
Documentation of Expenditures

One of the requirements for a proper financial management system is that it provide for proper original source documentation for expenditures. Auditors and monitors frequently question costs that are not properly supported with original source documentation. The cost may meet all of the other conditions outlined in the previous subsections, but if it is not supported by the proper source documentation, it can be questioned and disallowed.

For an auditor or monitor, it is all about documentation, documentation, documentation. Verbal explanations for auditors and monitors often do not suffice. The source documentation must be very clearly written and must be maintained on file (either electronically or on paper) with the accounting records. (Refer to this Part II, Maintenance of Grant Records, Records Retention, and Access to Records, Electronic Records, for more information about acceptable electronic records.)

Each accounting transaction must be supported by the appropriate original source documentation, depending on the type of expenditure, such as

- a signed contract
- purchase order or requisition
- proof of delivery/receipt of goods and services
- invoice
- receipt
- paid bill
- cancelled check
- time-and-effort records (or similar documentation)
- payroll records, including the payroll ledger
- travel voucher
- the appropriate entries in the general ledger
- bank statements and reconciliations
- documentation that demonstrates the cost is supplemental to costs normally incurred by the grantee (i.e., supplement, not supplant)
- documentation that demonstrates how the cost benefitted the particular grant program

2 CFR § 200.302(b)(3)
**Tracing Expenditures in the Accounting System**

Another federal standard for financial management systems is that the accounting records must be sufficient to trace the funds to a level of expenditures adequate to establish that the funds have been used according to the federal statutes, regulations, and the terms and conditions of the grant award.

To enable an auditor or monitor to “trace the funds” back to the general ledger, it is strongly recommended that each piece of documentation related to a particular expenditure, starting with the initial documentation such as the purchase order/requisition or a signed contract, and ending with the final documentation such as a shipping/delivery notice or other proof the goods and services were received, contain the minimum 15-digit account code required in FAR. At the absolute minimum, source documentation should contain the 3-digit fund code and the appropriate class/object code, even if it is only legibly written on the receipt or invoice by hand.

This would allow the grantee as well as the auditor or monitor to accurately trace the expenditure from start to finish in the accounting records.

2 CFR § 200.302(a)

Documentation related to three types of expenditures warrants further discussion:

- subcontracts
- corporate credit cards
- travel

This discussion is provided in the *Appendices, Supporting Documentation Associated with Subcontracts, Corporate Credit Cards, and Travel*. Grantees frequently receive audit findings related to these three areas due to improper or insufficient documentation. It is critical that both program managers and fiscal managers review this information to ensure your grantee organization is not required to repay funds due to lack of proper supporting documentation for these three types of expenditures.
**Payroll Costs and Documentation for Grant-Funded Personnel**

**Allowable and Reasonable Compensation**

Payroll costs, referred to as “compensation for personal services” in the federal cost principles, include wages, salaries, and fringe benefits. Payroll costs are allowable to be charged to a federal grant provided that the compensation:

- is *reasonable* for the services rendered and conforms to the established policy of the organization applied to both federal and non-federal activities
- follows an appointment made in accordance with the grantee organization’s rules or written policies (for hiring personnel) and meets the requirements of federal statute, and
- is determined and supported by documentation that meets the federal *Standards for Documentation of Personnel Expenses*

Compensation is considered *reasonable* if it is consistent with that paid for similar work in other activities of the grantee organization. In other words, employees who are paid from federal funds must be paid on the same pay scale as non-federally funded employees for similar work.

In cases where the kinds of employees required for the federal grant are not found elsewhere in the organization, compensation is considered *reasonable* if it is comparable to that paid for similar work in the labor market in which the organization competes for the kind of employees involved.

**Professional Activities Outside the Grantee Organization**

It is fairly common for employees of a school district or other organization who have specialized expertise to provide professional services, such as training or consulting services, to *other* school districts or organizations outside the employees’ regular contracted hours. This activity is now addressed in the federal cost principles in 2 § CFR 200.430(c), employee compensation.

The grantee organization must have *written policies and practices* concerning the permissible extent the grantee organization’s employees may provide professional services outside the organization (during non-contracted hours) and receive compensation from the organization receiving the services. Alternatively, an arrangement for such activities can be specifically authorized by TEA or other awarding agency.

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Be sure to consult with your Personnel or Human Resources office to determine if such policy exists and if a Conflict of Interest form or similar document which discloses the nature of the professional services to be performed outside the organization is required.

**Documentation for Salaries and Wages Charged to Federal Grants**

Charges to federal grants for salaries and wages must be based on records that accurately reflect the work performed by employees. The organization must also comply with certain standards for documenting the amount of time employees spend on grant activities. This documentation is commonly referred to as “time-and-effort reports.”

All entities receiving federal grants, including school districts, open-enrollment charter schools, and ESCs, must comply with the standards for documentation outlined in the federal cost principles in 2 CFR 200.430(i) for all federal grants awarded on or after December 26, 2014. For all grants awarded prior to December 26, 2014, school districts, open-enrollment charter schools, and ESCs were required to comply with the time-and-effort requirements in OMB Circular A-87.

Compliance with requirements for documentation for charges to payroll remains challenging for many school districts and charter schools. The flexibility provided in certain provisions such as consolidating administrative funds, consolidating funds on a Title I schoolwide program, and Ed-Flex, made the requirements even more complex and difficult to understand. Therefore, in many instances, noncompliance with the time-and-effort requirements is usually due to misinformation or misunderstanding about the impact these flexibility provisions have on time-and-effort requirements. Information with regard to each of these flexibility requirements as they pertain to time and effort is provided in the section titled *Flexibility in the Use of Funds* in this Part II.

It is critical that grant-funded personnel understand and comply with the standards for documenting time spent on grants and charging payroll costs to grants. Failure to comply could result in the repayment of all of the payroll costs for all grants involved.

**Documentation Standards**

For grants that were awarded on or after December 26, 2014, federal regulations require that records documenting charges to federal awards for salaries and wages meet the following standards. *At a minimum, records must:*

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- Be supported by a system of *internal controls* which provides reasonable assurance that the charges are accurate, allowable, and properly allocated
- Be incorporated into official records
- Reasonably reflect total activity for which the employee is compensated, not exceeding 100% of compensated activities
- Encompass both federally assisted and all other activities compensated by the grantee on an integrated basis
- Comply with the established accounting policies and practices of the grantee, and
- Support the distribution of the employee’s salary or wages among specific activities or costs objectives if the 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 which are allocated using different allocation bases, or
  - An unallowable activity and a direct or indirect cost activity.

[Note: Pursuant to the provisions in 2 CFR § 200.430(i)(8), where the records do not meet the standards described in this section, the USDE or TEA may require personnel activity reports (PARs) (i.e., time-and-effort reports), including prescribed certifications, or equivalent documentation that support payroll charges to federal grants.]

This means that all employees who are paid in full or in part with federal funds must keep specific documents that meet minimum standards to demonstrate the amount of time they spend on grant activities. This includes an employee whose salary is paid with state or local funds but is used to meet a required match or cost share for a federal program.

**Special Note About Documentation for Charges to Payroll:**

The terms “*semi-annual certification*” and “*personnel activity reports (PARs)*” were removed from the language pertaining to documenting personnel expenses in the regulations (i.e., 2 CFR 200.431([i)]) that took effect with grants awarded on or after December 26, 2014. The standards for documentation now call for a “system of internal controls which provide reasonable assurance that the charges are accurate, allowable, and properly allocated,” and which reasonably reflect total activity for which an employee is compensated. Therefore, TEA and other agencies are recommending that grantees continue the use of their current certification and time-and-effort reporting systems if they believe they are in
compliance with the prior rules. Some auditors are interpreting the new rules as including the need for certain signatures or periods of certification. Each independent auditor will come to his or her own conclusion as to whether or not your organization’s documentation meets the federal standards.

**Recommended Documentation for Charges to Payroll**

As previously stated, charges to payroll must be based on certain documentation. Your organization is required to establish internal controls which must include organization-wide policies and procedures for documenting charges to payroll. All policies and procedures must, at a minimum, conform to the standards for documentation outlined in 2 CFR § 200.430(i). Grant-funded personnel should be familiar with these policies and procedures to help avoid audit findings and repayment for disallowed costs. **Failure to maintain the appropriate documentation could result in the disallowance of all of the payroll costs during an audit or monitoring review.**

Specific recommendations for documenting charges to payroll are provided in the Appendices. An overview of these recommended procedures is described below.

**Six-Month Certification (or Similar Documentation)**

It is recommended that all employees who work **100% of their time on a single grant program or single cost objective** complete a certification (or similar documentation) once every six months (or similar time frame) **unless all programs for which the employee works are Ed-Flex programs.** Refer to the section entitled *Flexibility in the Use of Funds* in this Part II for more detailed information about Ed-Flex programs and the applicable documentation requirements.

**Time-and-Effort Records (or Similar Documentation)**

In general, employees who work **part of their time** on one federal program, and part of their time on another federal program or a non-federal program, must maintain some type of documentation such as time-and-effort records. Exceptions may apply for schoolwide programs, but it depends on the fund sources being consolidated on the schoolwide program, if any. Refer to the section entitled *Flexibility in the Use of Funds* in this Part II for more detailed information about consolidating funds on a Title I schoolwide program.

Also, in the Appendices is a document entitled *Employee Scenarios – Recommended Documentation for Personnel Expenses*. This document provides a comprehensive set of scenarios based on the number of federal programs or cost objectives an employee works on. You can identify the scenario that matches a
particular employee’s situation and determine the documentation that is recommended to be maintained for that employee.

**Recommended Components for Time-and-Effort Records or Similar**

Where documentation such as time-and-effort records is recommended, the records should be maintained *contemporaneously* (i.e., recommended *daily*) and should contain the following *three* elements at a minimum:

- the activity (a brief description of what the employee did)
- time frame (the amount of time it took the employee to do it)
- funding source/program or other cost objective (the funding source/program/cost objective it will be charged to)

Time-and-effort reports should also

- be executed *after* the work has been completed, and not before
- account for the *total* activities of the employee (100% of their time), including employees working part-time schedules or overtime
- specify the reporting period
- be signed and dated by the employee

**Monthly Summary Report**: The total number of hours worked for the month for each funding source/program/cost objective should be summarized in a monthly report and submitted to the Payroll Department to *coincide with the pay period*. For example, if the pay period is every two weeks, then the summary report should be submitted every two weeks to the Payroll Department. The report should be signed by the employee.

Refer to the *Appendices, Sample Daily Time-and-Effort Report*, for a sample of one way to construct a suitable daily time-and-effort report and monthly summary report.

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2 CFR § 200.430(i)  
TEA Guidance Handbook on Time and Effort Reporting. Click on Federal Time and Effort Reporting Guidance Handbook. (reflects requirements for grants awarded prior to December 26, 2014, but still helpful information for documenting charges to payroll)

**Job Descriptions**

Each employee should have a current job description on file. The immediate supervisor or manager is usually responsible for developing a complete and accurate job description for each employee under his or her supervision. The job...
description should describe the employee’s job responsibilities as well as delineate all programs or cost objectives under which the employee works.

Job descriptions should be updated as new assignments are made. Auditors and monitors will most likely request job descriptions as part of audit or monitoring activities.

**Matching/Cost-Sharing**

Some federal grants and even some state grants contain a *matching or cost-sharing* requirement. If such a requirement applies, it will be specified in the applicable program guidelines published by the awarding agency.

Provisions pertaining to matching or cost sharing are provided in 2 CFR § 200.306.

In general, cost-share/matching funds may be derived from one or more of the following sources:

- cash contributions, including cash donations
- grantee *in-kind* contributions, valued at the fair market value
- third-party (i.e., other than the grantee) contributions, including in-kind contributions of employee services or by unpaid volunteers, and the provision of property, equipment, or supplies by third parties

In all cases, the *basis* for determining the valuation for personal services, materials, equipment, buildings, and land must be documented. A table detailing the allowable sources of cost-sharing or matching funds and their valuation is provided in the Appendices, *Valuation of Cost-Sharing and Matching Costs*. Grantees should be sure to consult this appendix as well as the specific language in the regulations in 2 CFR § 200.306 for additional guidance in determining cost share and matching costs valuations.

Unless otherwise stated in the authorizing program statute, federal funds may not be used to meet a cost-share/matching requirement; only local or state funding sources may be used.

For costs to be eligible to meet cost-share/matching requirements, the *costs must first be allowable under the grant*. Therefore, costs for unallowable items such as gifts, non-educational field trips, food for social events or for staff training, and construction are not eligible to be counted as cost share/matching funds. These items can be donated by others, but they cannot be paid from grant funds or be counted toward cost share/matching.

In addition, *tuition and fees* collected from students may *not* count toward meeting cost sharing requirements (34 CFR § 76.534). *Program income* may be used to meet the cost-sharing or matching requirement with prior approval of the awarding agency.
(2 CFR § 200.307[e][3]). (See the Program Income section in this Part II of the handbook for more information.)

Additionally, cost-sharing or matching costs must

- be verifiable from the grantee’s records, including how the value placed on third-party in-kind contributions was derived
- not be included as a cost share or matching for any other federal program
- be necessary and reasonable for proper and efficient accomplishment of the program objectives
- not be paid from another federal award unless specifically authorized in the federal program statute or regulations
- be identified in the approved budget when required by TEA or other grantor agency

When required to identify cost-sharing or matching costs, applicants must indicate those amounts in the appropriate column in the application according to class/object code. Applicants are not required to list cost share/matching amounts in the same class/object codes in which grant funds are budgeted. Applicants may distribute cost share/matching amounts among any of the class/object codes, so long as the costs are eligible to be paid from cost-share/matching funds and so long as the total cost share/matching amount is equal to or greater than the cost share/matching amount required by the authorizing statute or by the awarding agency.

Grantees are required to maintain the same auditable records for all expenditures relating to cost share/matching funds as for the regular grant funds. These records must be maintained by the Business Office in the same manner and for the same time period as the regular grant funds.

The awarding agency will be required to reduce the total amount of grant funds paid to the grantee if the cost share/matching funds are not provided in the required amount. Depending on the timeline that this determination is made, the grantee could be required to submit a refund to the awarding agency.

34 CFR § 76.534
2 CFR §§ 200.306 and .307(e)(3)

Supplement, Not Supplant

Most federal education grants contain the supplement, not supplant provision. In most cases, the expenditure of grant funds for a particular cost or activity must supplement, and not supplant, state or local funds. Therefore, as previously mentioned, supplement, not supplant is a crucial factor in determining whether a particular cost is allowable, and it must be understood by program managers.
What Does Supplement, Not Supplant Mean?

The intent behind *supplement, not supplant* is that federal funds are not meant to substitute for state or local funds, but rather to provide for an additional layer of support for students who need extra academic assistance in order to succeed in school. LEAs must demonstrate that federal funds are used to purchase additional academic and support services, staff, programs, or materials the state or district would not normally provide.

The *supplement, not supplant* provision means, in general, that:

- Federal funds may not be used to replace activities normally funded from state or local funds.
- State and local funds may not be diverted for other purposes due to the availability of federal funds.
- Federal funds may not be used to support activities that are required by state law, State Board of Education or Commissioner’s rule, or local policy.
- All students must receive the same level and quality of services from State and local resources. In other words, State and local sources cannot be used to provide services to only some of the students, while Federal funds are used to provide services to the remaining students. (Schoolwide programs may be an exception.)
- Federal funds must be used to supplement activities already being provided by the grantee, meaning they must be used to expand, enhance, or improve existing services and activities or to create something new.

Supplement, Not Supplant in McKinney-Vento

Title VII, Subtitle B, Section 723(a)(2) and (3) of the McKinney-Vento Homeless Assistance Act states that grantees must use funds to expand or improve services provided as part of a school’s regular academic program. The Act further states that McKinney-Vento funds must not be used to replace services provided under the regular academic program.

While this is not the standard supplement, not supplant language that is typically provided in federal education program statutes, this language provides for a type of supplement, not supplant, in that funds must be used to “expand or improve” services, and not to replace them.

In any public education setting, state and local funds must be used to provide the regular academic program in all cases. An LEA must be able to operate its schools and the core foundation program without any federal funds. Federal funds, including McKinney-Vento Homeless Education funds, can be used only to expand or to
improve upon already-existing services required to implement the regular academic program of the school. All students, including homeless students and other disadvantaged students, must be provided at least the same level and quality of education and services with state and local funds as all other students receive from state and local funds. McKinney-Vento funds must be used to expand or to improve upon those programs and services for the benefit of homeless students.

Rebutting the Presumption of Supplanting

Violations for supplanting with federal funds can be quite severe. If a grantee is determined to be supplanting with the entire program, the penalty could be as great as repaying 100% of the funds expended. Federal regulations require that the grantee repay funds in proportion to the harm to the federal government.

Grantees may be able to rebut the presumption of supplanting by an auditor or monitor. To determine compliance with the supplement, not supplant requirement, an LEA must determine what services would have been provided to students in the absence of federal funds. Generally in a situation where an LEA used Title 1 funds, for example, to provide services that it provided with non-Federal funds in the prior year(s), an auditor or monitor will presume supplanting occurred.

For example, an LEA paid for a supplemental reading specialist assigned to a Title I school from State or local resources in the previous year. However, the LEA decides to use Title I funds to pay for that same position in the current year. Under ordinary circumstances, this would be supplanting because the LEA is replacing State and local resources with Title I resources to pay for the same position.

This presumption, however, is rebuttable if the LEA can demonstrate, and document, that it would not have provided the position in question with non-Federal funds had the Federal funds not been available.

For example, an LEA could provide programmatic and fiscal documents showing that the position paid for in the previous year with State or local funds was eliminated in the current year because of State budget cuts. Without the Federal funding, the LEA would not be able to provide the same level of services.

If the LEA decides to use Title I, Part A funds to now fund the position, the LEA would need to ensure that it had written records to confirm:

- There was in fact a reduced amount or lack of State funds available to pay for this position as documented in the LEA’s total budget from the previous year and the current year.
- The LEA made the decision to eliminate the position without taking into consideration the availability of Federal funding, along with the reasons for that decision. Evidence would need
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Part II-Fiscal Requirements  

115  

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...to be provided from local school board minutes or other appropriate documentation.

- The LEA can still document that the position is supplemental in that it increases the level of services that would be provided in the absence of Federal funds.

In any case, due to different experiences and knowledge level of independent auditors and federal oversight personnel, the independent auditor or federal oversight agency may still consider it supplanting.

The USDE provides excellent guidance on supplement, not supplant with regard to Title I, Part A in their Non-Regulatory Guidance on Title I Fiscal Issues, Revised February 2008. In addition, TEA’s Supplement, Not Supplant Handbook (scroll down to Handbooks and Other Guidance) discusses supplement, not supplant as it applies to NCLB programs.

**Supplement, Not Supplant on Schoolwide Programs**

The fiscal requirements for supplement, not supplant are slightly different for Title I schoolwide programs than for Title I Targeted Assistance schools. In a Title I Targeted Assistance school, the LEA must identify low-achieving students and provide additional, supplemental services only to those identified students. In no case can federal funds replace state and local funds. (Refer to the archived USDE guidance on Targeted Assistance Schools for more information.)

Unlike a Targeted Assistance program, however, a schoolwide program is not required to select and provide supplemental services to only specific children identified as in need of services. A school operating a schoolwide program does not have to

- show that Federal funds used with the school are paying for additional services that would not otherwise be provided
- demonstrate that Federal funds are used only for specific target populations
- separately track Federal program funds once they reach the school

A schoolwide program, however, must use Title I funds only to supplement the amount of funds that would, in the absence of the Title I funds, be made available from non-Federal sources for that school, including funds needed to provide services that are required by law for children with disabilities and children with limited English proficiency. In other words, the same amount of state and local resources must still be spent on the school in order to conduct the regular academic program, and the amount of Title I funds must supplement, or be in addition to, the amount of state and local funds needed to operate the school [Title I, Part A, Section 1114(a)(2)].
The USDE provides helpful non-regulatory guidance on supplement, not supplant with regard to both Targeted Assistance schools and schoolwide programs. TEA also provides excellent guidance related to NCLB programs in a Supplement, Not Supplant Handbook: A Guide for Grants Administered by the Texas Education Agency (under Handbooks and Other Guidance).

Again, it is important that school personnel involved in federal programs understand supplement, not supplant. School districts are frequently cited for a supplant violation. On the surface, a particular cost may seem allowable in that it is reasonable, allowable under the federal cost principles, allocable, and appropriate under a federal program such as Title I, Part A. However, if the cost is not supplemental, all of the other factors do not counteract. All costs associated with a supplant violation would be required to be repaid to TEA or other federal awarding agency.

- USDE Non-Regulatory Guidance on Title I Fiscal Issues, Revised February 2008
- TEA’s Supplement, Not Supplant Handbook (under Handbooks and Other Guidance)
- McKinney-Vento Homeless Assistance Act, Title VII, Subtitle B, § 723(a)(2) and (3)
- 34 CFR § 81.31 and Part 81 Appendix – Illustrations of Proportionality

Maintenance of Effort

Like many federal education programs, the Education for Homeless Children and Youth Program authorizing statute contains a maintenance of effort (MOE) provision. MOE is one of the fiscal requirements, similar to supplement, not supplant, that ensures that federal funds are used to provide services that are in addition to the regular services normally provided by an LEA. MOE means the LEA must maintain its expenditures for public education from state and local funds from year to year. An LEA cannot reduce its own state and local spending for public education and replace those funds with federal funds.

**LEAs must maintain effort for each of the three years of the grant period in order to continue receiving McKinney-Vento grant funds.**

In order to receive the three-year McKinney-Vento Homeless Education grant, each LEA must assure in its grant application that the LEA’s combined fiscal effort per student, or the aggregate expenditures of the LEA with the respect to the provision of a free public education for the fiscal year preceding the fiscal year for which the determination is made, was not less than 90% of the combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.
McKinney-Vento grantees are selected for funding for a three-year grant cycle. MOE must be demonstrated initially to receive an award for the first year, and for each of the remaining two years of the grant period. Pursuant to guidance from the USDE, if an LEA fails to meet MOE in year 2 or 3 of the grant period, the LEA will not be eligible to receive McKinney-Vento funds for the respective year in which the LEA fails to meet MOE.

For example, an LEA meets MOE for the initial award of the grant, but fails to meet MOE for year 2 of the grant. The LEA will not be eligible to receive McKinney-Vento funds in the second year. But if the LEA meets MOE in the third year of the grant, then the LEA will be eligible to receive funding in year 3 of the grant cycle.

MOE is based on actual expenditures from State and local funds, not on budgeted amounts. LEAs are responsible for maintaining effort and for documenting compliance with MOE. Region 10 ESC will verify each LEA’s MOE through TEA using fiscal information obtained through the Public Education Information Management System (PEIMS) database.

**McKinney-Vento Homeless Assistance Act, Title VII, Subtitle B, § 723(b)(3);**

**Expenditures Included in the Determination of MOE**

In determining whether an LEA has maintained fiscal effort, an SEA must consider the LEA’s expenditures from State and local funds for free public education. These include expenditures for

- administration
- instruction
- attendance services
- health services
- pupil transportation services
- operation and maintenance of plant
- fixed charges
- net expenditures to cover deficits for food services
- net expenditures to cover deficits for student body activities

34 CFR § 299.5(d)(1)

As the SEA, TEA calculates MOE for school districts and open-enrollment charter schools. TEA calculates MOE in the same manner as Title I, Part A and includes expenditures for the following functions (specified in FAR) in determining whether the LEA has met the MOE requirement:
### Expenditures Excluded from the Determination of MOE

The following expenditures are excluded from the determination of MOE:

- community services
- capital outlay
- debt service
- supplemental expenses made as a result of a Presidentially declared disaster
- any expenditures made from federal funds

34 CFR § 299.5(d)(2)

### “Preceding Fiscal Year” Defined

For purposes of determining MOE, regulations specify that the “preceding fiscal year” is the federal fiscal year, or the 12-month fiscal period most commonly used in a State for official reporting purposes, prior to the beginning of the federal fiscal year in which funds are available. TEA calculates MOE using State and local expenditures for the state fiscal year, or September 1 through August 31.

34 CFR § 299.5(c)

### Example:

Federal funds are first made available to the state on July 1, 2015. The current State fiscal year is the 12-month period that begins on September 1, 2015, and ends on August 31, 2016. The “preceding fiscal year” is the 12-month period that begins on...
September 1, 2014, and ends on August 31, 2015. The "second preceding fiscal year" is the period that begins on September 1, 2013, and ends on August 31, 2014. The following table illustrates this concept.

<table>
<thead>
<tr>
<th>Federal Funds First Available</th>
<th>Current State Fiscal Year</th>
<th>Preceding State Fiscal Year</th>
<th>2nd Preceding State Fiscal Year</th>
</tr>
</thead>
</table>

**Flexibility in the Use of Funds**

NCLB provides flexibility with regard to certain fiscal requirements. These include

- consolidating *administrative* funds
- consolidating *(program)* funds on a Title I schoolwide program
- relief under Ed-Flex from certain fiscal and program requirements

**Of these three flexibility provisions, only one is available to McKinney-Vento Homeless Education grantees: consolidating funds on a Title I schoolwide program.** However, because LEAs may consolidate Title I, Part A *administrative* funds with other NCLB *administrative* funds, and because Ed-Flex applies to Title I, Part A, as well as other NCLB programs, each of them is discussed below.

**Consolidating NCLB Administrative Funds and the Impact on McKinney-Vento**

LEAs may, with approval of their SEA, consolidate NCLB *administrative* funds and use those funds for the *administration* of the NCLB programs that are included in the consolidation. An LEA may only consolidate the maximum amount of funds specified in each program for administration. An LEA may NOT use any additional funds for administering the programs included in the consolidation.

LEAs may use NCLB consolidated administrative funds for administering only the programs included in the consolidated administrative funds pool and for the following activities:

- planning, coordinating, and completing the respective NCLB grant applications
• coordinating those programs with other federal and non-federal programs
• allocating NCLB federal funds to various campuses in accordance with the respective program statute
• supervising the activities of program personnel
• completing and submitting program and financial reports

LEAs must indicate in their NCLB Consolidated Application which programs they are requesting to consolidate administrative funds.

**LEAs receiving McKinney-Vento Homeless Education funds may NOT consolidate McKinney-Vento administrative funds with NCLB administrative funds.** There is no statutory provision permitting such consolidation. Therefore, LEAs may use McKinney-Vento administrative funds only for administering the McKinney-Vento program.

* NCLB, Title IX, General Provisions, Part B, § 9201

**Consolidating Funds on a Title I Schoolwide Program**

Section 1114 of Title I, Part A allows a school in which 40% or more of its students are from low-income families to use its Title I, Part A funds, along with other Federal, State, and local funds, to operate a schoolwide program. This allows a school to upgrade the entire educational program to improve the academic performance of all students, particularly the lowest-achieving students. School districts and open-enrollment charter schools in Texas may request a programmatic waiver under Ed-Flex to operate a schoolwide program if fewer than 40% of the students are from low income families.

To operate a Title I schoolwide program, a school must

• conduct a comprehensive needs assessment of the entire school
• identify and commit to specific goals and strategies that address those needs
• using data from the needs assessment, develop a comprehensive plan that meets the requirements of Section 1114(b) of Title I, Part A, and 34 CFR § 200.27 of the Title I regulations
• conduct an annual review of the effectiveness of the schoolwide program and revise the plan as necessary

The USDE provides an excellent non-regulatory guidance on *Designing Schoolwide Programs.* (Scroll down to Guidance, and then to Schoolwide Programs.) In addition, TEA provides extensive resources on the [flexibility in implementing schoolwide](#)
programs and the options for consolidating funds on a schoolwide program and uses of funds.

Additional guidance about consolidating McKinney-Vento funds on a schoolwide program is provided below.

Consolidating McKinney-Vento Funds on a Schoolwide Program

A schoolwide program may consolidate funds from Federal, State, and local sources to implement the school’s comprehensive plan. In general, McKinney-Vento funds may be consolidated on a Title I schoolwide program provided that:

- McKinney-Vento is included in the Title I schoolwide plan for that particular campus and the schoolwide plan is developed in accordance with the statutory and regulatory requirements and the USDE non-regulatory guidance for developing a schoolwide plan. Refer to TEA’s resources on Campus Requirements for Operating a Schoolwide Program.
- The LEA and campus meet all of the McKinney-Vento statutory requirements, including designating a homeless education liaison. (The requirements of McKinney-Vento do not affect the operation of a schoolwide program; all LEAs must meet the statutory requirements of McKinney-Vento, whether or not they receive McKinney-Vento grant funds or any other federal funding.)
- The LEA discloses in its McKinney-Vento application that it will operate a schoolwide program; identifies which campuses receiving McKinney-Vento funds will operate a schoolwide program and the funding sources to be consolidated on the schoolwide program; and describes the activities to be conducted on the schoolwide program specifically for the benefit of homeless students. The LEA must carry out all of the activities described in its McKinney-Vento grant application.
- The LEA and campus meet all of the requirements for a schoolwide program and plan as specified in Title I, Part A, § 1114.

LEAs that consolidate McKinney-Vento funds on a schoolwide program must still reserve Title I Part A funds specifically for homeless children who do not attend Title I schools, as well as other Title I statutory set-asides, and may then allocate the remaining funds to one or more schoolwide programs.

Failure to comply with these requirements when consolidating McKinney-Vento funds on a schoolwide program can result in all of the McKinney-Vento expenditures being disallowed during an audit or monitoring visit. Grantees would be required to repay the funds to Region 10 ESC and ultimately TEA.
Impact on Time-and-Effort Requirements When Consolidating McKinney-Vento Funds on a Schoolwide Program

Consolidating funds on a schoolwide program has different implications for documenting personnel expenses (i.e., time-and-effort) depending on the types of funds and sources of funds consolidated. It is important that grantees understand the following key concepts to avoid audit exceptions and the repayment of funds.

Consolidating McKinney-Vento Funds with Other Federal, State, and Local Funds on a Schoolwide Program

If McKinney-Vento funds are consolidated with other federal, state, and local funds on the schoolwide campus, nothing further is required to document personnel expenses (i.e., time-and-effort). The employees are not required to provide the semi-annual certification or time-and-effort records. In this scenario, there is no distinction between staff paid with federal funds and staff paid with state or local funds.

Be advised, however, that, while this type of consolidation is permissible, very few school districts and open-enrollment charter schools in Texas actually consolidate federal, state, and local funds on a schoolwide campus. This has caused some key misunderstandings among school personnel and has resulted in audit findings and the repayment of federal funds.

Consolidating McKinney-Vento Funds Only with Other Federal Funds

If McKinney-Vento funds are only consolidated with other federal funds (and not with state and local funds) on the schoolwide program, then the rules become more complex for employees of Texas school districts and open-enrollment charter schools due to Ed-Flex because McKinney-Vento is not an Ed-Flex program. (See the next subsection on Ed-Flex and the Impact on McKinney-Vento for a list of Ed-Flex programs.)

For all LEAs, including open-enrollment charter schools, if the employee is paid from the schoolwide consolidated pool, because McKinney-Vento is not an Ed-Flex program, the employee must complete documentation that meets the federal standards for documenting personnel expenses, such as the semi-annual certification, stating that 100% of his or her time was spent on the single cost objective of schoolwide program. In other words, if any of the programs in the consolidated pool are not Ed-Flex, all employees paid from the consolidated pool should complete the semi-
annual certification or similar documentation to cover the programs that are not Ed-Flex. The semi-annual certification is waived for Ed-Flex programs.

This is based on the following general rule.

**If all of the federal programs in the schoolwide consolidated pool are Ed-Flex programs,** no further documentation is required for time-and-effort purposes for the employees paid from the schoolwide consolidated pool. Normally the semi-annual certification or similar documentation would be recommended because a schoolwide program is a single cost objective, but because all of the federal programs included in the schoolwide consolidated pool are Ed-Flex programs, the semi-annual certification is waived under Ed-Flex for Texas school districts.

**If one or more of the federal programs included in the schoolwide consolidated pool is not an Ed-Flex program,** then each employee in the schoolwide program paid from the schoolwide consolidated pool should complete the semi-annual certification (or similar documentation) to cover the programs that are not Ed-Flex. Remember, McKinney-Vento is NOT an Ed-Flex program.

In either case, each employee’s job description must clearly state that the employee is assigned 100% of the time to the schoolwide program.

Most school districts and open-enrollment charter schools in Texas only consolidate their Title I, Part A funds with only one or two other NCLB federal funds on a schoolwide program, and they fail to maintain time and effort or similar documentation. Therefore, many are in noncompliance with the requirement for documenting personnel expenses.

For additional guidance related to a variety of different funding scenarios, review the document in the Appendices, Employee Scenarios – Recommended Documentation for Personnel Expenses.

Check with your Business Office to determine if McKinney-Vento funds have been consolidated on one or more schoolwide programs and, if so, in what manner. It is important that you are aware of the consequences of consolidating McKinney-Vento funds on a schoolwide program.

- [USDE Non-Regulatory Guidance on Title I Fiscal Issues, Revised February 2008](#), E-6 and E-17
- [TEA’s website on Schoolwide Programs](#)
- Title I, Part A, §§ 1113(c)(3)(A) and 1114
- 34 CFR § 200.27

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Ed-Flex and the Impact on McKinney-Vento

Ed-Flex is a provision that allows the U.S. Secretary of Education to delegate to states the authority to waive certain federal education requirements that may impede local efforts to reform and improve education. It is designed to help districts and schools carry out educational reforms and raise the achievement levels of all children by providing increased flexibility in the implementation of federal education programs in exchange for enhanced accountability for the performance of students.

Authorized under the Education Flexibility Partnership Act of 1999 and amended on April 13, 2006, the Ed-Flex waivers approved for Texas provide relief to grantees from certain administrative requirements, as well as from certain program requirements. Refer to TEA's Ed-Flex web page for more information on Texas’ Ed-Flex waivers.

For example, Texas provides an Ed-Flex statewide administrative waiver for the applicable programs from the requirement to complete the semi-annual certification or similar documentation for employees who work 100% of their time on a single grant program or cost objective. This is allowable for these applicable programs as long as the employee’s job description clearly states that the employee is assigned 100% to the program or cost objective.

The following programs are Ed-Flex programs in Texas:

- No Child Left Behind Act of 2001
  - Title I, Part A (except sections 1111 and 1116, school improvement grants)
  - Title I, Part C (Migrant Education)
  - Title I, Part D (Neglected and Delinquent)
  - Title I, Part F (Comprehensive School Reform – no longer funded)
  - Title II, Part A, Subparts 2 and 3 (Teacher and Principal Training and Recruiting)
  - Title II, Part D, Subpart 1 (Educational Technology)
  - Title III, Part B, Subpart 4 (Emergency Immigrant Education)
  - Title IV, Part A, Subpart 1 (Safe and Drug-Free Schools – no longer funded)
• Title V, Part A (Innovative Programs – no longer funded)
  o Carl D. Perkins Career and Technical Education Act of 2006

Ed-Flex waivers are NOT available for McKinney-Vento. Therefore, relief from the requirement to complete the semi-annual certification or similar documentation for employees who work 100% of their time on a single grant program is NOT available for McKinney-Vento grantees. McKinney-Vento grantees must maintain documentation for personnel expenses such as time and effort in accordance with the requirements specified in Part II – Fiscal Requirements, Expending Grant Funds, Payroll Costs and Documentation for Grant-Funded Personnel.

Employees paid with McKinney-Vento funds who work 100% of their time on McKinney-Vento activities should complete the certification (or similar document) every six months (or similar time frame) and submit it to the Business Office.

Employees paid with McKinney-Vento funds who work only a portion of their time on McKinney-Vento activities should complete documentation for personnel expenses such as time-and-effort records and submit them to the Business Office at least monthly to coincide with the pay period.

Implementing any of the Ed-Flex waivers for the McKinney-Vento program will result in findings during an audit or monitoring visit and potentially the repayment of McKinney-Vento funds.

Education Flexibility Partnership Act of 1999, as amended on April 13, 2006

Procurement (Purchasing Goods and Services)

Procurement includes all stages of the process of acquiring property or services, beginning with determining a need for the purchase, and ending with the delivery of goods or services and the closeout of the contract/purchase agreement including final payment.

For many different reasons, grantees often incur audit findings related to procurement with federal funds. According to Federal Education Grants Management: What Administrators Need to Know, it is critical that grantees have a strong procurement system that manages the manner in which goods and services are procured with federal funds. “Without an effective procurement system, it becomes difficult for a recipient of federal funds to demonstrate that goods or services were necessary, obtained for a reasonable price, benefited the program at issue (allocable), and complied with state and local laws (p. 58-59).”
Compliance with numerous and complex federal and state statutes and regulations, especially when procuring using federal funds, can be challenging and demands a formally adopted Purchasing Procedures Manual that clearly delineates the organization’s purchasing policies and procedures. Procurement systems must be compliant, but must also meet user needs. (TEA’s FASRG, Module 3 – Purchasing, provides a sample of a purchasing manual.)

A variety of federal and state sources establish requirements for procurement, including but not limited to the following:

- The uniform administrative grant requirements established in 2 CFR Part 200, Subpart D, Procurement Standards set forth a set of federal standards pertaining to procurement systems.
- TEC, Chapter 44, Fiscal Management, prescribes Texas state laws pertaining to purchases and contracts for school districts.
- Module 3 – Purchasing of TEA’s FASRG provides tools for managing the purchasing process.

Accurate record keeping and documentation should be a fundamental element of the procurement process. Precise and systematic record keeping and records management will aid the grantee in withstanding the scrutiny of various stakeholders (TEA’s FASRG, Module 3 – Purchasing, p. 3). It is important to acquire goods and services for the best price through fair and open competition to protect the interest of the federal government while still maintaining the desired quality and minimizing exposure to purposeful or accidental misuse of federal funds.

This section will review key issues related to procurement/purchasing, subcontracts, and hiring consultants to assist LEAs in avoiding audit and monitoring exceptions with regard to these areas. While you may not be personally responsible for the procurement function, it is important that program managers and fiscal managers understand the basics of procurement. You are encouraged to visit with your procurement office to verify that procedures comply with the federal and state standards and requirements. Failure to comply could result in the repayment of federal dollars to the awarding agency.

**Federal Standards for Procurement**

Grantees are required to comply with written procurement procedures whether purchasing goods or materials; services, including consulting services and professional services; or construction.

The federal standards for procurement are established in 2 CFR § 200.318. In general, the standards provide that grantees will use their own procurement procedures. However, procurement systems must conform to applicable federal law.
and standards while reflecting applicable state and local laws and regulations. The procurement system and requirements outlined in TEA’s FASRG, Module 3 – Purchasing, comply with these federal and state standards.

In general, federal standards for procurement include the following:

- contractor oversight and procedures to ensure contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders; a proper segregation of duties; and purchasing personnel are properly trained
- written standards of conduct that prohibit conflicts of interest and govern the conduct of employees engaged in the purchasing process; written standards must include disciplinary actions for violations
- procedures for reviewing proposed procurements to avoid unnecessary or duplicative items and for allowability under the federal grant
- use of state and local intergovernmental agreements for the procurement or use of common or shared goods and services
- use of federal excess and surplus property in lieu of purchasing new equipment and property whenever feasible
- making awards only to responsible contractors who possess the ability to perform successfully under the terms and conditions of the procurement, including contractors who are not debarred or suspended
- maintaining and retaining records sufficient to detail the history of each procurement
- using time and materials contracts only after a determination is made that no other contract is suitable
- having procedures for the settlement of all contractual and administrative issues arising out of the procurement

A summary of each of the standards for procurement is provided in the Appendices, Federal Standards for Procurement. For more detailed information about each standard, refer to the regulations. In addition, auditors always ask for a copy of the various procedures during the annual independent audit or the Single Audit process, so be prepared to provide to auditors a copy of the written standards of conduct, written procedures for reviewing proposed procurements and for selecting vendors and contractors, etc. (see the section on Audits in this Part II).

**Procurement Through Full and Open Competition**

Grantees must conduct all procurement transactions in a manner providing full and open competition. Full and open competition means that all responsible sources are permitted to submit sealed bids or competitive proposals on the procurement. In general, grantees should not restrict competition by
• placing unreasonable requirements on firms in order for them to qualify to do business
• requiring unnecessary experience and excessive bonding
• engaging in noncompetitive pricing practices between firms or between affiliated companies
• making noncompetitive awards to consultants that are on retainer
• engaging in organizational conflicts of interest
• 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
• engaging in any arbitrary action in the procurement process
• when using federal funds, imposing in-state or local geographical preference in the evaluation of bids or proposals, except where applicable federal statute expressly mandates or encourages geographic preference. When contracting for architectural and engineering services, geographic selection 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.

Written Selection Procedures

In an environment of free and open competition, no proposer or bidder has a competitive advantage over another. All potential proposers and bidders must be provided the same information and have the same opportunity to submit a bid or proposal. Providing a competitive advantage to one or more potential proposers or bidders over another can open up the potential for disputes and lawsuits that can be quite costly and can significantly delay the completion of projects.

Written procedures for selecting contractors ensures that contractors were selected in an environment of free and open competition. Written procedures help provide for consistency and standardization in applying the selection procedures and ultimately can assist the organization in avoiding potential lawsuits by proposers who believe they were treated inconsistently or unjustly.

