



DERUYTER
CENTRAL SCHOOL

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Purchasing Procedure Manual

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DEFINITIONS

BUDGET/ALLOWABLE USE OF FUNDS/COST PRINCIPLES

- **Advance payment:** means a payment that a Federal awarding agency or passthrough entity makes by any appropriate payment mechanism, including a predetermined payment schedule, before the non-Federal entity disburses the funds for program purposes.
- **Allowable cost:** A cost that complies with all legal requirements that apply to a particular Federal education program including statutes, regulations, guidance, applications and approved grant awards.
- **Education Department General Administrative Regulations (EDGAR):** A compilation of regulations that apply to Federal education programs. These regulations contain important rules governing the administration of Federal education programs, and include rules affecting the allowable use of Federal funds (including rules regarding allowable costs, the period of availability of Federal awards, documentation requirements, and grants management requirements). EDGAR is accessible at <http://www2.ed.gov/policy/fund/reg/edgarReg/edgar.html>.
- **Omni Circular or 2CFR 200:** Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Federal cost principles that provide standards for determining whether costs may be charged to Federal grants. EDGAR requires all grantees and subgrantees to follow the cost principles set out in 2 CFR 200s at the following: <http://www.ecfr.gov/cgi-bin/text-idx?node=pt2.1.200&rgn=div5>. The Omni Circular, 2CFR 200, and Uniform Grant Guidance are all referring to the same document.

PURCHASING

- **Aggregate** refers to the aggregate amount to be expended during a 12-month period.
- **Purchase Order (PO)** is a document issued by the School District that authorizes a purchase transaction. The PO sets forth the descriptions, quantities, prices, discounts, date and other terms and conditions.
- **Requisition** is the initial purchase request that an employee enters into the District financial accounting software. Once the requisition has moved forward through the approval process it is printed out or emailed as a purchase order and the order is processed.
- **Simplified Acquisition Threshold (SAT)** is the abbreviation for the Federal guideline for Simplified Acquisition Threshold which is \$150,000.

CASH MANAGEMENT

- **Advance payment:** means a payment that a Federal awarding agency or pass-through entity makes by any appropriate payment mechanism, including a predetermined payment schedule, before the non-Federal entity disburses the funds for program purposes.

COMPENSATION-PERSONAL SERVICES EXPENSES AND REPORTING

- **Cost Objective:** A particular grant award or other category of costs used to track specific cost information (e.g. earmarks or set-asides that require the District to track expenditure information to ensure it spends a specific amount for a specific purpose).

- **Employee Compensation:** All amounts paid or accrued to an employee for services rendered during the award period. Compensation includes salaries, fringe benefits, stipends, bonuses and payments made under supplemental contracts. The District may require specific groups of employees to complete time sheets as verification of services rendered during an award period.
- **Multiple Cost Objectives Employees:** Employees who work on multiple cost objectives such as:
 - More than one Federal award;
 - A Federal award and a non-Federal award;
 - More than one activity within a Federal award that is separately tracked by the District (such as set-asides, earmarks or match/in-kind contributions).
- **Single Cost Objective Employees:** Employees who work exclusively on one cost objective.

CAPITAL ASSETS

- **Capitalization policy is used by a District to set a threshold, above which qualifying** expenditures are recorded as fixed assets, and below which they are charged to expense as incurred. The policy is typically set by District administration or the board of education. The capitalization policy also governs whether certain expenditures are accounted for as separate assets, or as part of a larger asset.
- **Computing Devices** are machines used to acquire, analyze, process, and publish data and other information electronically, including accessories (or “peripherals”) for printing, transmitting and receiving, or storing electronic information. Information technology systems are computing devices, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related resources.
- **Equipment** is tangible personal property having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000. High-risk equipment of less than \$5,000 should also be safeguarded and tracked along with an inventory done every two years.
- **High-Risk Assets** are those items identified by the District as easily portable, desirable for personal use or easily marketable. Currently computers, Ipad, multi-media and audio assisted equipment, and other portable technology are considered theft-sensitive and high-risk.
- **Purchase Order (PO)** is a document issued by the School District that authorizes a purchase transaction. The PO sets forth the descriptions, quantities, prices, discounts, date and other terms and conditions.
- **Safeguarding** is defined as providing a reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the District assets that could have a material effect on the financial statements.

RECORDS RETENTION

- **Permanent Retention Period** means the records should be retained and never destroyed.

- **Records** is defined as information contained in records regardless of its physical form (paper, microfilm, computer disk or tape, or other medium).
- **Retention Period** represents the period of time a document should be kept or “retained”. New York State School Districts should consult Records Retention Schedule ED-1.

SUBRECIPIENT MONITORING AND MANAGEMENT

- **Contract:** A legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award. The term as used in Part 2 CFR does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward.
- **Contractor:** An entity that receives a contract, i.e. a legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award.
- **Pass-through Entity (PTE):** A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.
- **Subaward:** An award provided by a PTE to a subrecipient for the subrecipient to carry out part of a Federal award received by the PTE. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the PTE considers a contract.
- **Subrecipient:** A non-Federal entity that receives a subaward from a PTE to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program.