Federal regulations require that grantees have written procedures for selecting contractors and for ensuring that all solicitations:

• Incorporate a clear and accurate description of the technical requirements for the materials, products, or services to be procured.
• Identify all requirements which the proposers must fulfill and all other factors to be used in evaluating bids or proposals.
Grantees must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include a sufficient number of qualified sources to ensure maximum open and free competition. Grantees must not preclude potential bidders from qualifying during the solicitation period.

**Note:** “Contract” is defined in the federal regulations as “a legal instrument by which an entity purchases property or services needed to carry out the project or program under a federal award.” This would include a purchase order, in that a legally binding contract is formed between the two parties.

**Methods of Procurement**

All purchases made with federal funds, regardless of the method of purchase, must be determined to be:

- *reasonable* in cost (comparable to current fair market value)
- *necessary* to carry out the objectives of the federal program
- *allowable* under the federal cost principles and the terms and conditions of the grant award
- *allocable* (chargeable or assignable) to the grant program based on the relative benefits received

Remember, grantees are required to have written procedures for determining the allowability of costs charged to federal grants. This applies to each purchase, regardless of the method of purchase used. Your Business Office should have procedures for determining and documenting the allowability of each cost charged to a federal grant. Refer to *Expending Grant Funds, Determining Allowability of Costs* in this Part II for more information about allowability of costs.

The federal regulations (2 CFR § 200.320) outline *five methods of procurement* that must be used when making purchases with federal funds. In some cases, these federal methods are less restrictive than Texas state requirements; in other cases, the state requirements are more restrictive than these federal methods. Additionally, if local requirements are more restrictive than either state or federal, then local requirements must be followed. **In all cases, the more restrictive requirements or methods must be followed when making purchases with federal funds.**

The type of purchase method and procedures required depends on the cost (and type, in some cases) of the item(s) or services being purchased. The methods outlined in the table below incorporate the federal methods and the more
restrictive Texas state purchasing requirements. Refer to your grantee organization’s purchasing procedures for more detailed information.

<table>
<thead>
<tr>
<th>Method</th>
<th>When Used</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. <strong>Micro-purchase</strong> – supplies or services $3,000 or less</td>
<td>For supplies or services $3,000 or less; may be awarded without soliciting competitive quotations if the grantee considers the price to be reasonable and if the grantee distributes micro-purchases equitably among qualified suppliers to the extent practicable</td>
</tr>
<tr>
<td>2. <strong>Small purchase procedures</strong> (informal bids) – purchases between $3,001 and $49,999</td>
<td>Federal threshold is $150,000. However, school districts must competitively bid for purchases $50,000 or greater. Price or rate quotations (documented in writing) must be obtained from an adequate number of qualified sources for all purchases in this range. ESCs and open-enrollment charter schools not operated by an LEA may use the federal threshold of $150,000. If the ESC or charter school has established a threshold lower than $150,000, then the lower threshold must be used.</td>
</tr>
<tr>
<td>3. <strong>Sealed bids</strong> (formal bids)</td>
<td>Bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the most responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price.</td>
</tr>
<tr>
<td>4. <strong>Competitive proposals</strong></td>
<td>Normally used with more than one source submitting an offer, and either a fixed price contract or a cost-reimbursement contract is awarded. A cost reimbursement contract reimburses the contractor for actual costs incurred to carry out the contract. Generally used when conditions are not appropriate for the use of sealed bids.</td>
</tr>
<tr>
<td>5. <strong>Noncompetitive proposals</strong> (including sole source)</td>
<td>Procurement through solicitation of a proposal from only one source; may be used only in certain circumstances. Grantee must obtain and retain documentation which clearly delineates the reasons which qualify the purchase to be made on a sole source basis.</td>
</tr>
</tbody>
</table>

More specifically, TEC § 44.031 and TEA’s FASRG, Module 3 – Purchasing, require that all contracts made by school districts, except for contracts for the purchase of produce or vehicle fuel, valued at $50,000 or more in the aggregate, for...
each 12-month period, be made by the following method that provides the best value to the school district:

1. competitive bidding (for services other than construction services)
2. competitive sealed proposals (for services other than construction services)
3. a request for proposals (for services other than construction services)
4. an interlocal contract
5. a method provided by Chapter 2269, Government Code, for construction services (Design/Build Contract)
6. contract to construct, rehabilitate, alter, or repair facilities that involve using a construction manager
7. a job order contract for the minor construction, repair, rehabilitation, or alteration of a facility
8. the reverse auction procedure as defined by Section 2155.062(d), Government Code
9. the formation of a political subdivision corporation under Section 304.001, Local Government Code.

If the school district has established a threshold lower than $50,000, then the lower threshold must be used.

Because requirements for purchasing change fairly frequently in Texas and can be complex, grantees are advised to always consult with the local purchasing office for guidance and to refer to TEA’s FASRG, Module 3 – Purchasing, Appendix 1, Handbook for Texas Public Schools, Junior Colleges and Community Colleges.

School districts, ESCs, and open-enrollment charter schools must also comply with the provisions in the Local Government Code, Chapter 271, pertaining to the purchase of real property; personal property, including equipment; and construction.

Professional Services: Services provided by certain types of licensed professionals are not selected based on competitive price bidding. Professional services provided by a certified public accountant; architect; landscape architect; land surveyor; physician, including a surgeon; optometrist; professional engineer; real estate appraiser; or registered nurse must be selected based on demonstrated competence and qualifications obtained through a request for qualifications or similar document, and then negotiate fair and reasonable compensation (See Texas Government Code, Chapter 2254, Subchapter A and 34 CFR 80.36(d)(3)(v) for more detail.)
**Selection of Vendors**

In addition to federal standards for making awards only to responsible contractors (see the *Appendices, Federal Standards for Procurement, Making Awards to Responsible Contractors*), TEC, Section 44.031, establishes nine criteria that school districts and charter schools must use in determining contract awards to vendors, whether using state, local, or federal funds. These criteria are as follows:

1. the purchase price
2. the reputation of the vendor and of the vendor’s goods and services
3. the quality of the vendor’s goods or services
4. the extent to which the goods or services meet the district’s needs
5. the vendor’s past relationship with the district
6. the impact on the ability of the district to comply with laws and rules relating to Historically Underutilized Businesses (HUBs)
7. the total long-term cost to the district to acquire the goods or services
8. for a contract for goods and services, other than goods and services related to telecommunications and information services, building construction and maintenance, or instructional materials, whether the vendor or the vendor’s ultimate parent company or majority owner has its principal place of business in Texas or employs at least 500 persons in Texas (*NOTE: Federal requirements prohibit geographic preference when purchasing with federal funds. Therefore, this requirement cannot be used to select a contractor when the purchase is made with federal funds.*)
9. any other relevant factor specifically listed in the request for bids or proposals, including vendor response time and compatibility of goods/products purchased with those already in use in the district

**Debarment and Suspension:** Before entering into a *federally-funded* contract/purchase order ≥ $25,000, the grantee must verify the contractor/vendor is not debarred or suspended by 1) checking the EPLS on [www.sam.gov](http://www.sam.gov); 2) collecting a signed certification from that person stating that he or she is not debarred or suspended; or 3) adding a clause or condition to the contract or purchase order. Each subcontractor/vendor at every tier must do the same for any of its subcontractors/vendors where the subcontract/purchase order ≥ $25,000. (See *Part I – Uniform Administrative Grant Requirements, Debarment and Suspension*, for more information on this topic.)
Avoiding Conflicts of Interest: As previously stated, vendors must be selected while avoiding conflicts of interest at all costs. Accepting anything of value from a vendor, such as personal gifts or gratuities, which may be construed to have been given to influence the purchasing decision, is strictly prohibited. Although such practices may be legitimate and generally accepted in the private sector, giving and receiving gifts in the public sector may constitute a violation of law, depending on the dollar value of the gift (Texas Penal Code, § 36.08[h] and [d]). School district policies should specify that meals, trips, tickets for entertainment, and gifts of any value cannot be accepted from potential vendors or current vendors. If federal funds are involved, penalties can be quite severe, including fines and imprisonment.

Other Requirements

In addition to the standards and methods previously described, grantees must comply with the following requirements when purchasing with federal funds.

- **Contracting with Small and Minority Firms, Women-Owned Businesses, and Labor Surplus Area Firms:** Grantees must take all necessary affirmative steps to assure that minority firms, women’s business enterprises, and labor surplus area firms are used when possible by
  - placing these businesses on solicitation lists
  - soliciting proposals from them whenever they are potential sources
  - dividing requirements into smaller tasks or quantities when economically feasible
  - establishing delivery schedules to encourage participation by them
  - using the services of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce
  - requiring a prime contractor, if subcontracts are to be let, to follow the same affirmative action steps

- **Contract Cost and Price Analysis for Purchases > $150,000:** For each purchase with federal funds exceeding $150,000, grantees must make independent estimates of the goods or services being procured before receiving bids or proposals to get an estimate of how much the goods and services are valued in the current market. After bids and proposals are received, but before awarding a contract, the grantee must conduct either a price analysis or a cost analysis, depending on the type of contract, for every procurement with federal funds in excess of $150,000. The cost analysis or price analysis, as appropriate for the particular situation, must be documented in the procurement files.
**Cost Analysis ➔ Non-competitive Contracts:** A cost analysis involves a review of proposed costs by expense category, and the federal cost principles apply, which includes an analysis of whether each cost is allowable, allocable, reasonable, and necessary to carry out the contracted services. In general,

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

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

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

- **Awarding Agency Review:** Upon request by the awarding agency, grantees must make available for review
  
  - technical specifications on the proposed procurement where the awarding agency believes such review is needed to ensure the item or service specified is the one being proposed for purchase (See 2 CFR § 200.324[a] for details.)
  
  - procurement documents for pre-award review when procurement procedures do not comply with federal standards, the procurement is expected to exceed $49,999 (for Texas school
districts), and when other conditions apply (Refer to 2 CFR § 200.324[b] for details.)

- **Bonding Requirements:** For construction or facility improvement contracts or subcontracts ($50,000 or greater for school districts) paid with federal funds, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee if determination is made that the federal interest is adequately protected. If not adequate, certain minimum requirements apply to bonding (See 2 CFR § 200.325.)

- **Contract Provisions:** All contracts paid with federal funds must contain certain provisions, including but not limited to
  
  o termination for cause and for convenience by the grantee for all contracts exceeding $10,000
  
  o remedies for violating or breaching the contract terms for contracts $150,000 or more
  
  o retention of all required records by the contractor for three years after the grantee makes final payment to the contractor and all other pending matters are closed
  
  o access to records
  
  o copyright protection. Copyright must be retained for TEA if state or federal grant funds are provided through TEA.

See 2 CFR § 200.326 and Appendix II to 2 CFR Part 200 for additional, more detailed required contract provisions. Auditors will review contracts for compliance with these provisions. Be prepared to provide samples of actual contracts to auditors during the annual independent audit or Single Audit process.

- **Payment After Services Are Performed:** For both state and federally-funded contracts, grantees may pay contractors only after services are performed, and not before, according to state and federal law. Making payment before services are performed is considered payment in advance. Advance payment to contractors is considered “lending credit” to the contractor and is prohibited under the Texas Constitution, Article 3, §§ 50 and 52.

For ongoing services, payment can be made at the end of every month (based on an invoice submitted by the contractor and verification of work performed) for services performed during the month, or some other similar arrangement.
Consultants

In addition to the previous requirements pertaining to contracts with consultants, grantees should be aware that they must use their general policies, procedures, and practices when hiring, using, and paying consultants under a grant. A grantee may not pay a consultant from the grant unless the services of the consultant are necessary to accomplish the objectives of the grant, the fees are reasonable in cost, and the grantee cannot meet the need by using an employee. For example, an employee may have the knowledge, skills, and capability to provide the consulting services, but the employee may not have the time in an already-busy schedule to provide the consulting services.

According to the regulations (2 CFR § 200.459), several factors must be considered in determining the allowability of professional and consultant services. Grantees must consider:

1. the nature and scope of the service rendered in relation to the service required
2. the necessity of contracting for the service, considering the LEA’s capability in the particular area
3. the past pattern of such costs, particularly in the years prior to receiving federal grants
4. the impact of federal grants on the LEA’s business (i.e., what new problems have arisen)
5. whether the proportion of federal work to the LEA’s total business is such as to influence the LEA in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under federal grants
6. whether the service can be performed more economically by direct employment rather than by contracting
7. the qualifications of the individual or concern rendering the service and the customary fees charged, especially on state or locally-funded activities
8. the adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation, and termination provisions)

Additionally, grantees should refer to TEA’s guidance pertaining to consultants in the Budgeting Costs Guidance Handbook (under Allowable Cost and Budgeting Guidance) and in the handout entitled Guidance and Best Practices: Professional Services (under ESC Cluster Site Training).

Also be aware that a person cannot, under IRS rules, work part of the time as an employee, and part of the time as a contractor/consultant for the same entity. If an employee provides additional services above and beyond his or her regular contracted hours and regular job responsibilities, the employee is paid extra-duty pay, and not a fee based on a contract.

**Equipment - Property Management**

Grantees may purchase only equipment (including certain technology) that is necessary to accomplish the objectives of the grant. All equipment must be requested in the grant application (6600 Capital Outlay) and must be approved by TEA or other awarding agency.

Grantees should carefully analyze their needs for equipment prior to requesting it. Once the grantee purchases equipment, title to the equipment is vested in the grantee. Unless a statute specifically authorizes the federal agency to vest title in the grantee organization without further obligation to the federal government, and the federal agency elects to do so, the title must be a *conditional title* subject to the following conditions:

1. The grantee uses the equipment for the authorized purposes of the project until funding for the project ceases, or until the property is no longer needed for the purposes of the project.
2. The grantee does not encumber the property without approval of the federal awarding agency or TEA or other pass-through agency.
3. The grantee uses and disposes of the property in accordance with the regulations. See 2 CFR §§ 200.313(b), (c), and (e).

TEA’s guidance related to the purchase of equipment and technology is provided in the Budgeting Costs Guidance Handbook (scroll down under “Allowable Cost and Budgeting Guidance”). The following subsections also summarize the federal regulations and federal cost principles as it applies to equipment.
Definition of Equipment

The federal regulations define **equipment as an article of tangible personal property (including information technology systems) having a useful life of more than one year and a per unit acquisition cost which equals or exceeds the lesser of**

- the capitalization level established by the grantee for financial statement purposes
- $5,000

*Personal property* includes equipment (including furniture) that is not permanently fixed and that is movable. It may be tangible, having physical existence, or intangible. It does not include *real* property, which means land, including land improvements and structures.

The definition of equipment also includes expenditures to make improvements to capital assets that materially increase their value or useful life.

Grantees may establish a capitalization level *lower* than $5,000, but not a *higher* level. If a grantee establishes a *lower* capitalization level, the lower limit must be used to classify and capitalize assets, including equipment.

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All personal property that meets this definition of **equipment** must be specifically budgeted and approved in the grant application (class/object code 6600) prior to purchasing. It is important that you consult with your Business Office for the capitalization level established by your local agency and that you budget the equipment in the proper class/object code.

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Personal property that does not meet this definition is not considered equipment for federal purposes and is usually classified as supplies and materials.

\[ 2 \text{ CFR §§ 200.33; 200.78; 200.85; and 200.439 } \]

Insurance and Maintenance of Equipment

The grantee is required to, at a minimum, insure equipment acquired or improved with federal funds at the same levels and in accordance with the same policies as provided to equipment purchased with state or local funds. The cost of insurance for equipment purchased with federal funds is an allowable cost to be charged to federal grants, provided that such insurance is consistent (i.e., at the same levels) with the district’s policy for insuring all equipment regardless of funding source. Generally, TEA will not replace any equipment that is lost, stolen, or damaged.
The grantee is also required to develop adequate maintenance procedures to ensure that equipment is kept in good condition. Additionally, the grantee is required to maintain a control system that ensures adequate safeguards are in place to prevent loss, damage, or theft of the equipment. The regulations require that any loss, damage, or theft be investigated.

\[ 2 \text{ CFR } \S\S 200.310 \text{ and } 200.313(d)(3) \text{ and } (4) \]

**Use of Equipment**

Grantees must use equipment purchased with federal funds in the program or project for which it was acquired as long as it is needed, whether or not the program or project continues to be supported by the federal grant. The grantee shall not encumber the equipment without prior approval of TEA.

When no longer needed for the original project or program, the grantee may use the equipment in other federal programs and activities supported by the federal awarding agency, in the following order of priority: (1) activities under a federal grant from the federal awarding agency which funded the original program or project (in most cases, this would be education funds provided by the U.S. Department of Education); then (2) activities under federal grants from other federal awarding agencies.

Grantees must also make equipment available for use on other currently or previously funded federal programs or activities, provided that it will not interfere with the work on the programs or projects for which the equipment was originally purchased. Grantees must give first preference to federal programs or activities funded by or on behalf of TEA or the USDE. Second preference is given to federal programs or activities funded by another federal awarding agency.

Grantees may also use the equipment in non-federally funded programs or projects. However, the original purchase of any equipment to be used in other programs must be properly allocated (i.e., prorated) among the applicable funding source/programs.

When replacing still-needed equipment that is obsolete or inoperable, the grantee may trade in or sell the obsolete or inoperable equipment and use the proceeds to offset the cost of the replacement equipment, subject to the approval of TEA or other awarding agency. Refer to the section below on *Disposition of Equipment*.

\[ 2 \text{ CFR } \S 200.313 \]
**Equipment Management – Property Records and Inventory**

Grantees are required to maintain *property records* for equipment and property that include:

- a description of the equipment or other property
- a serial number or other identification number
- the source of funding
- who holds title
- the acquisition date
- the cost
- percentage of federal participation in the cost
- the location
- use and condition
- any ultimate disposition data, including date of disposal and sale price if applicable

In addition, grantees must:

- tag/label and track all equipment
- take a physical inventory of the equipment/property and reconcile the results **at least once every two years**. Recommended best practice is every year.

2 CFR § 200.313(d)

**Disposition of Equipment**

When the grantee no longer needs the equipment for the original project or program, the grantee must first determine if the equipment can be used in another federally funded project or program.

If it cannot be used in another federal program, the grantee shall dispose of the equipment as follows:

- Equipment with a current per-unit fair market value of **$5,000 or less** may be retained, sold, or otherwise disposed of with no further obligation to TEA (or to another agency administering the grant on behalf of TEA, such as ESC Region 10). However, TEA (or ESC Region 10 in the case of McKinney-Vento)
must still approve disposition in accordance with TEA’s (or ESC Region 10’s) specified procedures.

- Equipment with a current per unit fair market value **in excess of $5,000** may be retained or sold. However, the grantee must receive written permission from TEA (or other awarding agency such as ESC Region 10 in the case of McKinney-Vento) in advance. Once the equipment is sold, the grantee must credit the grant from which the equipment was originally purchased and a refund must be submitted to TEA (or to the other agency administering the grant on behalf of TEA) for the current fair market value of the equipment. The grantee must use procedures to ensure the highest possible return on the sale.

A grantee may need to dispose of equipment if it is no longer operable; is obsolete; was destroyed, lost, or stolen; or is no longer needed for the original program or another federal program. The grantee must retain disposition records for 3 years after disposing the equipment, or for 5 years after the ending date of the grant that paid for the equipment, whichever is later.

For federal programs administered by TEA, permission to remove equipment purchased with federal funds from a grantee’s inventory may be requested from TEA by emailing the chief grants administrator at grants@tea.texas.gov. TEA will provide an equipment disposition form to be submitted for approval by the chief grants administrator. If another agency is administering the program on behalf of TEA, contact that respective agency for instructions.

In any circumstance, grantees must be aware of the clause in the SAS General Provisions and Assurances, section A. Terms Defined, Capital Assets. This clause permits TEA (or other agency administering the grant on behalf of TEA) to transfer the equipment to another grantee for noncompliance or should your organization no longer need the equipment. This clause applies to all furniture, equipment, and property regardless of the original unit price and how the item is classified in the grantee’s accounting record.

2 CFR § 200.313(e)

**Supplies**

_Supplies_ are any tangible personal property (including materials) that does not meet the definition of equipment. (See the previous section on _Equipment – Property Management_.) This includes _computing devices_ if the acquisition cost is less than $5,000, or the capitalization level established by the grantee, whichever is less.
A computing device means a machine used to acquire, store, analyze, process, and publish data and other information electronically, including accessories (or “peripherals”) for printing, transmitting and receiving, or storing electronic information (2 CFR § 200.20). Computing devices, including highly desirable mobile devices such as laptops, smartphones, and tablets, should also be tagged and tracked as part of the control system required in the federal regulations to ensure adequate safeguards to prevent loss, damage, or theft of the property (2 CFR 200.313[d][3]).

Supplies (and materials) can be either consumable or non-consumable, depending on the grantee’s capitalization policy. When a grantee purchases supplies under a grant, title to the supplies is vested in the grantee upon acquisition.

Although no inventory is required to be conducted every two years as it is for equipment, grantees must still maintain adequate records that demonstrate the supplies (and materials) were necessary to accomplish the objectives of the grant project, were reasonable in cost, and were allocable to the grant program. Grantees must also ensure that supplies are stored properly and must document that the supplies were used for the grant program under which they were purchased.

Stockpiling supplies (and materials) for a future grant period is often seen by auditors and monitors as purchasing supplies that were not necessary to accomplish the objectives of the current grant program. Those costs could be disallowed.

Disposition of Supplies

Upon completion or termination of the grant, if there is a residual inventory of unused supplies (or materials) exceeding $5,000 in total aggregate fair market value and the supplies/materials are not needed for any other federally sponsored program or project, the grantee may retain the supplies/materials for use on non-federal programs or may sell them.

In either case, however, the grantee must compensate TEA or other awarding agency for its fair market share of the value of the supplies/materials by submitting a refund to TEA or other awarding agency.

2 CFR §§ 200.20; .94; and .314

Expenditure Reporting and Grant Payments

In the same manner that grantees such as TEA are required to report the financial status of their grants to their federal awarding agency, subgrantees are also required to report financial data, commonly referred to as “expenditure reports,” to their grantor agency. For federal education grants, the Secretary of Education determines the frequency of the report for grantees such as TEA. TEA, in turn, or Region 10 ESC in the
case of the McKinney-Vento Homeless Education grant, determines the frequency of the reports for their subgrantees.

Regulations require that grantees (and subgrantees) report program outlays (i.e., expenditures) and program income as prescribed by the awarding/grantor agency. These reports are used by the awarding/grantor agency to monitor cash on hand and to obtain disbursement or outlay information from grantees/subgrantees.

The General Provisions and Assurances that accompany every grant application funded by or through TEA contains an assurance (Section P. in TEA’s EDGAR version) that grantees agree to comply with the expenditure reporting requirements. Grantees must submit expenditure reports in the time and manner requested by the agency.

TEA requires that its grantees use a standard format for reporting expenditures for grants funded through TEA. Reports are submitted electronically through the automated Expenditure Reporting (ER) system by class/object code. The Program Guidelines and/or Critical Events Calendar provided on the TEA Grant Opportunities Page for a specific program identify the required expenditure reporting dates. However, even though dates for submitting interim expenditure reports may not be specified, grantees are encouraged to submit expenditure reports more frequently, such as monthly, to indicate that grant activities and expenditures are occurring as planned and there are no major delays in the project.

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

Each grantee employee who reports and/or certifies expenditures in ER is required to have a TEASE (TEA Secure Environment) username and password to access ER. (As of the writing of the 3rd Edition of this compliance handbook, TEA was in the process of migrating to a new secure environment, TEA Login (TEAL), which replaces TEASE. ER and eGrants will eventually be transferred to TEAL.) Grantees report cumulative expenditures to date in ER, and the system automatically calculates the amount already paid to the grantee and the amount owed and generates a payment to the grantee.

When filing interim reports, grantees may only report actual expenditures that have already occurred, and any expenditures that will be paid out on the day the grantee receives the funds. Note that based on TEA’s interpretation of 2 CFR § 200.305(b)(9), when any cash is on hand, interest starts accruing on the day the grantee receives payment (i.e., the day the funds are deposited into the grantee’s bank account). See the following section in this Part II on Cash Management and Interest Earned for more information.
Usually personnel in the LEA’s Business Office or Accounting Office submit the reports in ER. Each report must be certified by an authorized official who attests that expenditures are true and correct. Effective July 1, 2015, the fiscal reports requesting payment also include a certification signed/certified by an official who is authorized to legally bind the district that he or she is aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject him or her to criminal, civil or administrative penalties for fraud, false statements, or false claims or otherwise.

The ER system automatically rejects expenditure reports if:

- The grantee is claiming expenditures in a class/object code not budgeted in the application.
- The total amount reported exceeds the total amount awarded.

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

In addition, failure to submit the expenditure reports according to the required reporting dates could cause the grantee to be identified as high risk and could result in additional sanctions. (See the section in this Part II entitled Identification of High-Risk Grantees and Special Conditions for High-Risk Grantees.)

**TEXSHEP Subgrantees**

TEXSHEP subgrantees complete quarterly expenditure reports in Excel and submit the reports to Region 10 ESC. Similar to reporting expenditures to TEA for other grant programs, expenditures are reported by class/object code. Region 10 ESC accounting staff review the expenditure reports and make payments to McKinney-Vento subgrantees. In filing expenditure reports, the grantee may not claim expenditures in a class/object code not budgeted in the application; the allowable budget variation cannot have been exceeded; and the total amount reported cannot exceed the total amount awarded.

The maximum allowable budget variation for TEXSHEP subgrantees is 25% of the total approved budget. Subgrantees must amend their TEXSHEP grant when cumulative transfers (i.e., increases) among the class/object codes (6100 – 6600) exceed or are expected to exceed 25% of the total approved budget. For more
information on when to submit an amendment, see Part II – Amending an Application.

Each expenditure report must be signed by an authorized official, who, by signing the report, is attesting that expenditures are true and correct and that he or she is aware that any false information could result in a civil, criminal, or administrative penalty.

TEXSHEP subgrantees may submit expenditure reports to Region 10 ESC in one of the following ways:

Email to McKinney.Vento@region10.org
Fax to Carey Foster at 972-348-1119
Mail to: ESC Region 10
Attn: Carey Foster
400 East Spring Valley Road
Richardson, TX 75081

2 CFR §§ 200.302; .305; 327; and .415

Cash Management and Interest Earned

Federal regulations require that grantees have written cash management procedures and internal controls to minimize the time elapsing between the time the grant payments are received, and the time they are disbursed (i.e., paid out). Auditors will examine cash management procedures and the grantee’s adherence to them during an audit.

Related to excess cash on hand, federal regulations also require that grantees submit interest earned on any excess cash to the specified federal awarding agency when the interest exceeds certain limits. This section provides information related to these cash management and interest earned requirements.

Cash Management – Written Procedures and Internal Controls

As previously stated, grantees must have written procedures and internal controls for minimizing the time elapsing between the receipt of funds and the disbursement of funds. Federal regulations also require that grantees make draw-downs as close as possible to the time of making disbursements. Cash payments are limited to the minimum amounts needed and must be timed in accordance with the actual, immediate cash requirements of the grantee in carrying out the purpose of the approved program or project. In other words, grantees can draw down funds only to reimburse expenditures that have already actually occurred, and expenditures that will occur on the day the payment is received in order to avoid calculation of interest.
A grantee’s written procedures should explicitly outline the procedures the grantee will follow in order to demonstrate compliance with these cash management requirements. Per TEA’s General and Fiscal Guidelines, procedures should evidence that the grantee plans carefully for cash flows for grant projects and reviews cash requirements before each request for payment. Auditors will examine cash management procedures and the grantee’s adherence to them during an audit. Adherence to cash management rules is also monitored as part of TEA’s desk monitoring process.

TEA is also audited for compliance with cash management procedures during the annual single audit conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements. (See Part II – Audits for more information on the single audit process.) TEA, as a state agency, is required to comply with the Cash Management Improvement Act of 1990 (CMIA), which requires that agencies draw down funds as needed to cover disbursements.

CMIA and the implementing regulations require each State to enter into a Treasury-State agreement with the U.S. Treasury that specifies the procedures the State will use to carry out the transfer of funds from the Treasury to the State. States must pay interest to the U. S. Treasury on funds from the time the funds are deposited by the Treasury to the State’s account, until the time that funds are paid out by the State. Interest begins to accrue when a State draws federal funds in advance or in excess of the amount of funds required for immediate pay out. Thus, TEA draws down its funds daily (Monday through Friday) from the USDE to cover payment requests from its subgrantees.

TEA’s grantees must comply with cash management rules in the same manner. TEA is required to demonstrate during its annual Single Audit that it not only complies with CMIA when drawing down funds from the federal government, but that it also complies with cash management requirements when making payments to its subgrantees.

TEXSHEP Subgrantees

ESC Region 10, as the grantee receiving funds from TEA to administer and manage the McKinney-Vento Homeless Education program, must also comply with these cash management provisions. When Region 10 ESC files expenditure reports in TEA’s ER to request payment on behalf of the subgrantees, THEO, and itself, it must request only the amount of funds that have actually been expended, plus that amount that will be paid out to its subgrantees and to THEO.
on the day ESC Region 10 receives the funds in order to avoid calculation of interest earned.

Therefore, when TEXSHEP subgrantees submit interim expenditure reports to Region 10 ESC, the report can only include actual expenditures that have already been incurred and any additional amount that will be paid out on the day the subgrantee receives the funds from Region 10 in order to avoid calculation of interest earned. See the next section on Calculation and Payment of Interest Earned on Advances.

Calculation and Payment of Interest Earned on Advances

Grantees must deposit and maintain grant payments in insured accounts whenever feasible. In addition, the federal regulations require grantees to maintain advances of federal funds in interest-bearing accounts unless the following conditions apply:

- The grantee receives less than $120,000 total in federal awards per year.
- The best reasonably available interest-bearing account would not be expected to earn interest in excess of $500 per year on federal cash balances.
- The depository bank would require an average or minimum balance so high that it would not be feasible within the expected federal and non-federal cash resources.

When the grantee has cash on hand from the payment (i.e., any funds not paid out on the day payment is received), interest begins to accrue from the date the grantee receives payment. Once the total aggregate amount of interest earned on all federal grant awards equals $500, interest must be remitted back to the federal government. The grantee may retain an aggregate amount up to $500 annually in interest earned for administrative expenses.

The aggregate amount of interest accrued on advances of federal grant funds in excess of $500 must be remitted to the Department of Health and Human Services Payment Management System (PMS) through an electronic medium using either Automated Clearing House (ACH) network or a Fedwire Funds Service payment following the process described in 2 CFR § 200.305.

For grantees receiving reimbursement only, whereby the grantee is requesting payment only for actual expenditures that have already occurred, the calculation and payment of interest does not apply.

This information appears in the General and Fiscal Guidelines (new EDGAR) that accompany each RFA published by TEA. It is important that fiscal managers are
familiar with this information so that the grantee organization does not receive an audit finding pertaining to cash on hand and interest earned.

**Noncompliance with Cash Management Requirements**

Failure to comply with cash management requirements, including the repayment of interest earned, may cause the grantee to be identified as a high-risk grantee, which may carry with it additional sanctions and special conditions. Grantees may also be subject to one or more enforcement actions. See Part II – Remedies for Noncompliance for list of possible enforcement actions.

\[2\text{ CFR } \S\ 200.305\]

**Program Income**

The federal regulations encourage grantees to earn *income* to defray program costs where appropriate. *Program income* means gross income earned by the grantee or subgrantee that is directly generated by a grant-supported activity, or earned as a result of the grant award during the grant period. “*During the grant period*” is the time between the effective date of the award and the ending date of the award.

Certain provisions apply, as described below, if a grantee wishes to earn program income.

**Sources of Program Income**

*Program income* includes but is not limited to income from

- fees for services performed
- the use or rental of real property (land or buildings) or personal property (i.e., computers or other equipment) acquired with grant funds
- the sale of commodities or items fabricated under a grant award
- license fees and royalties on patents and copyrights
- payments of principal and interest on loans made with grant funds (when allowed)

Program income does *not* include

- interest earned on grant funds
- rebates
- credits
• discounts
• refunds, etc.
• interest earned on any of the above

Program income also does not include governmental revenues, such as

• taxes
• special assessments
• levies
• fines
• other revenue raised by a grantee unless the revenues are specifically identified in the grant agreement

**Examples of program income**

1. A grantee has approval in the application to design and operate a vegetable garden to teach agriculture, environmental issues, soil management, and water conservation to students. The students sell the vegetable produce grown in the garden. The money earned from selling the vegetables is program income.

2. A grantee has approval in the application to develop a cookbook to teach students fractions and measurements. The students sell the cookbook in the community. The money earned from selling the cookbooks is program income.

3. The grantee has a computer lab (that was originally purchased with grant funds) that is available in the evenings. The grantee has approval in the application to rent the use of the computer lab to community organizations. The money earned from the rental of the computer lab is program income.

4. The grantee has approval in the application for the students to clean houses of low-income elderly adults for a modest fee. The project teaches the students responsibility, citizenship, respect, how to work together as a team, how to read labels of potentially hazardous products, and how to handle cleaning products and tools. The money earned from cleaning houses is program income.
Approval Required to Add Program Income to Grant Funds

If a grantee wishes to generate program income, the grantee must seek approval in the grant application. In most cases, the grantee must describe the activity that will be conducted to generate program income and how it is related to the objectives for carrying out the grant program. Also, the grantee must specifically request permission in the grant application to retain the program income and add it to grant funds.

All program income must be used to benefit the current grant program in accordance with the terms and conditions of the grant and must be used in accordance with allowable cost principles and purpose of the grant. Additionally, since the federal regulations prohibit the grantee from making any profit on a federal grant, 100% of the program income must be expended for the benefit of the current grant program. Any program income not expended during the grant period would be profit and would thus be in violation of the regulations.

If the grantee does not specifically request in the application to retain the program income and add it to grant funds, per the regulations, the grantee must deduct the amount of program income from the amount of grant expenditures, and report only the difference as expenditures for reimbursement. In other words, the program income is not added to the grant funds; rather, it is subtracted from the amount of grant funds expended and reimbursed to the grantee if specific approval is not granted to add it to grant funds.

If the grantee expended grant funds in order to generate program income, the grantee may deduct the costs expended (to generate program income) from gross income to determine the amount of program income. However, the grant agreement must also specify this.

Reporting Program Income

Grantees who earn program income must report all such income on the expenditure report, even when the grantee has been given permission in the application to retain the program income and add it to the grant funds.

Earning Program Income after the Grant Period

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

2 CFR §§ 200.80 and .307

Amending an Application

Once an original grant application has been approved by the awarding agency, the federal regulations permit grantees to re-budget within the approved direct cost categories to meet unanticipated requirements. Discretionary grantees are also permitted to make limited program changes to the approved project. Certain budgetary and programmatic changes may be made only through a written amendment to the application.

Grantees should plan well and plan ahead to minimize the number of amendments that must be submitted. Amendments take time for the grantee to prepare, and time for the awarding agency to process. Limiting the number of amendments to a minimal number of well-planned ones will allow the grantee to continue operating the program as planned without having to wait on the approval of an amendment.

The federal regulations specify when, at a minimum, grantees must submit an amendment. In some cases, however, the awarding agency, such as TEA (or the agency administering a grant on behalf of TEA) may waive a specific requirement, where authorized.

When to Amend an Application

Because the regulations provide some flexibility for awarding agencies with regard to the requirements for when to submit an amendment, grantees should consult the awarding agency’s instructions for when to amend an application. The instructions for when to amend an application should be included with or referenced in each application package or amendment package. Under no circumstances should an amendment be submitted until the grantee has received the NOGA and the original approved grant application from the awarding agency.

TEXSHEP Subgrantees

TEXSHEP grantees must complete and submit an amendment to Region 10 ESC if the grantee wants to do any of the following:

1. Add a class/object code not previously budgeted on the Budget Summary (Schedule #7)
2. When cumulative transfers (i.e., increases) among direct cost categories (6100 – 6600) on the Budget Summary (Schedule #7) exceed or are expected to exceed 25% of the total approved budget for your grant (referred to as the “maximum allowable budget variation”).

You may transfer funds among existing budgeted class/object codes (except for indirect costs) in your organization’s budget system without submitting an amendment as long as the cumulative amount of funds transferred is 25% or less of your total current approved grant budget. You must have an amount budgeted in a class/object code (in the budget approved by Region 10 ESC) in order to increase the class/object code. “Cumulative” means adding together all of the amounts by which all of the class/object codes are increased.

For example, for a grant with a total approved budget of $250,000, you may transfer up to $62,500 (25% of $250,000) cumulative total among existing budgeted class/object codes without an amendment. Once you anticipate the cumulative transfer (the total increases) among existing class/object codes will equal $62,501 or greater, an amendment must be submitted prior to the transfer to request approval for the transfer.

3. Add a new line item on any of the supporting budget schedules (i.e., Schedules #7B–7F)

4. Increase or decrease the number of positions approved on the Payroll Costs (Schedule #7B)

5. Add a new item of computer hardware/equipment (not capitalized) approved on the Supplies and Materials schedule (Schedule #7C)

6. Add a new item or increase the quantity of capital outlay items approved on the Capital Outlay schedule (Schedule #7E) for articles costing $5,000 or more

7. Add a new item of capital outlay items approved on the Capital Outlay schedule (Schedule #7E) for articles costing less than $5,000

8. Reduce funds allotted for training costs (where such costs are direct payments or reimbursements to trainees, primarily travel and lodging for trainees, workshop or conference registration fees, tuition, books, and related fees)

9. Change adaptation of space costs (Schedule #7F)

10. Request additional funding

11. Revise the scope (i.e., extent or range) or objectives of the grant (regardless of whether there is an associated budget revision requiring prior approval)

12. Voluntarily reduce funds for a given program year
Reference the amendment package for the TEXSHEP grant, posted online at THEO, for additional instructions pertaining to submitting an amendment.

In any case, making changes to the approved budget does not exempt grantees from seeking prior approval of the items in the federal cost principles requiring prior approval from the awarding agency.

**Assembling the Amendment Package**

Each amendment to an approved application must contain a *signature page* signed or certified and dated by the official authorized to enter the grantee into a legally binding contractual agreement. The authorized official is the person who will represent the grantee in the event of a legal dispute. By signing or certifying this schedule, the official is agreeing to comply with all of the terms and conditions of the grant.

Consult the amendment instructions applicable to the specific grant for the required forms. All amendments to applications awarded by TEA or by an agency administering the grant on behalf of TEA usually require

- a completed *Purpose of Amendment* schedule
- a revised *Budget Summary*
- all of the *supporting budget schedules* that are being changed
- all of the program description pages that are being changed
- a *justification or summary* describing the need for the amendment and the changes intended by the amendment

Amendments must be sequentially numbered. Grantees should not submit a subsequent amendment until the previous amendment has been approved.

**Where to Submit an Amendment**

Grantees should consult the individual application instructions for where to submit an amendment.

For TEXSHEP grantees, amendments must be submitted to the following address:

McKinney-Vento Homeless Assistance Project  
Business Office – Education Service Center Region 10  
400 East Spring Valley Road  
Richardson, TX 75081
**Effective Date for an Amendment**

An amendment is effective on the date it is received by the awarding agency in substantially approvable form. “Substantially approvable form” means the amendment has a dated and signed or certified signature page and all of the required pages are completed and attached. Consult the amendment instructions for the required forms. The amendment is subject to negotiation in the same manner that an original application is negotiated.

An amendment must be approved by the awarding agency before any activities occur that are affected by the amendment. This includes issuing purchase orders, encumbering or expending funds, or receiving goods or services. If a grantee chooses to implement such changes prior to the amendment being approved by the awarding agency, the grantee will be responsible for paying any costs not approved during negotiation from other fund sources.

In many cases, the awarding agency specifies a last day to submit an amendment for the grant. The last day to submit an amendment for TEXSHEP is 30 days prior to the ending date of the grant.

的专业 2 CFR § 200.308

**Audits**

An audit of the grantee’s records may occur under several different circumstances. It is important that grantees are aware of these circumstances so they can be properly prepared for an audit.

**Annual Independent Audit – Required for Every Texas School District, ESC, and Open-Enrollment Charter School**

Section 44.008 of TEC requires that each school district in Texas have its fiscal accounts audited annually at district expense by a certified or public accountant (independent of the district) holding a permit from the Texas State Board of Public Accountancy (CPA). ESCs and open-enrollment charter schools are also required to have an annual audit in accordance with these requirements. No portion of the independent audit may be paid from state or federal grant funds. The cost to conduct the annual independent audit must be paid from state or local funds.

The audit must meet at least the minimum requirements and be in the format prescribed by the SBOE and the commissioner. Audits must be conducted in accordance with generally accepted auditing standards (GAAS) and Government
Auditing Standards (GAS), also referred to as the Yellow Book. Audit requirements are also provided in TEA’s FASRG, Module 4 – Auditing.

The itemized accounts and records of the district/charter school/ESC must be made available to audit. The independent audit must be completed following the close of each fiscal year and must be submitted to TEA within 150 calendar days of the close of the fiscal year.

During the annual independent audit, the auditor examines whether the district has complied with financial management and reporting requirements and with internal controls. The annual audit is organization-wide and includes an examination of all fund types and account groups.

The audit reports are reviewed by TEA audit staff, and TEA notifies the local board of trustees of any objections, violations of sound accounting practices or law and regulation requirements, or of any recommendations concerning the audit report that the commissioner wants to make. If the audit report reflects that penal laws have been violated, the commissioner must notify the appropriate county or district attorney and the state’s attorney general.

TEA must be permitted access to all accounting records, including vouchers, receipts, fiscal and financial records, and other school records TEA considers necessary and appropriate for the review, analysis, and passing on audit reports.

**Single Audit – Additional Audit Required When the Grantee Expends $750,000 or more in Total Federal Awards in a Fiscal Year**

Federal regulations also require that grantees annually obtain single audits or program-specific audits in accordance with the Single Audit Act Amendments of 1996 and 2 CFR Part 200, Subpart F – Audit Requirements. The audits must be made by an independent auditor in accordance with generally accepted government auditing standards (GAGAS). Awarding agencies are required to determine whether their grantees have met the audit requirements of the Act.

State agencies such as TEA are required to follow their own procedures to determine whether the grantee spent federal funds in accordance with applicable laws and regulations. This includes reviewing an audit made in accordance with 2 CFR Part 200, Subpart F if the grantee had a single or program-specific audit, or through other means if there was no audit.
Who Is Required to Have a Single Audit?

State governments, local governments, colleges and universities, and nonprofit organizations that expend $750,000 or more total in federal awards (i.e., all of the expenditures added together for all of the federal grants) during the fiscal year are required to have a Single Audit conducted in addition to and in conjunction with the annual independent audit. For the purposes of audit, this includes school districts, ESCs, all open-enrollment charter schools, and nonprofit organizations that meet the $750,000 threshold. Note: The threshold was increased from $500,000 to $750,000 for fiscal years beginning July 1, 2015 (or September 1, 2015, whichever is applicable).

The Single Audit must be completed in accordance with 2 CFR Part 200, Subpart F and the Audit Compliance Supplement (see link below), normally updated around March of each year. The Compliance Supplement outlines specific requirements and corresponding audit procedures for each major federal program.

For federal programs not covered in the Compliance Supplement, the auditor is directed to use the types of compliance requirements contained in the Supplement as guidance for identifying compliance requirements to test, and to determine the requirements governing the federal program by reviewing the provisions of grant agreements and the laws and regulations applicable to those federal programs. The McKinney-Vento Homeless Education program is not included in the Compliance Supplement. Therefore, auditors will rely on the authorizing program statute and the types of compliance requirements contained in the Supplement to audit the McKinney-Vento program.

The cost to conduct the Single Audit can be prorated among the federal programs being audited in proportion to the total award amount of each program.

What Happens During a Single Audit?

During a Single Audit, the auditor examines

- the entity’s financial statements and schedule of expenditures of federal awards
- compliance with laws, regulations, and the provisions of contract or grant agreements that have a direct and material effect on each of the entity’s federal programs
- the effectiveness of internal control over federal programs in preventing or detecting noncompliance
Auditors are required to classify and select federal programs for audit using a risk-based approach. Where a grantee receives only one federal program, the auditor may conduct a program-specific audit rather than a Single Audit.

Auditors use the suggested audit procedures in the Audit Compliance Supplement to test general compliance requirements for each federal program selected for audit during the Single Audit or program-specific audit process. Program and fiscal managers should be aware of the requirements and what the auditor may look for so they can be properly prepared. Auditors may potentially interview program managers and fiscal managers to solicit evidence of compliance with certain requirements.

A description of the compliance requirements and what the auditor may look for in relation to each requirement is included in the Appendices, Audit Compliance Supplement, Compliance Requirements Reviewed During an Audit.

As the auditor is reviewing these requirements, he or she identifies any significant deficiencies in internal control and any noncompliance with laws, regulations, or grant agreements. The auditor also identifies any known questioned costs which are greater than $25,000. Auditors must present the findings in a written report in sufficient detail for the auditee to prepare a corrective action plan and take corrective action, and for the awarding agency or pass-through entity to arrive at a management decision.

The auditor assembles the report in accordance with 2 CFR Part 200, Subpart F and submits the audit package to the local board of directors for approval. A copy of the full audit report, including the required annual audit, and the Single Audit or program-specific audit, is submitted to TEA in accordance with the requirements in TEC § 44.008. The auditor must also complete a data collection form that includes certain prescribed information about the auditee and the results of the audit. The auditee must submit the data collection form and a copy of the complete audit package to the Federal Audit Clearinghouse operated on behalf of OMB.

TEA audit staff review the audit report and issue a management decision within six months of receiving the package. The management decision (written letter) must inform the auditee whether or not the finding by the auditor is sustained, the reasons for the decision, and the expected action to repay disallowed costs, make financial adjustments, or take other corrective action. The auditee is responsible for follow-up and must prepare a corrective action plan for all audit findings, along with the anticipated completion date for each action.
State agencies such as TEA are required to follow up with their grantees to ensure the grantee resolved the corrective actions. The audit in the subsequent year will include a follow up to ensure the grantee implemented the corrective actions.

TEA also uses the results of the report as a monitoring tool and may use the results to identify a grantee as high-risk and impose special conditions on federal awards.

**Audits and Special Investigations Conducted by the Awarding Agency or By Another Regulatory Agency**

A review of the annual independent audit report and/or the Single Audit report may prompt TEA as an awarding agency to schedule a subsequent desk audit or on-site audit or investigation. Additionally, TEA may schedule an audit or investigation on the basis of legitimate complaints received by TEA about the grantee organization’s use of federal funds.

Federal regulations require that grantees and subgrantees also cooperate with the Secretary of Education and the Comptroller General of the United States or any of their duly authorized representatives in the conduct of audits authorized by federal law. This cooperation includes access without unreasonable restrictions to records and personnel of the grantee or subgrantee for the purpose of obtaining relevant information.

The Comptroller General of the United States is the Director of the U.S. Government Accountability Office (GAO). GAO is an independent, nonpartisan agency that works with Congress. GAO ensures fiscal and managerial responsibility of the federal government by investigating how the federal government spends taxpayer dollars.

In addition, the Office of Inspector General (OIG) at the USDE may conduct an audit, investigation, or other activities to promote the efficiency, effectiveness, and integrity of the Department’s programs and operations. Anyone knowing of fraud, waste, or abuse of federal education funds is able to contact the OIG Hotline to make a confidential report.

TEA also has a procedure for reporting fraud, waste, or abuse of state and federal resources. In addition, TEA has a procedure for filing a complaint with regard to federal programs when it cannot be resolved at the local level following district policies and procedures.

- TEC, §§ 44.008 and 44.010
- 19 TAC, § 109.23
- FASRG, Module 4 - Auditing
Maintenance of Grant Records, Records Retention, and Access to Records

In general, records document the use of grant funds, compliance with program and fiscal requirements, and the performance of the grant. Official grant records are government records; they are not personal property (Local Government Code, § 201.005). For taxpayers, federal government records are the backbone of transparency and accountability. Premature or accidental disposal of government records must be avoided at all costs. Purposeful improper disposal of government records is illegal and can result in a fine or imprisonment (Texas Penal Code, § 37.10).

Therefore, it is critical that grantees have good policies, procedures, and best practices in place for retaining and disposing of records and documents to ensure records are easily retrievable in an orderly manner and are not improperly destroyed, mis-located, or removed prior to the end of the retention period. Federal regulations require that grant records be detailed, complete, accurate, and easily accessible by the appropriate grant staff and by state and federal oversight agencies. Failure to maintain satisfactory fiscal and programmatic records could result in the maximum penalty – the repayment of grant funds.

Local governments in Texas, including all school districts, open-enrollment charter schools, and ESCs, are required to implement a Records Management Policy, designate a Records Management Officer to oversee the policy, and comply with a Records Retention Schedule. The Texas State Library and Archives Commission (TSLAC) administers the records management requirements pursuant to the Local Government Records Act, Local Government Code, Chapters 201-205, and Chapter 441, Subchapter J, published as Local Government Bulletin D on TSLAC’s website.

Policies and procedures should be consistently enforced. Individuals in the organization who handle grant records should be trained in records management, retention, and disposition.

Organizations should engage in emergency planning and develop written procedures for securing essential records during unexpected disasters or hazards. This process begins by identifying what records are essential to the function of the organization. Losing records in a fire or a flood does not relieve the organization of being required to have the records available for audit or for preparing accurate expenditure reports. Paper records should be immediately filed and retained in fire-proof cabinets. Electronic
records should be backed up daily off-site. The absence of federal grant records will likely result in the repayment of grant funds.

The official fiscal and accounting records should be retained in the Accounting Office or Business Office. Program records should be retained by the program manager or administrator. Because official records are the property of the organization and not of an individual, they should be maintained in a location where appropriate staff can easily locate them and access them in the event the primary keeper of those particular records is unavailable.

**Maintenance of Grant Records**

A *record* is any recorded information that documents school business; it serves as evidence that an activity, event, decision, or transaction occurred. A record must be retrievable at a later date (i.e., 5 years after the ending date of the grant or after submittal of the final expenditure report, whichever is later.)

Federal law and regulations require that each grantee keep records that will facilitate an effective financial or programmatic audit. In general, grantees must keep records related to the use of grant funds, compliance, and performance. This includes all financial and programmatic records, supporting documents, statistical records, and other records.

Records can be paper or electronic and include but are not limited to

- supporting documentation for each expenditure, including a purchase requisition/order, receipt, invoice, travel voucher, contract, check, etc., as applicable to the transaction (Refer to *Part II, Expending Grant Funds, Documentation of Expenditures*, for additional information on documenting allowable expenditures.)
- a financial management system that meets federal standards (see *Part II, Grant Financial Management and Accounting*)
- policies and procedures for internal control to prevent the misuse of funds
- documentation that provides evidence that the grantee has complied with program requirements
- documentation that provides evidence that the grantee has carried out appropriate activities with grant funds

Proper maintenance of records will help ensure that no one has tampered with the records or has the opportunity to tamper with records. It is a criminal offense if a person knowingly makes a false entry in, or false alteration of, a governmental record, or intentionally destroys, conceals, removes, or otherwise impairs the verity, legibility, or availability of governmental records (*Texas Penal Code, § 37.10*). In
addition, a person can be debarred or suspended for falsification or improper destruction of records.

**Records Pertaining to the Use of Grant Funds**

Federal regulations require that financial and accounting records be sufficiently detailed to fully disclose

- the amount of grant funds awarded, budgeted, obligated, and expended, as documented in the general ledger
- how the grantee uses the funds, including for personnel paid under the grant, as documented in the general ledger, payroll ledger, supporting documentation, time-and-effort records, and expenditure reports; the grantee must identify the source of funds in all documents (i.e., the fund code)
- the total cost of the grant project
- the share of that cost provided from other sources, if any (if cost share or matching is required, such costs must be documented in the same manner as grant funds (see the section in this Part II, Expending Grant Funds, Matching/Cost-Sharing)
- other such records as will facilitate an effective financial audit and demonstrate compliance with the requirements of the grant

**Records that Demonstrate Compliance**

Grantees must maintain records that demonstrate compliance with program and fiscal requirements. This includes but is not limited to documents that demonstrate compliance with

- supplement, not supplant
- maintenance of effort
- private nonprofit school participation, including timely and meaningful consultation with private school officials before decisions are made; equitable services; equal expenditures; and public control of funds (private nonprofit school participation is not applicable to the McKinney-Vento Homeless Education program, but it is applicable to Title I, Part A and most NCLB programs)
- parent involvement activities, where such is required in the grant
- campus and student eligibility, including how the campuses and students were identified as eligible for services; also includes list of eligible campuses and students
- program services, including the type of services, frequency, and duration; also includes materials used (if any required materials must be used) and qualifications of staff (if staff providing services are required to meet certain qualifications); also usually includes the list of participants
• **professional development and training** activities, where such is required in the grant; includes the type of professional development/training, frequency, and duration; also includes the list of participants

• **program reporting requirements**, including completed progress reports, end of year or final evaluation reports, and data collection reports

• **use of funds for allowable activities**, including a description of the activities conducted with grant funds

• **the approved grant application**

• **other program-specific statutory or awarding agency requirements**

**Records that Document Program Performance**

Records related to grant performance should include *records of significant project experiences and results*. Federal regulations require grantees to use the performance records to determine progress in accomplishing project objectives and revise the objectives if necessary.

Program records should include anything that documents the *completion* of program activities, particularly the program activities described in the grant application and any required in the program statute. Program performance records might include but are not limited to the following:

• **parent involvement activities** – samples of sign-in sheets; one copy of each hand-out, newsletter, brochure, flyer, letter, materials, etc. Refer to the *Parent Involvement* section in Part I of this handbook and the subsection entitled *Documentation of Parent Involvement Activities*, for more specific information related to documenting parent involvement activities.

• **professional development** – samples of sign-in sheets; one copy of each agenda and key materials used or provided in the training

• **regular meetings** – copy of each agenda; sample copies of sign-in sheets; copy of any key materials provided in the meeting

• **formal communication** – copy of newsletter, letter, email, public notice, webpage, documented phone calls, etc. (Note: *informal* communication that does not document the actual conduct of program activities is usually not required to be maintained; check your local policy for documentation required to be maintained)

• **program services** – list of names of students served; copy of schedule of program services (i.e., time, date, place, type of services provided); sample copy of lesson plans; one sample copy of some of the key materials used

• **other records** as will facilitate an effective programmatic audit
The following items are generally NOT considered official grant records:

- **drafts** used in creating official records
- **blank forms, routing sheets, transmittal sheets**
- **identical duplicates** of the original record
- **materials used for reference purposes**, such as resource books, library collections, and similar materials
- **stocks of publications** produced with grant funds for distribution, but one copy must be kept as an official record

**Electronic Records**

It is becoming more common to store records electronically to conserve storage space. Storing records electronically is acceptable and is encouraged. The provisions in 2 CFR § 200.355 state that grantees *should*, whenever practical, collect, transmit, and store federal grant information in open and machine readable formats rather than in closed formats or on paper. However, in accordance with the provisions, TEA or other awarding agency must always provide or accept paper versions of grant-related information to and from the grantee upon request.

When original records are *electronic* and cannot be altered, there is no need to create and retain paper copies. When original records are *paper*, electronic versions may be substituted through the use of duplication or other forms of electronic media provided that they are subject to periodic quality control reviews, provide reasonable safeguards against alteration, and remain readable.

It is permissible to scan hard copies and then store them electronically. School districts, ESCs, and open-enrollment charter schools in Texas must comply with *Electronic Records Standards and Procedures* ([Local Government Bulletin B on TSLAC's website](https://www.tslac.state.tx.us)) when scanning records. Your local *Records Management Officer* should be aware of these procedures. Critical to the procedure is ensuring that the original document has not been altered in any way prior to scanning and that the scanned document is entirely legible. It is permissible to have *additional* hand-written notes on an original record, but the hand-written notes cannot obscure or alter the contents of the original document in any way.

The retention period is the same whether the record is paper or electronic.
**Records Retention Period**

The federal regulations state that the retention period for records related to federal grants is 3 years from the date of submission of the final expenditure report. However, the statute of limitations for education grants is 5 years (34 CFR § 81.31[c]). Consequently, recipients of federal education grants are required to retain records for a minimum of 5 years from the date on which the final expenditure report is submitted, or 5 years from the ending date of the grant, whichever is later.

**Exception:** If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the 5-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 5-year period, whichever is later.

School districts, ESCs, and open-enrollment charter schools in Texas are also required to comply with a Records Retention Schedule.

Records should be properly disposed of at the end of the retention period. This makes space for other records, especially when space is limited.

**Access to Records**

The Secretary of Education and the Comptroller General of the United States (the Director of the Government Accountability Office), or any of their duly authorized representatives, shall have access to any records for the purpose of audit or examination or to determine compliance with any requirements of the program. This includes pertinent books, documents, papers, or other records which are pertinent to the grant. The right to access by authorized officials also includes timely and reasonable access to a grantee’s personnel for the purpose of interview and discussion related to grant documents.

In addition, federal regulation requires that subrecipients permit the awarding agency (TEA, in this case, and Region 10 ESC for McKinney-Vento subgrants) and auditors to have access to records and financial statements.

If the grantee retains records beyond the 5-year required retention period, the rights of access are available as long as the records are retained. This is another reason to dispose of records properly at the end of the 5-year retention period.

**Disposition of Records**

Records are *created* by the grantee to support a grant activity and they are *retained* as evidence of that activity. Because records establish compliance with the use of funds and with program and fiscal requirements, failure to retain the proper records or disposing of them prematurely can result in monumental problems for the
grantee, including the repayment of all funds associated with the activity, event, decision, or transaction for which the records are missing. In addition, destroying or disposing of a record improperly or prematurely constitutes a Class A Misdemeanor under Texas state law.

Local governments in Texas, including all school districts, open-enrollment charter schools, and ESCs, are required to implement a Records Management Policy, designate a Records Management Officer to oversee the policy, and comply with a Records Retention Schedule. The Texas State Library and Archives Commission (TSLAC) administers the records management requirements pursuant to the Local Government Records Act, Local Government Code, Chapters 201-205, and Chapter 441, Subchapter J, published as Local Government Bulletin D on TSLAC’s website.

All grant records, including program records and fiscal records, must be retained for 5 years after the ending date of the grant, or 5 years after submitting the final expenditure report, whichever is later. Your organization's Records Management Policy should include policy and procedures for disposing of records. Records can only be destroyed in accordance with the Records Retention Schedule adopted by your organization. Records that are not on the Records Retention Schedule may require written permission from the TSLAC prior to disposing. Procedures should include maintaining a “records disposition log” that identifies the disposition date and method of disposal of each record.

You cannot destroy any record that is involved in an ongoing

- Litigation
- Claim
- Negotiation
- Public information request (PIR)
- Audit or investigation
- Administrative review or hearing

In disposing records in accordance with the Records Retention Schedule, according to Local Government Code, §202.003, confidential records must be burned, shredded, or pulped. Open records can be burned, shredded, pulped, recycled, or buried in a landfill. If a contractor is hired to destroy records, the contractor must comply with all of the state and local government laws pertaining to the destruction of records as if it were the local government.

Reminder: Always check with your organization’s Records Management Officer prior to disposing of any records to ensure you are in compliance with your policy, procedures, retention schedule, and disposition requirements

Title 20 USC, Chapter 31 – General Provisions Concerning Education, § 1232f  
34 CFR §§ 75.730 - .732 and 76.730 - .731  
2 CFR §§ 200.333 - .337
Identification of High-Risk Grantees and Special Conditions for High-Risk Grantees

Some grantee organizations may at times indicate through various means that they may not have the capacity to properly manage a federal grant or may be unwilling to develop and implement procedures to properly manage a federal grant. Federal regulations provide an avenue for identifying a grantee organization as high risk and for imposing special conditions on the high-risk grantee.

Risk Assessment

The federal regulations (2 CFR § 200.331[b]) require that TEA as a pass-through agency evaluate each subrecipient’s risk of noncompliance with federal statutes, regulations, and the terms and conditions of the award for purposes of determining the appropriate subrecipient monitoring. The risk assessment may include but is not limited to:

- the grantee’s prior experience with the same or similar awards
- the results of previous audits including whether or not the grantee receives a Single Audit in accordance with Subpart F of 2 CFR Part 200, and the extent to which the same or similar award has been audited as a major program
- whether the grantee has new personnel or new or substantially changed systems
- the extent and results of USDE monitoring if the grantee also receives federal awards directly from the USDE

The specific criteria used by TEA to annually assess the risk level of grantees are available on TEA’s risk assessment webpage. TEA assigns grantees a risk level of high, medium, or low. The risk level may change every year.

If another agency such as an ESC administers a federal program on behalf of TEA, then the administering agency is responsible for evaluating risk of the grantee.

Special Conditions That May Be Imposed

Based on the evaluation of risk, TEA or other awarding agency is further required under the regulations (2 CFR § 200.207[a]) to consider imposing one or more of the following special conditions if appropriate:
• payment on a reimbursement basis only (i.e., TEA’s “soft hold” process; grantees are not permitted to draw down their own funds in ER; they must submit the general ledger and payroll ledger to TEA before payment requests will be approved)

• withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance

• requiring additional, more detailed financial reports

• requiring the grantee to obtain technical or management assistance

• establishing additional prior approvals

If TEA or other awarding agency decides to impose one or more special conditions or additional requirements, the agency must notify the grantee in writing of

• the nature of the additional requirements

• the reasons for imposing them

• the nature of the actions needed to remove the additional requirements, if applicable

• the time allowed for completing the actions, if applicable, and

• the method for requesting reconsideration of the additional requirements imposed

Any such conditions or additional requirements imposed on the grantee are in addition to the regular provisions included in the terms and conditions of the grant award. TEA or other awarding agency must promptly remove any special conditions or additional requirements once the conditions that prompted them have been removed. Failure to comply with the special conditions or additional requirements could result in the imposition of further special conditions or enforcement actions and/or the identification as a high-risk grantee. See the subsequent subsections on Identification as a High-Risk Grantee and Remedies for Noncompliance.

Identification as a High-Risk Grantee

In accordance with the provisions in 2 CFR § 3474.10, TEA as a state educational agency has the authority to identify a subrecipient as high risk

• based on the results of the risk assessment

• if the grantee has a history of failure to comply with the general or specific terms and conditions of a federal award

• if the grantee fails to meet expected performance goals

• if the grantee is not otherwise responsible
TEA may impose one or more special conditions that correspond to the high risk condition.  

\[ 19 \text{TAC Chapter 109, Subchapter AA, Texas Financial Accountability Rating System} \]

**Remedies for Noncompliance and Opportunity for a Hearing**

Occasionally a grantee does not have the capability to properly manage a federal grant or is unwilling to comply with the terms and conditions of an award. The regulations contain provisions that permit an awarding agency to terminate a grant if the grantee materially fails to comply with the terms and conditions of an award. The regulations also permit an awarding agency to implement other enforcement actions to obtain voluntary or involuntary compliance from the grantee.

**Remedies for Noncompliance**

If a grantee fails to comply with federal statutes, regulations, or the terms and conditions of the award, TEA or other awarding agency may impose one or more of the conditions described in *Special Conditions That May Be Imposed*. In addition, TEA or other awarding agency may take one or more of the following actions, as appropriate in the circumstances:

- temporarily withhold cash payments pending correction of the deficiency by the grantee or more severe enforcement action by the awarding agency
- disallow (that is, deny) all or part of the cost of the activity or action not in compliance
- initiate suspension or debarment proceedings as authorized under 2 CFR Part 180 and USDE regulations (or in TEA’s case, recommend such a proceeding be initiated by the USDE)
- withhold further awards for the program or project
- take other remedies that may be legally available (2 CFR § 200.338)

Additionally, the federal grant may be terminated in whole or in part in accordance with the procedures specified in the regulations (2 CFR § 200.339) if the grantee fails to comply with the terms and conditions of the grant.

When the TEA Division of Financial Compliance conducts an audit or investigation and identifies questioned costs for a federal program, the TEA Office of Grants and Fiscal Compliance sends an enforcement letter to the grantee. The letter identifies the material noncompliance, the enforcement actions taken by TEA, and the specific corrective actions the grantee must take to correct the noncompliance. In many cases, the enforcement action taken by TEA is to refund the questioned (i.e., disallowed) costs.
Opportunity to Object, Hearings and Appeals

If an awarding agency such as TEA takes one or more remedies for noncompliance, TEA or the awarding agency must provide the grantee with an opportunity to object and provide information and documentation challenging the suspension or termination action in accordance with written processes and procedures published by the awarding agency. TEA or other awarding agency must comply with any requirements for a hearing, appeal, or other administrative proceeding to which the grantee is entitled under any statute or regulation applicable to the action involved. The opportunity for hearing or appeal is usually provided in the letter imposing the remedies for noncompliance.

The grantee may request a hearing in accordance with the provisions established in Section 157.083 of Title 19 of the Texas Administrative Code (TAC), which are based on the federal regulations provided in 34 CFR § 76.401(d). The hearing must be requested within 30 calendar days of the date of the letter and must be requested in accordance with the Chapter 157 rules. In the request for hearing, the grantee must specify the action or proposed action that is the subject of the requested hearing, the statutory or regulatory authority identifying and supporting a finding that a violation occurred by TEA in enforcing the decision, and specific facts supporting a finding that the action taken by TEA is in error.

The hearing must be held within 30 days after TEA or the awarding agency receives the request for hearing from a grantee. The awarding agency is required to issue its written ruling within 10 days after the hearing, including the findings of fact and the reasons for the ruling.

Most requests for hearing submitted to TEA are forwarded to the State Office of Administrative Hearings (SOAH) for scheduling and administration of the hearing. The mission of SOAH is to conduct fair, prompt, and efficient hearings and alternative dispute resolution proceedings and to provide fair, logical, and timely decisions.

2 CFR § 200.341

Grant Close-Out

Pursuant to federal regulations, the awarding agency will close out the grant when it determines that all applicable administrative actions and all required work of the grant have been completed.

As part of the close-out process, grantees must submit all of the required financial and programmatic reports or other reports required as a condition of the grant according to the timeline specified by the awarding agency.
Part of the close-out process involves the grantee liquidating (i.e., paying out) all obligations prior to submitting the final expenditure report. The final expenditure report can only include actual expenditures. It cannot include encumbrances or obligations. In order to complete the final expenditure report, all invoices must have been received and all expenditures must be recorded in the accounting system. If any encumbered goods and services were not received during the grant period, those encumbrances must be removed from the accounting ledger, and they cannot be charged to the grant.

TEA (or Region 10 ESC for the McKinney-Vento subgrants) or other awarding agency will process the final expenditure report and make the final payment to the grantee or request a refund from the grantee if the expenditure report indicates the grantee has excess cash on hand. If the grantee has excess cash on hand, that must be immediately refunded to the awarding agency (no later than 15 days after the final expenditure report is submitted).

While reviewing the final expenditure report, based on review of the general ledger, payroll ledger, and any supporting documentation requested by the awarding agency, the awarding agency may adjust allowable costs and disallow certain costs that are not allowable under the grant program. Any disallowed costs would need to be paid by the grantee from another allowable funding source.

The close-out of a grant does not affect the awarding agency’s right to disallow costs and recover funds on the basis of a later audit or other review. Close-out also does not affect

- the grantee’s obligation to return any funds due as a result of later refunds, corrections, or other transactions
- records retention (see the section in Part II on Maintenance of Grant Records, Records Retention, and Access to Records)
- property management requirements (see the section in Part II on Equipment – Property Management)
- audit requirements (see the section in Part II on Audits)

Once the final expenditure report has been processed and all audits have been conducted, the final amount for which the grantee is entitled is determined. If the amount paid to the grantee is in excess of the amount finally determined, any funds paid to a grantee in excess of the amount to which the grantee is due constitutes a debt to the federal government and must be repaid within a reasonable period after demand for payment by the awarding agency. Usually this period is specified as within 30 days after notice is sent to the grantee.

If the grantee does not pay the debt by the date specified, the awarding agency may reduce the debt by

- making an administrative offset against other requests for reimbursement
- withholding further payments otherwise due to the grantee
- taking other action permitted by statute
In addition to taking any of these actions to reduce the debt, the awarding agency may identify the grantee as high-risk and impose special conditions or other enforcement actions (see the section in Part II on Identification of High-Risk Grantees and Special Conditions for High-Risk Grantees, and the section on Remedies for Noncompliance.)

2 CFR § 200.343; .344; and .345

Termination of the Grant

Termination means the ending of a federal grant, in whole or in part, at any time prior to the planned end of period of performance. A grant can be terminated by TEA or other awarding agency or voluntarily by the grantee.

Grantees should be aware that the awarding agency has the right to terminate a grant in whole or in part for cause, or with the consent of the grantee, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.

The grantee also has the right to voluntarily terminate the grant. If the grantee wishes to terminate the grant, the grantee must send written notification to the awarding agency. The written notification must set forth the reasons for the termination, the effective date, and, if only part of the grant will be terminated, the portion to be terminated.

The awarding agency may also terminate an existing grant or not issue a NOGA for a grant for other reasons, including but not limited to

- noncompliance with the terms and conditions of the award (see the section in Part II on Remedies for Noncompliance)
- funds are not appropriated by the U.S. Congress (federally funded grants) or by the state legislature (state-funded grants) as anticipated
- appropriated funds are reduced or are rescinded by Congress or by the state legislature, as applicable
- the application is voided upon determining that the award was obtained fraudulently, or was otherwise illegal or invalid from inception

TEA or other awarding agency must provide written notice of termination and provide an opportunity for the grantee to object and request a hearing or appeal in accordance with the established procedures (described in the preceding section entitled Opportunity to Object, Hearings and Appeals).

If terminated, the awarding agency will reimburse only those expenditures obligated prior to the effective date of the termination. All goods must be received and all services must be rendered by the effective date of termination. Any obligations or expenditures incurred after termination will not be reimbursed by the awarding agency.

2 CFR §§ 200.95; .339; and .340
General Information

This part of the compliance handbook provides background information and summarizes the legal requirements specified in the McKinney-Vento authorizing program statute. Included with the summary of each legal requirement is a description of the allowable uses of McKinney-Vento grant funds, where applicable.

This part is not intended to also identify a set of comprehensive strategies or best practices to carry out the intent of the statute, as those have already been identified in a myriad of other resources available. Use this part in conjunction with the resources available on THEO’s website and on NCHE’s website. Links to additional resources are provided in the Appendices, Program Resources.

Purpose of the McKinney-Vento Education for Homeless Children and Youth Program

Congress designed the McKinney-Vento Education for Homeless Children and Youth program to address the challenges that homeless children and youth face in enrolling, attending, and succeeding in school. The authorizing program statute requires that all SEAs ensure that each homeless child and youth has equal access to the same free, appropriate public education, including public preschool education, as other children and youth. The statute further states that homeless children and youth should have the same access to the education and other services they need to ensure they have an opportunity to meet the same challenging State student academic achievement standards to which all students are held.

In accordance with the statute, homeless students shall not be separated from the mainstream school environment simply due to their status as homeless. The statute also requires SEAs and districts to review and undertake steps to revise laws, regulations, practices, or policies that may act as barriers to the enrollment, attendance, or success in school of homeless children and youth.

- McKinney-Vento Homeless Assistance Act, as amended by the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, Title VII, Subtitle B, § 721
Definition of Homeless Children and Youth

The term “homeless children and youth” is defined by the authorizing program statute and means *individuals who lack a fixed, regular, and adequate nighttime residence*. The term includes

- children and youth who are
  - sharing the housing of other persons due to a loss of housing, economic hardship, or similar reason (sometimes referred to as *doubled-up*)
  - living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations
  - living in emergency or transitional shelters
  - abandoned in hospitals
  - awaiting foster care placement

- children and youth who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings

- children and youth who are living in
  - cars
  - parks
  - public spaces
  - abandoned buildings
  - substandard housing
  - bus or train stations
  - similar settings

- migratory children who qualify as homeless because they live in circumstances described above.

A "migratory child" means a child who is, or whose parent or spouse is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany their parent or spouse, in order to obtain, temporary or seasonal employment in agricultural or fishing work –

- has moved from one school district to another
- in a state that is comprised of a single school district, has moved from one administrative area to another within the district, or

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resides in a school district of more than 15,000 square miles, and
migrates a distance of 20 miles or more to a temporary residence to
engage in a fishing activity (ESEA, as amended by the No Child Left

The term “homeless children and youth” includes children who are awaiting foster
care placement, but does not include children who are already in foster care.

The term may include children and youth who are displaced from their housing due to
naturally occurring disasters, such as tornadoes, hurricanes, and fire. Eligibility for
McKinney-Vento services should be determined on a case-by-case basis. THEO personnel
can assist you in determining eligibility.

- McKinney-Vento Homeless Assistance Act, Title VII, Subtitle B, § 725(2)
- USDE Non-Regulatory Guidance on the Education for Homeless Children and Youth
  Program, July 2004, A-3, G-10

Program Laws Applicable to McKinney-Vento

Subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act is the primary
piece of federal legislation dealing with the education of children and youth experiencing
homelessness.

Other federal laws and documents, however, also contain important provisions regarding
the education of children and youth in homeless situations. A list of these laws and
documents is provided in the Appendices, Program Laws Applicable to McKinney-Vento,
for reference. Provided in the subsequent appendix, Excerpts from Related Laws, are
excerpts from some of those important laws.

Program managers and local liaisons, especially persons new to these positions, are
encouraged to review these laws and documents.

Texas State Plan

The authorizing program statute requires each state to submit to the U.S. Secretary of
Education a plan to provide for the education of homeless children and youth within the
state. In the plan, states must address several specific requirements pertaining to
identifying, enrolling, and serving homeless children and youth. The plan serves as the
“template” for how a state will carry out its McKinney-Vento Homeless Education
program.

The requirements that must be addressed in each state plan are provided in the
Appendices, Requirements for McKinney-Vento State Plans. Program managers and
homeless education liaisons are encouraged to review the requirements because they
provide the foundation for the implementation of the McKinney-Vento Homeless
Education program.
The *Texas State Plan for the Education for Homeless Children and Youths Program* addresses these requirements and was developed in collaboration between TEA, Region 10 ESC, and THEO. It outlines the implementation of the federal Education for Homeless Children and Youth Program in Texas.

During monitoring visits by the USDE, states must provide documentation that evidences compliance with the information provided in the plan.

*McKinney-Vento Homeless Assistance Act, Title VII, Subtitle B, § 722(g)*

**State Office of Coordinator for Education of Homeless Children and Youth**

Subtitle B of Title VII of the McKinney-Vento Homeless Assistance requires each state to establish or designate an *Office of Coordinator for Education of Homeless Children and Youth*. An individual designated by TEA serves as the state coordinator and collaborates with Region 10 ESC and THEO to ensure the following functions are carried out.

1. Gather reliable, valid, and comprehensive information on
   - the nature and extent of the problems homeless children and youth have in gaining access to public preschool programs and to public elementary schools and secondary schools
   - the difficulties in identifying the special needs of such children and youth
   - any progress made by the State educational agency (SEA) and LEAs in the State in addressing those problems and difficulties
   - the success of the programs under the McKinney-Vento Homeless Assistance Act in allowing homeless children and youth to enroll in, attend, and succeed in, school

2. Develop and carry out the State plan.

3. Collect and transmit to the U.S. Department of Education Secretary, at such time and in such manner as the Secretary may require, a report containing information as the Secretary determines is necessary to assess the educational needs of homeless children and youth within the State.

4. Facilitate coordination between the State educational agency, the State social services agency, and other agencies (including agencies providing mental health services) to provide services to homeless children, including preschool-aged homeless children, and youths, and to families of those children and youth.

5. In order to improve the provision of comprehensive education and related services to homeless children and youth and their families, coordinate and collaborate with
   - educators, including child development and preschool program personnel
   - providers of services to homeless and runaway children and youth and homeless families (including domestic violence agencies, shelter
operators, transitional housing facilities, runaway and homeless youth centers, and transitional living programs for homeless youth)

- LEA liaisons for homeless children and youth
- Community organizations and groups representing homeless children and youth and their families

6. Provide technical assistance to LEAs in coordination with LEA liaisons for homeless children and youth to ensure that LEAs comply with the prohibition on segregating homeless students and with other requirements in the Act.

Texas Homeless Education Office

Region 10 ESC subcontracts with the Charles A. Dana Center at the University of Texas at Austin to operate THEO, the Texas Homeless Education Office. THEO works closely with TEA and Region 10 ESC in carrying out the strategies identified in the state plan to ensure that all children in homeless situations are provided a full opportunity to enroll in, attend, and succeed in school.

THEO provides a wide range of coordinated technical assistance and professional development activities for schools, liaisons, and service providers that aid in identifying and serving homeless students, including

- Annual conferences
- Guidance documents for LEA liaisons
- Manuals
- A toll-free help line
- Posters and brochures in English and Spanish
- Toolkits
- DVD
- Training materials and presentation aids
- FAQs
- Enrollment aids
- Campus self-assessment guide
- A Checklist for Identifying Students Experiencing Homelessness

In addition, THEO and Region 10 ESC can assist LEAs with activities such as

- Understanding the requirements of the McKinney-Vento Act
- Establishing procedures to address problems related to enrollment and school selection
- Resolving transportation disputes
• determining LEA needs and developing a plan for services
• creating school district and community awareness of the needs of eligible students
• identifying federal, state, and local resources
• identifying homeless children and youth
• collecting data
• enhancing parental involvement activities
• identifying strategies for improving academic achievement

As you peruse this compliance handbook, contemplate on the types of assistance your LEA might require. Be sure to contact THEO or Region 10 ESC for questions and assistance regarding the identification, placement, enrollment, education, and evaluation of homeless children and youth. Contact information is provided in the Appendices.

- McKinney-Vento Homeless Assistance Act, Title VII, Subtitle B, § 722(d)(3) and 722(f)
- USDE Non-Regulatory Guidance on the Education for Homeless Children and Youth Program, July 2004, D-7
Statutory Program Requirements and Uses of Funds

The McKinney-Vento Education for Homeless Children and Youth statute outlines several specific requirements with which every LEA, including those receiving McKinney-Vento grant funds, must comply. This part of the handbook describes each of those statutory requirements and provides suggestions in some cases that will aid the LEA in achieving and in demonstrating compliance. A key focus is on the allowable uses of McKinney-Vento funds for each of these requirements, where applicable. Your organization must demonstrate and document compliance with each of these requirements and the appropriate uses of funds in order to receive McKinney-Vento funds.

Numerous other resources, including Fact Sheets by topic as well as toolkits, are available on THEO’s website and on NCHE’s website that can assist the LEA in implementing strategies and best practices to carry out these requirements and in achieving compliance. In addition, NCHE’s website has other invaluable resources which will assist the LEA in complying with the McKinney-Vento statutory requirements, including the Homeless Liaison Toolkit, Revised September 2013.

Authorized Activities

McKinney-Vento Homeless Education grant funds must be used to expand or improve services provided as part of the school’s regular academic program (i.e., a type of supplement, not supplant). Funds must not be used to replace the regular academic program. (See the section on Supplement, Not Supplant in Part II for more specific information.)

In general, LEAs receiving McKinney-Vento Homeless Education grant funds may use funds to carry out the provisions of the statute, including

1. **Tutoring, supplemental instruction, and enriched educational services** for homeless children and youth that are linked to the achievement of the same challenging State academic content standards and student academic achievement standards the State establishes for other children and youth.

   When offering supplemental instruction to homeless children and youth, LEAs should focus on providing services for children that reflect scientifically-based research as the foundation for programs and strategies to ensure academic success.

2. **Expedited evaluations** of the strengths and needs of homeless children and youth, including needs and eligibility for programs and services (such as educational programs for gifted and talented students, children with disabilities, and students with limited English proficiency, services provided under Title I Part A or similar State or local programs [e.g., state compensatory education], programs in vocational and technical education,
When a homeless child enrolls, evaluations should be done promptly in order to avoid a gap in the provision of necessary services to homeless children and youth.

3. **Professional development** and other activities for educators and pupil services personnel that are designed to heighten their understanding and sensitivity to the needs of homeless children and youth, the rights of such children and youth under McKinney-Vento Homeless Assistance Act, and the specific educational needs of runaway and homeless youth.

4. **Referral services** to homeless children and youth for medical, dental, mental, and other health services.

5. Defraying the **excess cost of transportation** for homeless students, not otherwise provided through Federal, State, or local funding, where necessary to enable students to attend the school selected.

6. Developmentally appropriate **early childhood education programs** that are not provided through Federal, State, or local funding, for preschool-age homeless children.

7. **Services and assistance to attract, engage, and retain homeless children and youth, and unaccompanied youth**, in public school programs and in the same services provided to non-homeless children and youth.

8. **Before- and after-school programs, mentoring programs, and summer programs** for homeless children and youth in which a teacher or other qualified individual provides tutoring, homework assistance, and supervision of educational activities.

9. Fees and other **costs associated with tracking, obtaining, and transferring records** necessary to enroll homeless children and youth in school, including:
   - birth certificates
   - immunization or medical records
   - academic records
   - guardianship records
   - evaluations for special programs or services

10. **Education and training for the parents of homeless children and youth** about the rights of and resources available to their children.

11. **Coordination with local social services agencies, local housing agencies, and other agencies** providing services to homeless children and
12. **Pupil services (including violence prevention counseling)** for homeless children and youth and referrals for these services

13. Activities to **address the particular needs** of homeless children and youth that may arise from domestic violence

14. The **adaptation of space and purchase of supplies for any nonschool facilities** made available to provide services to homeless children and youth

**For example:**

LEAs may use McKinney-Vento funds to make *minor* adaptations to existing non-school facilities such as shelters or transitional or temporary housing facilities to enable LEA personnel to provide additional/supplemental educational or support services in those facilities after school or on the weekends.

The LEA may use McKinney-Vento funds to provide a quiet area or room in a shelter where homeless students can read, study, or receive supplemental support, including the installation of study carrels, tables, desks, chairs, computers, study supplies, etc.

“Minor adaptations” does **NOT** include major renovation, remodeling, repairs, or construction of the facilities. These costs are considered *construction* costs and are not authorized by McKinney-Vento.