BUDGET/ALLOWABLE USE OF FUNDS/COST PRINCIPLES

RATIONALE

Developing grant budgets must be based on the proposed activities planned and described in the grant application to ensure the intent of the federal program is maintained. Budgeted expenditures must conform to that intent and be allowable under the Omni Circular (2CFR 200) as well as Education Department General Administrative Regulations (EDGAR), described under “Definitions.”

In compliance with 2CFR §200.302(b)(7) and EDGAR, procedures outlined in this section will enable management and staff to ensure the District is in compliance with the allowability requirements under the terms and conditions of the grant as well as the 2 CFR 200, Subpart E and EDGAR.

POLICY

FRAMEWORK FOR ANALYZING ALLOWABLE COSTS

To determine whether a cost is allowable under the program, staff must become familiar with the requirements under 2 CFR 200, Subpart E and EDGAR, as well as objectives of each grant.

Generally, when analyzing whether a particular cost is permissible, it is useful to perform the following analysis:

- Is the cost specifically included in the District's approved grant budget?
- Is the cost forbidden by Federal laws such as 2 CFR 200, Subpart E or EDGAR? (see below for examples)
- Is the cost permissible under the relevant Federal program?
- Is the cost consistent with the Federal cost principles in 2 CFR 200s?
- Is the cost consistent with program specific fiscal rules?
- Is the cost consistent with an approved program plan and budget, as well as any special conditions imposed on the grant?

While there are other important considerations District staff must take into account when analyzing whether a specific proposed cost is permissible, the above questions can provide a useful framework for the analysis.

FEDERAL COST PRINCIPLES

The Omni-Circular defines the parameters for the permissible uses of Federal funds. While there are many requirements contained in it, it includes core principles that serve as an important guide for effective grants management. These core principles require all costs to be:

- **Necessary** for the proper and efficient performance or administration of the program.
- **Reasonable.** In other words, it should be clear to an outside observer why a decision to spend money on a specific cost made sense in light of the cost, needs, and requirements of the program and that sound business practices were followed and purchases were comparable to current market prices.

- **Allocable** to the Federal program that paid for the cost. Under 2 CFR §200.405, this means that a program must benefit in proportion to the amount charged to the Federal program—for example, if a teacher is paid 50% with Title I funds, the teacher must work with the Title I program/students at least 50% of the time. This also means that recipients need to be able to track items or services purchased with Federal funds so they can prove they were used for Federal program purposes.
- **Authorized** under state and local rules. This means all actions carried out with Federal funds must be authorized and not prohibited by state and local laws and policies.
- **Adequately documented.** A recipient must maintain proper documentation so as to provide evidence to monitors, auditors, or other oversight entities of how the funds were spend over the lifecycle of the grant.
- **Consistent with policies and procedures.** The same policies and procedures should apply uniformly to both federally-financed and other activities of the District. 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.
- **Not included as a match or cost-share.** An element of cost should 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.
- **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 District relate to the Federal award, they shall be credited to the Federal award, either as a cost reduction or a cash refund, as appropriate.

The Omni-Circular also contains specific rules on selected items of costs. Costs must comply with these rules in order to be paid with Federal funds.

ALLOWABLE COSTS

Costs that may be Allowable under 2 CFR 200, Subpart E Under Specific Conditions:

<u>FS-10 Budget Item</u>	<u>Citation</u>
Professional and support salaries	§200.430
Purchased services	2 CFR Appendix II Contract provisions
Supplies and materials	§200.453
Travel expenses	§200.474
Employee benefits	§200.431
Equipment	§200.439

Budget Items for Other Grants

Advisory Councils	§200.422
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Audit costs and related services	§200.425
Bonding costs	§200.427
Conferences	§200.432
Depreciation	§200.436
Employee health and welfare costs	§200.437
Insurance and indemnification	§200.447
Maintenance, operations, and repairs	§200.452
Memberships and subscriptions	§200.454
Professional service costs	§200.459
Proposal costs	§200.460
Publication and printing costs	§200.461
Rental costs of building and equipment	§200.465
Training costs	§200.472

COSTS FORBIDDEN BY FEDERAL LAW

2 CFR 200, Subpart E identifies certain costs that may never be paid with Federal funds. The following list provides examples of such costs. If a cost is on this list, it may not be supported with Federal funds. The fact that a cost is not on this list does not mean it is necessarily permissible. There are other important restrictions that apply to Federal funds, such as those detailed in 2 CFR 200s; thus, this list is not exhaustive.

UNALLOWABLE COSTS UNDER 2 CFR 200, Subpart E

- Advertising and public relations costs (with limited exceptions), are prohibited; includes promotional items and memorabilia, including models, gifts, and souvenirs
- Alcoholic beverages
- Bad debts
- Contingency provisions (with limited exceptions)
- Fundraising and investment management costs (with limited exceptions)
- Donations
- Contributions
- Entertainment (amusement, diversion, and social activities and any associated costs)
- Fines and penalties
- General government expenses (with limited exceptions pertaining to Indian tribal governments and Councils of Government (COGs))
- Goods or services for personal use
- Interest, unless specifically stated in §200.441 as allowable

UNALLOWABLE COSTS UNDER EDGAR (PART 76)

- The use of funds for religion
- The acquisition of real property (unless specifically permitted by programmatic statute or regulations which is very rare in Federal education programs)
- The use of funds for construction (unless specifically permitted by programmatic statute of regulations which is very rare in Federal education programs)
- Charging tuition or fees collected from students toward meeting matching, cost sharing, or maintenance of effort requirements of a program

PROGRAM ALLOWABILITY

Any cost paid with Federal education funds must be permissible under the Federal program that would support the cost.