15. **School supplies for homeless children and youth**, including school supplies to be distributed at shelters or temporary housing facilities, or other appropriate locations

16. The costs of **other extraordinary or emergency assistance** needed to enable homeless children and youth to attend school

- McKinney-Vento Homeless Assistance Act, Title VII, Subtitle B, § 723(d)
- USDE Non-Regulatory Guidance on the Education for Homeless Children and Youth Program, July 2004, L-1

To aid you in determining the specific costs that might be allowable as your LEA carries out each of these authorized activities, a description of the types of costs that may be allowable is provided at the end of each statutory requirement in a special section entitled **$§§ Allowable Uses of McKinney-Vento Funds**.

Remember, in all cases, for costs to be allowable under the federal cost principles, they must be
allowable under the federal cost principles
budgeted in the approved grant application
reasonable in cost (comparable to current fair market value)
necessary to carry out the objectives of the McKinney-Vento program
allocable to the grant (i.e., distributed/chargeable based on the extent to which the cost benefitted the grant)
adequately documented

Two additional provisions that may impact the allowable use of McKinney-Vento funds are (a) consolidating McKinney-Vento funds on Title I schoolwide programs and (b) Ed-Flex waivers. Both of these provisions are available for certain programs. It is important that McKinney-Vento grantees understand the impact of these requirements and when it is appropriate to take advantage of them and when it is not allowable.

(a) Consolidating McKinney-Vento Funds on Title I Schoolwide Programs

Consolidating McKinney-Vento funds on a Title I schoolwide program may impact how personnel expenses are documented (i.e., time-and-effort reporting) as described in the §§§ Allowable Uses of McKinney-Vento Funds sections in this part of the handbook. Therefore, if your LEA has consolidated McKinney-Vento funds on one or more Title I schoolwide programs, you will want to consult Part II – Fiscal Requirements, Flexibility in the Use of Funds, Consolidating Funds on a Title I Schoolwide Program, Consolidating McKinney-Vento Funds on a Schoolwide Program, as well as the subsequent subsection on Impact on Time-and-Effort Requirements When Consolidating McKinney-Vento Funds on a Schoolwide Program, for specific information related to time-and-effort reporting.

(b) Ed-Flex Waivers

McKinney-Vento is NOT an Ed-Flex program. Therefore, Ed-Flex waivers are NOT available for McKinney-Vento. There is no statewide administrative waiver that relieves McKinney-Vento employees who work 100% of their time on McKinney-Vento from having to complete a certification every 6 months (or similar document) that they worked solely on McKinney-Vento. Because it is not an Ed-Flex program, all employees who work 100% of their time on McKinney-Vento should complete the certification or a similar document every 6 months (or similar time frame).

Be sure to consult Part II – Fiscal Requirements, Expending Grant Funds, Payroll Costs and Documentation for Grant-Funded Personnel, and Flexibility in the Use of Funds, Ed-Flex and The Impact on McKinney-Vento, for more information on documenting personnel expenses, including time-and-effort reporting, and Ed-Flex, respectively.
Local Homeless Education Liaison Duties

The authorizing program statute requires each LEA to designate an appropriate staff person to serve as the **local homeless education liaison**. The designation of a local homeless education liaison is required whether or not the LEA is receiving McKinney-Vento Homeless Education grant funds. The Act does not prohibit the liaison from being a coordinator for other federal programs.

The local liaison serves as one of the primary contacts between homeless families and school staff, district personnel, shelter workers, and other service providers. LEAs are required to inform school personnel, service providers, and advocates working with homeless families of the duties of the local homeless education liaison.

The local homeless education liaison is required to perform the following duties **at a minimum**:

- Ensure that homeless children and youth are identified by school personnel and through coordination activities with other entities and agencies.
- Ensure that homeless children and youth enroll in and have a full and equal opportunity to succeed in school.
- Ensure that homeless families, children, and youth receive educational services for which they are eligible, including Head Start and Even Start and preschool programs administered by the LEA.
- Ensure homeless families, children, and youth are referred to health care services, dental services, mental health services, housing agencies, and other appropriate services.
- Ensure the parents or guardians of homeless children and youth are informed of the educational and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children.
- Ensure that public notice of the educational rights of homeless children and youth is disseminated in schools, family shelters, community centers, kitchens feeding the homeless, free health clinics, local welfare agencies, domestic violence agencies, transitional housing facilities, runaway and homeless youth centers, and transitional living programs for homeless youth.
- Ensure that enrollment disputes are mediated timely and in accordance with the requirements provided in the section entitled **Enrollment Disputes**.
- Ensure that the parent or guardian of a homeless child or youth, and any unaccompanied youth, is fully informed of all transportation services, including transportation to the school of origin, and is assisted in accessing transportation to the school that is selected by the parent, guardian, or unaccompanied youth.
Collaborate and coordinate with the state office (THEO) and with local community and school personnel responsible for the provision of education and related services to homeless children and youth.

In carrying out these responsibilities, local liaisons must assist homeless children and youth with activities such as the following:

- enrolling in school and accessing school services
- obtaining immunizations or medical records
- informing parents, school personnel, and others of the rights of homeless children and youth
- working with school staff to make sure that homeless children and youth are immediately enrolled in school while awaiting resolution of disputes that might arise over school enrollment or placement
- helping to coordinate transportation services for homeless children and youth
- collaborating and coordinating with the state Office (THEO) and community and school personnel responsible for providing education and related support services to homeless children and youth

£ Allowable Uses of McKinney-Vento Funds

Grantees may use McKinney-Vento (MV) funds to support the local homeless education liaison.

Payroll Costs (i.e., Salary and Benefits): LEAs receiving McKinney-Vento grant funds may use funds to pay for the salary and benefits of the local homeless education liaison provided the position is budgeted in the approved grant application. The liaison must have a job description that describes the duties performed by the position and the funding source(s) used to pay the salary. Failure to maintain a current job description that accurately reflects the duties of the liaison could result in an audit finding and the repayment of McKinney-Vento funds.

Using Title I for Salary and Benefits of the Liaison: LEAs may use Title I, Part A to pay for the homeless education liaison’s salary and benefits in whole or in part (effective since the beginning of the 2014-2015 school year). The liaison is not required to perform any other Title I, Part A duties. Also since the beginning of the 2014-2015 school year, the liaison’s salary and benefits may be funded from the Title I, Part A set-aside for homeless students attending non-Title I schools. (USDE letter dated July 22, 2014, regarding a provision in the federal FY 2014 Consolidated Appropriations Act). However, using Title I set-aside funds to support a homeless education liaison’s salary does not
satisfy an LEA’s obligation to provide comparable Title I services to homeless children who attend non-Title I schools.

Please note that up through the end of the 2013-2014 school year, the liaison could be funded from Title I, Part A only if the liaison was also performing Title I duties other than just coordinating and arranging for Title I services to homeless students. Otherwise, there was a supplant issue for Title I, since the liaison is required under McKinney-Vento, not Title I. Prior to the 2014-2015 school year, if the liaison had no Title I duties other than just coordinating and arranging for services to homeless students, the LEA was required to pay the liaison’s salary from McKinney-Vento or from state or local funds.

Liaisons Working 100% of Their Time on McKinney-Homeless: If the liaison performs McKinney-Vento duties 100% of the time, in order to be charged to the McKinney-Vento grant, the liaison should complete documentation for charges to payroll such as a certification every 6 months that he/she worked solely on the McKinney-Vento program. The certification (or similar document) should be signed by the employee or by a supervisor who has first-hand knowledge of the work performed by the liaison and should be submitted to the district’s accounting office to retain for audit and monitoring purposes. Failure to maintain the 6-month certification (or similar document) could result in an audit finding and the repayment of McKinney-Vento funds. The liaison must also have a job description that states 100% of the duties are for McKinney-Vento, with the funding source identified as McKinney-Vento.

If the liaison’s salary is paid with a combination of McKinney-Vento and Title I, Part A, and the liaison spends 100% of his or her time on McKinney-Vento, this is a single cost objective funded from two allowable funding sources. But because McKinney-Vento is NOT an Ed-Flex program, the liaison should complete the 6-month certification or similar document.

Note about Ed-Flex: McKinney-Vento is NOT an Ed-Flex program; therefore, there are no Ed-Flex waivers available for McKinney-Vento. There is no statewide administrative waiver that relieves McKinney-Vento employees who work 100% of their time on McKinney-Vento from having to complete the certification (or similar document) every 6 months (or similar period) that they worked solely on McKinney-Vento. Employees who work 100% of their time on McKinney-Vento should complete the certification (or similar document) every 6 months (or similar period) if they want to charge their salaries to the McKinney-Vento grant.

If the liaison’s salary is paid 100% from Title I, Part A, because Title I, Part A, is an Ed-Flex program, no 6-month certification or similar document is necessary to document payroll expenses. The liaison must have a job description that states
100% of the duties are for McKinney-Vento, with the funding source identified as Title I, Part A.

**Liaisons Working Only Part of Their Time on McKinney-Homeless**: If the liaison also performs other duties not related to the required duties of the liaison, the LEA must “split-fund” the liaison among the funding sources for which the liaison works based on the number of hours he or she works in each program.

In order to be charged to the grant, the liaison should maintain documentation such as time-and-effort records (or similar documentation) that document the time spent on all activities for 100% of his or her time. Time-and-effort records (or similar documentation) should be maintained contemporaneously (i.e., as you work) and should be submitted to the Accounting Office at the end of each month or other payroll period. The Accounting Office must charge the grant each month (or other payroll period) based on the actual time-and-effort records (or similar documentation) and must retain the records for audit and monitoring purposes.

Refer to Part I, Fiscal Requirements, Expending Grant Funds, Payroll Costs and Documentation for Grant-Funded Personnel, for more detail on documenting charges to payroll. Failure to maintain proper time-and-effort or similar records and to charge the grant accordingly could result in an audit or monitoring finding and the repayment of McKinney-Vento funds.

Any other personnel charged to the McKinney-Vento grant must meet these same or similar requirements for either the 6-month certification or for time-and-effort records, as appropriate.

**Cell Phones (including smartphones)**: The entire cost of purchasing a cell phone (or smartphone) and the monthly cell phone plan fees for the local liaison are allowable as a direct cost to the grant, provided they are

- budgeted in the approved grant application
- necessary to carry out the responsibilities of the liaison
- reasonable in cost
- not used for personal use
- not already included in the indirect cost plan or in a direct cost allocation plan.

Confer with your Business Office to determine if cell phones and/or monthly plan fees are included in the indirect cost plan or in a direct cost allocation plan.

Per TEA’s Budgeting Costs and Guidance Handbook (updated June 2015; scroll down to “Allowable Cost and Budgeting Guidance”), stipends for cell phones are not allowable. In other words, it is not allowable for the grantee organization to pay for part of the cell phone and usage, and the employee to pay for part of the cell phone and usage, so that the employee can also use the phone for personal purposes.
Instead, contracts for cell phones must be in the name of the grantee organization (and loaned/issued to the employee) and not in the name of the employee. In addition, grantees must have a written policy in place to inform employees that organization-issued cell phones shall not be used for personal purposes.

The purchase of the cell phone itself can only be charged to the grant in the year in which the phone was purchased. The monthly cell phone plan fees can be charged to the grant for each month that is part of the grant period as the monthly fees are incurred.

Computers/Laptops: The cost of purchasing new equipment such as a computer or laptop for the local liaison is allowable as a direct cost to the grant according to the following:

Purchasing New Equipment in the Current Grant Period: The cost of purchasing and maintaining equipment such as a desktop computer or laptop and the necessary software for the liaison is allowable as a direct cost, provided it is

- budgeted in the approved grant application
- necessary to carry out the responsibilities of the liaison
- reasonable in cost
- used primarily for McKinney-Vento activities
- not already included in the indirect cost plan or in a direct cost allocation plan.

Confer with your Business Office to determine if technology hardware or software is included in the indirect cost plan or in a direct cost allocation plan.

The equipment purchase, plus any applicable shipping charges, can only be charged to the grant in the year in which the equipment was purchased. The cost must be prorated (i.e., split-funded) among applicable funding sources if the liaison does not work on McKinney-Vento activities 100% of the time.

Personal use of equipment is limited to occasional, minimal incidental use.

Examples

1. The computer used by the local liaison costs $1,200, including shipping. The liaison spends 100% of his or her time on McKinney-Vento activities, as reflected in the job description. The entire $1,200 can be charged to the grant in the year in which the computer was purchased.

2. The local liaison spends 75% of his or her time on McKinney-Vento activities and 25% of the time on other duties, as reflected in the job description. The liaison's time and effort (or similar documentation) or substitute system documents this time. The LEA must split-fund the purchase, and charge
75% of the computer cost to McKinney-Vento and the remaining 25% of the computer cost to the other applicable funding source.

**Using Existing Equipment Purchased with State or Local Funds Prior to the Current Grant Period (i.e., Depreciation):** An LEA may charge a federal grant for the use of equipment purchased from state or local funds prior to the grant period by computing *depreciation* in accordance with the provisions in 2 CFR § 200.436. Depreciation is the method for allocating the cost of fixed assets to periods benefitting from the asset use. Consult with your Business Office to determine if your LEA engages in this practice. *(Note: The use allowance that was previously allowed is no longer allowed under the new 2 CFR Part 200.)*

**Insurance for Equipment:** LEAs must insure equipment purchased with federal grant funds in accordance with the local policy for insuring all equipment. Grant funds cannot be used to replace any uninsured equipment that is lost, stolen, or damaged. **If the equipment is insured,** however, grantees can use McKinney-Vento funds to pay for any insurance deductible that may be required to replace lost, stolen, or damaged equipment.

Usually insurance for equipment is included in the indirect cost plan or in a direct cost allocation plan. Insurance to cover equipment purchased for McKinney-Vento staff, including the local liaison, is allowable as a direct cost, provided the costs are

- budgeted in the approved application
- reasonable
- not already included in the indirect cost plan or a direct cost allocation plan.

Confer with your Business Office to determine if insurance for equipment is included in the indirect cost plan or in a direct cost allocation plan.

If the local liaison does not spend 100% of his or her time on McKinney-Vento activities, then the cost of insurance for equipment must be prorated (i.e., split-funded) among the applicable funding sources as provided in previous examples.

**Maintenance of Equipment:** The cost of an agreement to maintain the equipment in good working order is allowable, provided the costs are

- budgeted in the approved application
- reasonable
- not already included in the indirect cost plan or a direct cost allocation plan.

Confer with your Business Office to determine if maintenance for equipment is included in the indirect cost plan or in a direct cost allocation plan.
Office Space: The cost of providing office space for the local liaison is allowable, provided the costs are

- budgeted in the approved application
- reasonable
- necessary
- not already included in the indirect cost plan or a direct cost allocation plan, according to the following:

Rental or Lease of Office Space Not Owned by the LEA: The cost of renting or leasing office space from a third party is allowable provided the cost per square foot is comparable to the current fair market value of rental or lease space in the area. If the local liaison does not spend 100% of his or her time on McKinney-Vento activities, then the cost of renting space from a third party must be prorated (i.e., split-funded) among the applicable funding sources.

Examples:

1. The space rented or leased from a third party for the local liaison costs $250 per month. The liaison spends 100% of his or her time on McKinney-Vento activities, as reflected in the job description. The entire $250 per month can be charged to the grant each month that the rent or lease is paid. The LEA cannot “pre-pay” rent or lease in advance where it results in a one-time charge to the grant.

2. The local liaison spends 75% of his or her time on McKinney-Vento activities and 25% of the time on other duties, as reflected in the job description. The liaison’s time and effort (or similar documentation) or substitute system documents this time. The LEA must split-fund the cost of rent or lease and charge 75% of the cost to McKinney-Vento and the remaining 25% of the cost to the other applicable funding source. The LEA cannot “pre-pay” rent or lease in advance where it results in a one-time charge to the grant.

Use of Office Space Owned by the LEA: An LEA may not “rent from itself” and charge rental to the grant for buildings owned by the LEA. Instead, an LEA may charge a federal grant for the use of a building purchased from state or local funds prior to the grant period by computing depreciation in accordance with the provisions in 2 CFR § 200.436. Depreciation is the method for allocating the cost of fixed assets to periods benefitting from the asset use. Consult with your Business Office to determine if your LEA engages in this practice. (Note: The use allowance that was previously allowed is no longer allowed under the new 2 CFR Part 200.)

If the local liaison does not spend 100% of his or her time on McKinney-Vento activities, then the cost must be prorated (i.e., split-funded) among the applicable funding sources.
Utilities: Utility charges, such as gas and electricity, are *usually* part of a direct cost allocation plan. Utilities, however, for the liaison’s office space are allowable direct costs, provided the costs are budgeted in the approved grant application and are not already included in the indirect cost plan or in a direct cost allocation plan. Costs must be prorated based on the percentage of the amount of space and time used in the same manner as the cost of office space. Confer with your Business Office to determine if any utilities are included in the indirect cost plan or a direct cost allocation plan.

If the local liaison does not spend 100% of his or her time on McKinney-Vento activities, then the cost of utilities for office space must be prorated (i.e., split-funded) among the applicable funding sources as provided in previous examples.

Office Furniture: Office furniture for the local liaison is allowable as a direct cost to the grant, provided the cost is

- budgeted in the approved application
- reasonable
- necessary
- not already included in the indirect cost plan or a direct cost allocation plan.

Confer with your Business Office to determine if any office furniture is included in the indirect cost plan or a direct cost allocation plan.

If the local liaison does not spend 100% of his or her time on McKinney-Vento activities, then the cost of office furniture must be prorated (i.e., split-funded) among the applicable funding sources as provided in previous examples.

Supplies and Materials: Office supplies and materials are allowable as direct costs to the grant, as well as program supplies and materials necessary to carry out the local liaison’s duties, provided the costs are

- budgeted in the approved application
- reasonable
- necessary
- not already included in the indirect cost plan or a direct cost allocation plan.

Confer with your Business Office to determine if any office supplies are included in the indirect cost plan or in a direct cost allocation plan.

If the local liaison does not spend 100% of his or her time on McKinney-Vento activities, then the cost of office supplies and materials must be prorated (i.e., split-funded) among the applicable funding sources. The cost of supplies and materials specifically for McKinney-Vento *program* activities can be charged 100% to the McKinney-Vento grant in the grant year in which the supplies and materials were purchased.
Travel Costs: Travel costs for the local liaison are allowable as direct costs, provided travel costs are budgeted in the approved grant application and are reasonable, necessary, consistent with LEA policy, and in accordance with the following:

- **Reimbursement for actual mileage** in a personal vehicle not to exceed the current state rate for reimbursing mileage. The mileage rate takes into consideration regular maintenance on a vehicle such as oil changes. If local policy is less than the current state rate, then reimbursement must be at the lower local policy rate. There is no “travel allowance” for grant employees in Texas.

- **For out of town travel**
  - the cost of a rental car and gasoline. No actual mileage is reimbursed to the liaison. The liaison must submit the rental car receipt and gasoline receipts to the LEA Accounting Office for reimbursement.
  - the actual cost of lodging, not to exceed the current federal rate for lodging in the locale to which the liaison is traveling. The liaison must submit the lodging receipt to the LEA Accounting Office for reimbursement. If local policy has a lesser rate than the current federal rate, the lesser local policy rate must be used.

  **If two or more LEA employees share a room while on travel, a single receipt can be provided by the hotel, but each individual employee’s name must be on the receipt. This is the only way to verify that each employee did not exceed the maximum allowable rate.**

  - the actual cost of coach airfare, where it is more cost effective to travel by air than to travel by auto, or the time schedule requires air travel. The liaison must submit the airfare receipt to the LEA Accounting Office for reimbursement.
  - the actual cost of meals, not to exceed the federal per diem rate specified for the locale. The liaison must submit receipts to the LEA accounting office only if the local Accounting Office requires meal receipts. If local policy has a lesser rate than the current federal rate specified for the locale, the lesser local policy rate must be reimbursed. The payment of a per diem or meal allowance to the employee, regardless of the actual cost of meals, is not allowable in Texas. Reimbursement must be based on the actual cost of meals, not to exceed the maximum allowed.
Also, paying for another person’s lodging and meals while on travel is not allowable. Each person must pay for his or her own meals, and each person must be individually reimbursed based on a properly completed travel voucher or similar document (See the Appendices, Documentation Associated with Subcontracts, Corporate Credit Cards, and Travel.)

Airfare and lodging charges may be direct billed to the grantee organization if such a billing arrangement is made by the local Accounting Office.

Refer to TEA’s Budgeting Costs and Guidance Handbook (scroll down to Allowable Cost and Budgeting Guidance) for more information on allowable and unallowable travel costs. Also refer to TEA’s webpage on travel information and guidance for the latest correspondence relating to travel.

Identifying Students Experiencing Homelessness

Because students experiencing homelessness do not always fit certain profiles, identifying homeless students may be challenging for LEAs. The statutory definition provides a broad range of situations in which a homeless child may be living. One primary responsibility of the local homeless education liaison is to ensure that homeless children and youth are identified by school personnel and through coordination with other entities and agencies.

Local liaisons must ensure that public notice with regard to the educational rights of children in homeless situations is disseminated widely in facilities where homeless children might receive services. Liaisons should disseminate notice in facilities such as:

- schools
- family shelters
- community centers
- community action centers
- kitchens feeding the homeless
- food banks
- drop-in centers
- free health clinics
- local public health departments
• local welfare agencies
• local housing departments
• local police departments
• domestic violence agencies
• transitional housing facilities
• runaway and homeless youth centers
• transitional living programs for homeless youth
• faith-based organizations

In addition, local liaisons should coordinate with and provide notice to facilities that may likely temporarily house homeless families, such as

• motels
• hotels
• trailer parks
• camping grounds
• emergency or transitional shelters
• hospitals
• foster placement agencies
• local institutions for neglected or delinquent children

Liaisons should be cognizant that homeless families may be living in

• abandoned cars
• parks
• public spaces such as under bridges or in alleys
• abandoned buildings
• substandard housing
• bus or train stations
• facilities housing migrant families

The LEA liaison should develop partnerships with truancy officers or other attendance officials to exchange information related to potential homeless children. The liaison should train these officers on how to recognize school absences that may be the result of homelessness.

**PEIMS Homeless Status and Unaccompanied Youth Status Indicators**

**PEIMS**, TEA’s Public Education Information Management System, contains two indicators for homeless students:

1. A determination must be made as to the homeless status for EACH student in every LEA. One of five possible living situations must also be identified for those students who are identified as "homeless."
2. A determination must be made as to the unaccompanied youth status for EACH student that is identified as "homeless."

THEO, in collaboration with TEA, developed a frequently asked questions (FAQs) document addressing these PEIMS indicators.

THEO also developed additional documents with instructions for the homeless status and unaccompanied youth status indicators, and sample templates for the indicators that may be incorporated into LEA student enrollment documents. These documents are intended to assist LEAs with the identification of students in homeless situations and the implementation of the indicators.

Numerous other resources are available to assist LEAs and local liaisons in their efforts to locate and identify homeless children and youth. Be sure to contact THEO should you need ideas or assistance and to review the materials available on their website as well as other websites.

Identifying Homeless Preschoolers

Identifying homeless children eligible for preschool can be challenging, especially if the homeless family has no other children already in school. The liaison should work with school personnel, who can inquire at the time they are enrolling children and youth in school, whether the family has preschool-age children. Local liaisons can identify preschool-age children by working closely with shelters and social service agencies in their area.

It is vitally important that the local liaison also collaborate with the school district special education department in locating homeless preschool-age children. IDEA, the Individuals with Disabilities Education Act, requires that all children with disabilities residing in the state, including homeless children and children who are wards of the state, be included in the “Child Find” process for early identification of special education needs. IDEA also requires that highly mobile children with disabilities, such as migrant and homeless children who are in need of special education and related services, are located, identified, and evaluated for services.

The LEA liaison should work with preschool program staff to remind them how important their services are for homeless children. Liaisons should also advise staff of how waiting lists often create barriers for homeless families who wish to enroll their children. Local policies should provide for immediate enrollment of homeless children, including preschool children, regardless of a waiting list.
Grantees may use McKinney-Vento funds to carry out responsibilities associated with identifying and recruiting homeless children.

**Payroll Costs:** Salary and benefits for one or more employees to conduct the following activities are allowable as a direct cost to the grant:

- carry out identification and recruitment activities, including collaborating and coordinating with other entities and parties to identify homeless children
- develop and deliver training to school personnel or personnel at other facilities on the identification of homeless children
- enter data in PEIMS for the homeless student indicators

In all cases, in order to be charged to the grant, the employees must be budgeted in the approved grant application and must maintain time-and-effort (or similar records) according to the requirements described in *Allowable Uses of McKinney-Vento Funds* for the local homeless education liaison.

**Supplies and Materials:** Supplies and materials related to the identification and recruitment of homeless students are allowable as direct costs to the grant, provided the costs are budgeted in the approved application and are reasonable and necessary. Appropriate supplies and materials costs might include

- the cost of training materials and possibly the cost of renting meeting rooms for training (rental of meeting space not owned by the LEA will be budgeted in 6200 Contracted Services)
- awareness materials, such as posters, brochures, announcements, newsletters, etc., pertaining to the identification and recruitment of homeless children (includes development, printing, mailing, delivery, and shipping costs of materials)

**Communication Costs:** Communication costs related to the identification and recruitment of homeless students are allowable as direct costs to the grant, provided the costs are budgeted in the approved application and are reasonable and necessary. Communication costs might include

- developing and maintaining an LEA website on homeless education
- public announcements, including television and radio advertisements
- making presentations
- distributing materials
**Travel Costs:** Travel costs, specifically mileage reimbursement, associated with the identification and recruitment of homeless children are allowable as direct costs to the grant. Such costs must be budgeted in the approved grant application; must be reasonable and necessary to search for or to visit homeless families or to visit facilities to identify and recruit homeless children; and must comply with the current state rates established for travel, including mileage at the current state rate (or local policy rate, whichever is less). Appropriate travel costs also include mileage reimbursement for traveling to other locations to make presentations.

- McKinney-Vento Homeless Assistance Act, Title VII, Subtitle B, § 722(g)(6)
- USDE Non-Regulatory Guidance on the Education for Homeless Children and Youth Program, July 2004, F-5 and F-6
- 34 CFR § 300.111 Child Find

**Enrollment and Attendance of Children and Youth Experiencing Homelessness**

Each homeless child and youth has equal access to the same free, appropriate public education (FAPE), including a public preschool education, as provided to other children and youth. All children and youth, including homeless children and youth, must have the same opportunity to meet challenging student academic achievement standards. Because homeless families frequently move from one location to another, maintaining a stable school environment is critical to their success in school.

Upon identification of a homeless child or youth, you must ensure they are advised of the choice of schools and are immediately enrolled in the school selected, regardless of a lack of documentation provided by the student or parents. (See section on Immediate School Access Regardless of Enrollment Documentation.)

Homelessness alone is not sufficient reason to separate students from the mainstream school environment. Homeless children and youth must be taught in the same school settings as other children and must not be required to enroll in and attend a separate school, a school within a school, or a separate program within a school. A parent, guardian, or unaccompanied youth may choose a school regardless of whether the child or youth lives with the homeless parents or has been temporarily placed elsewhere.

All LEAs are required to develop, review, and revise policies to remove barriers to enrollment and retention of homeless children and youth. Homeless children and youth must be enrolled in school according to the child’s or youth’s best interest.
Enrolling and Retaining Unaccompanied Homeless Youth

Unaccompanied homeless youth often face unique barriers to enrolling and succeeding in school. Barriers might include school attendance policies, credit accrual, and legal guardianship requirements. Unaccompanied homeless youth are sometimes denied enrollment and remain out of school for extended periods of time since they have no parent or guardian to advocate on their behalf. These youth may also not understand their educational rights or know how to acquire the information.

Local homeless education liaisons should assist unaccompanied youth in accessing educational services by

- helping them choose and enroll in a school, after considering their wishes
- providing them with notice of their appeal rights in a language they can understand or in an accessible format
- informing them of their right to transportation to and from the school of origin, and assisting them in accessing transportation
- ensuring they are immediately enrolled in school while waiting for a dispute to be resolved

$\text{\$\$\$ Allowable Uses of McKinney-Vento Funds}$

Grantees may use McKinney-Vento funds for activities related to attracting, engaging, and retaining homeless children in services provided to non-homeless children.

Payroll Costs: Salary and benefits for an employee to conduct the following activities are allowable as direct costs to the grant:

- provide services and assistance related to attracting, engaging, and retaining homeless children and youth
- develop, review, and revise policies to remove barriers to enrollment and retention of homeless children

In order to be charged to the grant, the employee must be budgeted in the approved grant application and must maintain time-and-effort records (or similar documentation) according to the requirements described in Allowable Uses of McKinney-Vento Funds for the local homeless education liaison.

Contracted Legal Services: The contracted services of an attorney to develop or to assist the LEA in developing, reviewing, and revising policies is allowable as a direct cost to the grant, provided the contracted legal services are budgeted in the approved grant.
application and are reasonable and necessary. *Retainer fees* for attorneys (i.e., where the attorney does not actually perform any services during the grant period) are not allowable.

**School Supplies:** The costs of providing school supplies for homeless children to allow them to enroll in school and stay in school are allowable as direct costs to the grant, provided supplies are budgeted in the approved grant application and are reasonable and necessary. Allowable costs also include supplies to be distributed at shelters or temporary housing facilities, or other appropriate locations for the benefit of homeless students.

**Extraordinary or Emergency Assistance:** The costs to provide extraordinary or emergency assistance to homeless children to facilitate their enrollment and retention in school may be allowable as direct costs to the grant, provided they are

- budgeted in the approved grant application
- reasonable in cost
- necessary for the child to enroll and stay in school

Free school breakfast and lunch for the child would be automatically included on an ongoing basis.

Extraordinary or emergency assistance costs related to enrolling and retaining homeless children and youth in school may include

- the cost of reasonable clothing and shoes to wear to school
- the cost of uniforms or standardized clothing to wear to school when such is a requirement for attendance
- the cost of immunizations and/or medical exams required for enrolling in school
- the cost of an emergency prescription for the child, when no other funding source is immediately available; this would be on a one-time basis and another funding source should be arranged immediately
- the cost of basic medical equipment, such as eye glasses and hearing aids, when no other funding source is immediately available (Note: It is possible that hearing aids could be provided from IDEA-B, if the child qualifies for special education services on the basis of a hearing disability. It is also possible that eye glasses or other adaptive technology and visual aids could be provided from IDEA-B, if the child qualifies for special education services on the basis of a visual impairment. Check with your local special education director to determine allowability under IDEA-B.)
- the cost of emergency food for the homeless family is available when it is deemed necessary and when there is no other food source immediately available, such as a shelter or community center; emergency food can be provided on a
very limited basis until another source can be arranged. In all cases, the student is eligible for free school breakfast and lunch on an ongoing basis.

- the cost of activities related to addressing the particular needs of homeless children that may arise from domestic violence, including counseling services, social work services, and referral services

**McKinney-Vento Homeless Assistance Act, Title VII, Subtitle B, §§ 721; 722(e)(3); 722(g)(1)(F)**

**USDE Non-Regulatory Guidance on the Education for Homeless Children and Youth Program, July 2004, G-1, J-1, J-2**

**Serving Homeless Children and Youth According to Their Best Interests**

A lack of permanent housing for homeless families can often result in higher mobility for those families. Highly mobile students are often found to have lower test scores and academic performance than their less mobile peers. Reducing the potential for mobility by homeless families among schools aids in providing educational stability for their children and may be critical to ensuring their success in school. The McKinney-Vento authorizing statute requires that all LEAs serve homeless children and youth according to their *best interests*.

In serving homeless children and youth according to their *best interests*, you must continue the child’s or youth’s education in the school of origin for the duration of homelessness:

- in any case in which a family becomes homeless *between* academic years or *during* an academic year or
- for the remainder of the academic year, if the child or youth becomes permanently housed during an academic year

or you must

- enroll the child or youth in any public school that non-homeless students who live in the attendance area in which the child or youth is actually living is eligible to attend

In determining the child’s or youth’s *best interest*, you must

- to the extent feasible, keep a homeless child or youth in the school of origin, except when doing so is contrary to the wishes of the child’s or youth’s parent or guardian
provide a written explanation, including a statement regarding the right to appeal to the parent or guardian, if your agency sends the child or youth to a school other than the school of origin or other than a school requested by the parent or guardian.

in the case of an unaccompanied youth, also ensure that the local homeless education liaison assists in placement or enrollment decisions, considers the views of the unaccompanied youth, and provides notice to the youth of their right to appeal.

The placement determination should be an individualized, student-centered determination. The LEA should consider factors such as:

- the age of the child or youth
- the distance to commute to school and the impact it may have on the child’s education
- personal safety issues
- a student’s need for specialized instruction or services, such as Title I or special education services
- the length of anticipated stay in a temporary shelter or other temporary location
- the time remaining in the school year

The school of origin means:

- the last school that the child or youth attended when permanently housed, or
- the school in which the child or youth was last enrolled

The school of origin refers literally to a specific school building and does not include feeder-school patterns.

For example:

Michael becomes homeless during the summer that he recently completed and passed 5th grade in Bluebonnet Elementary, which is located in Sunshine ISD. All of his permanently-housed friends will be going to Travis Middle School because that is their zoned school. Michael is living with his mother in a shelter that is located in a different school district about 9 miles from Travis Middle School.

Michael will not be able to attend Travis Middle School because it is a different school—it is NOT the school of origin. Thus, under the McKinney-Vento Act, the only school he is eligible to attend is the one located in the zone where the shelter is located.

Under the Texas Education Code, as a homeless student, Michael has the right to select any DISTRICT he chooses, so he could choose to attend school in Sunshine ISD. Sunshine ISD could elect to allow Michael to enroll in Travis Middle School or
could tell him that he could only enroll in another of the district’s middle schools—that is a district decision.

If the district allows him to enroll in Travis Middle School, the district is NOT obligated to provide transportation for Michael to/from school, since Travis Middle School is not a school of origin. If the district opts to provide transportation to Michael, the district is required to pay for the entire cost of that transportation using local funds. Exceptions may occur if Michael is a special education student. For additional guidance regarding transportation costs, contact TEA’s school transportation staff in the Division of State Funding.

*McKinney-Vento Homeless Assistance Act, Title VII, Subtitle B, §§ 722(g)(3)(A) and (B)*

**Immediate School Access Regardless of Enrollment Documentation**

Upon the parent, guardian, or unaccompanied youth selecting a school, you must immediately enroll the child or youth, even if the child or youth is unable to produce records normally required for enrollment, such as birth certificates, previous academic records, medical records, proof of residency, or other documentation. Then you must immediately contact the school last attended by the child or youth to obtain relevant academic and other records.

You must also not delay enrollment due to uniform or dress code requirements.

If the child or youth needs to obtain immunizations, or immunization or medical records, you must immediately refer the parent, guardian, or unaccompanied youth to the local homeless education liaison, who must assist in obtaining necessary immunizations, or immunization or medical records. Do not delay enrollment due to the lack of these records.

“**Provisional enrollment**” allows a homeless child to be admitted to school on a temporary basis for up to 30 days. During the 30-day period, the parent is responsible for ensuring the student receives the necessary immunizations as fast as medically feasible and/or providing a complete and current immunization record to the school. The cost of immunizations for homeless students is allowable from McKinney-Vento grant funds when no other funding source is available.

You must maintain any record ordinarily kept by the school, including immunization or medical records, academic records, birth certificates, guardianship records, and evaluations for special services or programs, so that the records can be retrieved in a timely fashion when a child or youth transfers to another school or school district. Parents or guardians have the right to inspect and review their children’s records in accordance with the *Family Educational Rights and Privacy Act* (FERPA). (Refer to the
section in the Part III entitled *Student Records* for additional information on FERPA. Also refer to the section in *Part I – Family Education Rights and Privacy Act.*

You are not prohibited from requiring the parent or guardian of a homeless child to provide contact information.

The LEA should engage in practices that facilitate the immediate enrollment of homeless children, including

- training all school enrollment staff, secretaries, counselors, social workers, and principals on the legal requirements regarding immediate enrollment
- reviewing all regulations and policies to ensure all personnel comply with the McKinney-Vento requirements
- developing affidavits of residence or other forms for unaccompanied youth, and other forms to replace typical proof of guardianship. Forms should be carefully crafted so they do not create further barriers or delay enrollment.
- establishing school-based immunization clinics or other opportunities for on-site immunizations
- when school uniforms or standardized clothing are required for attendance, collaborating with community-based or public agencies within the district and among neighboring districts to provide uniforms/standardized clothing
- accepting school records directly from families and youth
- contacting the previous school for records and assisting with placement decisions
- developing and administering brief educational assessments to place students immediately while awaiting complete academic records
- informing families and youth in a language they can understand or in an accessible format, as appropriate, of their right to transportation and immediate enrollment
- developing clear, understandable, and accessible forms for written explanations of decisions and the right to appeal
- expeditiously following up on any special education and language assistance referrals or services

**Expedited Evaluations for Homeless Students**

LEAs should conduct expedited evaluations of homeless students to measure their strengths and needs. Evaluations should be done promptly in order to avoid a gap in the provision of necessary services to those children. Evaluations may also determine a child’s eligibility for other programs and services, including

- programs for gifted and talented students
- special education and related services for children with disabilities
• English language acquisition
• vocational education
• school lunch programs
• programs or services under ESEA (i.e., NCLB)

### $$$ Allowable Uses of McKinney-Vento Funds

Grantees may use McKinney-Vento funds for costs related to enrolling homeless students.

**Payroll Costs:** Salary and benefits for an employee to conduct the following activities are allowable as direct costs to the grant:

- develop policies and forms related to the immediate enrollment of homeless children
- provide referral services to homeless children for medical, dental, mental, and other health services

In order to be charged to the grant, the employee must be budgeted in the approved grant application and must maintain time-and-effort records (or similar documentation) according to the requirements described in *Allowable Uses of McKinney-Vento Funds* for the local homeless education liaison.

**Contracted Legal Services:** The contracted services of an attorney to develop or to assist the LEA in developing policies is allowable as a direct cost to the grant, provided the contracted legal services are budgeted in the approved grant application and are reasonable and necessary. Retainer fees (where the attorney does not actually perform any services during the grant period) are not allowable.

**Expedited Evaluations:** The costs of purchasing and administering expedited evaluations of the strengths and needs of homeless children, are allowable as direct costs to the grant, provided the costs are budgeted in the approved grant application and are reasonable and necessary.

**Fees Associated with Tracking, Obtaining, and Transferring Records:** The costs for fees associated with tracking, obtaining, and transferring records necessary to enroll homeless children in school, including fees to obtain birth certificates, immunization or medical records, academic records, guardianship records, and evaluations for special programs or services, are allowable as direct costs to the grant, provided the fees are budgeted in the approved grant application and are reasonable and necessary.
**Education and Training for Parents:** The costs associated with providing education and training to the parents of homeless children about the rights of, and resources available to them, are allowable as direct costs to the grant. Education and training may be provided by an employee budgeted in the approved grant application, and the employee must maintain time-and-effort records (or similar documentation) in order to charge the costs to the grant. Education and training costs might also include supplies and materials and/or contracted services.

**Training School Staff:** The costs associated with training school staff on the requirements related to immediate enrollment are allowable as direct costs to the grant. Training may be provided by an employee budgeted in the approved grant application, and the employee must maintain time-and-effort records (or similar documentation) in order to charge the costs to the grant. Training school staff might also include supplies and materials.

**Coordination with Schools and Agencies:** The costs associated with coordinating services to homeless children with school personnel and with other agencies are allowable as direct costs to the grant. Coordination activities may be provided by an employee budgeted in the approved grant application, and the employee must maintain time-and-effort records (or similar documentation) in order to charge the costs to the grant.

**Extraordinary or Emergency Assistance:** The costs to provide extraordinary or emergency assistance to homeless children to facilitate their immediate enrollment in school may be allowable as direct costs to the grant, provided they are

- budgeted in the approved grant application
- reasonable in cost
- necessary for the child to enroll and stay in school

Appropriate costs may include the cost of immunizations and related medical exams required for enrolling in school. Also see the prior section on *Enrollment and Attendance of Children and Youth Experiencing Homelessness* for extraordinary or emergency assistance that may be necessary for enrolling homeless students in school.

- McKinney-Vento Homeless Assistance Act, Title VII, Subtitle B, §§ 722(g)(3)(C) and (D)
- USDE Non-Regulatory Guidance on the Education for Homeless Children and Youth Program, July 2004, G-8, L-1(2)

**Enrollment Disputes**

When enrollment disputes arise, it is critical that students not be kept from enrolling in and attending school to avoid interrupting the student’s academic progress and to help provide stability. Students must be provided with all services for which they are eligible.
while waiting for a dispute to be resolved, including transportation to and from school. Local liaisons must help ensure any disputes are resolved objectively and expeditiously. LEAs must have an established, written process for resolving school placement disputes.

Your written process and practices must include the following for when a dispute arises over school selection or enrollment:

- You must immediately admit the child or youth to the school in which enrollment is sought while awaiting resolution of the dispute.

- Because homeless families and youth may be unaware of their right to challenge placement and enrollment decisions, you must provide written explanation to the parent or guardian of the school’s decision regarding school selection or enrollment, including the rights of the parent, guardian, or youth to appeal the decision.

- You must refer the child, youth, parent, or guardian to the local homeless education liaison to carry out the dispute resolution process as expeditiously as possible after receiving notice of the dispute.