Many Federal education programs detail specific required and/or allowable uses of funds for that program. Issues such as eligibility, program beneficiaries, caps or restrictions on certain types of program expenses, other program expenses, and other program specific requirements must be considered when performing the programmatic analysis.

Costs must be consistent with the purposes of the program in order to be allowable.

PROGRAM SPECIFIC FISCAL RULES

All Federal education programs have certain program specific fiscal rules that apply. Determining which rules apply depends on the program; however, rules such as supplement, not supplant, maintenance of effort, comparability, caps on certain uses of funds, etc. have an important impact when analyzing whether a particular cost is permissible.

Many state administered programs require LEAs to use Federal program funds to supplement the amount of state, local (and in some cases other Federal) funds they spend on education costs, and not to supplant – or replace – those funds. Generally, the “supplement, not supplant” provision means that Federal funds must be used to supplement the level of funds from non-Federal sources by providing additional services, staff, programs, or materials. In other words, Federal funds normally cannot be used to pay for things that would otherwise be paid for with state or local funds (and in some cases with other Federal funds).

Auditors generally presume supplanting has occurred in three situations:

- District uses Federal funds to provide services that the District is required to make available under other Federal, state, or local laws.
- District uses Federal funds to provide services that the District provided with state or local funds in the prior year.
- District uses Title I, Part A or Migrant Education Program funds to provide the same services to Title I or Migrant students that the District provides with state or local funds to nonparticipating students.

These presumptions apply differently in different Federal programs, and also in school wide program schools. Staff should be familiar with the supplement not supplant provisions applicable to their program.

INDIRECT COST RATE

The New York State Education Department (NYSED) calculates the restricted and unrestricted cost rates for all School Districts within the State of New York. NYSED issues a memo annually to the District stating the restricted and unrestricted costs rates to be used by the District, the period of time the rates are to be used for, and the types of programs/grants that the rates are to be used for.

Applying the Indirect Cost Rate

The Indirect Cost Rate percentage is multiplied against the actual direct costs (excluding distorting items such as equipment, contracts in excess of \$25,000, pass-through funds, etc.) incurred under a particular grant to produce the dollar amount of indirect costs allowable to that award (34 CFR §75.564; 34 CFR §76.569). Once the District applies the approved rate, the funds that may be claimed for indirect costs have no Federal

accountability and may be used as if they were non-federal funds. For Direct Grants, reimbursement of indirect costs is subject to the availability of funds and statutory or administrative restrictions (34 CFR §75.564).

APPROVED PLANS, BUDGETS AND SPECIAL CONDITIONS

As required by Omni Circular, all costs must be consistent with approved program plans and budgets. This includes the District's Consolidated Application to the NYSED Department of Public Instruction and school-level plans such as school wide plans.

Costs must also be consistent with all terms and conditions of Federal awards, including any special conditions imposed on the District's grants.

REVISION OF BUDGET AND PROGRAM PLANS

The budget plan is the financial expression of the project or program as approved during the federal grant application process. It shall be related to performance for program evaluation purposes whenever appropriate.

During the year, funding strategies may change for a variety of reasons. If an allowable cost is not in the original budget, a budget amendment must be submitted prior to the submission of the grant claim.

Approval shall be obtained whenever any of the following changes are anticipated under a non-construction award:

- Revision which would result in the need for additional funding.
- Cumulative transfers among direct cost categories, or among separately budgeted programs, projects, functions, or activities which exceed or are expected to exceed ten percent of the current total approved budget.

Districts are required to report deviations from budget and program plans, and request prior approvals for budget and program plan revisions to the New York State Education Department (NYSED), in accordance with this section.

Districts shall request prior approvals from NYSED for one or more of the following program or budget related reasons:

- Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).
- Change in a key person specified in the application or award document.
- The need for additional District funding.
- The transfer of amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa, if approval is required by NYSED.
- The inclusion of costs that require prior approval in accordance with the Omni-Circular.
- The transfer of funds allotted for training allowances (direct payment to trainees) to other categories of expense.
- Unless described in the application and funded in the approved awards, transfer, or contracting out of any work under an award. This provision does not apply to the purchase of supplies, material, equipment or general support services.

When requesting approval for budget and program plan revisions, Districts shall use NYSED provided grant modules that were used in the application process. District personnel should be aware of NYSED imposed time frames and other restrictions (if any) for budget revisions.

TRAINING

The District will provide training on the allowable use of federal funds to all staff involved in federal programs through activities such as:

- Distributing federal guidance documents;
- Distributing District policies and procedures;
- Developing templates, checklists and other guidance documents as appropriate;
- Internal training sessions;
- Routine staff meetings; and
- Informal technical assistance.