- In the case of an unaccompanied youth, the liaison must ensure the youth is immediately enrolled in school while awaiting resolution of the dispute.

Intra-district disputes should be resolved at the district level rather than at the school level. When issues arise among districts (i.e., inter-district), representatives from all involved districts, as well as representatives from THEO, should be present to resolve the dispute. If the districts involved cannot come to an agreement on how to share transportation costs, the transportation costs shall be divided equally between the districts. (See the section on Transportation for Homeless Students.)

An LEA should consider the following strategies for effectively resolving school enrollment disputes:

- The dispute resolution process should be as informal and accessible as possible, allowing for impartial and complete review.

- Parents, guardians, and unaccompanied youth should be able to directly initiate the dispute resolution process at the school they choose, as well as at the LEA’s homeless liaison’s office.

- Establish a timeline to resolve the dispute.

- Parents, guardians, and unaccompanied youth should be informed that they can provide written or oral documentation to support their position.

- Written notice should be complete, as brief as possible, simply stated, and provided in a language the parent, guardian, or unaccompanied youth can understand. The notice should include
- contact information for the LEA homeless liaison and for THEO, with a brief description of their roles
- a simple detachable form that parents, guardians, or unaccompanied youth can complete and turn in to the school to initiate the dispute process. (The school should copy the completed form and return the copy to the parent, guardian, or youth for their records when it is submitted.)
- a step-by-step description of how to dispute the school’s decision for placement
- notice of the right to enroll immediately in the school of choice while awaiting resolution of the dispute
- notice that “immediate enrollment” includes full participation in all school activities
- notice of the right to appeal to the State (in this case, TEA) if the district-level resolution is not satisfactory
- timelines for resolving district- and state-level appeals

### $$$ Allowable Uses of McKinney-Vento Funds

Grantees may use McKinney-Vento funds to pay for costs associated with the enrollment dispute process.

**Payroll Costs:** Salary and benefits for an employee to develop policies and procedures for resolving enrollment disputes are allowable as direct costs to the grant. In order to be charged to the grant, the employee must be budgeted in the approved grant application and must maintain time-and-effort records (or similar documentation) according to the requirements described in *Allowable Uses of McKinney-Vento Funds* for the local homeless education liaison.

Allowable payroll costs also include salary and benefits for an employee to resolve disputes.

**Contracted Legal Services:** The contracted services of an attorney to develop or to assist the LEA in developing policies is allowable as a direct cost to the grant, provided the contracted legal services are budgeted in the approved grant application and are reasonable and necessary. Retainer fees for attorneys (where the attorney does not actually perform any services during the grant period) are not allowable.

**Communication Costs:** The costs of communicating with parties involved in resolving disputes are allowable as direct costs to the grant, provided such costs are budgeted in the approved grant application and are reasonable and necessary. Communication costs might include long distance phone calls and postage.
Coordination with Social Service Agencies and Local Housing Agencies

Each LEA receiving McKinney-Vento grant funds must coordinate with local social service agencies and with other agencies or programs providing services to homeless students and youth and their families. Other agencies and programs include the Runaway and Homeless Youth Act and other LEAs on inter-district issues such as transportation or transfer of school records.

Coordination and collaboration is also required under the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009, which amends and reauthorizes the McKinney-Vento Homeless Assistance Act. You must also coordinate with local housing agencies responsible for developing the comprehensive housing affordability strategy described in section 105 of the Cranston-Gonzalez National Affordable Housing Act to minimize educational disruption for children and youth who become homeless (see note below).

Coordination must be designed to

- Ensure that homeless children and youth have access and reasonable proximity to available education and related support services.
- Raise the awareness of school personnel and service providers of the effects of short-term stays in a shelter and other challenges associated with homelessness. School stability is critical to the educational success, and often the emotional well-being, of homeless children and youth.

Note: Section 105(b)(2) of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended, specifically addresses homelessness in that the state and local housing agencies receiving funds from that Act must describe in their housing strategy the nature and extent of homelessness and provide an estimate of the special needs of various categories of persons who are homeless or threatened with homelessness. They must also describe strategies for helping low-income families avoid becoming homeless and address the emergency shelter and transitional housing needs of homeless persons and helping homeless persons make the transition to permanent housing and independent living.
Grantees may use McKinney-Vento funds to pay for costs associated with coordinating with other agencies.

**Payroll Costs:** Salary and benefits for an employee to coordinate with social service agencies and local housing agencies are allowable as direct costs to the grant. In order to be charged to the grant, the employee must be budgeted in the approved grant application and must maintain time-and-effort records (or similar documentation) according to the requirements described in *Allowable Uses of McKinney-Vento Funds* for the local homeless education liaison.

**Travel Costs:** Travel costs, specifically mileage reimbursement, associated with coordinating with social service and local housing agencies are allowable as a direct cost to the grant provided they are budgeted in the approved grant application, are reasonable and necessary, and comply with the current state rates established for travel or local policy, whichever is less.

- [McKinney-Vento Homeless Assistance Act, Title VII, Subtitle B, § 722(g)(5)]

### Prohibition on Segregating Homeless Students

Homeless children and youth must not be separated from the mainstream school environment. Services must be provided to homeless children and youth through programs and mechanisms that integrate homeless children and youth with their non-homeless counterparts. The McKinney-Vento Act specifically prohibits segregating homeless children and youth in a separate school, a school within a school, or a program within a school, based on their status as homeless.

The LEA must adopt policies and practices to ensure students are not segregated or stigmatized on the basis of their status of homeless.

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**Payroll Costs:** Salary and benefits for an employee to develop policies and procedures to ensure students are not segregated or stigmatized on the basis of homelessness are allowable as direct costs to the grant. In order to be charged to the grant, the employee must be budgeted in the approved grant application and must maintain time-and-effort
records (or similar documentation) according to the requirements described in Allowable Uses of McKinney-Vento Funds for the local homeless education liaison.

**Contracted Legal Services:** The contracted services of an attorney to develop policies, or to assist the LEA in developing policies, is allowable as a direct cost to the grant, provided the contracted legal services are budgeted in the approved grant application and are reasonable and necessary. Retainer fees (where the attorney does not actually perform any services during the grant period) are not allowable.

- **McKinney-Vento Homeless Assistance Act, Title VII, Subtitle B, §§ 721(3) and 722(e)(3)**
- **USDE Non-Regulatory Guidance on the Education for Homeless Children and Youth Program, July 2004, E-2, G-6**

**Comparable Services and Location of Services**

**Comparable Services**

The McKinney-Vento authorizing program statute requires that each homeless child or youth

- be provided services comparable to those offered to other students in the school
- has equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youth
- is entitled to receive all of the services that are provided to their non-homeless counterparts
- has an opportunity to meet the same challenging state academic achievement standards to which all students are held

To the maximum extent possible, services must be provided through existing programs and mechanisms that integrate homeless children and youth with non-homeless children and youth. **All services provided with McKinney-Vento funds must be designed to expand or improve services provided as part of the school’s regular academic program and must not replace services provided under the regular academic program.**

Comparable services that the school may provide as part of its *regular* academic program, and therefore *cannot* be funded with McKinney-Vento funds or any other federal funding source, include but are not limited to

- foundation school program
- educational services for which the child or youth meets the eligibility criteria, including
  - Title I
Homeless children are entitled to participate in any regular programs provided by the school for students at risk, including before- and after-school programs, tutoring programs, mentoring programs, etc., that may assist at-risk students achieve success in school. LEAs may use McKinney-Vento funds only to provide these programs and services if the school does not already provide them as part of its regular academic program, with one exception:

If no such regular programs are provided by the school, or if the regular programs do not meet the needs of homeless children, McKinney-Vento funds may be used for these programs and services for homeless and for non-homeless children who are at risk of failing in, or dropping out of, school. The Texas Education Code’s categories of at-risk students can be found in TEC § 29.081 (also provided in the Appendices, Program Laws Applicable to McKinney-Vento, Applicable State Laws).

Up to 5% of the total students served by a McKinney-Vento grantee may be non-homeless at-risk students. For example, if the McKinney-Vento grant serves 100 students total, then up to 5 students may be at risk (and non-homeless) as defined in TEC.

**Location of Services**

Services must be provided in the mainstream environment and must not isolate or stigmatize homeless children and youth. Each homeless child is entitled to receive services in the same setting as their non-homeless peers.
It is not permissible under McKinney-Vento to place a child or youth in a “transitional classroom” in a shelter while the child or youth is being assessed or while waiting for school records. LEAs must permit the child or youth to enroll in school even in the absence of enrollment records. LEAs are required to adopt policies that will eliminate barriers to school enrollment that may be caused by tracking, obtaining, and transferring records.

Services may be provided through programs on school grounds or at other facilities, provided that non-homeless children and youth participate in those same locations. If services are provided on school grounds, the LEA may

Use McKinney-Vento funds to provide the same services to other children and youth who are determined by the LEA to be at risk of failing in school or dropping out of school, provided that services will not be provided in settings within a school that segregate homeless children and youth from other children and youth, except as necessary for short periods of time

- for health and safety emergencies
- to provide temporary, special, and supplementary services to meet the unique needs of homeless children and youth

Not more than 5% of the total students served with McKinney-Vento funds can be at risk for a reason other than homelessness.

Providing Additional Services in a Separate Setting

According to guidance provided by the USDE, in some circumstances, it may be appropriate to provide additional (meaning supplemental) services to homeless children and youth in a separate setting. Please note this refers to the provision of additional services, not the provision of services and activities that take place as part of the school’s regular instructional program. In carrying out any additional services, the LEA must be careful not to stigmatize or label the students in any manner.

For example, if the LEA implements a supplemental program exclusively for homeless children, such as a shelter-based evening tutoring program, it should not under any circumstances be called “the homeless tutoring program” or “the shelter tutoring program.” Instead, the LEA should use a creative name for the program to avoid stigmatization, for example, “Adventure Club,” “Discovery Club,” “New Horizons,” or “Project HELP.”
**Homeless Children Residing in a Domestic Violence Shelter**

An LEA must not separate a child from the regular school program if he or she lives in a domestic violence shelter. However, LEAs can and should take all other necessary steps to protect children who are victims of domestic violence, such as:

- protecting the child’s identity in school database systems
- arranging for anonymous pick-up and drop-off locations for school buses
- enrolling the child in a different school
- sensitizing bus drivers and school personnel to the child’s circumstances
- training school staff on confidentiality laws and policies
- helping families to file copies of protective orders with schools

**$$$ Allowable Uses of McKinney-Vento Funds**

LEAs may use McKinney-Vento funds to **expand or improve services provided as part of the school’s regular academic program** and must not replace services provided under such programs.

**Payroll Costs**: Salaries and benefits for qualified personnel to conduct programs and services **not already provided as part of the school’s regular academic program** are allowable as direct costs to the grant. In order to be charged to the grant, the employees must be budgeted in the approved grant application and must maintain time-and-effort records (or similar documentation) according to the requirements described in *Allowable Uses of McKinney-Vento Funds* for the local homeless education liaison.

**Additional/supplemental** activities and programs for homeless children and youth that can be paid from McKinney-Vento funds might include:

- before-school programs
- after-school programs
- supplemental instruction
- tutorial programs
- homework assistance
- mentoring programs
- summer programs
- academic enrichment programs*
- developmentally appropriate early childhood programs for homeless children of preschool age provided such programs are not already provided through other federal, state, or local funds
- pupil services, including violence prevention counseling, and referrals for such services
- social worker services

*Note*: Please note that NCLB requires that all academic enrichment programs for disadvantaged students, including programs for homeless students, must be aligned with state standards and curricula. Additionally, when offering supplemental instruction, LEAs should focus on providing services that reflect scientifically-based research as the foundation for programs and strategies to ensure academic success.

Salary and benefits for a **bus driver**, where the bus driver takes a route not already paid with state or local funds to transport homeless students to another location, are allowable as direct costs to the grant. In order to be charged to the grant, the bus driver must be budgeted in the approved grant application and must maintain time-and-effort records (or similar documentation) according to the requirements described in *Allowable Uses of McKinney-Vento Funds* for the local homeless education liaison. (See the discussion of transportation costs in *Transportation for Homeless Students* in this Part III.)

**Fees for Public Transportation**: Bus fares, local transit fees, or other fees for public transportation to school or other locations where additional services are provided for homeless students are allowable as direct costs to the grant, provided the costs for such public transportation are budgeted in the approved grant application and are reasonable and necessary.

**Supplies and Materials**: Supplies and materials for additional/supplemental services that are not part of a school’s regular academic program are allowable as direct costs to the grant. Supplies and materials must be budgeted in the approved grant application and must be reasonable in cost and necessary.

**Adaptation of Space**: *Minor adaptations* to non-school facilities such as shelters or transitional or temporary housing facilities to enable LEA personnel to provide additional/supplemental (e.g., after school or on the weekends) educational or support services are allowable as direct costs to the grant, provided such costs are budgeted in the approved application and are reasonable and necessary. For example, the LEA may use McKinney-Vento funds to provide a quiet place in a shelter where homeless students can read or study, including the installation of tables, desks, chairs, computers, study supplies, etc.
The term “minor adaptations” does NOT include major renovation, remodeling, repairs, or construction of the facilities. These costs are considered construction costs and are not authorized by McKinney-Vento.

LEAs may also use McKinney-Vento funds to provide additional/supplemental educational supplies and materials in these facilities.

- McKinney-Vento Homeless Assistance Act, Title VII, Subtitle B, §§ 721(3); 722(g)(4); 723 (a)(2) and (3) and (b)(5)
- ESEA, Title I, Part A, § 1111(b)
- 34 CFR § 76.533

**Serving Homeless Students with Title I Funds**

Title I, Part A of NCLB provides grants to LEAs with high numbers or percentages of disadvantaged children to help ensure that all children meet challenging state academic achievement standards. The term disadvantaged children in Title I, Part A automatically includes homeless children and youth. For LEAs that receive Title I, Part A funds and McKinney-Homeless funds, Title I, Part A may be used to supplement or enhance McKinney-Vento funds in many cases.

The Title I, Part A authorizing program statute contains the supplement, not supplant provision. This meant that up through the end of the 2013-2014 school year, the liaison could be funded from Title I, Part A only if the liaison was also performing Title I duties other than just coordinating and arranging for Title I services to homeless students. Otherwise, there was a supplant issue for Title I, since the liaison is required under McKinney-Vento, not Title I. If the liaison had no Title I duties other than just coordinating and arranging for services to homeless students, the LEA was required to pay the liaison’s salary from McKinney-Vento or from state or local funds.

However, since the beginning of the 2014-2015 school year, LEAs are permitted to use Title I, Part A to pay for the homeless education liaison’s salary and benefits in whole or in part. The liaison is not required to perform any other Title I, Part A duties. Also since the beginning of the 2014-2015 school year, the liaison’s salary and benefits may be funded from the Title I, Part A set-aside for homeless students attending non-Title I schools. (USDE letter dated July 22, 2014, regarding a provision in the federal FY 2014 Consolidated Appropriations Act and subsequent letter dated August 12, 2015, for federal FY 2015 appropriations). However, using Title I set-aside funds to support a homeless education liaison’s salary does not satisfy an LEA’s obligation to provide comparable Title I services to homeless children who attend non-Title I schools.
In addition, pursuant to this same authority in the Consolidated Appropriations Act, since the beginning of the 2014-2015 school year, LEAs may use Title I, Part A funds to pay for the excess costs of transporting homeless students to and from the school of origin. This provision applies whether or not the LEA also receives McKinney-Vento funds. Transportation may be funded from the Title I, Part A set-aside for homeless students attending non-Title I schools. However, using Title I set-aside funds to provide transportation for homeless students to and from the school of origin does not satisfy an LEA’s obligation to provide comparable Title I services to homeless children who attend non-Title I schools. See the section on Transportation for Homeless Students for more information on the requirements pertaining to transportation.

These provisions regarding the use of Title I to pay for the liaison’s salary and the excess cost of transportation for homeless students to the school of origin are in effect as long as this authority is contained within subsequent federal appropriations acts, or as long as it is included in any future amendments to Title I, Part A or McKinney-Vento when both programs are reauthorized.

The McKinney-Vento Homeless Assistance Act addresses many of the challenges that homeless children and youth experience. But Title I, Part A also plays a significant role in the academic achievement of these children as discussed below.

- ESEA, Title I, Part A, §§ 1115(b)(3) and 1120A(b)
- National Center for Homeless Education (NCHE), Title I, Part A Brief

Coordination with McKinney-Vento in State and Local Title I, Part A Plans

Uniform administrative grant provisions require that grantees coordinate each of their projects with other activities that are in the same geographic area served by the project and that serve similar purposes and target groups (34 § CFR 76.580). To accomplish this provision, many federal programs in the authorizing program statute require grantees to coordinate with other federal programs. Such coordination assists in providing for the most effective use of funds, avoiding duplication of services to participants, and facilitating the provision of an integrated, coordinated delivery of services to children.

Providing for and coordinating the education of homeless children and youth with Title I, Part A is specified in several sections of the Title I, Part A statute. For example, the state plan that is submitted by an SEA, in this case, TEA, to the U. S. Department of Education, must be coordinated with other NCLB programs and with other federal programs, including the McKinney-Vento Homeless Assistance Act.

Similarly, LEAs may receive Title I, Part A funds only if their Title I, Part A plan (i.e., application) submitted to the SEA is coordinated with other NCLB programs and with other federal programs, including the McKinney-Vento Homeless Assistance Act.
local Title I, Part A plan should be designed to increase program effectiveness, eliminate duplication, and reduce fragmentation of the instructional program for all students. Specifically, the plan/application must include a description of how the LEA will coordinate and integrate Title I, Part A services with other educational services at the LEA or school-level, such as services for

- children with limited English proficiency
- children with disabilities
- migratory children
- neglected or delinquent children or youth
- **homeless children**
- immigrant children

According to the requirements in Title I, Part A, LEAs must also include homeless students in their academic assessment, reporting, and accountability systems. Assessments of homeless students are to be included in local and State accountability systems when students have been in a school for a full academic year.

- 34 CFR § 76.580
- ESEA, Title I, Part A, § 1111(a)(1) and (b)(3)(C)(xi)
- ESEA, Title I, Part A, § 1112(a)(1) and (b)(1)(E) and (O)

### Required Reservation of Title I Funds for Homeless Students

**Homeless children and youth must be provided Title I, Part A services even if they do not live in a Title I, Part A school attendance area or do not attend a Title I, Part A school.** In accordance with the Title I, Part A statute, each LEA is **required** to reserve Title I, Part A funds in an amount **reasonable and necessary** to provide services comparable to those provided to children attending Title I schools to serve

- homeless children who do not attend Title I schools, including providing educationally related support services to children in shelters and other locations where children may live
- children in local institutions for neglected children
- if appropriate, children in local institutions for delinquent children, and neglected or delinquent children in community day school programs

To determine an appropriate amount to reserve for these children, LEAs must understand which students are homeless according to the definition provided in McKinney-Vento. LEAs have discretion in determining how much to reserve from Title
I, Part A. For guidance in determining an appropriate amount to reserve, consult the document entitled *Four Methods for Determining New Mandatory Title I, Part A Set-Aside for Homeless Children*, posted on TEA’s *Education of Homeless Students* web page.

If no homeless students are attending non-Title I schools, there is no requirement to reserve Title I funds. Also, if there are no non-Title I schools in the LEA’s boundaries, i.e., all schools in the LEA are either Title I schoolwide campuses or Title I targeted campuses, there is no requirement to reserve Title I funds. In these cases, the LEA may reserve additional Title I funds to serve homeless students.

Note: The homeless education liaison’s salary and transportation for homeless students to and from the school of origin may be funded from the Title I reserve for homeless students. However, using Title I set-aside funds to support a homeless education liaison’s salary or to provide transportation for homeless students to and from the school of origin does not satisfy an LEA’s obligation to provide comparable Title I services to homeless children who attend non-Title I schools.

- ESEA, Title I, Part A, § 1113(c)(3)
- ESEA, Title I, Part A, § 1112(b)(1)(O)
- 34 CFR § 200.77
- USDE Non-Regulatory Guidance on the Education for Homeless Children and Youth Program, July 2004, M-3, M-4

**Participating in Regular Title I Services**

Homeless children and youth are automatically eligible for services under Title I, Part A due to their status as homeless. This applies regardless of whether they live in a Title I school attendance area or they meet the academic standards required of other children for eligibility for Title I. Homeless children and youth may receive Title I educational or support services from Title I schoolwide programs or from Title I targeted-assistance schools. Homeless children and youth must also be provided Title I services even if they do not attend a Title I schoolwide program or Title I targeted-assistance school. (See the previous section on *Reservation of Title I Funds for Homeless Students*.)

Title I schoolwide schools are required to conduct a comprehensive needs assessment and to develop strategies to address the needs of all children, including homeless children. LEAs should address the unique needs of all students in a schoolwide program, including homeless children, as well as other disadvantaged children.

LEAs may use Title I, Part A funds to provide Title I services to eligible homeless students in both Title I and non-Title I schools. In either case, services provided from
Title I, Part A must be *comparable* to services provided to non-homeless students in Title I schools. The term “*comparable services*” does not necessarily mean *identical services*. Services should assist homeless children in meeting the state’s challenging academic content and academic achievement standards.

\[ESEA, Title I, Part A, § 1115(b)(2)(E)\]

**Receiving Additional Title I Services**

Additionally, homeless students who attend Title I schools may have unique challenges that are not addressed by the regular Title I program in those schools. Thus, in general, an LEA receiving McKinney-Vento funds may use Title I, Part A funds to supplement regular Title I services by

- providing services to homeless students that are not ordinarily provided to other Title I students and that are not available from McKinney-Vento or other funding sources
- providing services to homeless students that are *authorized* under the McKinney-Vento statute, but *not required*, and that are *not available through McKinney-Vento or other sources*
- coordinating, supplementing, or enhancing services that are statutorily *required* under the McKinney-Vento Act, where McKinney-Vento funds or other sources are insufficient
- supplementing or enhancing services for homeless students that are *not* statutorily required, where McKinney-Vento funds are insufficient

\[\text{Remember, in order to use Title I funds for such services, they must be allowable under Title I and must be *supplemental* to (i.e., in addition to) the services provided under the McKinney-Vento program. All Title I expenditures must be linked to the child’s *educational* needs.}\]

**Examples of Additional Title I Services**

- Where appropriate, an LEA may provide a student with an item of clothing to meet a school’s dress or uniform requirement.
- Homeless children may require tutoring or counseling services in places other than school, such as in shelters, transitional housing, and other places where
homeless children may live. Title I, Part A funds may be used by McKinney-Vento grantees if McKinney-Vento funds are insufficient to provide such services.

- *Additional* Title I services might include expedited evaluations, before-school programs, after-school programs, summer school programs, mentoring, and the provision of educational supplies for homeless students, where McKinney-Vento funds are insufficient.

- Teachers, aides, and tutors paid from Title I may provide supplemental instruction to homeless students.

- If health, nutrition, and other social services are not reasonably available from other public or private sources, then Title I, Part A may be used as a last resort to fund these services. This might include the provision of basic medical equipment, such as eyeglasses and hearing aids. Such services should be based on a comprehensive needs assessment for Title I and a collaborative partnership established with local service providers.

- Title I funds may be used to provide parent involvement programs that make a special effort to reach out to parents in homeless situations.

**Note:** *Non-homeless students* must only be provided services in a Title I, Part A school. *Homeless students*, however, may be provided services in either a Title I school or a *non*-Title I school.

[(click ESEA, Title I, Part A, §§ 1114(b)(1)(A) and 1115(e)(2)]

[click USDE Non-Regulatory Guidance on the Education for Homeless Children and Youth Program, July 2004, M-1, M-4]

**Serving Students Who Are No Longer Homeless**

In general, if a homeless child becomes permanently housed during a school year, the child continues to remain eligible for Title I, Part A services for the remainder of the year. This helps ensure educational stability for *formerly* homeless students.

It may be appropriate in certain circumstances for an LEA to use Title I, Part A funds to transport *formerly* homeless students to or from their Title I school of origin for the remainder of the school year in which they become permanently housed.

**Note for Currently Homeless Students:** Up through the end of the 2013-2014 school year, an LEA could NOT use Title I, Part A funds to transport *currently* homeless students to or from their school of origin due to the supplement, not supplant provision in Title I, Part A. However, since the beginning of the 2014-2015
school year, LEAs are permitted to use Title I, Part A to pay the excess costs of transporting homeless students to and from their school of origin. (See USDE letter dated July 22, 2014, regarding a provision in the federal FY 2014 Consolidated Appropriations Act and subsequent letter dated August 12, 2015, regarding federal FY 2015 federal appropriations.) Also see the following section on Transportation for Homeless Students for more information about allowable excess costs of transportation.


### $$$ Allowable Uses of McKinney-Vento Funds

LEAs may use McKinney-Vento funds to coordinate with NCLB programs, including Title I, Part A, as well as with other federal programs, with regard to the services to be provided to homeless students.

**Payroll Costs:** Salaries and benefits for the local homeless education liaison and other appropriate McKinney-Vento personnel to coordinate and collaborate with Title I personnel are allowable as direct costs to the grant. McKinney-Vento personnel should coordinate and collaborate with regard to

- developing the Title I, Part LEA plan/application annually submitted to TEA
- coordinating Title I services to be provided to homeless children

In order to be charged to the grant, the employees must be budgeted in the approved grant application and must maintain time-and-effort records (or similar documentation) according to the requirements described in Allowable Uses of McKinney-Vento Funds for the local homeless education liaison.

**Conferences and Training:** Costs for the local liaison to attend Title I conferences and training events are allowable as direct costs to the grant, provided they are budgeted in the approved grant application, are reasonable and necessary, and comply with the current state rates established for travel, or local policy, whichever is less. Costs might include conference registration fees and travel costs when the conferences/training take place out of town. Refer to the Travel Costs subsection under Allowable Uses of McKinney-Vento Funds for the local homeless education liaison for allowable travel costs.
Transportation for Homeless Students

Lack of transportation to school is the number one barrier that homeless children and youth face in attempting to enroll in school and attend school regularly. The McKinney-Vento statute requires that each LEA ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, the local homeless education liaison), to and from the school of origin as follows:

- If the homeless child or youth continues to live within the boundaries of the LEA in which the school of origin is located, the LEA must arrange and provide for transportation of the child or youth to and from the school of origin.

- If the homeless child or youth begins living within the boundaries of another LEA but continues his or her education in the school of origin, the LEA of origin and the LEA in which the homeless child or youth is living must agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the LEAs are unable to agree upon a method, the responsibility and costs for transportation must be shared equally.

LEAs must also arrange for or provide transportation for homeless students under each of the following circumstances:

- at the request of a parent or guardian, even if the LEA does not provide transportation to non-homeless students
- while an enrollment dispute is being resolved
- for homeless preschool children, if an LEA offers transportation for non-homeless preschool children

Each LEA must adopt written policies and practices that ensure transportation is provided to homeless children and youth in this manner. The LEA’s transportation director is a key figure in the process and should work with district leadership, the local liaison, neighboring school districts, and homeless services providers to develop effective transportation policies and procedures.

The LEA’s director of transportation should take the following steps to support the transportation of homeless children and youth:

- Communicate regularly with the LEA homeless liaison.
- Establish procedures to receive information about the transportation needs and pick-up location of homeless students.
Train bus drivers and dispatchers on the rights and needs of homeless students, as well as on the need for sensitivity and confidentiality.

Develop a bus routing system that can respond flexibly and quickly to new “pick-ups.”

Be aware of new motel and shelter locations and prepare to create bus stops nearby.

Support increased district commitment to provide homeless students transportation to school, as well as to before-and-after-school programs.

To facilitate timely resolution of potential issues that may arise as homeless students transfer from one district to another, LEAs should have in place inter-district agreements that can be quickly utilized.

In addition, a systematic process, with agreed-upon steps and individual roles, can help homeless students get to and from school efficiently and reliably. LEAs should

- Identify one individual as the key contact regarding transportation.
- Develop a process to determine the best interests of the student regarding travel to a particular school.
- Standardize transportation-related data collection and processing.
- Plan for transportation emergencies with back-up support.
- Identify other sources for funding or arranging transportation.

**** Allowable Uses of McKinney-Vento Funds

LEAs may use McKinney-Vento funds to pay the excess cost of transportation not otherwise provided through federal, state, or local funds, to enable homeless students to attend the school of origin. “Excess costs” are any costs an LEA incurs in transporting a homeless student to/from the school of origin when that transportation falls outside the official routine bus route.

For example, if homeless students cannot easily access regular school bus transportation (i.e., the official routine bus route), you must ensure those children are transported to school so they arrive at school on time, and you may use McKinney-Vento funds to pay for those excess transportation costs. You may also use McKinney-Vento funds to pay for transportation to return the students back to their temporary residence when it is not part of the official routine school bus route.

Note About Using Title I Funds: Up through the end of the 2013-2014 schools year, it was not permissible to use Title I, Part A funds to provide transportation to the school of origin for students who were homeless. Because
transportation services to the school of origin are mandated under McKinney-Vento, this would have resulted in a supplant violation for Title I.

However, since the beginning of the 2014-2015 school year (and until further notice), LEAs may use Title I, Part A funds to pay for the excess costs of transporting homeless students to and from their school of origin. LEAs may use the Title I set-aside for homeless students to pay for transportation. However, using Title I set-aside funds to provide transportation for homeless students to and from the school of origin does not satisfy an LEA’s obligation to provide comparable Title I services to homeless children who attend non-Title I schools.

Allowable costs related to transportation might include the following:

**Payroll Costs:** Salary and benefits for an employee to develop policies, procedures, and systems to ensure transportation is provided to homeless students are allowable as direct costs to the grant. In order to be charged to the grant, the employee must be budgeted in the approved grant application and must maintain time-and-effort records (or similar documentation) according to the requirements described in Allowable Uses of McKinney-Vento Funds for the local homeless education liaison.

Salary and benefits for bus drivers (where the bus driver takes an irregular, non-routine route not already paid with state or local funds to transport homeless students to/from the school of origin) are allowable as direct costs to the grant as long as the bus driver can isolate the costs for driving on the irregular route, from the costs of driving the regular routine bus route. This will not be practical in most cases. In order to be charged to the grant, the bus driver must be budgeted in the approved grant application and must maintain time-and-effort records (or similar documentation) according to the requirements described in Allowable Uses of McKinney-Vento Funds for the local homeless education liaison.

**Contracted Legal Services:** The contracted services of an attorney to develop or to assist the LEA in developing policies is allowable as a direct cost to the grant, provided the contracted legal services are budgeted in the approved grant application and are reasonable and necessary. Retainer fees (where the attorney does not actually perform any services during the grant period) are not allowable costs.

**Supplies and Materials:** Gasoline, oil, and routine maintenance of the bus are allowable as direct costs to the grant, provided these costs for transporting homeless students to/from the school of origin can be isolated from the costs for providing gasoline, oil, and routine maintenance for the official routine bus route. The costs must be budgeted in the approved application (6300 Supplies and Materials). This method of budgeting and recording expenditures will not be practical in most cases.
Mileage to/from School for Non-Routine Routes: A charge per mile, commonly used by LEAs and referred to as the “allotment-per-mile rate” assigned by TEA, that includes the cost of gasoline, oil, and regular maintenance of a bus, is allowable as a direct cost to the grant, provided the LEA or bus driver keeps track of the additional miles as a result of deviating from the routine route.

If using this method, the total estimated charges (based on cost per mile) must be budgeted in the approved grant application (6400 Other Operating Costs) and must be reasonable. This type of charge is more practical than the two previous types of costs (i.e., bus driver’s salary and supplies and materials) and would most likely be used in the event the LEA wishes to use McKinney-Vento or Title I, Part A funds to reimburse the excess costs for transporting homeless students to/from school.

Fees for Public Transportation: Bus fares, local transit fees, or other fees for public transportation to/from the school of origin for homeless students are allowable as direct costs to the grant, provided the costs for such public transportation are budgeted in the approved grant application (6400 Other Operating Costs), are reasonable and necessary, and are not already reimbursed under the TEA Bus Pass/Bus Card Reimbursement Program.

The local McKinney-Vento program manager and fiscal manager will need to coordinate with the LEA transportation department and the Business Office to determine the costs discussed above and the appropriate class/object code to budget transportation expenditures. In all cases, if the LEA has a contract with a school bus transportation vendor or with a public transportation vendor, the transportation costs would be budgeted in 6200 Professional and Contracted Services.

- McKinney-Vento Homeless Assistance Act, Title VII, Subtitle B, § 722(g)(1)(J)(iii)

Adoption of Policies and Practices

Each LEA must adopt, review, and revise policies that may act as barriers to the enrollment and retention of homeless children and youth in school. In accordance with the authorizing program statute, your LEA’s policies and practices must

- Ensure that homeless children and youth are not stigmatized or segregated on the basis of their status as homeless.
- Ensure that homeless children and youth receive the same free public education as non-homeless children and youth.
Ensure that homeless children and youth will not be segregated in a separate school, school within a school, or program within a school, based on their status as homeless.

Address
- the immediate enrollment and access of homeless children and youth to school
- factors to consider in determining the best interest of the child or youth
- the maintenance and provision of school records

Ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, the liaison), to and from the school of origin, as follows:

- If the homeless child or youth continues to live within the boundaries of the LEA in which the school of origin is located, the LEA must arrange and provide for transportation of the child or youth to and from the school of origin.

- If the homeless child or youth begins living within the boundaries of another LEA but continues his or her education in the school of origin, the LEA of origin and the LEA in which the homeless child or youth is living must agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the LEAs are unable to agree upon a method, the responsibility and costs for transportation must be shared equally.

Give consideration to issues such as
- the identification of homeless children and youth
- immunization
- residency
- birth certificates
- school records and other documentation
- guardianship

Give special attention to ensuring the enrollment and attendance of homeless children and youth who are not currently attending school.

Ensure your LEA’s policies and practices comply with these requirements. Put systems into place to review policies and practices on an on-going basis, so that new barriers do not prevent children from receiving the free, appropriate public education to which they are entitled.
$$\text{Allowable Uses of McKinney-Vento Funds}$$

LEAs may use McKinney-Vento funds to pay for costs associated with developing, reviewing, and revising policies and procedures related to the identification, enrollment, transportation, and education of homeless children and youth.

**Payroll Costs**: Salary and benefits for an employee to develop, review, and revise policies and procedures related to the identification, enrollment, transportation, and education of homeless children and youth are allowable as direct costs to the grant. In order to be charged to the grant, the employee must be budgeted in the approved grant application and must maintain time-and-effort records (or similar documentation) according to the requirements described in *Allowable Uses of McKinney-Vento Funds* for the local homeless education liaison.

**Contracted Legal Services**: The contracted services of an attorney to develop or to assist the LEA in developing, reviewing, and revising policies is allowable as a direct cost to the grant, provided the contracted legal services are budgeted in the approved grant application and are reasonable and necessary. Retainer fees for attorneys (where the attorney does not actually perform any services during the grant period) are not allowable costs.

- *McKinney-Vento Homeless Assistance Act, Title VII, Subtitle B, §§ 722(e)(3)(A); 722(g)(1)(J)(i) and (iii); 722(g)(7)(A)-(C); 723(b)(5)*
- *USDE Non-Regulatory Guidance on the Education for Homeless Children and Youth Program, July 2004, G-7*

**Student Records**

Your LEA must maintain any record for each homeless child and youth enrolled that is ordinarily kept by the school for each non-homeless child or youth. This includes immunization and medical records, academic records, birth certificates, guardianship records, and evaluations for special services or programs. Records must be available in a timely fashion when a child or youth transfers to a different school or school district.

Records must also be maintained in accordance with the provisions of Section 444 of the General Education Provisions Act (GEPA), also known as the *Family Educational Rights and Privacy Act* (FERPA). This Act, among other requirements pertaining to protection, privacy, and availability of student records, gives parents the right to inspect and review the records of their children. It also provides parents with an opportunity to seek correction of records he or she believes to be inaccurate or misleading. Additionally, with some exceptions, it provides that the school district obtain the written permission of a parent before disclosing information in the student’s educational record to another party.
Refer to the section in Part I of this handbook entitled *Family Educational Rights and Privacy Act (FERPA)*, for more information on the requirements pertaining to this Act.

- McKinney-Vento Homeless Assistance Act, Title VII, Subtitle B, § 722(g)(D)
- GEPA, § 444; 20 USC § 1232(g)
- 34 CFR Part 99, FERPA
Appendices

PROGRAM APPENDICES

McKinney-Vento Homeless Education Contacts for Texas

Program Resources

Program Laws Applicable to McKinney-Vento

Excerpts from Related Laws

   Individuals with Disabilities Education Act of 2004
   Child Nutrition and WIC Reauthorization Act of 2004

Requirements for McKinney-Vento State Plans

ADMINISTRATIVE APPENDICES

General Application of Assurances for SEAs

General Application of Assurances for LEAs

Summary of OMB Grants Management Circulars (Effective for Grants Awarded Prior to December 26, 2014)

Summary of Provisions Related to Selecting and Awarding Competitive Grants – 34 CFR Part 75 – Direct Grant Programs

Summary of FERPA Requirements

   Family Educational Rights and Privacy Act (FERPA), Applicable Excerpts from Texas Law

Summary of PPRA Requirements

Intellectual Property Ownership (Copyrights), Section U., TEA General Provisions and Assurances
FISCAL APPENDICES

Fiscal Compliance Checklist for Grants
TEA FAR Mandatory Account Codes
Basic Principles and Policies of FAR
Shared Services Arrangements
Federal Cost Principles Applicable to Grants Awarded Prior to December 26, 2014
Supporting Documentation Associated with Subcontracts, Corporate Credit Cards, and Travel
Recommended Procedures for Documenting Personnel Expenses
  Sample Semi-Annual Certification
  Sample Daily Time-and-Effort Report
  Sample Monthly Summary Time-and-Effort Report
  Employee Scenarios – Recommended Documentation for Personnel Expenses
Valuation of Cost-Sharing and Matching Costs
Federal Standards for Procurement
Audit Compliance Supplement - Compliance Requirements Reviewed During an Audit
McKinney-Vento Homeless Education Contacts for Texas

THEO

http://www.utdanacenter.org/theo/about.php
Charles A. Dana Center
The University of Texas at Austin
1616 Guadalupe Street, Suite 3.206
Austin, TX 78701

Toll-free in Texas: 1-800-446-3142
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Tim Stahlke, Senior Program Coordinator
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Region 10 ESC

For Program Assistance:

http://www.region10.org/MVH/index.html

Jana Burns (provides assistance to all LEAs in the state)
Director of Services, Special Populations
Region 10 ESC
Phone: 972-348-1536
FAX: 972-348-1537
jana.burns@region10.org

David Ray (provides assistance to all LEAs that are not receiving McKinney-Vento grant funds)
McKinney-Vento/Homeless Consultant
Region 10 ESC
Phone: 972-348-1786
FAX: 972-348-1787
David.Ray@Region10.org

For Fiscal Assistance related to budgeting grant funds, expending and accounting for funds in accordance with FAR, and filing expenditure reports for reimbursement:

Carey Foster
Accounting Manager
Region 10 ESC
Phone: 972-348-1118
FAX: 972-348-1119
Carey.Foster@Region10.org

Sue Hayes
Chief Financial Officer
Region 10 ESC
Phone: 972-348-1110
FAX: 972-348-1111
Sue.Hayes@Region10.org

ESC 10 Main Phone Number: 972-348-1700
Fax: 972-231-3642
Program Resources

Texas Education Agency – Education of Homeless Students  
http://tea.texas.gov/Texas_Schools/Support_for_At-Risk_Schools_and_Students/Education_of_Homeless_Students/

U. S. Department of Education Resources  
http://www2.ed.gov/programs/homeless/resources.html

USDE Non-Regulatory Guidance, Education for Homeless Children and Youth Program, July 2004  

Texas Homeless Education Office (THEO)  
http://www.utdanacenter.org/theo/

Texas Homeless Network  
http://www.thn.org/

National Center for Homeless Education at SERVE  
http://center.serve.org/nche/

National Association for the Education of Homeless Children and Youth  
http://www.naehcy.org/

Homelessness Resource Center  
http://homelessness.samhsa.gov/Search.aspx?search=National+Center+for+Homeless+Education+%28NCHE%29+at+SERVE&organization=National+Center+for+Homeless+Education+%28NCHE%29+at+SERVE&AspxAutoDetectCookieSupport=1

State Report Card on Child Homelessness  
http://www.homelesschildrenamerica.org

National Coalition for the Homeless  
http://www.nationalhomeless.org/factsheets/education.html

Compliance Checklist for LEA Services to Children and Youth in Homeless and Highly Mobile Situations  
Program Laws Applicable to McKinney-Vento

Applicable Federal Laws

Authorizing Federal Program Statute


All LEAs, whether or not they receive McKinney-Vento grant funds, must comply with certain sections of the Act in that they must designate a local homeless education liaison and must identify, enroll, and provide comparable services to homeless children and youth. The Act is codified in Title 42 of the United States Code (USC) in Section 11431 et seq.

Non-Regulatory Guidance


The guidance describes the requirements of the McKinney-Vento Act and provides suggestions for addressing many of the requirements for SEAs and LEAs.

McKinney-Vento Texas State Plan

Texas State Plan for the Education for Homeless Children and Youths Program, submitted to the USDE in May 2002

Outlines how the McKinney-Vento Homeless Assistance Act will be carried out in the state of Texas and provides assurances that the program will be carried out in accordance with the authorizing program statute and other applicable laws.

Texas’ State Policy as provided in the Texas State Plan makes it clear that homeless children and youth are eligible for the same services and will be able to participate in the same programs as non-homeless children and youth.
State Policy

**Definition of Equal Access to the Same Free, Appropriate Public Education**

For purposes of this plan, "equal access to the same free, appropriate public education" in Texas means that homelessness alone shall not disqualify children and youth from participating in any program or receiving any service for which they would otherwise be eligible. All Texas children and youth experiencing homelessness will be able to participate in any program or receive any service for which they would be eligible if they were not homeless. Homelessness alone shall not disqualify any children or youth from eligibility. Therefore, children experiencing homelessness shall be eligible for transportation services, compensatory education services, bilingual education services, special education services, school meal programs, preschool programs, or any other programs offered by the local school district for which the homeless child or youth is otherwise eligible.

**Title I, Part A**

Several sections of [Title I, Part A, of the Elementary and Secondary Education Act](https://www2.ed.gov/policy/elsec/leg/esea01/index.html), as amended by the No Child Left Behind Act (NCLB) of 2001, specifically reference either homeless children or the McKinney-Vento Homeless Assistance Act.

Section 1111 of Title I, Part A, states that SEAs must coordinate with other programs, including the McKinney-Vento Homeless Assistance Act, in the development of the Title I, Part A state plan.

Section 1112 states that LEAs must coordinate with other programs, including the McKinney-Vento Homeless Assistance Act, in the development of their LEA plan for Title I, Part A. Section 1112(b)(1)(E)(ii) states that LEAs must include a description of how the LEA will coordinate and integrate services provided under Title I, Part A with other educational services at the local level such as services for homeless children, among others. Section 1112(b)(1)(O) requires LEAs to describe in their Title I, Part A local plan the services to be provided to homeless children, including the funds reserved for homeless children and youth under section 1113(c)(3)(A).

Section 1113(c)(3)(A) requires each LEA receiving Title I, Part A funds to reserve funds as are necessary to provide comparable Title I services to serve homeless children who do not attend participating Title I schools, including providing educationally related support services to children in shelters and other locations where children may live.
And finally, Section 1115(b)(2)(E) specifically states that a child who is homeless and attending any school in the LEA is eligible for Title I services (whether or not the school is a Title I school).

**Texas NCLB Consolidated State Plan**

Section 1111(a)(1) of Title I requires a state to include in its state Title I plan a description of how the plan coordinated with the McKinney-Vento Act.

**Head Start Act**

The [Head Start Act](#) authorizes the administration of the federal Head Start program, which serves the child development needs of preschool children (birth through age five) and their low income families. The [Head Start Bureau 1992 memorandum on serving homeless preschoolers](#) establishes homeless preschoolers as a targeted population to be served in Head Start preschool programs and suggests implementation strategies for ensuring that homeless preschoolers have access to Head Start services.

**Individuals with Disabilities Education Act (IDEA) of 2004**

[IDEA](#) is a federal law whose purpose is to ensure that all children with disabilities receive a free and appropriate education (FAPE), including special education and related services, to prepare them for further education, employment, and independent living (Part A, Sec. 601[d][1][A]). The program strives to improve the education of all infants, toddlers, children, and youth with disabilities, including those experiencing homelessness.

IDEA reinforces the timely assessment, appropriate service provision and placement, and continuity of services for children and youth with disabilities who experience homelessness and high mobility. Coordination and compliance with the McKinney-Vento Act are mandated specifically.

IDEA observes the McKinney-Vento definition of “homeless children and youth”. The definition of “parent” now includes foster parents. For the purpose of special education, “parents” include biological, adoptive or foster parents, guardians, surrogate parents, individuals legally responsible for the child’s welfare, or individuals acting in the place of a parent and with whom the child lives (specifically including grandparents, stepparents or other relatives). IDEA also contains a definition of “ward of the state.”

IDEA requires that all homeless children, including homeless preschoolers, be included in the “Child Find” process for early identification and evaluation of special education needs. (Refer to the Excerpts from Related Laws section of the Appendices in this handbook.) It is recommended that, when possible, the eligibility process for identifying special needs be expedited to avoid delays in services provided to eligible homeless children caused by frequent mobility.
You are required to coordinate with the special education director at your school district, ESC, or open-enrollment charter school to facilitate the provision of services to homeless children and youth.

**Child Nutrition and WIC Reauthorization Act of 2004**

Section 107 of the Child Nutrition and WIC Reauthorization Act of 2004 (Act) amended section 9(b) of the Richard B. Russell National School Lunch Act to make runaway, homeless and migrant children categorically eligible for free meal benefits under the National School Lunch and School Breakfast Programs. In addition to establishing free meal eligibility, the Act, effective July 1, 2004, also establishes a requirement for documenting a child’s status as runaway, homeless, or migratory. See applicable excerpts from the law in the Appendices, Excerpts from Related Laws.

**Runaway and Homeless Youth Act**

The Runaway and Homeless Youth Act (RHYA) is administered by the Family and Youth Services Bureau of the U.S. Department of Health and Human Services. The RHYA program provides funding for basic center programs, transitional living programs, and street outreach programs that serve runaway and homeless youth. Family and Youth Service Bureau Information Memorandum No. 1-2006 states that Basic Center and Transitional Living programs must coordinate with local homeless education liaisons to ensure that runaway and homeless youth are provided with information regarding the educational services available to them.

**Applicable State Laws**

Texas Education Code (TEC)

Section 11.162. SCHOOL UNIFORMS

(a) The board of trustees of an independent school district may adopt rules that require students at a school in the district to wear school uniforms if the board determines that the requirement would improve the learning environment at the school.

(b) The rules the board of trustees adopts must designate a source of funding that shall be used in providing uniforms for students at the school who are educationally disadvantaged.

(c) A parent or guardian of a student assigned to attend a school at which students are required to wear school uniforms may choose for the student to be exempted from the requirement or to transfer to a school at which students are not required to wear uniforms and at which space is available if the parent or guardian provides a written statement that, as determined by the board of trustees, states a bona fide religious or philosophical objection to the requirement.
Section 25.001. ADMISSION

(b) The board of trustees of a school district or its designee shall admit into the public schools of the district free of tuition a person who is over five and younger than 21 years of age on the first day of September of the school year in which admission is sought, and may admit a person who is at least 21 years of age and under 26 years of age for the purpose of completing the requirements for a high school diploma, if

(5) the person is homeless, as defined by 42 U.S.C. Section 11302, regardless of the residence of the person, of either parent of the person, or of the person's guardian or other person having lawful control of the person.

(d) For a person under the age of 18 years to establish a residence for the purpose of attending the public schools separate and apart from the person's parent, guardian, or other person having lawful control of the person under a court order, it must be established that the person's presence in the school district is not for the primary purpose of participation in extracurricular activities. The board of trustees shall determine whether an applicant for admission is a resident of the school district for purposes of attending the public schools and may adopt reasonable guidelines for making a determination as necessary to protect the best interests of students.

Section 29.153. FREE PREKINDERGARTEN FOR CERTAIN CHILDREN.

(a-1) A district shall offer prekindergarten classes if the district identifies 15 or more children who are eligible under Subsection (b) and are at least four years of age. A school district may offer prekindergarten classes if the district identifies 15 or more eligible children who are at least three years of age. A district may not charge tuition for a prekindergarten class offered under this section.

(b) A child is eligible for enrollment in a prekindergarten class under this section if the child is at least three years of age and

(3) is a homeless child, as defined by 42 U.S.C. Section 11434a, regardless of the residence of the child, of either parent of the child, or of the child's guardian or other person having lawful control of the child.

Section 29.081. COMPENSATORY, INTENSIVE, AND ACCELERATED INSTRUCTION

(b) Each district shall provide accelerated instruction to a student enrolled in the district who has taken an end-of-course assessment instrument administered under Section 39.023(c) and has not performed satisfactorily on the assessment instrument or who is at risk of dropping out of school.
(d) For purposes of this section, "student at risk of dropping out of school" includes each student who is under 21 years of age and who

1. was not advanced from one grade level to the next for one or more school years;
2. if the student is in grade 7, 8, 9, 10, 11, or 12, did not maintain an average equivalent to 70 on a scale of 100 in two or more subjects in the foundation curriculum during a semester in the preceding or current school year or is not maintaining such an average in two or more subjects in the foundation curriculum in the current semester;
3. did not perform satisfactorily on an assessment instrument administered to the student under Subchapter B, Chapter 39, and who has not in the previous or current school year subsequently performed on that instrument or another appropriate instrument at a level equal to at least 110 percent of the level of satisfactory performance on that instrument;
4. if the student is in prekindergarten, kindergarten, or grade 1, 2, or 3, did not perform satisfactorily on a readiness test or assessment instrument administered during the current school year;
5. is pregnant or is a parent;
6. has been placed in an alternative education program in accordance with Section 37.006 during the preceding or current school year;
7. has been expelled in accordance with Section 37.007 during the preceding or current school year;
8. is currently on parole, probation, deferred prosecution, or other conditional release;
9. was previously reported through the Public Education Information Management System (PEIMS) to have dropped out of school;
10. is a student of limited English proficiency, as defined by Section 29.052;
11. is in the custody or care of the Department of Protective and Regulatory Services or has, during the current school year, been referred to the department by a school official, officer of the juvenile court, or law enforcement official;
12. is homeless, as defined by 42 U.S.C. Section 11302, and its subsequent amendments; or
13. resided in the preceding school year or resides in the current school year in a residential placement facility in the district, including a detention facility, substance abuse treatment facility, emergency shelter, psychiatric hospital, halfway house, or foster group home.
Excerpts from Related Laws

Individuals with Disabilities Education Act (IDEA) of 2004

HOMELESS CHILDREN.—The term ‘homeless children’ has the meaning given the term ‘homeless children and youths’ in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a). (Section 602(11); 34 C.F. R. §300.19)

PARENT.—The term ‘parent’ means—
(A) a natural, adoptive, or foster parent of a child (unless a foster parent is prohibited by State law from serving as a parent);
(B) a guardian (but not the State if the child is a ward of the State);
(C) an individual acting in the place of a natural or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare; or
(D) except as used in sections 615(b)(2) and 639(a)(5), an individual assigned under either of those sections to be a surrogate parent. Section 602(23)

(a) Parent means—
(1) A biological or adoptive parent of a child;
(2) A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;
(3) A guardian generally authorized to act as the child’s parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);
(4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare; or
(5) A surrogate parent who has been appointed in accordance with section 300.519 or section 639(a)(5) of the Act. 34 C.F.R. §300.30

WARD OF THE STATE.—
(A) IN GENERAL.—The term ‘ward of the State’ means a child who, as determined by the State where the child resides, is a foster child, is a ward of the State, or is in the custody of a public child welfare agency.
(B) EXCEPTION.—The term does not include a foster child who has a foster parent who meets the definition of a parent in paragraph (23). Section 602(36); 34 C.F.R. §300.45

(a) IN GENERAL.—A State is eligible for assistance under this part for a fiscal year if the State submits a plan that provides assurances to the Secretary that the State has in effect policies and procedures to ensure that the State meets each of the following conditions:
(3) CHILD FIND.—
(A) IN GENERAL.—All children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State and children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with
disabilities are currently receiving needed special education and related services. Section 612(a)(3)(A); 34 CFR §300.111

Child Nutrition and WIC Reauthorization Act of 2004 (Public Law 108-265)
(Excerpts related to the education of children and youth experiencing homelessness)

SEC 104. DIRECT CERTIFICATION.
(5) DISCRETIONARY CERTIFICATION.—
(A) IN GENERAL.—Subject to paragraph (6), any local educational agency may certify any child as eligible for free lunches or breakfasts, without further application, by directly communicating with the appropriate State or local agency to obtain documentation of the status of the child as—...
   (ii) a homeless child or youth (defined as 1 of the individuals described in section 725(2) of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11434a(2)]);
   (iii) served by the runaway and homeless youth grant program established under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.); or
   (iv) a migratory child (as defined in section 1309 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6399]).

SEC. 107. RUNAWAY, HOMELESS, AND MIGRANT YOUTH.
(a) CATEGORICAL ELIGIBILITY FOR FREE LUNCHES AND BREAKFASTS.—Section 9(b)(12)(A) of the Richard B. Russell National School Lunch Act (as redesignated by section 104(a)(1) of this Act) is amended—...
   (3) by adding at the end the following:
      (iv) homeless child or youth (defined as 1 of the individuals described in section 725(2) of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11434a(2)]);
      (v) served by the runaway and homeless youth grant program established under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.); or
      (vi) a migratory child (as defined in section 1309 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6399]).
Requirements for McKinney-Vento State Plans

The McKinney-Vento statute requires that each state plan include the following:

A. a description of how homeless children and youths are (or will be) given the opportunity to meet the same challenging State academic achievement standards all students are expected to meet

B. a description of the procedures the State educational agency (SEA) will use to identify homeless children and youths in the State and to assess their special needs

C. a description of procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youths

D. a description of programs for school personnel (including principals, attendance officers, teachers, enrollment personnel, and pupil services personnel) to heighten the awareness of such personnel of the specific needs of runaway and homeless youths

E. a description of procedures that ensure that homeless children and youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local food programs

F. a description of procedures that ensure
   - homeless children have equal access to the same public preschool programs, administered by the State agency, as provided to other children in the State
   - homeless youths and youths separated from the public schools are identified and accorded equal access to appropriate secondary education and support services
   - homeless children and youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local before- and after-school care programs

G. strategies to address problems identified in the report provided to the Secretary

H. strategies to address other problems with respect to the education of homeless children and youths, including problems resulting from enrollment delays that are caused by
   - immunization and medical records requirements
   - residency requirements
   - lack of birth certificates, school records, or other documentation
   - guardianship issues
   - uniform or dress code requirements

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I. a demonstration that the SEA and LEAs in the State have developed, and shall review and revise, policies to remove barriers to the enrollment and retention of homeless children and youths in schools in the State

J. assurances that
   i. the SEA and LEAs in the State will adopt policies and practices to ensure that homeless children and youths are not stigmatized or segregated on the basis of their status as homeless

   ii. LEAs will designate an appropriate staff person, who may also be a coordinator for other Federal programs, as a local educational agency liaison for homeless children and youths, to carry out the duties described in the statute

   iii. the State and its LEAs will adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, the liaison), to and from the school of origin, in accordance with the following, as applicable:

      a. If the homeless child or youth continues to live in the area served by the LEA in which the school of origin is located, the child’s or youth’s transportation to and from the school of origin shall be provided or arranged by the LEA in which the school of origin is located.

      b. If the homeless child’s or youth’s living arrangements in the area served by the LEA of origin terminate and the child or youth, though continuing his or her education in the school of origin, begins living in an area served by another LEA, the LEA of origin and the LEA in which the homeless child or youth is living shall agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the LEAs are unable to agree upon a method, the responsibility and costs for transportation shall be shared equally.

[McKinney-Vento Homeless Assistance Act, Title VII, Subtitle B, § 722(g)]
General Application of Assurances for SEAs

In the general application of assurances, the SEA assures the following:

1. Each program will be administered in accordance with all applicable statutes, regulations, program plans, and applications.

2. The control of funds provided under each program and title to property acquired with program funds will be in a public agency, or in a nonprofit private agency, institution, or organization if the statute authorizing the program provides for grants to such entities, and the public agency or nonprofit private agency, institution, or organization will administer such funds and property.

3. The state will adopt and use proper methods of administering each applicable program, including
   
   A. monitoring of agencies, institutions, and organizations responsible for carrying out each program, and the enforcement of any obligations imposed on those agencies, institutions, and organizations under law
   B. providing technical assistance, where necessary, to such agencies, institutions, and organizations
   C. encouraging the adoption of promising or innovative educational techniques by such agencies, institutions, and organizations
   D. the dissemination throughout the state of information on program requirements and successful practices
   E. the correction of deficiencies in program operations that are identified through monitoring or evaluation

4. The state will evaluate the effectiveness of covered programs in meeting their statutory objectives, at such intervals (not less often than once every three years) and in accordance with such procedures as the Secretary may prescribe by regulation, and the state will cooperate in carrying out any evaluation of each program conducted by or for the Secretary or other federal official.

5. The state will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, federal funds paid to the state under each program.

6. The state will make reports to the Secretary (including reports on the results of evaluations required under paragraph 4) as may reasonably be necessary to enable the Secretary to perform his duties under each program, and the state will maintain such records, in accordance with the requirements of section 1232f of this title, and afford access to the records as the Secretary may find necessary to carry out his duties.
7. The state will provide reasonable opportunities for the participation by local agencies, representatives of the class of individuals affected by each program and other interested institutions, organizations, and individuals in the planning for and operation of each program, including the following:

A. The state will consult with relevant advisory committees, local agencies, interest groups, and experienced professionals in the development of program plans required by statute.

B. The state will publish each proposed plan, in a manner that will ensure circulation throughout the state, at least sixty days prior to the date on which the plan is submitted to the Secretary or on which the plan becomes effective, whichever occurs earlier, with an opportunity for public comments on such plan to be accepted for at least 30 days.

C. The state will hold public hearings on the proposed plans if required by the Secretary by regulation.

D. The state will provide an opportunity for interested agencies, organizations, and individuals to suggest improvements in the administration of the program and to allege that there has been a failure by any entity to comply with applicable statutes and regulations.

8. None of the funds expended under any applicable program will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization.

Title 20 USC, Chapter 31 – General Provisions Concerning Education, § 1232d
General Application of Assurances for LEAs

GEPA requires that the general application submitted by an LEA to the SEA set forth the following assurances:

1. The LEA will administer each program covered by the application in accordance with all applicable statutes, regulations, program plans, and applications.

2. The control of funds provided to the LEA under each program, and title to property acquired with those funds, will be in a public agency and a public agency will administer those funds and property.

3. The LEA will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to that LEA under each program.

4. The LEA will make reports to the State agency or board and to the Secretary of Education as may reasonably be necessary to enable the State agency or board and the Secretary to perform their duties and the LEA will maintain such records, including the records required under section 1232f of this title, and provide access to those records, as the State agency or board or the Secretary deem necessary to perform their duties.

5. The LEA will provide reasonable opportunities for the participation by teachers, parents, and other interested agencies, organizations, and individuals in the planning for and operation of each program.

6. Any application, evaluation, periodic program plan or report relating to each program will be made readily available to parents and other members of the general public.

7. In the case of any project involving construction
   A. The project is not inconsistent with overall State plans for the construction of school facilities.
   B. In developing plans for construction, due consideration will be given to excellence of architecture and design and to compliance with standards prescribed by the Secretary under section 794 of Title 29 in order to ensure that facilities constructed with the use of Federal funds are accessible to and usable by individuals with disabilities.

8. The LEA has adopted effective procedures for acquiring and disseminating to teachers and administrators participating in each program, significant information from educational research, demonstrations, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects.

9. None of the funds expended under any applicable program will be used to acquire equipment (including computer software) in any instance in which
such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization.

Title 20 USC, Chapter 31 – General Provisions Concerning Education, § 1232e
Summary of OMB Grants ManagementCirculars  
(Effective for Grants Awarded Prior to December 26, 2014)  
Which OMB Circulars Was I Required To Follow?

For federal grants awarded prior to December 26, 2014, grantees were required to comply with the requirements found in several different circulars and regulations. Although there were 6 different OMB circulars, your organization was only covered by 3 of them, depending on type of entity. For federal grants awarded on or after December 26, 2014, all entities are required to comply with the requirements in 2 CFR Part 200.

<table>
<thead>
<tr>
<th>Type of Entity</th>
<th>Applicable OMB Circulars</th>
<th>Codified For Education in ...</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Public school districts</td>
<td>OMB Circular A-87 for cost principles</td>
<td>2 CFR, Part 225</td>
</tr>
<tr>
<td>• ESCs</td>
<td>OMB Circular A-102 for administrative requirements</td>
<td>34 CFR, Part 80</td>
</tr>
<tr>
<td>• Open-enrollment charter schools (regardless of sponsoring entity – effective with the 2013-2014 school year per TEA)</td>
<td>OMB Circular A-133 for audit requirements</td>
<td>Subgrantees must also comply with the provisions pertaining to subgrantees in 34 CFR, Part 76 – State-Administered Grants</td>
</tr>
<tr>
<td>• Other local governments (e.g., cities, counties, municipalities, councils of government)</td>
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<td></td>
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<tr>
<td>• State agencies</td>
<td>OMB Circular A-133 Compliance Supplement 2012</td>
<td></td>
</tr>
<tr>
<td>• Open-enrollment charter schools operated by a nonprofit organization (applicable only up through the end of the 2012-2013 school year per TEA)</td>
<td>OMB Circular A-122 for cost principles</td>
<td>2 CFR, Part 230</td>
</tr>
<tr>
<td>• Nonprofit organizations, including community-based organizations and faith-based organizations</td>
<td>OMB Circular A-110 for administrative requirements</td>
<td>34 CFR, Part 74</td>
</tr>
<tr>
<td></td>
<td>OMB Circular A-133 for audit requirements</td>
<td>Subgrantees must also comply with the provisions pertaining to subgrantees in 34 CFR, Part 76 – State-Administered Grants</td>
</tr>
<tr>
<td></td>
<td>OMB Circular A-133 Compliance Supplement 2012</td>
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<tr>
<td>• Open-enrollment charter schools operated by an institution of higher education (IHE; i.e., college or university) (applicable only up through the end of the 2012-2013 school year per TEA)</td>
<td>OMB Circular A-21 for cost principles</td>
<td>2 CFR, Part 220</td>
</tr>
<tr>
<td>• IHEs</td>
<td>OMB Circular A-110 for administrative requirements</td>
<td>34 CFR, Part 74</td>
</tr>
<tr>
<td></td>
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</tbody>
</table>
### Summary of Provisions Related to Selecting and Awarding Competitive Grants - 34 CFR Part 75, Direct Grant Programs

| Topic                          | Part 75 Provision                                                                                                                                                                                                 | Comparable TEA Provision                                                                                                                                                                                                                                                                                                                                 | Part 75 Citation                  |
|-------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|
| Application Content           | An application submitted to the Secretary must contain  
  - a project period (i.e., grant beginning and ending date)  
  - a narrative that describes how and when the applicant plans to meet each objective of the project  
  - a budget                                                                                                                                     | TEA’s competitive applications contain the same minimum contents as well as any requirements that must be addressed in the application according to the authorizing program statute.                                                                                                           | 34 CFR §§ 75.112 and .117 |
| Review and Selection of       | Part 75 establishes mandatory and optional review criteria for competitive grants administered by the USDE.                                                                                                         | TEA has fashioned its standard review criteria for its competitive grants after many of the Secretary’s review criteria. Those standard review criteria are provided in each competitive RFA published by TEA in the **General and Fiscal Guidelines**.                              | 34 CFR § 75.210                  |
| Competitive Grants            |                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                      |                                   |
| Applications not evaluated for | The Secretary does not evaluate a formula or competitive application if  
  funding                                                                  | TEA does not review, score, or award a competitive application for one or more of the same reasons                                                                                                                                                                                                                                                      | 34 CFR § 75.216                  |
|                               | - the applicant is not eligible  
  - the applicant does not comply with all of the procedural rules that govern the submission of the application (including receipt of the application on the established due date and use of the proper forms for submitting an application) |                                                                                                                                                                                                                                                                                                                                                      |                                   |
<p>| Selection of applications for funding | The Secretary selects applications for new grants on the basis of the authorizing statute, the selection criteria, and any priorities or other requirements that have been published in the Federal Register. The Secretary also considers the applicant’s performance and use of funds under a previous award under any USDE program and failure to submit a performance report or submission of a performance report of unacceptable quality. | TEA selects applications based on the same information, including the authorizing statute, the selection criteria, priorities, and requirements as published in the Request for Application (RFA). TEA also reserves the right not to award a grant to a high-risk grantee or to one that has not demonstrated compliance with other federal grants. Non-compliance may include non-compliance with program requirements or with fiscal requirements. | 34 CFR § 75.217 |
| Multiple tier review process | The Secretary may use a multiple tier review process to evaluate applications. The Secretary may refuse to review applications in any tier that do not meet a minimum cut-off score established for the prior tier. The Secretary may refuse to consider an application if the application is rejected by any of the groups used in the prior tier. | TEA often establishes a minimum cut-off score in the RFA and may choose to conduct a multi-tier review of the application. TEA’s multi-tier review might include a second review and scoring of the highest-scoring applications by another group to narrow the selection group further, or it might include an oral interview as a second tier of evaluation. | 34 CFR § 75.224 |</p>
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
<th>TEA Activity</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grant Award Amount</td>
<td>Before the Secretary sets the award amount of a new grant, the Secretary evaluates specific elements of cost in the detailed budget and examines costs to determine if they are necessary, reasonable, and allowable under applicable statutes and regulations.</td>
<td>TEA reviews the budget for the same reasons.</td>
<td>34 CFR § 75.232</td>
</tr>
<tr>
<td>Conditions of the grant</td>
<td>The Secretary makes a grant to an applicant only after determining the approved costs and any special conditions.</td>
<td>TEA awards a grant to an applicant after reviewing the budget and requirements and determining the application is approvable.</td>
<td>34 CFR § 75.234</td>
</tr>
<tr>
<td>Notification of Grant Award</td>
<td>To make a grant, the Secretary issues a notification of grant award and sends it to the grantee. The notification of grant award sets the amount of the grant award and establishes other special conditions, if any. The grant obligates both the federal government and the grantee to the requirements that apply to the grant.</td>
<td>TEA issues a Notice of Grant Award (NOGA) to the grantee. The NOGA sets the approved amount awarded and incorporates the RFA in its entirety. The NOGA in combination with the approved grant application constitutes a legally binding contractual agreement.</td>
<td>34 CFR §§ 75.235 and .236</td>
</tr>
<tr>
<td>Continuation of a multi-year project</td>
<td>The Secretary may make a continuation award for a subsequent budget period if Congress has appropriated sufficient funds the recipient has made substantial progress toward meeting the objectives of its approved program the recipient has submitted all required reports continuation of the</td>
<td>TEA makes continuation awards for subsequent budget periods under the same circumstances.</td>
<td>34 CFR § 75.253</td>
</tr>
<tr>
<td>project is in the best interest of the federal government.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Summary of FERPA Requirements

To simplify the language in this summary of requirements, the term “LEA” is used in lieu of “educational agency or institution”. In all cases, the same rights specified below are afforded to the student once the student becomes 18 years of age.

Note: This summary provides high-level information only of the main requirements of FERPA. Because FERPA is highly complex and can ultimately result in potential lawsuits or the termination of federal education funding for noncompliance, you are advised to consult your LEA’s policies and procedures, your superintendent, and potentially your LEA’s attorney, to seek guidance to ensure compliance with the requirements.

Releasing “Directory Information” – Annual Notice to Parents

At the beginning of each school year, or on enrollment of a student after the beginning of the school year, each LEA must provide public notice to the parents of each student that provides a written explanation of the provisions of FERPA regarding the release of directory information (TEC, § 26.013).

GEPA requires that the notice inform the parents of the categories of information which it has designated as “directory information.” The notice must also provide the opportunity and a reasonable amount of time for parents to prohibit the publishing of directory information for their children, or to require the parent’s prior consent before releasing specific directory information.

TEC, Section 26.013 provides very explicit language to be included in the notice to parents and requires that a form be supplied to parents. See the Appendices, Family Educational Rights and Privacy Act (FERPA), Applicable Excerpts from Texas Law, for the exact language to be included in the notice.

For the purposes of this section, the term "directory information" means information contained in a student’s education record that would not generally be considered harmful or an invasion of privacy if disclosed and includes the following:

- the student's name
- address
- telephone listing
- date and place of birth
- major field of study
- participation in officially recognized activities and sports
- weight and height of members of athletic teams
- dates of attendance
- degrees and awards received
- the most recent previous educational agency or institution attended by the student
**Inspection and Review of Educational Records by Parents – Written Policy**

In order to receive federal education funds, FERPA requires that each LEA, as well as each SEA, have a *written policy* which provides the parents of students the right to inspect and review the education records of their children.

If any material or document in the education record of a student includes information on more than one student, a student’s parents shall have the right to inspect and review only the part of the material or document that relates to their child, or to be informed of the specific information contained in the material related to their child.

Texas law (TEC, § 26.004) defines *educational records* as including:

- attendance records
- test scores
- grades
- disciplinary records
- counseling records
- psychological records
- applications for admission
- health and immunization information
- teacher and counselor evaluations
- reports of behavioral patterns

**Reasonableness of Time for Access by Parents**

Each LEA must establish appropriate procedures for granting parents, upon request, access to the education records of their children within a reasonable period of time, but in no case more than 45 days after the request has been made.

**Right to Request Amendment to Information in Educational Records and Opportunity for Hearing**

Parents have the right to request that information in the records be changed if the parents believe the information is incorrect or misleading. If the LEA does not amend the records within a reasonable period of time as requested, the LEA must provide the parents an opportunity for a hearing, in accordance with regulations of the Secretary (see 34 CFR § 99.22 for regulations), to challenge the content of their student’s education records.

If, after the hearing, the LEA still does not amend the record, the parents must be allowed to insert into the records a written statement explaining their view of the contested information. The statement must be maintained as part of the record for as long as the record is maintained and must be disclosed as part of the record.
Release of Educational Records to Third Parties Only With Written Consent of Parents – Written Policy

LEAs must have a policy and practice of permitting the release of education records to third parties only with the signed and dated (hard copy or electronic) written consent of the student’s parents. This includes all education records and personally identifiable information other than directory information. Third parties include any individual, agency, or organization, except as noted below.

The LEA must specify in the written consent

- the records to be released
- the reasons for the release
- to whom the records will be released

The LEA must also furnish a copy of the records to be released to the parent along with the written consent. Additionally, if the information is related to a judicial order or subpoena, the LEA must notify the parents and student in advance of releasing records for such purposes.

Educational records may be released to the following parties without written consent of the parent:

A. other school officials, including teachers within the LEA, who have been determined by the LEA to have legitimate educational interests, including the educational interests of the child for whom consent would otherwise be required

B. officials of other schools or school systems in which the student seeks or intends to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record

C. authorized representatives of the Comptroller General of the United States, the Secretary of Education, State educational authorities, or authorized representatives of the Attorney General for law enforcement purposes

D. in connection with a student's application for, or receipt of, financial aid

E. State and local officials or authorities to whom such information is specifically allowed to be reported or disclosed pursuant to State statute if (I) the allowed reporting or disclosure concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records are released; and (II) the officials and authorities to whom such information is disclosed certify in writing to the LEA that the information will not be disclosed to any other party except as provided under State law without the prior written consent of the parent of the student.

F. organizations conducting studies for, or on behalf of, LEAs or other educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction. The studies must be conducted in such a manner as will not permit the personal identification of students and their parents by
persons other than representatives of such organizations and the information will be destroyed when no longer needed for the purpose for which it is conducted.

G. accrediting organizations in order to carry out their accrediting functions

H. parents of a dependent student of such parents (where “dependent” is given the same meaning as a dependent for tax purposes)

I. subject to regulations of the Secretary, in connection with an emergency, appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons

J. (i) the entity or persons designated in a Federal grand jury subpoena, in which case the court shall order, for good cause shown, the LEA (and any officer, director, employee, agent, or attorney of the LEA) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished to the grand jury in response to the subpoena; and (ii) the entity or persons designated in any other subpoena issued for a law enforcement purpose, in which case the court or other issuing agency may order, for good cause shown, the LEA (and any officer, director, employee, agent, or attorney of the LEA) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished in response to the subpoena

K. the Secretary of Agriculture, or authorized representative from the Food and Nutrition Service or contractors acting on behalf of the Food and Nutrition Service, for the purposes of conducting program monitoring, evaluations, and performance measurements of LEAs receiving funding or providing benefits of 1 or more programs authorized under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) for which the results will be reported in an aggregate form that does not identify any individual, on the conditions that (i) any data collected shall be protected in a manner that will not permit the personal identification of students and their parents by other than the authorized representatives of the Secretary; and (ii) any personally identifiable data shall be destroyed when the data are no longer needed for program monitoring, evaluations, and performance measurements.

**Maintenance of Records Released to Third Parties**

Each LEA releasing educational records of a student to one or more third parties must maintain an access record, kept with the individual student’s records, that discloses all third parties that have requested or obtained access to a student’s educational records. The access record must specifically indicate the legitimate interest that each third party has in obtaining the information. The access record must also be available only to the parents, the school officials, his or her assistants responsible for custody of these records, and persons authorized to audit such records.
Limited Access to Records Obtained by a Third Party

Personal information must only be provided to a third party on the condition that the third party will not permit any other party to have access to the information without obtaining written consent from the student’s parent.

If a third party outside the LEA permits access to the information or fails to destroy it after it is no longer needed for legitimate purposes, the LEA is prohibited from permitting access to educational records to that third party for not less than five years.

Required Annual Notice to Parents

The implementing regulations in 34 CFR Part 99 require that each LEA annually notify parents, including parents of students who are disabled and parents who have a primary or home language other than English, of their rights under FERPA. Note: This notice may be combined with the annual notice pertaining to releasing “directory information.”

The notice must inform parents in a language they can understand that they have the right to inspect and review their student’s education records and to seek amendments of the records if they believe them to be inaccurate, misleading, or otherwise in violation of the student’s privacy rights. The notice must include all of the following:

- the procedure for requesting the review and inspection of education records
- the procedure for requesting amendment to the records (through a hearing as described above)
- If the LEA has a policy of disclosing educational records to school officials, including teachers, the criteria for determining who constitutes appropriate school officials and what constitutes a legitimate educational interest.

Remedies for Noncompliance

The Family Policy Compliance Office at the USDE enforces the provisions of FERPA. The Secretary of Education is authorized to issue a cease and desist order, withhold funds, or terminate federal education funding for an LEA or other educational institution for noncompliance with the provisions of FERPA if compliance cannot be secured voluntarily.

- Title 20 USC, Chapter 31 – General Provisions Concerning Education, § 1232g
- 34 CFR §§ 75.740(a) and 76.740(a)
- 34 CFR Part 99
- Texas Government Code, §§ 552.026 and .114
- Texas Education Code, § 26.004 and 26.013
- USDE Guidance on FERPA
- FAQs on TEA’s website on the Public Information Act
Family Educational Rights and Privacy Act (FERPA) - Applicable Excerpts from Texas Law

Texas Government Code, Title 5, Subtitle A, Chapter 552, Public Information

Section 552.026. EDUCATION RECORDS

This chapter does not require the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Act of 1974, Sec. 513, Pub. L. No. 93-380, 20 U.S.C. Sec. 1232g.

Section 552.114. EXCEPTION: CONFIDENTIALITY OF STUDENT RECORDS

(a) Information is excepted from the requirements of Section 552.021 if it is information in a student record at an educational institution funded wholly or partly by state revenue.

(b) A record under Subsection (a) shall be made available on the request of:

(1) educational institution personnel;
(2) the student involved or the student's parent, legal guardian, or spouse; or
(3) a person conducting a child abuse investigation required by Subchapter D, Chapter 261, Family Code.

Texas Education Code, Title 2, Subtitle E, Chapter 26, Parental Rights and Responsibilities

Section 26.004. ACCESS TO STUDENT RECORDS

A parent is entitled access to all written records of a school district concerning the parent's child, including:

- attendance records
- test scores
- grades
- disciplinary records
- counseling records
- psychological records
- applications for admission
- health and immunization information
- teacher and counselor evaluations
- reports of behavioral patterns

Section 26.012. FEE FOR COPIES

The agency or a school district may charge a reasonable fee in accordance with Subchapter F, Chapter 552, Government Code, for copies of materials provided to a parent under this chapter.
Section 26.013. STUDENT DIRECTORY INFORMATION

(a) A school district shall provide to the parent of each student at the beginning of each school year or on enrollment of the student after the beginning of a school year:

(1) a written explanation of the provisions of the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), regarding the release of directory information about the student; and

(2) written notice of the right of the parent to object to the release of directory information about the student under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

(b) The notice required by Subsection (a)(2) must contain:

(1) the following statement in boldface type that is 14-point or larger:

"Certain information about district students is considered directory information and will be released to anyone who follows the procedures for requesting the information unless the parent or guardian objects to the release of the directory information about the student. If you do not want [insert name of school district] to disclose directory information from your child's education records without your prior written consent, you must notify the district in writing by [insert date]. [Insert name of school district] has designated the following information as directory information: [Here a school district must include any directory information it chooses to designate as directory information for the district, such as a student's name, address, telephone listing, electronic mail address, photograph, degrees, honors and awards received, date and place of birth, major field of study, dates of attendance, grade level, most recent educational institution attended, and participation in officially recognized activities and sports, and the weight and height of members of athletic teams]."

(2) a form, such as a check-off list or similar mechanism, that:

(A) immediately follows, on the same page or the next page, the statement required under Subdivision (1); and

(B) allows a parent to record:

(i) the parent's objection to the release of all directory information or one or more specific categories of directory information if district policy permits the parent to object to one or more specific categories of directory information;

(ii) the parent's objection to the release of a secondary student's name, address, and telephone number to a military recruiter or institution of higher education; and
(iii) the parent's consent to the release of one or more specific categories of directory information for a limited school-sponsored purpose if such purpose has been designated by the district and is specifically identified, such as for a student directory, student yearbook, or district publication; and

(3) a statement that federal law requires districts receiving assistance under the Elementary and Secondary Education Act of 1965 (20 U.S.C. Section 6301 et seq.) to provide a military recruiter or an institution of higher education, on request, with the name, address, and telephone number of a secondary student unless the parent has advised the district that the parent does not want the student's information disclosed without the parent's prior written consent.

(c) A school district may designate as directory information any or all information defined as directory information by the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g). Directory information under that Act that is not designated by a district as directory information for that district is excepted from disclosure by the district under Chapter 552, Government Code.

(d) Directory information consented to by a parent for use only for a limited school-sponsored purpose, such as for a student directory, student yearbook, or school district publication, if any such purpose has been designated by the district, remains otherwise confidential and may not be released under Chapter 552, Government Code.

TEA's FAQs on Student Records
USDE’s Information on FERPA
34 CFR Part 99
Summary of PPRA Requirements -  
(Protection of Pupil Rights Amendment)

Special Note: This summary on PPRA provides high-level information only of the main requirements of PPRA and the applicable state laws. Because PPRA is highly complex and can ultimately result in potential lawsuits or the termination of federal education funding for noncompliance, you are advised to consult your LEA’s policies and procedures, your superintendent, and potentially your LEA’s attorney, to seek guidance to ensure compliance with the requirements.

Written Policy to Provide for Inspection of Materials by Parents

In accordance with PPRA, each LEA must have a written policy developed in consultation with parents that establishes the following:

1. Parents or guardians are permitted to review and inspect all instructional and other supplementary materials to be used in connection with any survey, analysis, or evaluation funded in whole or in part from any federal education funds. This requirement pertains to surveys, analyses, and evaluations developed and administered by the LEA as well as by third parties.

2. The LEA may not require a student to submit to a survey, analysis, or evaluation which reveals information pertaining to the following unless written consent is obtained in advance from the parent. “Survey, analysis, or evaluation” includes any psychiatric or psychological examination or testing. “Psychiatric or psychological examination or test” means a method of information that is not directly related to academic instruction and that is designed to elicit information about attitudes, habits, traits, opinions, beliefs, or feelings (34 CFR § 98.4).

- political affiliations or beliefs of the student or student’s parent
- mental or psychological problems of the student or student's family
- sex behavior or attitudes
- illegal, anti-social, self-incriminating, or demeaning behavior
- critical appraisals of others with whom respondents have close family relationships
- legally recognized privileged relationships, such as with lawyers, doctors, or ministers
- religious practices, affiliations, or beliefs of the student or parents
- income, other than as required by law to determine program eligibility
Note: 34 CFR §§ 75.681 and 76.681 also require a grantee to protect persons from physical, psychological, or social injury when using human subjects in a research project.

3. Parents must be provided the right to permit the participation of their child in the survey, analysis, or evaluation, or to opt out.

4. Parents have the right to inspect any instructional materials used as part of the curriculum within a reasonable period of time after requesting the materials. Parents also have the right to review the procedures for granting a request.

5. The administration of physical examinations or screenings the LEA may administer

6. The collection, disclosure, or use of personal information collected for the purpose of marketing or for selling the information to others (see note below)

7. Parents have the right to inspect any instrument used in collecting personal information before the instrument is administered or distributed to a student. Parents also have the right to review the procedures for granting the request.

Note: The requirements concerning activities involving the collection and disclosure of personal information from students for marketing purposes in number 6 above do not apply to the collection, disclosure, or use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for, or to, students or educational institutions, such as the following:

- college or other postsecondary education recruitment, or military recruitment
- book clubs, magazines, and programs providing access to low-cost literacy products
- curriculum and instructional materials used by elementary schools and secondary schools
- tests and assessments used by elementary schools and secondary schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (except that Texas law requires that parents can review a test after it is administered)
- the sale by students of products or services to raise funds for school-related or education-related activities
- student recognition programs
Required Annual Notice to Parents

LEAs must provide written notice of the adoption or continued use of these policies at least annually at the beginning of the school year. Such notice must be provided directly to the parents and must offer an opportunity for the parent to opt out of any activity.