Districts will promote coordination between all staff involved in federal programs through activities such as:

- Routine staff meetings;
- Joint training sessions;
- Policies and procedures that address all aspects of Federal grants management;
- Sharing information that has cross-cutting impact such as single audits, monitoring reports, letters from oversight entities, etc.

SANCTIONS

Any District employee who violates this Procedure will be subject to appropriate discipline as reflected by comments to be placed in their personnel file.

PROCEDURES

Before Developing the Grant Budget and Submitting the Application: The grant budget must be based on the proposed activities planned and described in the grant application. Prior to developing the budget, the program manager must know the intent of the federal program and the activities that are allowable to be conducted with grant funds. For the purposes of this section, the program manager may be the Director of Student Services, Director of Pupil-Personnel Services, Title I Coordinator or any individual specifically designated by the Superintendent to manage a grant program. The program manager must coordinate with other District staff as appropriate to conduct the appropriate needs analysis using the appropriate data to determine the goals and objectives for the program and the activities that will be implemented to accomplish the goals and objectives. Once the goals, objectives, strategies, and activities are outlined, then the budget to carry out the identified strategies and activities should be developed.

Prior to completing the application, the program manager develops a detailed budget in a document (such as in an Excel spreadsheet) separate from the application, although it is advisable to use the FS-10 Budget Form as a template to make the submission process more efficient. The program manager coordinates with the District's Business Official in preparing the budget to ensure budgeted items are categorized according to the proper account codes. This detailed budget, which serves as the guide for expenditures and becomes part of the "working papers" maintained by the program manager, is used to complete the application. In most instances, particularly for formula grants, the budget entered into the grant application will not be as detailed. The detailed budget is to be modified or revised as necessary to accommodate changes, which may result in an amendment to the application prior to incurring certain expenditures.

In addition, the program manager will work with stakeholder advisory groups to develop needs assessments before grant activities are budgeted. Collaboration with other District programs and any private schools attended by district students, for some grant funds, is a part of this process so that there is efficient use of resources.

Reviewing and Approving the Budget Prior to Submitting the Application Prior to submitting the grant application, the budget is reviewed by the program manager and the Business Official. Once they have verified that planned expenditures are properly coded and the total grant amount is correct, the grant is submitted by the Superintendent.

At least two weeks prior to the grant due date the program manager and Business Official review the items in the proposed budget to ensure budgeted items are listed in the correct account codes according to grant guidance and the District's classification chart and to ensure the items are allowable. The budget is also reviewed to ensure that any costs requiring specific or prior approval are specifically identified and listed. If the program manager or Business Official determines that a cost is not allowable, then a change is made to either reduce the grant amount or re-direct the unallowable cost to an allowable cost before submission by the Superintendent.

If a specific item of cost is determined to be unallowable the program manager would inform the Business Official and remove the cost from the application and/or budget. If the expense has already occurred and then determined to be unallowable, the Business Official would make a journal entry removing that expense from the budget and reclassifying it to a more appropriate location.

Once the program manager determines that all budgeted items are allowable and are budgeted in the proper account codes, the budget is sent to the Business Official. Generally, the budget receives final approval one week prior to the submission of the grant.

Negotiating the Submitted Application

Once the grant application is submitted to the awarding agency, the designated program contact, usually the program manager assigned to the grant program, is available via phone and/or e-mail in the event that the awarding agency needs to contact the District to negotiate the application or to ask questions or seek clarification related to the proposed program and/or budget. The assigned program manager will seek guidance, if needed, from appropriate District personnel and will respond to any inquiries from the awarding agency as soon as possible but no later than three days. A delay in contacting the awarding agency delays final approval of the grant application, which delays grant program implementation and providing services to intended beneficiaries of the grant.

After Receiving the Approved Application

Within a short time of receiving the approved application from the awarding agency, a complete copy of the application will be provided to the responsible program manager by the Business Office Secretary.

If the grant application is approved as submitted, Business Official takes the necessary steps (detailed below) to enter the detailed budget into the budget system. If the award is for a different amount, the program manager will adjust the detailed budget to reflect the change and then coordinate the budget changes with the Business Official.

All grant budgets are entered into the accounts of the District in the general ledger as approved in the application. Once entered, the Business Official approves the budget, and the budget is ready for activity.

In addition, the following steps are taken to ensure the District is prepared to implement the grant on the beginning date of the grant to maximize the effectiveness of the grants.

Staff hired to work at the District are expected to be highly qualified and well prepared for the position. Program managers manage their programs and budgets according to all Federal, state and local rules. Staff is trained on local policies and procedures in order to ensure timely and effective grant implementation. The Business Official or the Superintendent must approve all grant-related expenditures.

Program managers review their budgets at least monthly to determine if the program expenditures are being effectively managed. Both program implementation and budgets are reviewed at that time. Program managers review their budgets quarterly with the Business Official and curriculum leaders to ensure program and budget implementation is aligned with current District needs and initiatives.

As program managers review their budgets and determine changes are needed, they will work with the Business Official to request budget changes and/or amendments to the grant or contract. The Superintendent, Business Official, and program manager will determine if budget changes need to occur. If there are changes to the budget, the program manager will submit the budget changes for the Superintendent's approval.

Program managers will complete any program or compliance reports required by the awarding agency. If the report is due the authorized official must submit. Program managers will coordinate with the District's authorized officials prior to the submission date to ensure all deadlines are met.

Amending the Application

The District consults and complies with the guidelines and procedures provided by the awarding agency as it pertains to when and how to submit an amendment to an approved application. Procedures are in place to ensure the District does not exceed any maximum allowable variation in the budget.

Monitoring and Amending the Budget and Program Description: Each federal program manager monitors their budgets monthly. Each month the federal program manager reviews the expenses to ensure that all funds will be expended in the allowable time frame. Any budget change requests are submitted and approved by the Business Official or Superintendent. If the expenditures or program changes needed require an amendment the Federal program manager completes the amendment and submits the budget changes to the Superintendent for submission. Each awarding agency, and/or fund, has a different process for amending the program and budget. The program manager is responsible for understanding the requirements and submitting amendments in the appropriate manner. Program managers review each budget and make determinations regarding the expenses. They discuss both budget and program performance to ensure all funds are spent in an allowable manner that is approved in the application by the awarding agency.

Changes to payroll are requested by the Payroll department monthly and are due by the 15th of each month. Changes to payroll are submitted through the Business Official and are effective based on the new payroll date. If this creates a change in how an employee conducts time and effort the employee and their supervisor will be notified of the change and the effective date. The program manager then updates the employee's job description to match.

Attachments to Procedure:

- Important Sections of the Federal Register Rules and Regulations-Omni-Circular
- Refer to the following link providing NYSED Instructions for IDEA Part B Section 611 and 619 Grant Application and Budget Documents:
<http://www.p12.nysed.gov/specialed/finance/2019-20-idea-application-instruction-memo.html>

Legal References:

Education Department General Administrative Regulations
Federal Education Program Statutes
General Education Provisions Act
Omni-Circular

PURCHASING

RATIONALE

The purpose of a purchasing procedure is to ensure that the **DeRuyter Central School District** funds are appropriately spent in the most cost-effective manner and that the purchase has been approved by the required administrative hierarchy. The procedure will also assist District employees in understanding the purchasing process.

POLICY

Policy 5410

N'Vision is the financial accounting software that the **DeRuyter Central School District** uses for all business accounting.

The **DeRuyter Central School District** policies for Purchasing and Regulations, Purchasing Authority, contracting for Professional Services and Authorized Signatures, supersedes the procurement methods identified as per §200.381(a) of federal law.

NOTE: LEA must check their Board of Education Policies against §200.321 Methods of Procurement.

PROCUREMENT PROCEDURE

Please reference your district's procedure and update accordingly. The following is a sample procedure:

- Annually the District evaluates its purchases to determine what supplies, materials, services, public work contracts will exceed in the aggregate the required threshold per General Municipal Law of \$20,000 for purchase/service contracts and \$35,000 for public work contracts.
- Based on this analysis the appropriate Bids and Request for Proposals are developed and issued.
- Purchases will be made from the lowest and best bid submitted, based upon the lowest responsible dollar offeror.
- Request for Proposals will be evaluated and awarded based on weighting criteria developed, as part of the specifications.
- The District will provide justification and documentation of any contract awarded to an offeror other than the lowest responsible dollar offeror. The justification and documentation will set forth the reasons why such award is in the best interest of the district and otherwise furthers the purposes of Section 104-B of the General Municipal Law.

- Inferior service or product is cause for the removal of a vendor's name from the bidder's list.
- Bids or Request for Proposals will not be required for purchases made from:
 - County, state or federal contracts
 - Contract of another political subdivision
 - Sole Source items
 - Professional services that require special skill, expertise or training, refer to Policy **6561**
 - Articles manufactured in a state correctional facility
 - From agencies for the blind and severely disabled
 - From national cooperative contracts in accordance with applicable law
- Purchases not required to have a Bid or Request for Proposal issued, must adhere to the following:
 - Purchase contracts from **Policy 5410** and public work contracts from **Policy 5410** require 3 written quotes, attached to the requisition.
- Requisitioners are filled out manually on a paper copy.
- All requisitions are manually approved by the supervisor.
- The requisition is then given to the Purchasing Agent, for final approval confirming that the purchase is compliant with the District's Purchasing Policy and Regulations.
 - Proper documentation must accompany the requisition.
- The purchase order is then entered into N'Vision and printed and/or electronically mailed/mailed to the vendor and processed by the business office.
- Blanket purchase orders for goods or services are valid only for the time period and amount indicated on the purchase order. Examples of blanket POs include paper purchased from school supplies vendor throughout the year. Extension of the commitment beyond that time and/or amount shall be increased using increase/decrease purchase order forms. Any increase of \$5,000.00 or more must be confirmed by a new purchase order. Blanket POs must go through the same approval process as regular POs.
- An employee will not be reimbursed unless a PO has been processed prior to the actual purchase and has submitted a paid receipt.
- District credit cards are issued on a limited basis. Purchases made with a District credit card must have a PO processed prior to use. Approval of purchases made with a District credit card shall follow the above listed procedures.
- When the product or services are received, the receiver checks off the items received on the packing slip and/or signs the receiving copy of the PO. If available, the packing slip is then attached to the PO and forwarded to the accounts payable department. When accounts payable receives the bill, accounts payable matches the documents to the PO to ensure the District is only paying for items/services that were received.
- In accordance with Internal Claims Auditor Policy 1335, the claims auditor is responsible for formally examining, allowing or rejecting all accounts, charges, claims or demands against the school district.
- The Internal Claims Auditor provides the school board with the internal claims audit report.
- All documents and records retained by the District are in accordance with the New York State ED-1 schedule.
- The Business Office maintains on the District's website, and distributes to all purchasers, a comprehensive purchasing procedure manual.
- The Purchasing Agent conducts frequent purchasing and policy meetings to offer professional development to all staff on compliance to procurement procedures and policies.