LEAs must also notify parents at least annually of the specific events to occur. Notification of the following events is required:

- activities involving the collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling that information, or otherwise providing that information to others for that purpose
- the administration of any third party survey containing one or more of the above described eight items of information
- any non-emergency, invasive physical examination or screening that is
  - required as a condition of attendance
  - administered by the school and scheduled by the school in advance
  - not necessary to protect the immediate health and safety of the student, or of other students

The term "invasive physical examination" means any medical examination that involves the exposure of private body parts, or any act during such examination that includes incision, insertion, or injection into the body, but does not include a hearing, vision, or scoliosis screening.

The provisions in PPRA pertaining to examinations and screenings do not apply to any physical examination or screening permitted by state law, including physical exams or screenings that are permitted without parental notification, or to a survey administered to a student in accordance with IDEA.

The rights provided under this Act transfer to the student once the student becomes 18 years of age.

Enforcement for Noncompliance

The Family Policy Compliance Office at the USDE enforces the provisions of PPRA. Failure to comply with these requirements could result in potential lawsuits and a cease and desist order, withholding of funds, or the termination of federal education funding if the Secretary cannot obtain voluntary compliance.

- Title 20 USC, Chapter 31 – General Provisions Concerning Education, § 1232h
- 34 CFR §§ 75.740(b) and 76.740(b)
- 34 CFR Part 98
Texas Education Code §§ 26.006 and 26.009

USDE Website on PPRA
Intellectual Property Ownership (Copyrights)
Section U., TEA General Provisions and Assurances (new EDGAR version)

Intellectual Property Ownership: The Subrecipient agrees that all Works are, upon creation, Works made for hire and the sole property of TEA. If the Works are, under applicable law, not considered Works made for hire, the Subrecipient hereby assigns to TEA all worldwide ownership of all rights, including the Intellectual Property Rights, in the Works, without the necessity of any further consideration, and TEA can obtain and hold in its own name all such rights to the Works. The Subrecipient agrees to maintain written agreements with all officers, directors, employees, agents, representatives, and subcontractors engaged by the Subrecipient for the Subaward Project, Granting the Subrecipient rights sufficient to support the performance and Grant of rights to TEA by the Subrecipient. Copies of such agreements shall be provided to TEA promptly upon request.

The Subrecipient warrants that (i) it has the authority to Grant the rights herein Granted; (ii) it has not assigned or transferred any right, title, or interest to the Works or Intellectual Property Rights that would conflict with its obligations under the Subaward, and the Subrecipient will not enter into any such agreements; and (iii) the Works will be original and will not infringe any Intellectual Property Rights of any other person or entity. These warranties will survive the termination of the Subaward. If any preexisting rights are embodied in the Works, the Subrecipient Grants to TEA the irrevocable, perpetual, nonexclusive, worldwide, royalty-free right and license to (i) use, execute, reproduce, display, perform, distribute copies of, and prepare derivative Works based upon such preexisting rights and any derivative Works thereof; and (ii) authorize others to do any or all of the foregoing. The Subrecipient agrees to notify TEA on delivery of the Works if they include any such preexisting rights. On request, the Subrecipient will provide TEA with documentation indicating a third party's written approval for the Subrecipient to use any preexisting rights that may be embodied or reflected in the Works.

For School Districts, ESCs, Nonprofit, and For Profit Organizations: The foregoing Intellectual Property Ownership provisions apply to any school districts, ESCs, nonprofit organizations, and their employees, agents, representatives, consultants, and subcontractors. If a school district, ESC, or nonprofit organization or any of its subcontractor(s) wish to obtain a license agreement to use, advertise, offer for sale, sell, distribute, publicly display, publicly perform or reproduce the Works, or make derivative Works from the Works, then express written permission must first be obtained from the TEA Copyright Office.

For Colleges and Universities: The foregoing Intellectual Property Ownership provisions apply to any colleges and universities and their employees, agents, representatives, consultants, and subcontractors; provided, that for all Works and derivative Works created or conceived by colleges or universities under the Subaward, they are Granted a non-exclusive, non-transferable, royalty-free license to use the Works for their own academic and educational purposes only. The license for academic and educational purposes specifically excludes advertising, offering for sale, selling, distributing, publicly displaying, publicly performing, or reproducing the Works, or making derivative Works from the Works that are created or conceived under this Subaward; and colleges and universities and their employees, agents, representatives, consultants, and subcontractors are prohibited from engaging in these uses and activities with regard to the Works unless the prior express written permission of the TEA Copyright Office is obtained.

It is important that your LEA management understands that it does not have the legal authority to give copyright to any contractor, subcontractor, or subgrantee when federal or state grant funds are used to develop the Works. Your LEA must include a provision in all subcontracts and subgrants that retains copyright for TEA.

2 CFR § 200.315

Copyright 2015
34 CFR §§ 75.620 - .622

TEA Standard Application System, General Provisions and Assurances, Section U (new EDGAR version)
Fiscal Compliance Checklist for Grants

Use the following checklist on a regular basis as a self-monitoring tool to determine compliance with fiscal requirements. Any requirement marked “no” means your organization is not in compliance and you should immediately take the appropriate actions to achieve compliance. Achieving compliance will aid the organization in possibly preventing audit findings related to the expenditure of and accounting for grant funds.

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>N/A</th>
<th>Fiscal Requirement</th>
<th>Evidence</th>
</tr>
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<tbody>
<tr>
<td></td>
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<td></td>
<td>1. The LEA maintains at least 90% effort (MOE) for public education from state and local funds for each year of the 3-year grant cycle (McKinney-Vento grantees).</td>
<td>The general ledger for each year shows the total State and local expenditures for public education were at least 90% of the preceding fiscal year.</td>
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<td>2. The LEA complies with the minimum 15-digit mandatory account code structure and accounting requirements in the Financial Accounting and Reporting (FAR) module of TEA’s Financial Accountability System Resource Guide (FASRG), beginning with the 3-digit fund code (net asset code for nonprofit open-enrollment charter schools).</td>
<td>The general ledger and payroll ledger contain the minimum 15-digit account code structure for each accounting transaction, beginning with the 3-digit fund code. Fund Code = 206 for McKinney-Vento; 295 for fiscal agents of McKinney-Vento shared services arrangements.</td>
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<td>3. The general ledger is updated contemporaneously (as obligations and expenditures are incurred).</td>
<td>The general ledger is up to date.</td>
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<td>4. The general ledger contains the budget approved for the grant program; encumbrances/obligations; expenditures; and the available balance.</td>
<td>The general ledger contains these columns and the appropriate entries.</td>
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<td>5. For each accounting transaction in the general ledger, there is a date for the transaction (which falls within the grant period)</td>
<td>The general ledger contains a date for each transaction. The date falls within the grant period.</td>
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<td>6. Each encumbrance/obligation and expenditure is recorded under the proper class/object code, which corresponds to the approved budget in the grant application.</td>
<td>Encumbrances and charges to the grant are recorded in the appropriate class/object code and it corresponds to the class/object codes in the approved budget.</td>
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<td>7. Each transaction in the general ledger has a description of the expense.</td>
<td>The general ledger has a “Description” column in addition to the “Vendor” column.</td>
</tr>
<tr>
<td>Yes</td>
<td>No</td>
<td>N/A</td>
<td>Fiscal Requirement</td>
<td>Evidence</td>
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<td>description is completed for each transaction. Description might be “instructional supplies” or “travel reimbursement,” etc.</td>
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<td>8. The grantee expended and used grant funds in accordance with the approved grant application.</td>
<td>The expenditures recorded in the general ledger for the grant are for expenses budgeted in the approved application.</td>
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<td>9. The grantee used funds in accordance with the provisions of the authorizing program statute.</td>
<td>The expenditures recorded in the general ledger for the grant are allowable under the authorizing program statute.</td>
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<td>10. (Except for Title I schoolwide programs:) Each cost or activity paid with grant funds is supplemental to the regular instructional program (supplement, not supplant) in that:</td>
<td>The general ledger contains expenditures that are supplemental to the regular instructional program. The supplementary nature is documented.</td>
</tr>
</tbody>
</table>
|     |    |     | a. Federal funds are not used to replace activities normally funded from state or local funds. | State or local funds (fund code 199) have not previously been used for the services or activity as indicated in the general ledger.  
*Nonprofit charter schools – Fund code 420 designates state funds |
|     |    |     | b. State and local funds are not diverted for other purposes due to the availability of federal funds. | State or local funds (fund code 199) were not originally budgeted for the services or activity in the general ledger.  
*Nonprofit charter schools – Fund code 420 designates state funds |
|     |    |     | c. Federal funds are not used to support activities that are required by state law, SBOE or Commissioner’s rule, or local policy. | All required activities are paid from state or local funds (fund code 199) as indicated in the general ledger.  
*Nonprofit charter schools – Fund code 420 designates state funds |
<p>|     |    |     | d. All students receive the same level and quality of services from state and local resources. | All programs, services, and activities paid from state and local resources (fund code 199) are available at all campuses for all students as documented in |</p>
<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>N/A</th>
<th>Fiscal Requirement</th>
<th>Evidence</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td>the general ledger for expenditures by campus (i.e., organization code).</td>
<td>*Nonprofit charter schools – Fund code 420 designates state funds</td>
</tr>
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<td></td>
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<td></td>
<td>e. Federal funds are used to enhance, expand, or improve existing services or to create something new.</td>
<td>The level of services and activities being provided with federal funds does not already exist.</td>
</tr>
<tr>
<td>11.</td>
<td></td>
<td></td>
<td>The grantee expended funds in accordance with the applicable federal cost principles in that all costs are:</td>
<td>The grantee has documentation for each expenditure that shows the objectives of the grant program would not be achieved without the expenditure.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>a. Necessary to carry out the objectives of the grant</td>
<td>The grantees has documentation for each expenditure that shows the objectives of the grant program would not be achieved without the expenditure.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>b. Allowable under the federal cost principles and under state law</td>
<td>The grantees has documentation that each expenditure is allowable under the federal cost principles and is not prohibited under state law.</td>
</tr>
<tr>
<td></td>
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<td></td>
<td>c. Reasonable in cost (comparable to current fair market value)</td>
<td>Notes/records in files document that current market price comparisons of the goods and services were made at the time of purchase.</td>
</tr>
<tr>
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<td></td>
<td>d. Allocable to the grant (relative to the benefits received by the grant)</td>
<td>The grantees documented how each expenditure benefitted the participants of the program.</td>
</tr>
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<td><strong>For McKinney-Vento, the grantee documented how each expenditure benefitted homeless students.</strong></td>
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<td></td>
<td>e. Not used to meet cost sharing/matching requirements for a federal grant (unless specifically authorized by the other federal program)</td>
<td>The general ledger shows that none of these funds are being used to satisfy a cost sharing/matching requirement of another federal grant.</td>
</tr>
<tr>
<td>12.</td>
<td></td>
<td></td>
<td>Direct costs benefitting more than one grant program or cost objective were prorated (split-funded) according to the benefits received by each program.</td>
<td>The general ledger records expenditures that benefit more than one program under each program receiving benefit from the expenditure (by 3-digit fund code).</td>
</tr>
<tr>
<td>Yes</td>
<td>No</td>
<td>N/A</td>
<td>Fiscal Requirement</td>
<td>Evidence</td>
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<td>13. McKinney-Vento administrative funds are not consolidated with other administrative funds.</td>
<td>The entire amount of McKinney-Vento administrative funds is budgeted under McKinney-Vento and is used for McKinney-Vento based on the general ledger.</td>
</tr>
<tr>
<td></td>
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<td>14. Each position charged to the grant is budgeted in the approved grant application.</td>
<td>The payroll ledger includes only personnel that are budgeted in the approved grant application.</td>
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<td>15. The grantee maintains time-and-effort records (or the semi-annual certifications) or similar documentation as required in the federal cost principles for each employee paid from the grant as follows:</td>
<td>Each employee has a certification (or similar document) every 6 months (or similar time period), signed and dated by the employee or by a supervisor who has first-hand knowledge of the work.</td>
</tr>
<tr>
<td>a.</td>
<td></td>
<td></td>
<td>Each employee who works 100% of their time on McKinney-Vento completes the semi-annual certification or similar documentation.</td>
<td>Time-and-effort records (or similar documentation) for 100% of the employee’s time, signed and dated by the employee, or a substitute system approved by TEA.</td>
</tr>
<tr>
<td>b.</td>
<td></td>
<td></td>
<td>Each employee who works part of their time on McKinney-Vento and part of their time on another program or cost objective maintains time-and-effort records or similar documentation or has an approved substitute system.</td>
<td>Time-and-effort reports are created as the employee works, and not before the employee works.</td>
</tr>
<tr>
<td>c.</td>
<td></td>
<td></td>
<td>Time-and-effort records (or similar documentation) are maintained after-the-fact and not before.</td>
<td>Time-and-effort records (or similar documentation) are submitted to the Payroll Division in the Accounting Department to coincide with each pay period.</td>
</tr>
<tr>
<td></td>
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<td>16. Charges to payroll are based on the time-and-effort records or similar documentation.</td>
<td>The payroll journal shows the appropriate percentage of time (translated to a dollar amount) charged to each program the employee worked on.</td>
</tr>
<tr>
<td>Yes</td>
<td>No</td>
<td>N/A</td>
<td>Fiscal Requirement</td>
<td>Evidence</td>
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<td></td>
<td>Semi-annual certifications (or similar documentation) are maintained in a central location in the Accounting Department.</td>
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<tr>
<td>17.</td>
<td></td>
<td></td>
<td>The grantee incurred obligations/encumbrances during the grant period (i.e., during the period of performance).</td>
<td>The date for each transaction on the general ledger is within the beginning and ending dates of the grant. All purchase requisitions/orders, contracts signed, travel arrangements, etc., were signed and dated with a date between the beginning and ending dates of the grant. All invoices and receipts are for purchases made between the beginning and ending dates of the grant.</td>
</tr>
<tr>
<td>18.</td>
<td></td>
<td></td>
<td>The grantee complies with federal and state procurement standards for procuring goods and services.</td>
<td>The grantee has written policies and procedures that comply with state and federal purchasing standards. The grantee can document that it complies with the policies and procedures by producing documents that evidences compliance, such as the file and corresponding documents for each purchase. The contents of the file evidences that bids were obtained from an adequate number of qualified vendors when required, etc.</td>
</tr>
<tr>
<td>19.</td>
<td></td>
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<td>For all subcontracts and purchase orders ≥ $25,000, the grantee did one of 3 things to ensure the contractor/vendor/consultant is not debarred or suspended: a. Checked the EPLS on <a href="http://www.sam.gov">www.sam.gov</a> b. Collected a signed certification from that person c. Added a clause or condition to the contract or purchase order.</td>
<td>The grantee can produce one of the following for each subcontract and purchase order ≥ $25,000: a. evidence such as a printout from the EPLS b. a certification that was signed by the contractor stating the subcontractor/vendor/consultant is not debarred or suspended</td>
</tr>
<tr>
<td>Yes</td>
<td>No</td>
<td>N/A</td>
<td>Fiscal Requirement</td>
<td>Evidence</td>
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<td></td>
<td>c. a contract or purchase order that contains the clause that states the subcontractor/vendor/consultant is not debarred or suspended</td>
<td></td>
</tr>
<tr>
<td>20.</td>
<td>All contracts &gt;$10,000 contain a termination for cause or convenience clause.</td>
<td>The grantee can produce contracts &gt; $10,000 that contain a clause addressing termination for cause or for convenience.</td>
<td></td>
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</tr>
<tr>
<td>21.</td>
<td>The grantee retains copyright for TEA on any products developed with grant funds if funds are provided by or through TEA.</td>
<td>The grantee can produce contracts for the development of products using grant funds that contain a clause that retains copyright for TEA.</td>
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<tr>
<td>22.</td>
<td>The grantee makes payment to contractors/consultants only after services are performed, and not before services are performed. Advance payment is considered to be lending credit and is prohibited under the Texas Constitution, Article 3, §§ 50 and 52.</td>
<td>The contractor/consultant submitted invoices as work was performed and the general ledger shows payment was made to the contractor only after the invoice was received and work was verified.</td>
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<tr>
<td>23.</td>
<td>All goods and services were received during the grant period and in time to substantially benefit the grant period (usually at least 30 days prior to the ending date of the grant).</td>
<td>Proof of delivery signed and dated by the grantee shows that the goods and services were received at least 30 days prior to the ending date of the grant. The grantee can produce documentation showing the goods were immediately installed and put to use for the benefit of program participants.</td>
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<tr>
<td>24.</td>
<td>Each expenditure is supported by the appropriate original source documentation. Any expenditure not supported by the original source documentation is charged to state or local sources and not to the grant.</td>
<td>The grantee can produce a paid invoice, receipt, purchase requisition/order, signed contract, travel voucher, proof of delivery, cancelled check, etc., for each expenditure. Any expenditure not supported by the appropriate source documentation is not recorded on the general ledger as a cost to the grant.</td>
<td></td>
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<tr>
<td>25.</td>
<td>The fund source and how funds were used for each expenditure</td>
<td>Each piece of supporting source documentation for expenditures</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>No</td>
<td>N/A</td>
<td>Fiscal Requirement</td>
<td>Evidence</td>
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<td></td>
<td>26. All equipment purchased with grant funds was approved in the grant application prior to purchasing it.</td>
<td>The general ledger does not contain any charges to the grant for equipment that was not budgeted in the approved application.</td>
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<td></td>
<td>27. All equipment purchased with grant funds is properly numbered, tagged, inventoried, and secured as much as practical to prevent loss, damage, and theft.</td>
<td>The grantees can trace the property number or inventory number placed on the equipment to the fixed asset inventory. The grantees can demonstrate measures it has put in place to secure the equipment as much as practical against loss, damage, or theft.</td>
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<td></td>
<td>28. All equipment purchased with grant funds is insured in accordance with LEA policy.</td>
<td>The grantees can produce the policy for insuring equipment and the list of insured equipment.</td>
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</tbody>
</table>
|     | 29. All travel expenses are reimbursed to the employee based on a signed and dated travel voucher or similar document outlining:  
   a. the purpose of the travel, including justification that it was necessary for the specific individual to travel to accomplish the objectives of the grant and that the costs are reasonable and consistent with local travel policy  
   b. the dates of the travel  
   c. the actual costs incurred, not to exceed the maximum allowable travel rates for the federal locale, or local policy, whichever is less. (This includes actual cost of meals not to exceed the... | The grantees can produce a travel voucher or similar document that is developed after the travel is completed, signed and dated by the traveler. The travel voucher contains the required information and has the appropriate receipts attached. |
<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>N/A</th>
<th>Fiscal Requirement</th>
<th>Evidence</th>
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<tbody>
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<td></td>
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<td>federal locale or policy.</td>
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30. If the grantee uses corporate-issued credit cards, the accounting ledger reflects each individual charge listed on the credit card statement with each of the following:

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<tbody>
<tr>
<td>a.</td>
<td>The individual vendor name (not just the credit card company name)</td>
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<tr>
<td>b.</td>
<td>The grant funding source/fund code</td>
<td></td>
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<tr>
<td>c.</td>
<td>The expense category, (i.e., 6200 – 6600)</td>
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<tr>
<td>d.</td>
<td>The actual date of the charge (as opposed to the billing statement or the date the credit card bill was paid)</td>
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<td>e.</td>
<td>Each transaction is supported with an itemized receipt that identifies each item purchase.</td>
<td>Legible, original itemized receipt with description of how each item was used to benefit the grant program.</td>
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31. If the grantee is earning any program income, the grantee:

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<tbody>
<tr>
<td>a.</td>
<td>obtained approval in the grant application to earn program income</td>
<td>The grantee can produce the approved application showing where the program income was approved.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b.</td>
<td>described in the application the activity to be conducted to generate program income</td>
<td>The application describes the activity to be conducted to generate program income.</td>
<td></td>
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</tr>
<tr>
<td>c.</td>
<td>specifically requested permission to add the program income to grant funds (if not requested, grantee must deduct income from expenses and request reimbursement only for the difference)</td>
<td>The application contains the request to add program income to grant funds.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d.</td>
<td>expends program income for allowable costs under the grant program</td>
<td>Program income is recorded in the general ledger as revenue. Expenditures from program income meet all of the same conditions for expending grant funds.</td>
<td></td>
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</tr>
<tr>
<td>e.</td>
<td>reports program income on</td>
<td>Program income is reported on</td>
<td></td>
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<tr>
<td>32.</td>
<td>The grantee has a written cash management policy that ensures any advance payments received will be disbursed (i.e., paid out) on the day each payment is received or be prepared to calculate interest on any excess cash on hand and refund the excess cash to TEA.</td>
<td>The grantee produces a copy of the policy. The revenue from a payment/draw down is recorded in the general ledger along with the date received. The general ledger then shows that all funds received were paid out on the day the funds were deposited. The check register has the date when each check was written.</td>
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<tr>
<td>33.</td>
<td>If the grantee has excess cash on hand, the grantee immediately refunds the excess cash to the awarding agency.</td>
<td>If there was excess cash on hand as documented in the general ledger once all payments to vendors were made, the general ledger shows a refund was submitted to TEA in the amount of excess cash on hand. The check register has the date when the refund check was written.</td>
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</tr>
<tr>
<td>34.</td>
<td>If interest earned on excess cash on hand exceeds $500, the grantee submits the interest to the U.S. Department of Health and Human Services as instructed in 2 CFR § 200.305(9).</td>
<td>The bank statements provide the amount of interest earned. If and when the amount exceeds $500 per year, the check register will have the date when the interest earned in excess of $500 was paid to the U.S. Department of Health and Human Services. (See the Compliance Handbook, Part II – Fiscal Requirements, Cash Management and Interest Earned.)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>35.</td>
<td>Expenditures reported in the expenditure report correspond to the expenditures recorded in the general ledger and payroll journal and to the budget in the approved grant application.</td>
<td>The total expenditures for each class/object code in the general ledger match the total expenditures reported by class/object code reported on the expenditure report. Those class/object codes coincide with the class/object codes approved in the application.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>36.</td>
<td>Indirect costs are based on actual expenditures of direct costs, and</td>
<td>The general ledger shows that indirect costs were adjusted at</td>
<td></td>
<td></td>
</tr>
<tr>
<td>37. The grantee amended the grant budget to add any costs not budgeted before obligating funds for an expenditure not budgeted.</td>
<td>The general ledger shows that only costs approved in the budget or a subsequent amendment were ordered and were charged to the grant after the amendment was submitted.</td>
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<tr>
<td>38. The grantee amended the grant budget before exceeding the maximum allowable budget variation.</td>
<td>The budget in the general ledger corresponds to the class/object codes in the approved budget within the allowable budget variation. For McKinney-Vento, the grantee must submit an amendment when cumulative transfers (i.e., increases) among direct cost categories exceed or are expected to exceed 25% of the total approved budget.</td>
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</tr>
<tr>
<td>39. The grantee retains fiscal and program records for 5 years after the ending date of the grant.</td>
<td>All accounting records are maintained for 5 years after the end of the grant. Records that document significant program activities are on file for 5 years after the ending date of the grant.</td>
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### Schoolwide Programs

| 40. If McKinney-Vento funds are consolidated with other funds on a schoolwide program: |
| a. McKinney-Vento is included in the Title I schoolwide plan and the plan is developed in accordance with the Title I statute. | The schoolwide plan includes McKinney-Vento and the plan is developed in accordance with the requirements in Title I, Part A, § 1114. |
| b. The LEA meets all McKinney-Vento requirements, including designating a local homeless education liaison. | The completed Compliance Checklist for LEA Services to Children and Youth in Homeless and Highly Mobile Situations. |
| c. The LEA discloses in its McKinney-Vento application that it will operate a schoolwide program and describes its activities accordingly. | The McKinney-Vento application |
| d. | The LEA meets all requirements for schoolwide program and plan as specified in Title I, Part A, § 1114. | The grantee complies with the requirements as illustrated by a checklist developed on their own or one such as the Title I Schoolwide Model Planning Component Checklist. |
| e. | The LEA still reserves Title I, Part A funds for homeless children who do not attend a Title I school (if there are any non-Title I schools in the LEA). | The general ledger shows an appropriate amount reserved. |
| f. | If consolidating McKinney-Vento funds with other federal, state, and local funds, no 6-month certification or time-and-effort is required. | Each employee has a certification (or similar documentation) every 6 months (or similar time frame), signed and dated by the employee or by a supervisor who has first-hand knowledge of the work. Certifications are maintained in a central location in the Accounting office. |
| g. | If consolidating McKinney-Vento funds with other federal funds (and not with state and local funds): | Time-and-effort records (or similar documentation) for 100% of the employee’s time, signed and dated by the employee, or a substitute system approved by TEA. Time-and-effort records are maintained in a central location in the Accounting office. |
| i. | Each employee who is paid from the consolidated pool completes the semi-annual certification or similar documentation. | |
### TEA FAR Mandatory Account Codes

<table>
<thead>
<tr>
<th>Name of Code</th>
<th>Number of Digits</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Fund Code</strong> (Net Asset Code for Nonprofit Charter Schools)</td>
<td>3</td>
<td>Identifies the funding source of the transaction (revenue or expenditure). Every accounting transaction must begin with this 3-digit fund code.</td>
</tr>
<tr>
<td><strong>Function Code</strong></td>
<td>2</td>
<td>Identifies the purpose of the transaction/expenditure – represents a general operations area and groups together related activities – used in educating students.</td>
</tr>
<tr>
<td><strong>Object Code</strong></td>
<td>4</td>
<td>Identifies the nature and object of an account.&lt;br&gt;&lt;br&gt;<strong>Expenditure/Expense Object Codes</strong> – always begins with a “6” – expenses are classified by the major object classes according to the types of items purchased or services obtained:&lt;br&gt;  - 6100 – Payroll Costs&lt;br&gt;  - 6200 – Professional and Contracted Services&lt;br&gt;  - 6300 – Supplies and Materials&lt;br&gt;  - 6400 – Other Operating Costs&lt;br&gt;  - 6500 – Debt Service&lt;br&gt;  - 6600 – Capital Outlay&lt;br&gt;  - 6620 – Building Purchase, Construction or Improvements (nonprofit charters use 15XX for 6600 and 6620)</td>
</tr>
</tbody>
</table>
| Optional Codes 1 and 2                  | 2 | Optional 2-digit code used to provide special accountability at the local level if there is need to account for information not otherwise provided in the mandatory chart of accounts – local chart of accounts to be used uniformly in accounting system
|                                           |   | Example: optional code to further break down expenditures into more detail beyond the required class/object code |
| Organization Code                        | 3 | Represents a group of employees who are obligated to complete a specific responsibility – 2 types
|                                           |   | **Campus code**
|                                           |   | **Administrative or other code** – ex: superintendent’s office, school board, etc. – mandated for certain functions
|                                           |   | • 001 – 040 High school campuses
|                                           |   | • 041 – 100 Junior High/Middle School Campuses
|                                           |   | • 101 – 698 Elementary School Campuses
|                                           |   | • 699 - Summer school and intersession
|                                           |   | • 700 – Administrative or Other
|                                           |   | • 998 or 999 – costs not clearly attributable |
| Fiscal Year Code                         | 1 | Represents the fiscal year in which the grant was received - use last digit of school year
|                                           |   | Example:
|                                           |   | 2012-2013 school year is represented with “3”
|                                           |   | Should reflect that number for duration of project, even though it may span multiple school years |
| Program Intent Code                     | 2 | Used to account for cost of instruction and other services directed toward a particular need of a specific set of students – the student group toward which the services are directed
|                                           |   | • 11 – Basic Educational Services
|                                           |   | • 21 – Gifted and Talented
|                                           |   | • 22 – Career and Technology
|                                           |   | • 23 – Services to students with disabilities
|                                           |   | • 24 – Accelerated Education (for at-risk students)
|                                           |   | • 25 – Bilingual and Special Language Programs |
| Optional Code 3 | 1 | Local code to provide more detailed accountability at the local level if needed for management purposes – not reported through PEIMS – may be used for any purpose school chooses  
Suggested but not mandatory:  
- A – PreK  
- B - K  
- C – Grade 1  
- Etc.  
| --- | --- | --- |
| Optional Codes 4 and 5 | 2 | Local code to be used as desired or needed  
Examples of suggested uses:  
- Tracking multiple projects within one fund – ex: district receives both Title II D Educational Technology formula funds and discretionary funds – 2 different grant projects under one fund code  
- Providing instructional costs by grade level  
- Providing detailed instructional costs by subject area  

*TEA’s FASRG, Module 1 - FAR*
Basic Principles and Policies of FAR

Accounting and Reporting Capabilities - School districts, ESCs, and open-enrollment charter schools must maintain account systems in accordance with generally accepted accounting principles (GAAP) and must be able to

- present fairly and with full disclosure the financial position and results of financial operations of the funds and account groups in accordance with GAAP
- determine and demonstrate compliance with finance-related legal and contractual provisions

Fund Accounting System – The accounting system must be organized and operated on a fund basis – a self-balancing set of accounts, segregated for specific purposes in accordance with laws and regulations or special restrictions or limitations. Fund accounting emphasizes accountability and is used by governmental entities and nonprofit organizations. School districts, ESCs, and open-enrollment charter schools must be able to produce reports detailing the expenditures and revenues for each individual fund, as well as reports that summarize the organization’s financial activities across all of its funds.

Central Accounting – Accounting for funds must be on an organization-wide basis covering all funds.

Fund Types – FAR establishes certain fund types that must be used to account for revenues and expenditures, including special revenue funds that must be used to account for sources that are restricted for specific purposes. A special revenue fund is provided for each major state and federal grant program. The special revenue fund for McKinney-Vento Homeless Education is 206 (or 295 for fiscal agents of a McKinney-Vento SSA).

School districts should establish and maintain a sufficient number of funds to provide for sound financial administration. The funds that must be used at a minimum are prescribed in FAR.

Capital Assets – Organizations must provide a clear reporting of capital assets, accounted for at historical cost, and of depreciation of assets. Donated capital assets must be recorded at their estimated fair value at the time received.

Capital assets include land, buildings, vehicles, furniture, and equipment that

- are not consumed as a result of use
- have a useful life of at least one year and a per-unit cost of $5,000 or more, or the capitalization level established by the organization, whichever is less
- can be controlled, identified by a permanent or assigned number or label, and be reasonably accounted for through an inventory system
Long-term Liabilities – Organizations must provide a clear reporting of fund long-term liabilities and general long-term liabilities.

Accrual Basis of Accounting – Organizations must recognize revenues and expenditures for the general fund and for the special revenue funds (i.e., grant funds) on a modified accrual basis. Revenues are recognized in the accounting period in which they become available and measurable. Expenditures are recognized in the accounting period in which the fund liability is incurred (as services are rendered).

Budgetary Control/Encumbrance Accounting – The organization’s official budget, as adopted by the local board of trustees, provides the legal authority for expending funds and must be recorded in the general ledger. This includes the budget for each grant awarded.

The accounting system must use encumbrance accounting, whereby encumbrances are documented with signed contracts, purchase orders, or other evidence showing a binding commitment for goods not yet received or services not yet performed. Encumbrances must be recorded in the general ledger.

Encumbrance accounting provides accurate up-to-date information on the status of budget balances at all times. Knowing how much money has been spent to date is important, but knowing the amount committed is also important to avoid over expenditure of grant funds. An encumbrance reserves funds to cover outstanding obligations. The encumbrance does not represent an actual expenditure, but rather only a commitment to expend funds.

Uniform Classifications and Terminology – School districts, ESCs, and open-enrollment charter schools must use the fund codes, account classifications, terminology, and account code structure prescribed in FAR throughout the budgeting, accounting, and financial reporting system.

TEA’s FASRG, Module 1 - FAR
Shared Services Arrangements

A shared services arrangement (SSA) is a financial agreement between two or more school districts, open-enrollment charter schools, and/or ESCs. The SSA provides services for all of the entities involved. Such entities may desire to enter into an SSA for the performance and administration of a program in order to maximize the use of funds and services to be provided. In every SSA, a fiscal agent is designated to be ultimately responsible for conducting administrative duties. An eligible entity, as defined in the RFA Program Guidelines, must serve as the fiscal agent for an SSA.

Excluded Entities

The following other entities are excluded from providing services through an SSA:

- Colleges/universities
- Community-based organizations
- Councils of governments
- Other local governments, such as cities and counties

These other entities may contract with the SSA’s fiscal agent to provide services or enter into a collaborative partnership with the fiscal agent to conduct grant activities. Such contractors or partners will not be members of the SSA.

Fiscal Agent Responsibility

The designated fiscal agent of an SSA is the applicant who completes and submits a composite application with input from and on behalf of its members.

The fiscal agent is responsible for the following:

- Ensuring that funds are used in accordance with grant provisions
- Maintaining all SSA financial and personnel records required for TEA, in accordance with Financial Accounting and Reporting (FAR)

The fiscal agent may be responsible for financial consequences concerning the following:

- SSA instances of noncompliance
- Any SSA member unable to repay respective portion of misappropriated funds in question

Written SSA Agreement

When two or more school districts, open-enrollment charter schools, or ESCs enter into an SSA, a formal written agreement is required that defines the composite entity and describes the responsibilities of its fiscal agent and of each SSA member. At a minimum, this agreement contains the following information.
Legal requirements:

- Organization of the shared services arrangement
- Ownership of assets
- Policies and procedures addressing disposition of assets if the SSA is terminated by one or all members
- Liabilities, including legal fees due to complaint, grievance, litigation, refund from onsite monitoring, audit, etc.
- Basis for allocation of costs of the fiscal agent
- Uncontrollable costs that impact the fiscal agent

Responsibilities of the designated fiscal agent:

- Services to be provided to SSA members
- Employment of personnel
- Budgeting and accounting
- Reporting

Responsibilities of each SSA member:

- Employment of personnel
- Budgeting and accounting
- Reporting

The written agreement must be on file by the fiscal agent for audit and monitoring purposes.

**eGrants Application Designation Form for Shared Services Arrangements**

To facilitate the automation process, TEA has developed an “Applicant Designation and Certification” form for use with eGrants applications that permit an SSA. All applicants applying for a grant in eGrants that permits an SSA are required to complete the “Applicant Designation and Certification” form and submit it through eGrants before being allowed access to the automated application.

On this form, you must indicate how you will apply for that grant: apply as an independent project; apply as the fiscal agent for a SSA (Consortium); apply as a member of an SSA; or not apply at all.

A response to this form is required to set up your application in the eGrants system. The response eliminates the required signature of each member on the Shared Services Arrangement (Certification for Consortium Projects) schedule in the application and the need to complete a Notice of Intent to Apply. The response to this form is binding for the entire project period. You are advised to complete the process of obtaining local board approval, as appropriate, before submitting this form.
**Federal Cost Principles Applicable to Grants Awarded Prior to December 26, 2014**

For all federal grants awarded with a *beginning date prior to December 26, 2014*, the federal cost principles apply to the different types of organizations as follows:

<table>
<thead>
<tr>
<th>Type of Entity</th>
<th>Applicable Cost Principles</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Public school districts</td>
<td>*<em>OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments</em></td>
</tr>
<tr>
<td>• ESCs</td>
<td>(Codified at <strong>2 CFR Part 225</strong>)</td>
</tr>
<tr>
<td>• Open-enrollment charter schools (regardless of sponsoring entity – effective at the beginning of the 2013-2014 school year per TEA)</td>
<td></td>
</tr>
<tr>
<td>• Other local governments (e.g., cities, counties, municipalities, councils of government)</td>
<td></td>
</tr>
<tr>
<td>• State agencies</td>
<td></td>
</tr>
<tr>
<td>• Open-enrollment charter schools operated by a nonprofit organization (applicable only up through the end of the 2012-2013 school year per TEA)</td>
<td>*<em>OMB Circular A-122, Cost Principles for Non-Profit Organizations</em></td>
</tr>
<tr>
<td>• Nonprofit organizations, including community-based organizations and faith-based organizations</td>
<td>(Codified at <strong>2 CFR Part 230</strong>)</td>
</tr>
<tr>
<td>• Open-enrollment charter schools operated by an institution of higher education (IHE; i.e., college or university) (applicable only up through the end of the 2012-2013 school year per TEA)</td>
<td>*<em>OMB Circular A-21, Cost Principles for Educational Institutions</em></td>
</tr>
<tr>
<td>• IHEs</td>
<td>(Codified at <strong>2 CFR Part 220</strong>)</td>
</tr>
</tbody>
</table>

The federal cost principles in **2 CFR Part 200, Subpart E** apply to all grantees for all grants awarded **on or after December 26, 2014**.
Supporting Documentation Associated with Subcontracts, Corporate Credit Cards, and Travel

**Documentation Associated With Subcontracts**

Grantees often receive findings from auditors or monitors for lack of proper documentation to support subcontracts. Grantees are required to maintain a contract administration system to ensure that contractors or consultants perform in accordance with the terms, conditions, and specifications of their contracts and written agreements. Detailed information about what constitutes a proper contract administration system is provided in this *Part II – Procurement (Purchasing Goods and Services)*.

Grantees are often cited for one or more of the following as it pertains to documentation of expenditures for subcontracts:

- having a contract with the beginning and/or ending date outside the grant period
- failure to maintain a copy of the signed contract, agreement, or purchase order for services to be performed and the rationale or procedure for selecting a particular contractor
- failure to maintain evidence that awards were made only to contractors or consultants possessing the ability to perform successfully under the terms and conditions of the proposed contract or procurement
- failure to maintain records on services performed—date of service, purpose of service—ensuring that services are consistent and satisfactory as described in the signed contract or purchase order
- paying the subcontractor before services are performed. Payment can only be made after the service is performed and not before, according to state and federal law. Advance payment to subcontractors is considered “lending credit” to someone and is prohibited under the *Texas Constitution, Article 3, §§ 50 and 52*. For ongoing services, payment can be made at the end of every month for services performed during the month, or some other similar arrangement.

You are advised to check with your Business Office to ensure they maintain these types of records for every subcontractor to avoid an audit or monitoring finding. Also refer to TEA’s *Guidance and Best Practices on Professional Services Contracts*.

**Documentation Associated With Using Corporate Credit Cards**

Corporate-issued credit cards have become more and more popular as a means of eliminating the need for reimbursing employee purchases made on behalf of the organization. However, numerous grantees have received significant findings related to
the use of corporate-issued credit cards. Inappropriate use of corporate credit cards by school districts and other organization has received national attention.

TEA has provided the following specific guidance related to documentation of expenditures made using corporate-issued credit cards. For credit card charges to be reimbursable by TEA, **the accounting ledger must reflect each individual charge on the credit card statement** with each of the following:

- The individual vendor name (not just the credit card company name)
- The grant funding source/fund code
- The expense category (i.e., supplies, instructional materials, equipment, travel, etc.)
- The actual date of the charge (as opposed to the billing statement or the date the credit card bill was paid)

Additionally, in order for the charges to be reimbursed by TEA, the grantee must maintain *the original itemized receipt* (and not just the credit card receipt). The original receipt must be legible and must clearly identify the date of the transaction and each item that was purchased. The grantee must provide documentation, either on the receipt itself, or in a separate file cross-referencing that particular transaction, how each item was used to benefit the grant program. The grantee must also maintain all other appropriate internal accounting records, such as travel vouchers, expense reimbursement vouchers, purchase orders, etc., related to the credit card purchase.

The classification of costs by funding source and expense type and the maintenance of adequate original source documentation is necessary for reporting purposes to the grantor agency. It is also necessary to demonstrate compliance with state and federal cost principles, standards of financial management systems, and conformance with generally accepted accounting principles. Lastly, it is a requirement of the Internal Revenue Code applicable to all business entities.

**Written Policy Recommended**: It is recommended that the organization develop and maintain a written policy with regard to the use of organization-issued credit cards. It is further recommended that the organization obtain a signed statement from each employee issued an organization-credit card, certifying that the employee has read and understands the conditions set forth in the policy and that any credit card charge not supported by an itemized receipt will not be reimbursed by the organization and the employee will be liable for the charges.


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**Documentation Associated With Travel**

Grantees frequently receive findings from an auditor or monitor for failure to maintain proper documentation related to travel. To begin with, all organizations must have a written local travel policy that is applied consistently among all employees so that employees are reimbursed at the same rates, whether traveling on a state or federal grant or for other purposes.

**Travel Policy**

The travel policy should require that the traveler complete a *Request to Travel* or similar document, detailing the dates of the travel; purpose of the travel, including justification as to why it is necessary to accomplish the objectives of the grant for this particular person to participate in this travel event (required); how it will benefit the grant program; and estimated travel expenses. The *Request to Travel* or similar document should be approved by the employee’s supervisor and by the Accounting Department. The Accounting Department will ensure that sufficient funds are available for travel prior to the employee incurring any travel expenditures.

It is important to note that TEA’s policy for reimbursing travel is more restrictive in some cases than the federal cost principles allow. In an effort to keep travel costs reasonable, TEA restricts reimbursement for travel to rates that are approved in the State of Texas Appropriations Bill in effect for the particular grant period. The federal cost principles allow for reimbursement for meals on a per diem basis, whether or not the employee actually spends the entire per diem. TEA, however, in following the travel restrictions specified in the Appropriations Bill, reimburses meals at *actual costs*, not to exceed the federal rate for the locale, or local policy, whichever is less. Therefore, grantees must ensure that their travel policy and reimbursement practices reflect this requirement.