DEBARMENT AND SUSPENSION

Non-Federal entities are prohibited from contracting with or making subawards under “covered transactions” to parties that are suspended or debarred, or whose principals are suspended or debarred. “Covered transactions” include procurement contracts for goods and services awarded under a grant or cooperative agreement that are expected to equal or exceed \$25,000.

All non-procurement transactions entered into by a recipient (i.e., subawards to subrecipients), irrespective of award amount, are considered covered transactions, unless they are exempt as provided in 2 CFR section 180.215.

This verification may be accomplished by:

- Checking the Excluded Parties List System (EPLS) maintained by the General Services Administration (GSA). EPLS is no longer a separate system; however, the OMB guidance and agency implementing regulations still refer to it as EPLS and is available at <https://www.sam.gov/portal/public/SAM/>; or,
- Collecting a certification from the entity; or,
- Adding a clause or condition to the covered transaction with that entity.

The subrecipient cannot make a contract to parties listed on the EPLS through the System for Award Management (SAM). SAM contains the list of names of parties debarred, suspended, or otherwise excluded by federal agencies.

Please reference your district’s procedure and update accordingly

The Purchasing Agent is charged with the responsibility of monitoring and ensuring compliance with the suspension and debarment procedures and documenting that contracts over \$25,000.000 have been verified on the System for Award Management (SAM) site:

- Responsible Contractors/vendors will sign and notarize the District’s certification form that is an addendum to our contract or part of our BID/RFP.
- The Administrator of the grant will be responsible for checking the site for verification.
- The certification form must be signed and notarized prior to any purchase and attached as supporting documentation to the purchase order.
- A copy of the form must be retained.

This process will be done for all new vendors and existing vendors will be checked annually. Documentation should be maintained in the applicable vendor file.

WRITTEN PROCEDURES

Full and Open Competition

§ 200.319 Full and Open Competition

All procurement transactions must be conducted in a manner providing full and open competition. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitation for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

- Placing unreasonable requirements on firms, in order for them to qualify to do business.
- Requiring unnecessary experience and excessive bonding.
- Noncompetitive pricing practices between firms or affiliated companies.
- Noncompetitive contracts to consultants that are on retainer contracts.
- Organizational conflicts of interest.

- Specifying only a “brand name” instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement.
- Any arbitrary action in the procurement process.

To ensure adequate competition:

- **Geographical preferences** are prohibited. The District must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. Geographic location may be a selection criterion provided its application leaves an appropriate number of qualified vendors given the nature and size of the project to compete for the contract.
- **Prequalified lists** of person, firms or products which are used in acquiring goods and services must be current and include enough qualified sources to ensure maximum open competition. The District must not preclude potential bidders from qualifying during the solicitation period.
- **Solicitation language** must incorporate clear and accurate descriptions of the technical requirements for the material, product, or service to be procured. The description must not contain features that will restrict competition. The description may include a statement of qualitative nature of the material, product or service to be procured and must set forth minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided. A “brand name or equivalent” description may be used, as a means to define the performance or other salient requirements of procurement, when it is impractical or uneconomical to make a clear and accurate description of the technical requirements. The specific features of the named brand which must be met by offerors must be clearly stated. Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

Methods of Procurement

§ 200.320 Methods of Procurement

NOTE: Local thresholds apply if more stringent.

Please refer to Purchasing Policy and Regulations, Purchasing Authority, Contracting for Professional Services and Authorized Signatures for guidance. **Policy 5410, 5411, 5412, 5413**

The following five methods are acceptable methods of procurement per the uniform grant guidance:

- Micro-purchases** of supplies and services for similar like purchases in the aggregate of \$3,000 or less (\$2,000 for purchases subject to Davis-Bacon) do NOT require quotes to be received and effort should be made to distribute evenly these purchases to qualified suppliers.
- Small purchases** of supplies or other property and services in excess of the yearly aggregate of \$3,000 and do not exceed the yearly aggregate of \$150,000 do require quotes but NO pricing analysis. If used, price or rate quotations must be obtained from an adequate number of qualified sources. The yearly aggregate threshold of \$150,000 is inflation adjusted periodically and could change in the future.
- Sealed bids** are required for purchases for similar like items in excess of the aggregate of \$150,000. Firm fixed price is awarded and must include at least two responsible bidders. Bids will be opened publicly, and award is usually to lowest bidder (based on fixed price). Sealed bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the

material terms and conditions of the invitation for bids, is the lowest price. If the District chooses a bid that was not the lowest, the District documents its selection as described in its procurement procedures (paragraph 4).