TEA provides the following additional guidance related to documenting expenditures for travel.

**Travel Voucher**

Travel costs must be properly documented to be reimbursable by any grantor agency. The employee must document travel costs with a *Travel Voucher* or other comparable documentation that is completed after the travel has occurred. According to TEA guidance, the *Travel Voucher* or similar documentation must include the following at a minimum:

- Name of the individual claiming travel reimbursement
- Destination and purpose of the trip, including why it was necessary to accomplish the objectives of the grant project for this particular person to participate in this travel event
- Dates of travel
• Actual mileage (not to exceed reimbursement at the maximum allowable rate).

Travelers are required to calculate mileage by one of the following two methods:
  o Actual odometer reading (point-to-point method)
  o Electronic mapping source (such as that on www.Mapquest.com or any other online mapping service). If this method is chosen, the traveler must print out the driving directions provided by the site and attach them to the travel voucher.

Travelers are required to select the shortest and most economical route but may justify the selection of another route if it was chosen for safety reasons and specific justification of the selection is given.

• Actual amount expended on lodging per day, with a receipt attached (may not exceed the federal rate for the locale)

• Actual amount expended on meals per day (may not exceed the federal rate for the locale; tips and gratuities are not reimbursable). Receipts for meals are not required by TEA but may be required per local organization policy.

• Actual amount of airfare (receipt must be attached; a printed copy of an online receipt is acceptable)

• Actual amount expended on public transportation, such as taxis and shuttles (receipt not required by TEA but may be required per local organization policy)

• Actual amount expended on a rental car, with receipt attached and justification for why a rental car was necessary and how it was more cost effective than alternate transportation; receipts for any gasoline purchased for the rental car must be attached (mileage is not reimbursed for a rental car – only the actual cost for gasoline is reimbursed)

• Actual cost of gasoline for a rental car (receipt must be attached)

• Actual cost of parking (receipt may be required at the local level, but is not required by TEA)

• Actual amount expended on incidentals, such as hotel taxes, copying of materials, and other costs associated with the travel (receipts must be attached)

• The amount of any cash advance paid to the employee prior to the travel (best practice to include this information on this form)

• Total amount reimbursed to the employee

Travel costs that are not supported by proper documentation as described above are not allowable to be charged to TEA grants and are subject to disallowance by state and federal auditors and monitors.

Refer to TEA’s Budgeting Costs Guidance Handbook for more detailed information on allowable and unallowable travel costs, including specific information on the maximum amounts allowed and how to check the current federal rate for different locales.
**Note Related to Conference Rates:** One final note related to pre-determined conference hotel lodging rates. TEA has not offered written guidance related to hotel rates for conferences that exceed the federal rate for the locale. However, the following *may* be acceptable and thus *may* be reimbursable if documented properly. However, there is still no guarantee that a TEA auditor will accept the documentation for exceeding the federal locale rate.

The primary goal is to demonstrate that the employee is staying in the most cost-effective (while still being safe) hotel lodging. If the hotel conference rate *exceeds* the federal rate for the locale, check the rate of hotels in close proximity and **print or record the rates in writing.** If the hotel is in walking distance and is within the federal rate for the locale, it may be difficult to justify staying at the conference hotel at the higher rate.

But if the hotel with a lower rate is *not* within walking distance and **would require the traveler to travel by bus, taxi, or even rental car to get to the hotel conference facilities each day,** it may be justifiable to stay at the conference hotel with the higher rate if the traveler can document that it would cost more to stay at another hotel and pay for the bus, taxi, or rental car (whichever is the most economical) at least twice per day, than to stay at the conference hotel. Complete and accurate documentation would need to be maintained in order for this scenario to be considered acceptable by an auditor or monitor.
Recommended Procedures for Documenting Personnel Expenses

All charges to payroll for personnel who work on one or more federal programs or cost objectives should be based on one of the following, depending on the circumstances:

- **Semi-annual certification (or similar documentation)** (for employees who work 100% of the time on a single program or single cost objective; see exception for schoolwide programs below and for Ed-Flex programs in the *Flexibility in the Use of Funds* section of Part II)

- **Time-and-effort records (or similar documentation)** (for employees who work on more than one program or cost objective)

- **Substitute system**

Additional summary information pertaining to each of these is provided below. Refer to the section "Compensation - personal services" in 2 CFR § 200.430(i) for more detailed information pertaining to documenting personnel expenses.

**Semi-Annual Certification (or Similar Documentation)**

Semi-annual certification applies to employees who do one of the following:

- Work 100% of their time under a single grant program
- Work 100% of their time under a single cost objective (which may be funded from multiple eligible fund sources)

These employees are not required to maintain time-and-effort records. However, these employees should certify in writing, at least semi-annually (or similar time frame), that they worked solely on the program for the period covered by the certification. (See the exception for schoolwide programs below and for Ed-Flex programs in the section entitled *Flexibility in the Use of Funds*. See also the scenarios in the attachment entitled *Employee Scenarios – Recommended Documentation for Personnel Expenses*.)

The semi-annual certification should

- be executed after the work has been completed, and not before
- state that the employee worked solely (i.e., 100% of the time) on activities related to a particular grant program or single cost objective
- identify the grant program or cost objective
- specify the 6-month reporting period (or similar time frame)
- be signed and dated by the employee or a supervisor with first-hand knowledge of the work performed

Charges to the grant should be supported by these semi-annual certifications (or similar documentation). All certifications should be retained for audit and monitoring purposes. It is recommended that the certifications be retained in a central location to facilitate an audit.
See the Appendices, Sample Semi-Annual Certification, for an example of one way to design a semi-annual certification.

**Special Note for Schoolwide Programs:** A Title I, Part A, schoolwide program is considered a “single cost objective.” This has different implications depending on the types of funding consolidated on the schoolwide program.

If **federal, state, and local funds** are consolidated on the schoolwide program, neither the semi-annual certification nor time and effort is necessary. There is no distinction between staff paid with federal funds and staff paid with state or local funds.

If **only federal funds** are consolidated, for the employees funded from the consolidated pool, normally the semi-annual certification would be recommended. However, if all federal funds included in the consolidation are Ed-Flex programs, then the semi-annual certification for school districts is automatically waived. Note: McKinney-Vento is NOT an Ed-Flex program.

If one or more of the programs included in the consolidation is not an Ed-Flex program, then the semi-annual certification (or similar document) should be completed for those programs. Note: McKinney-Vento is NOT an Ed-Flex program. See the subsection entitled Ed-Flex and the Impact on McKinney-Vento in the Flexibility in the Use of Funds section for a list of Ed-Flex programs.

If **only Title I, Part A funds** are used on a schoolwide basis to serve all of the children on campus, normally the semi-annual certification would be recommended. However, because Title I, Part A is an Ed-Flex program, the semi-annual certification is automatically waived for employees paid with Title I, Part A.

**If an employee works part of the time on a schoolwide program, and part of the time on a separate federal program or other cost objective,** then the employee should maintain time and effort (or similar documentation) because the employee is working on multiple cost objectives.

**Time and Effort (or Similar Documentation)**

Time and effort applies to employees who do one of the following:

- Do not work 100% of their time on a single grant program or single cost objective
- Work under multiple grant programs or multiple cost objectives

These employees should maintain time-and-effort records (or similar documentation) or account for their time under a substitute system (see below). Employees should prepare time-and-effort summary reports at least monthly (or every other week, as applicable) to coincide with pay periods. Such reports must reflect an after-the-fact...
distribution of 100% of the *actual* time spent on each activity and should be signed by the employee. Charges to payroll should be adjusted at least monthly to coincide with preparation and submittal of expenditure reports.

Examples of employees who work on multiple cost objectives:

- An employee who works partially on *administering* programs included in NCLB consolidated administrative funds, and partially on *administering other programs (not included in NCLB consolidated administrative funds)*, should maintain time-and-effort records (or similar documentation) or account for his or her time under a substitute system.

- An employee who works partially on *administrative* activities (paid from administrative funds) and partially on *program* activities (paid from program funds) should maintain time-and-effort records (or similar documentation) or account for his or her time under a substitute system.

- An employee who works on regular Title I activities and Title I parent involvement activities should maintain time-and-effort records (or similar documentation). (The LEA must document the 1% of its allocation expended on parent involvement activities if the LEA receives more than $500,000 in Title I, Part A.)

- An employee who works part of the time on *direct* cost activities and part of the time on *indirect* cost activities should maintain time-and-effort records (or similar documentation) or account for his or her time under a substitute system.

**Initial Budget Estimates:** Grantees may *initially* charge payroll costs based on budget estimates for interim accounting purposes. However, the following conditions must be met:

- The system for establishing estimates produces reasonable approximations of the activity actually performed.

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

- Your LEA’s system of internal controls includes processes to review after-the-fact interim charges made to federal grants based on budget estimates. All necessary adjustments must be made such that the final amount charged to the federal grant is accurate, allowable, and properly allocated.

Refer to the *Appendices, Sample Daily Time-and-Effort Report*, for a sample of one way to construct a suitable daily time-and-effort report and monthly summary report.
Additional scenarios pertaining to time and effort are provided in the Appendices, Employee Scenarios – Recommended Documentation for Personnel Expenses. These scenarios may be helpful in determining if, and how, time and effort applies to specific employees.

**Substitute Systems in Lieu of Time-and-Effort Reports**

In accordance with 2 CFR § 200.430(i)(5), substitute processes or systems for allocating salaries and wages may be used in place of or in addition to time-and-effort reports if approved by TEA. Substitute systems may include, but are not limited to, random-moment sampling, “rolling” time studies, case counts, or other quantifiable measures of work performed. Substitute systems that use sampling methods must meet acceptable statistical sampling standards. Refer to the regulations for detailed requirements.

In addition to being approved by TEA, documentation of rationale and calculations for allocating salaries and wages based on a substitute system must be maintained for audit purposes. An unapproved substitute system could result in an audit finding and the repayment of grant dollars to TEA.

**TEA Substitute System of Federal Time-and-Effort Reporting for Employees Supported by Multiple Cost Objectives**

TEA originally issued guidance in a letter dated December 12, 2012, pertaining to Substitute System of Federal Time-and-Effort Reporting for Employees Supported by Multiple Cost Objectives. Pursuant to this guidance, employees who work on multiple cost objectives (i.e., more than one federal grant award) and who meet certain conditions may complete a schedule at the beginning of the reporting period and a certificate (similar to the semi-annual certification) at the end of the reporting period in lieu of traditional time-and-effort records.

To qualify for this substitute system in lieu of traditional time-and-effort reports, the employee must work on multiple activities or cost objectives (i.e., more than one federal grant award) based on a predetermined, set schedule, which is most likely applicable to classroom teachers or instructional aides. The employee must also normally be required to complete traditional monthly time-and-effort reports. In order for any employees to use this system, the LEA must also submit a Management Certification form to TEA by the specified deadline date each year. Refer to TEA’s webpage on the substitute system for more information.

**Daily Class Schedules**

Daily class schedules for classroom teachers and instructional aides may be used in lieu of time-and-effort reports for these personnel. Daily class schedules qualify as a suitable "substitute system" because they provide a "quantifiable measure of employee effort.” However, to avoid an audit exception, daily class schedules should be documented as a substitute system in accordance with the procedures described above for TEA’s substitute system.
Sample Semi-Annual Certification

I, _(name of employee)_-, certify that for the period ____(month, day, year)____ through ____(month, day, year)___, I spent 100% of my time and effort on ____(name of federal program or cost objective)____.

________________________________________  ____________________________
Printed Name     Signature   Date
Sample Daily Time-and-Effort Report

(To Be Completed Daily for All Hours Worked and Retained as Supporting Documentation for the Monthly Summary Report)

Name:________________________    Date: _________________

<table>
<thead>
<tr>
<th>Program/ Fund Source</th>
<th>Activity</th>
<th>Number of Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title I, Part A 211</td>
<td>Planned parent involvement meeting</td>
<td>1.5</td>
</tr>
<tr>
<td>McKinney-Vento 206</td>
<td>Visits to parents of homeless students</td>
<td>4.5</td>
</tr>
<tr>
<td>Title III, ELA 263</td>
<td>Developed and submitted quarterly program report</td>
<td>2.0</td>
</tr>
<tr>
<td>Vacation Leave</td>
<td>Vacation Leave</td>
<td></td>
</tr>
<tr>
<td>Sick Leave</td>
<td>Sick Leave</td>
<td></td>
</tr>
</tbody>
</table>

Total Number of Hours 8.0

Note: Daily T&E records can be kept on separate pieces of paper, in a log book, or on a calendar, as long as the records are sufficient to allow the employee to accurately complete the monthly summary report. Daily and monthly T&E records can also be entered and maintained electronically, provided that the electronic reporting system contains the required elements.

Sample Monthly Summary Time-and-Effort Report

(To Be Completed At Least Monthly* and Submitted to the Payroll Department)

Month: _________________      Year __________

<table>
<thead>
<tr>
<th>Program/Fund Source</th>
<th>Total Number of Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* Must coincide with pay period. If pay period is every two weeks, then must be completed and submitted to the Payroll Department every two weeks.
Employee Scenarios – Recommended Documentation for Personnel Expenses
(The term “charter school” below refers to open-enrollment charter schools.)

Texas

Title I Schoolwide Programs

Example 1: An employee is assigned to work 100% of his or her time on a schoolwide program. Federal, state, and local funds are consolidated on the schoolwide program.

Recommended T&E Record: No documentation is required. There is no distinction between staff paid with federal funds and staff paid with state or local funds.

Note: Very few LEAs in Texas actually consolidate federal, state, and local funds on a schoolwide program. Check with your Business Office before making an assumption.

Example 2: An employee is assigned to work 100% of his or her time on a schoolwide program. Only federal funds are consolidated on the schoolwide program.

Recommended T&E Record: If the employee is paid from the consolidated pool, normally the semi-annual certification (or similar documentation) would be recommended because a schoolwide program is a single cost objective. However, if all of the programs in the consolidated pool are Ed-Flex programs, no further documentation is necessary.

If one or more of the programs included in the consolidation is not an Ed-Flex program, then the employee should complete the semi-annual certification (or similar documentation) to cover the programs that are not Ed-Flex. Note: McKinney-Vento is NOT an Ed-Flex program. (A list of Ed-Flex programs is provided at the end of this document.)

In either case, the employee’s job description should clearly state that the employee is assigned 100% of the time to the schoolwide program.

Example 3: An employee is assigned to work 100% of his or her time on a schoolwide program. Only Title I, Part A funds are used on a schoolwide basis to serve all students attending the school. No funds are consolidated on the schoolwide program.

Recommended T&E Record: If the employee is paid 100% from Title I, Part A, normally the semi-annual certification (or similar documentation) would be recommended because a schoolwide program is a single cost objective. But because Title I, Part A is an Ed-Flex program, no further documentation is
necessary. The employee’s job description should clearly state that the employee is assigned 100% of the time to the schoolwide program.

If the employee is NOT paid from Title I, Part A, the employee should complete the semi-annual certification (or similar documentation) if the program from which the employee is paid is NOT an Ed-Flex program. Note: McKinney-Vento is NOT an Ed-Flex program. If the program from which the employee is paid is an Ed-Flex program, the semi-annual certification is not necessary.

**Example 4:** An employee is assigned to work part of the time on a schoolwide program, and part of the time on another cost objective.

**Recommended T&E Record:** The employee should maintain time and effort (or similar documentation) or have a substitute system approved by TEA.

**Example 5:** An employee teaches 100% of the time during the day at a schoolwide program for his or her regular teaching contract, and tutors after school for the 21st Century Community Learning Centers program to receive extra-duty pay.

**Recommended T&E Record:** Assuming the 21st CCLC tutoring position is not part of the employee’s regular contracted job functions, it would normally be recommended that the employee complete the semi-annual certification (or similar documentation) for the time spent during the day on the single cost objective of schoolwide program. However, since Title I, Part A is an Ed-Flex program, no further documentation is necessary for the regular job function for teaching at the schoolwide program.

However, because 21st CCLC is NOT an Ed-Flex program, the employee should complete a semi-annual certification (or similar documentation) for the time spent tutoring for 21st CCLC if the position is *salaried*. But, if the 21st CCLC position is paid on an *hourly* basis in addition to the regular teaching salary, the employee should complete hourly time sheets or comparable documentation showing the actual number of hours worked for 21st CCLC.

**Title I Targeted Assistance Schools (i.e., Non-Schoolwide Title I Schools)**

**Example 6:** An employee works 100% of her or her time serving Title I students in a Title I Targeted Assistance School.

**Recommended T&E Record:** Normally the semi-annual certification (or similar documentation) would be recommended for this single cost objective, but because Title I, Part A is an Ed-Flex program, no further documentation is...
necessary. The employee’s job description should clearly state that the employee is assigned 100% of the time to the Title I, Part A program.

Example 7: An employee works part of the time serving Title I students, and part of the time on another cost objective that is funded by an Ed-Flex program other than Title I.

Recommended T&E Record: The employee should maintain time and effort (or similar documentation) or have a substitute system approved by TEA.

Example 8: An employee works part of the time serving Title I students, and part of the time on another cost objective that is NOT funded by an Ed-Flex program.

Recommended T&E Record: The employee should maintain time and effort (or similar documentation) or have a substitute system approved by TEA.

Example 9: An employee works on a single cost objective such as Title I, serving only Title I students, but because Title I funds are insufficient to pay his or her entire salary, state and local funds are also used to help pay the salary.

Recommended T&E Record: Although the salary is allocated to two different funding sources, the employee is still working on a single cost objective. Normally the semi-annual certification (or similar documentation) would be recommended, but because Title I, Part A is an Ed-Flex program, no further documentation is necessary.

If the federal program is NOT an Ed-Flex program, the employee should complete the semi-annual certification (or similar documentation). Note: McKinney-Vento is NOT an Ed-Flex program.

In either case, the employee’s job description should clearly state that the employee is assigned 100% of the time to the single cost objective.

Other Scenarios (not Title I)

Example 10: An employee works 100% of his or her time on a federal program (other than Title I) and single cost objective.

Recommended T&E Record: If the program is an Ed-Flex program, normally the semi-annual certification (or similar documentation) would be recommended for this single cost objective. However, if it is an Ed-Flex program, no further documentation is necessary. If it is not an Ed-Flex program, the employee should complete the semi-annual certification (or similar documentation). Note: McKinney-Vento is NOT an Ed-Flex program.
Example 11: An employee works on multiple federal programs that are not Title I or Ed-Flex.

**Recommended T&E Record:** The employee should maintain time and effort (or similar documentation) or have a substitute system approved by TEA.

Example 12: An employee works part of the time on one or more federal programs and part of the time on state or locally funded programs.

**Recommended T&E Record:** The employee should maintain time and effort (or similar documentation) or have a substitute system approved by TEA.

Example 13: An employee works part of the time on a *direct* cost activity, and part of the time on an *indirect* cost activity.

**Recommended T&E Record:** The employee should maintain time and effort (or similar documentation) or have a substitute system approved by TEA.

**Consolidated Administrative Funds**

Example 14: A central office employee works 100% of the time on *administering* federal programs. The employee is paid from the consolidated administrative funds pool. The consolidated administrative pool, in this example, consists of Title I, Part A; Title I, Part C (Migrant); and Title II, Part A (Teacher and Principal Training and Recruiting).

**Recommended T&E Record:** Normally it would be recommended that the employee complete the semi-annual certification (or similar documentation) because working only on programs included in the consolidated administrative pool is a *single cost objective*. However, because all programs included in the consolidated administrative pool are Ed-Flex programs, no further documentation is necessary.

Example 15: A central office employee works 100% of the time on administering federal programs. The employee is paid from the consolidated administrative funds pool. The consolidated administrative pool, in this example, consists of Title I, Part A; Title I, Part C (Migrant); Title II, Part A (Teacher and Principal Training and Recruiting); and Title III, Part A (English Language Acquisition).

**Recommended T&E Record:** Although working 100% on consolidated administrative funds is a *single cost objective*, the employee should complete the semi-annual certification (or similar documentation) to cover Title III, Part A, English Language Acquisition. This program is NOT an Ed-Flex program.
Normally it would also be recommended that the employee complete the semi-
annual certification (or similar documentation) to cover Title I, Part A and Title I,
Part C (Migrant) because working only on programs included in the consolidated
administrative pool is a single cost objective. However, because these two
programs are Ed-Flex programs, no further documentation is necessary for these
programs.

**Example 16:** A central office employee works 100% of the time on administering
federal programs. The employee is paid from the consolidated administrative funds pool
for administering Title I, Part A and Title I, Part C (Migrant). The employee also
administers the McKinney-Vento Homeless Education program and is paid from
McKinney-Vento funds for the time spent on that program.

**Recommended T&E Record:** The employee should maintain time-and-effort
records (or similar documentation) for the time spent on administering the
programs included in the consolidated administrative pool and the time spent on
administering the McKinney-Vento program. McKinney-Vento funds CANNOT be
consolidated with NCLB consolidated administrative funds.

**Scenarios Pertaining to Set-Asides**

**Example 17:** An employee works part of the time in a *non-Title I* program serving
students, and part of the time on a federal “set-aside” activity where the LEA is required
to track the amount of funds expended for the activity. Ex: the required Title I parent
involvement set-aside.

**Recommended T&E Record:** The employee should maintain time and effort (or
similar documentation) for the entire time. The time/amount spent on the
required set-aside must be documented to demonstrate compliance, and time
and effort (or similar documentation) should be maintained for 100% of his or
her time.

Note: Set-aside funds cannot be combined on a schoolwide program.

**Example 18:** An employee works 100% of the time on Title I, Part A. However, part of
the time the employee is a Title I reading specialist, and part of the time the employee
works on the required Title I set-aside for parent involvement.

**Recommended T&E Record:** The employee should maintain time and effort (or
similar documentation) for the entire time. The time/amount spent on the
required set-aside must be documented to demonstrate compliance, and time
and effort (or similar documentation) should be maintained for 100% of his or
her time.

Note: Set-aside funds cannot be combined on a schoolwide program.
Ed-Flex Programs in Texas:

No Child Left Behind Act of 2001
- Title I, Part A (except sections 1111 and 1116, school improvement grants)
- Title I, Part C (Migrant Education)
- Title I, Part D (Neglected and Delinquent)
- Title I, Part F (Comprehensive School Reform – no longer funded)
- Title II, Part A, Subparts 2 and 3 (Teacher and Principal Training and Recruiting)
- Title II, Part D, Subpart 1 (Educational Technology)
- Title III, Part B, Subpart 4 (Emergency Immigrant Education – not currently funded)*
- Title IV, Part A, Subpart 1 (Safe and Drug-Free Schools – no longer funded)
- Title V, Part A (Innovative Programs – no longer funded)

Carl D. Perkins Career and Technical Education Act of 2006

*Note: Title III, Part A, LEP and Immigrant, are NOT Ed-Flex programs.

Semi-Annual Certification: The State of Texas has an Ed-Flex waiver that eliminates the necessity that charges for salaries and wages be supported by a semi-annual certification (or similar documentation) that the employee worked solely on that program or single cost objective for the period covered by the certification. This waiver is allowable only for the Ed-Flex programs listed above as long as the employee’s job description clearly states that the employee is assigned 100% to the program or single cost objective.
### Valuation of Cost-Sharing and Matching Costs

<table>
<thead>
<tr>
<th>Source</th>
<th>Includes:</th>
<th>Valued at:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash contributions</td>
<td>Cash donations from non-federal third parties</td>
<td>The actual cash value at the time of the donation</td>
</tr>
<tr>
<td>In-kind contributions</td>
<td>The value of services of employees of the LEA</td>
<td>The employee’s regular rate of pay (plus an amount of fringe benefits that are reasonable, necessary, allowable, and allocable)</td>
</tr>
<tr>
<td></td>
<td>The use of equipment owned by the LEA</td>
<td>The entire amount computed for depreciation of the equipment, provided that the equipment is dedicated entirely to the grant project, can be counted toward cost-share/matching. Otherwise, the depreciation amount must be allocated among the applicable programs/projects and only the allocable portion can be counted toward the cost-share/matching.</td>
</tr>
<tr>
<td></td>
<td>The use of building/office space owned by the LEA</td>
<td>The entire amount computed for depreciation of the square footage used, provided that the building/office space is dedicated entirely to the grant project, can be counted toward cost-share/matching. Otherwise, the depreciation amount must be allocated among the applicable programs/projects and only the allocable portion can be counted toward the cost-share/matching.</td>
</tr>
<tr>
<td>Third-party contributions</td>
<td>When a third-party organization furnishes the services of an employee</td>
<td>The employee’s regular rate of pay (plus an amount of fringe benefits that are reasonable, necessary, allowable, and allocable), provided these services employ the same skills for which the employee is normally paid. The services must be for allowable costs if the LEA were to pay for them. Services must be documented, and to the extent feasible, supported by the</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Requirements</td>
</tr>
<tr>
<td>------</td>
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<tr>
<td>Volunteer services furnished by third-party professional and technical personnel, consultants, and other skilled and unskilled labor if the service is an integral and necessary part of the project.</td>
<td>Rates for third-party volunteer services must be consistent with those paid for similar work in the LEA. Where those skills are not found in the LEA, rates must be consistent with those paid for similar work in the labor market for that type of service. Paid fringe benefits that are reasonable, allowable, necessary, and allocable may be included in the valuation. The services must be for allowable costs if the LEA were to pay for them. Services must be documented, and to the extent feasible, supported by the same methods used by the LEA for its own employees.</td>
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<tr>
<td>Individual (unpaid) volunteer services</td>
<td>The rates consistent with those ordinarily paid for similar work in the LEA. If the LEA does not have employees performing similar work, the rates will be consistent with those ordinarily paid by other employers for similar work in the same labor market. A reasonable amount of fringe benefits may be included in the valuation.</td>
<td></td>
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<tr>
<td>Donated property, such as equipment, office supplies, classroom supplies, laboratory supplies, or workshop/training supplies.</td>
<td>Must be reasonable and must not exceed the fair market value at the time of the donation.</td>
<td></td>
</tr>
<tr>
<td>Donated equipment, buildings, or land for which title passes to the LEA</td>
<td>The LEA may claim the current fair market value of equipment that is of the same age and condition as the donated equipment with the explicit approval of the awarding agency.</td>
<td></td>
</tr>
<tr>
<td><strong>The value of donated buildings or land cannot exceed the current fair market value at the time of donation as established by an independent appraiser and certified by a responsible LEA official as required in the regulations (2 CFR § 200.306[i][1]), with the approval of the awarding agency.</strong></td>
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<tr>
<td>If the LEA claims the current fair market value of the donated equipment or buildings as cost share or matching, the equipment or buildings cannot also be depreciated.</td>
<td></td>
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<tr>
<td>These respective values may only be claimed if the purchase of equipment or buildings/land is allowable under the grant program.</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Loaned equipment (title does not transfer to the LEA and equipment is to be returned to the third party after completion of the grant project)</strong></th>
<th><strong>Fair rental rate of the equipment.</strong></th>
</tr>
</thead>
</table>

| **Donated building space where third party retains title to building** | **The fair rental rate of comparable space as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality.** |

2 CFR §§ 200.306, .434., and .436
Federal Standards for Procurement

Oversight of Contractors

Grantees are required to maintain oversight to ensure contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. A good contract oversight system includes strong internal controls as well as written purchasing procedures (required) that clearly delineate the organization’s purchasing policies and procedures and provides for strong controls over all funds, including federal funds. Module 3 of TEA’s FASRG contains information on the typical content of a purchasing procedures manual.

A good purchasing system also includes a proper segregation of duties, whereby one individual does not have sole authority to generate and approve purchases. The procurement function should be set up so that one or more purchasing personnel complete purchase orders as purchase requisitions are submitted, and another person in a supervisory or management role approves the purchase order prior to purchase. This aids in providing a system of checks and balances for procurements.

When the purchase involves federal funds, the local program administrator or director for the federal grant should also approve the purchase to ensure it is necessary to carry out the objectives of the grant and is appropriately budgeted in the approved grant application.

In addition, grantees should ensure that procurement personnel are fully trained and that a proper management structure exists for carrying out the procurement function.

Written Code of Conduct

Grantees must maintain written standards of conduct governing the performance of their employees engaged in the selection, award, and administration of contracts. The code of conduct must address conflicts of interest.

According to federal regulation, no employee, officer, or agent of the grantee may participate in the selection, award, or administration of a contract supported by federal funds if he or she has a real or apparent conflict of interest. A conflict could arise when an employee, officer, or agent; any member of his immediate family; his or her partner; or an organization which employs, or is about to employ, any of the preceding, has a financial or other interest or tangible benefit from a firm considered for a contract.
Federal regulation prohibits any officer or employee from soliciting or accepting gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subcontracts. In addition, Texas law makes a gift valued at $50 or more, or cash or a negotiable instrument of any amount, to a public employee a Class A misdemeanor if the employee is someone who exercises some influence in the purchasing process of the governmental body. (Texas Penal Code, 36.09[d] and [h]).

The written code of conduct must provide for penalties, sanctions, or other disciplinary actions for violation of the standards by any of the grantee’s officers or employees. Depending on the severity, the individuals involved in a conflict of interest can suffer debilitating lawsuits and criminal conviction, in addition to the potential debarment and suspension from receiving federal funds.

**Procedures for Reviewing Proposed Procurements**

Procurement procedures must provide for a review of the proposed procurements to avoid purchasing unnecessary or duplicative items. Where appropriate, grantees should consider consolidating purchases, or breaking down larger purchases into several smaller purchases, to obtain a more economical purchase.

Where appropriate, grantees must also analyze whether it is more economical to lease versus purchase, or engage in any other appropriate analysis to determine the most economical approach.

To foster greater economy and efficiency, federal regulations encourage grantees to

- Enter into state and local intergovernmental agreements for procurement or use of common goods and services.
- Use excess and surplus property previously purchased with federal funds in lieu of purchasing new equipment and property whenever such is feasible and reduces project costs.

Finally, but not less important, procedures for reviewing proposed procurements must include a determination of the allowability of the procurement for a particular federal program.

Each good or service procured with federal funds must be determined to be allowable under the federal cost principles, reasonable in cost, necessary to carry out the objectives of the grant project, and allocable to the grant. The written procedures should allow for the approval by the federal program grant manager.
Making Awards to Responsible Contractors

Grantees may award contracts only to responsible contractors who possess the ability to perform successfully under the terms and conditions of the proposed procurement. In awarding contracts, grantees must consider a contractor’s

- integrity and business ethics
- compliance with public policy
- ability to complete the project on time and in accordance with specifications
- record of past performance
- financial and technical resources

Grantees should check references where possible and engage in practical activities such as checking with the local Better Business Bureau and the Attorney General’s office to ensure there are no outstanding complaints against the contractor. This includes a check to make sure the contractor is not debarred or suspended from receiving federal funds. (See the section in Part I – Uniform Administrative Grant Requirements on Debarment and Suspension.)

Grantees should only award a contract to a contractor who has the appropriate experience, expertise, qualifications, and any required certifications, necessary to perform the work. Contractors should also have the financial resources to sustain the project while the initial work is being completed and during each service period until he or she submits invoices for payment to the grantee as work is completed. Contractors should have the proper equipment or the capability to subcontract for the proper equipment necessary to complete the contracted work.

Procurement Records

Grantees are required to maintain records sufficient to detail the significant history of each procurement. Records must include, but are not limited to

- the method of procurement and the rationale for choosing that method (i.e., the reason the grantee chose procurement by micro-purchase, small purchase procedures, sealed bids, competitive proposals, or noncompetitive proposals)
- the type of contractual agreement or instrument used and rationale for selecting that type
- the process used to either select the contractor or to reject the contractor (what was the process and what were the factors considered in selecting or rejecting the contractor)
- the basis used for determining the price of the contract (including a cost or price analysis for purchases > $150,000
• verification that the contractor is not suspended or debarred from receiving federal funds

**Retention Period**: Grantees are required to retain records on all procurements from federal grants for five years after the ending date of the grant. Grantees must inform contractors through a provision in their contract that they are required to retain all required records for three years after the grantee makes final payment to the contractor and all other pending matters are closed.

**Access to Contractor Records**: Grantees are also required to inform contractors through a provision in their contract that all regulatory agencies, including TEA or an agency administering a federal grant program on behalf of TEA; the USDE; OIG; and the Comptroller General of the United States, have access to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of audit, examination, excerpts, and transcriptions.

**Time and Materials Contracts**

Time and materials contracts are a hybrid of fixed-price and cost-reimbursement contracts. They present the highest risk to the government and the lowest risk to the contractor. Therefore, they are the least desirable for the federal or state government and are rarely awarded.

Time and materials contracts provide for acquiring supplies or services on the basis of

• direct labor hours at specified fixed hourly rates that include wages, overhead, general administrative expenses, and profit
• actual cost of materials

In other words, the contractor is saying it will work until the task is completed, but it has no idea how long it will take, nor how much money it will cost. This obviously can be very cost prohibitive and can encourage fraudulent behavior by some unscrupulous contractors. Therefore, federal regulations permit the use of a time and materials contract only after a determination is made that no other contract is suitable and only if the contract includes a ceiling price that the contractor exceeds at its own risk. Further, the grantee must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.
**Settlement of Contractual and Administrative Issues**

The grantee is responsible for the settlement of all contractual and administrative issues arising out of procurements in accordance with good administrative practice and sound business judgment. These issues include, but are not limited to:

- source evaluation (analyzing information sources in order to assess their credibility)
- protests
- disputes
- claims

Grantees and subgrantees cannot relinquish their contractual responsibilities to a federal (or state) agency. Violations of law will be referred to the local, state, or federal authority having proper jurisdiction.

Grantees must also have procedures for handling and resolving disputes resulting from any protests by a contractor and must disclose those procedures to their awarding agency. A protestor must exhaust all administrative remedies with the subgrantee and grantee before pursuing a protest with a federal agency. Regulations limit a review by a federal agency.

*2 CFR § 200.318*
Audit Compliance Supplement - Compliance Requirements Reviewed During an Audit

The description in the table below of what the auditors may look for is not all-inclusive. Compliance with these requirements will be assessed by the auditor in addition to assessing the reliability of the financial statements, the schedule of expenditures of federal awards, and internal control over federal programs.

<table>
<thead>
<tr>
<th>Compliance Requirement</th>
<th>Requirement</th>
<th>What the Auditor May Look For (Not All-Inclusive)</th>
</tr>
</thead>
</table>
| **Activities Allowed or Unallowed** | Federal awards must only be expended for allowable activities under the applicable program statute. | • The auditor will review the purpose of the federal program and determine if the grantee expended funds only on those activities that are related to the purposes of the grant.  
• The auditor will review any procedures related to determining allowable activities and will determine if the grantee is adhering to those procedures.  
• For NCLB consolidated funds, the auditor will determine if an LEA used consolidated administrative funds only for authorized administrative activities of one or more of the consolidated programs and if the LEA obtained approval from the SEA (in the application) to consolidate administrative funds.  
• For Title I schoolwide programs, if funds are consolidated on a schoolwide program, the auditor will determine if the LEA met the intent and purposes of those programs and if the LEA consistently assigned expenditures to those federal programs in an acceptable manner. |
| **Allowable Costs/Cost Principles** | The applicable federal cost principles establish principles and standards for determining costs applicable to grants. (See the section in this Part II on | • The auditor will examine costs to ensure they were allowable under the federal cost principles, were necessary to carry out the objectives of the grant program, were reasonable in cost, and were |
| Expending Grant Funds, Federal Cost Principles. | allocable to the federal program based on the benefit received by the program.  
- The auditor will review procedures the grantee uses to determine and approve allowable costs and will determine if the grantee is adhering to those procedures.  
- The auditor will review the system of internal controls which provides reasonable assurance that charges for salaries and wages are accurate, allowable, and properly allocated. This may include review of time-and-effort records or similar documentation. The auditor may also review the written policy for employee compensation.  
- The auditor will review the general ledger, the expenditure reports, and the approved indirect cost rate to determine if the grantee applied the correct indirect cost rate to federal program expenditures. |
|---|---|
| Cash Management | Grantee financial management systems must include written procedures to minimize the time elapsed between the transfer of funds from the grantor and the disbursement of funds by the grantee.  
- The auditor will request a copy of the written procedure and will ask for evidence that the grantee is adhering to the procedure. The grantee must demonstrate that it is disbursing all cash on the day a payment is received by the grantee.  
- If interest earned is > $500, the grantee must provide evidence that it is complying with the requirements to submit interest earned as specified in the regulations (See the section in Part II on Cash Management and Interest Earned.) |
| Eligibility | Where federal programs specify eligibility requirements, grantees must use certain criteria for determining the individuals, groups of individuals, or subrecipients that are eligible.  
- The auditor will review the grantee's procedures for identifying eligible participants and sample some lists of participants to determine if the grantee complies with eligibility requirements.  
- The auditor will ask for evidence |
| **Equipment and Real Property Management** | A grantee must use, manage, and dispose of equipment acquired under a federal grant in accordance with State laws and procedures. Real property must be used for the originally authorized purpose as long as needed for that purpose. The requirements for managing and disposing equipment can be found in 2 CFR § 200.313 and in the terms and conditions of the awards. | • The auditor will review the grantee’s procedures for managing property and equipment, including inventory procedures.  
• The auditor will review the inventory records (fixed asset records) to determine if the physical inventory was conducted at least once every two years and if the records are properly maintained.  
• The auditor will determine if equipment is being used only for authorized purposes under the federal program. |
| **Matching, Level of Effort (i.e., Maintenance of Effort), Earmarking** | Where required in a specific federal program, grant recipients must provide cost share or matching contributions (usually non-Federal) of a specified amount or percentage to match federal awards. These requirements specify the level of services and expenditures that are to be provided and maintained during the grant period.  
Most federal education grants contain the supplement, not supplant provision and a maintenance of effort (MOE) provision.  
Some federal grants require that grantees set aside | • The auditor will review the grantee’s policies and procedures for complying with cost share or matching requirements; supplement, not supplant and maintenance of effort; and set-asides (earmarks).  
• The auditor will also ask for evidence that the grantee is complying with these requirements.  
• The auditor will determine that the grantee did not use more than the maximum amount allowed for administering the federal program. |

eligible to participate in the program and the amounts for which they qualify, if applicable.

that the LEA is providing Title I services to homeless students attending Title I schools.  
• The auditor will ask for evidence that the LEA reserved Title I funds to serve homeless students attending non-Title I schools and is providing services to those students.
<table>
<thead>
<tr>
<th><strong>Period of Performance</strong></th>
<th>Federal awards specify a time period during which the entity may use the federal funds. If authorized by the federal program, unobligated balances may be carried over and charged for obligations of the subsequent funding period.</th>
<th>The auditor will review the accounting records, such as purchase requisitions, purchase orders, invoices, receipts, contracts, and travel vouchers, and the general ledger and payroll ledger to verify that all expenditures were obligated during the grant period.</th>
</tr>
</thead>
</table>
| **Procurement and Suspension and Debarment** | Grantees shall use the same policies and written procedures used for procurements from non-federal funds. Procurements from federal funds must meet certain standards. (See the section in this Part II on Procurement [Purchasing Goods and Services].) Also, grantees are prohibited from contracting with or making subawards to parties that are suspended or debarred. | • The auditor will review the grantee’s written procurement procedures and will determine if the grantee is adhering to the procedures.  
• The auditor will review subcontracts and subgrants to determine if the grantee is complying with the requirements pertaining to debarment and suspension (See in Part I the section on Debarment and Suspension.) |
| **Program Income** | Program income is defined as gross income earned by the grantee that is directly generated by a supported activity or as a result of a federal award during the grant period. This income must be approved by the awarding agency and must be deducted from outlays unless approved by the awarding agency to be added to the project budget. (See in Part II the section on Program Income.) | • The auditor will determine if any program income was approved in the application and if the awarding agency gave approval to add the program income to the grant budget.  
• The auditor will also determine if program income is being reported properly. |
| **Reporting** | Grantees must use the financial reporting forms prescribed by the awarding | • The auditor will review the grantee’s procedures for completing expenditure reports |
agency and must submit complete, accurate reports as scheduled by the awarding agency. Grantees must also report program progress and results as prescribed by the awarding agency.

<table>
<thead>
<tr>
<th>Subrecipient Monitoring</th>
<th>Pass-through entities are responsible for monitoring their subrecipients. Monitoring activities include reviewing audit reports that are submitted, performing desk and/or on-site visits to review financial and programmatic records, and observing operations.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>The auditor will review the pass-through entity’s procedures for monitoring and will request evidence that the monitoring procedures are being carried out. Evidence will include the working papers and results for completed desk reviews and on-site reviews, as well as a list of the subrecipients monitored and the date they were monitored.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Special Tests and Conditions</th>
<th>Auditors must examine any special tests and provisions unique to each federal program. These include provisions such as comparability and private nonprofit school participation.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Auditors will review the grantee’s procedures for complying with any special tests and conditions and will request evidence that the grantee is complying with the procedures. An example of a “special test” includes compliance with private nonprofit school consultation and participation.</td>
</tr>
</tbody>
</table>