D. **Competitive proposals** used for projects over the yearly aggregate of \$150,000 and may be fixed price or cost reimbursement

1) This method is typical for architectural/engineering professional services and price is not used. Instead contract is awarded to most qualified competitor with compensation subject to negotiation.

2) Section 200.320(d) Specific requirements for competitive proposals are as follows:

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

E. **Noncompetitive proposals** (sole source) is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- 1) Item is only available from a single source;
- 2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- 3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
- 4) After solicitation of a number of sources, competition is determined inadequate. Follow Appendix II to Part 200 which has specific information for Equal Employment Opportunity, Davis Bacon Act, contract work hours, safety standards, and debarment and suspension.

§ 200.321 Contracting with Small and Minority Businesses, Women’s Business Enterprises, and Labor Surplus area firms

The District will take all necessary affirmative steps to assure that minority businesses, women’s business enterprises and labor area surplus firms are used when possible.

Affirmative steps include:

- Placing qualified small and minority businesses and women’s business enterprises on solicitations lists and assuring they are solicited whenever they are potential sources.
- Divide total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by small and minority businesses and women’s business enterprises.
- Using the services and assistance of such organizations as the Small Business Administration and the Minority Business Development agency of the Department of Commerce

- Requiring the prime contractor, if subcontracts are to be let, to take affirmative steps listed above.

The District will also procure recovered materials and comply with section 6002 of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act.

§ 200.322 Procurement of Recovered Materials

Procurement of recovered materials must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The District will procure only items designated in guidelines of the EPA that contain the highest % of recovered materials practicable and where the purchase price of the items exceeds \$10,000.00 or the value of what was purchased the previous year exceeded \$10,000.00.

§ 200.323 Contract Cost and Price Analysis

The District must perform a cost or price analysis with every procurement action more than the SAT \$150,000, or lower state or local threshold, refer to District Policy, including contract modifications. Before receiving bids or proposals, an independent estimate must be made by the District. In all cases where a cost analysis is performed, the District must negotiate profit as a separate element of the price for each contract in which there is no price competition. Costs or prices based on estimated costs for contracts are allowable only when costs incurred, or cost estimates are included in negotiated prices. The cost plus % of cost and % of construction cost methods **MUST NOT** be used. The method and degree of analysis is dependent on the facts surrounding the procurement situation and documentation should be maintained in procurement files.

To establish a fair and reasonable profit, consideration must be given to:

- Complexity of work to be performed
- Risk borne by the Contractor and the Contractor's investment
- Amount of subcontracting
- Quality of its record of past performance
- Industry profit rates for similar work in geographical area

§200.324 Federal Awarding Agency or Passthrough Agency Review

The District must make available, upon request to the federal awarding agency or pass-through entity, technical specifications on proposed procurement where the federal awarding agency or passthrough entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review will generally take place prior to the time the specification is incorporated into a solicitation document. However, they may request to review the specifications after the solicitation has been developed. The District must also make available upon request all procurement documents during the procurement review.

§ 200.325 Bonding Requirements

For construction or facility improvement contracts or subcontracts exceeding the SAT, the federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-federal entity provided that the federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such determinations have not been made the minimum requirements must be as follows:

- Bid guarantee (Bid Bonds) equivalent to 5% of the bid price
- Performance bond for 100% of the contract price
- Payment bond for 100% of the contract price

§ 200.326 Contract Provisions

The District's contracts must contain the applicable provisions described in Appendix II to Part 200 - Contract provisions for Non-Federal Entity Contracts Under Federal Awards.

All contracts made under federal awards must contain provisions covering the following as applicable:

- Contracts for more than the SAT (\$150,000) must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate
- All contracts more than \$10,000 must address termination for cause and convenience including the manner by which it will be affected and the basis for settlement
- Equal Employment Opportunity
- Davis Bacon Act
- Contract Work Hours and Safety Standards
- Right to Inventions Made Under a Contract or Agreement
- Clean Air Act
- Debarment and Suspension
- Byrd- Anti Lobbying Amendment
- Procurement of Recovered Materials

SETTLEMENT OF ISSUES ARISING OUT OF PROCUREMENTS

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

PROTEST PROCEDURES TO RESOLVE DISPUTE

The District maintains protest procedures to handle and resolve disputes relating to procurements and in all instances, discloses information regarding the protest to the awarding agency. The School Business Executive is responsible for evaluation and award of the contract. The School Business Executive is responsible for completing protest procedures in accordance with state and local law. The position and/or office that reviews the protest should be different than the one that awarded the contract.

Protest procedures should include:

- How potential vendors receive notice of ability to protest;
- What position/office receives the protest;
- What position/office reviews the protest;
- Whether a report of the review is provided to the complainant, and;
- Timeframes for both making the protest and reviewing the protest.

Applicable Federal laws include:

- §200.318 General procurement standards
- §200.319 Competition
- §200.320 Methods of procurement to be followed
- §200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms
- §200.322 Procurement of recovered materials
- §200.323 Contract cost and price
- §200.325 Bonding requirements
- §200.326 Contract provisions

CONFLICT OF INTEREST

§ 200.318(c) General Procurement Standards

(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts.

(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest.

In accordance with the Omni Circular implementation the following conflict of interest policies must be followed by all districts.

EMPLOYEE CONFLICT OF INTEREST

Code of Ethics and Conflict of Interest Policy 5570

The Omni Circular includes the following provisions and must be addressed in school district policy:

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

Substantial state and federal requirements exist pertaining to standards of conduct and conflict of interest. In accordance with the District's Policy, **DeRuyter Central School** maintains written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts. In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of these policies may be fined, suspended or removed from office or employment, as the case may be, in the manner provided by law.

ORGANIZATIONAL CONFLICT OF INTEREST

Code of Ethics and Conflict of Interest Policy 5570, 6000

Organizational conflicts of interest mean that because of relationships with a parent company, affiliate, or subsidiary organization, the School District is unable or appears to be unable to be impartial in conducting a procurement action involving the related organization (non-profit organizations).

The **DeRuyter Central School** has adopted Code of Ethics and Conflict of Interest Policies **Policy 5570, 6000**, setting forth the standards of conduct required of all Board members, district officers and employees under the provisions of the General Municipal Law. In

accordance with policy, no Board member, officer or employee shall have an “**interest**” (i.e., receive a direct or indirect benefit as the result of a contract with the district) in:

- a firm, partnership or association in which he/she is a member or employee;
- a corporation in which he/she is an officer, director or employee;
- a corporation in which he/she, directly or indirectly, owns or controls 5% or more of the stock;
- a contract between the district and his/her spouse, minor child or dependents, except for employment contract between the school district, a spouse, minor child or dependent of

a

Board member authorized by §800(3) of the General Municipal Law or §3016 of the Education Law.

In addition to the above, a Board member, officer or employee may be involved as a volunteer, officer or employee in a charitable organization which has a relationship with the district. If a Board member is a board member, officer or employee of the charitable organization the Board member must disclose such relationship in writing to the district, and the Board member must recuse himself or herself from any discussions or votes relating to the charitable organization which may come before the Board. When participating in the activities of the charitable organization, the Board member, officer or employee shall not disclose any confidential information learned in the course of his or her official duties or use such information to further personal interests. Additionally, the Board member, officer or employee shall not make representations on behalf of the district unless specifically authorized to do so by the Board.

DISCLOSING CONFLICT OF INTEREST

Code of Ethics and Conflict of Interest 5570, 6000

The School District must disclose in writing any potential conflict of interest to NYSED in accordance with applicable Federal awarding agency policy.

In accordance with the policies, any Board member, officer or employee of the DeRuyter Central School, whether paid or unpaid, must publicly disclose the nature and extent of any interest they or their spouse have, will have or later acquire in any actual or proposed contract, purchase agreement, lease agreement or other agreement involving the school district (including oral agreements), to the governing body and his/her immediate supervisor (where applicable) even if it is not a prohibited interest under applicable law. Such disclosure must be in writing and made part of the official record of the school district. Disclosure is not required in the case of an interest that is exempted under Section 803(2) of the General Municipal Law. The term “interest” means a pecuniary or material benefit accruing to an officer or employee.

The Board of Education for the DeRuyter Central School affirms its commitment to adhere scrupulously to all applicable provisions of law regarding material conflicts of interest. Knowing or willful violation of the District’s policies 5570, 6000 by any employee may result in disciplinary action up to and including dismissal. Any officer, employee or member of the public noting or suspecting a violation of these policies is encouraged to bring the matter, either in confidence or in public, to the Board of Education or the Superintendent of Schools.

CONFLICT OF INTEREST PROCEDURE

Annually, the District Clerk will provide all employees with the Code of Ethics and Conflict of Interest Policies through the email, which they will be required to confirm that they have read and understand the District’s policies, as well as requiring all Board of Education Members and employees involved with the purchasing process, complete and file the attached “Conflict of Interest and Disclosure Form” (See Appendix C) with the Office District Office.

Any discrepancies will be shared with the Board President, who will then communicate to the entire Board by October 31.

CASH MANAGEMENT

POLICY

The District must minimize the time elapsing between the transfer of funds from NYSED and the disbursement by the District whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means. Two methods are provided in federal regulations: advance payment and reimbursements. Records that identify adequately the source and application of funds for federally-funded activities. These records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation.

ADVANCE PAYMENTS

If the District receives payment in advance it must maintain or demonstrate the willingness to maintain both written procedures that minimize the time elapsing between the transfer of funds and disbursement by non-Federal entity, and financial management systems that meet the standards for fund control and accountability.

Advance payment Procedure

Non-Federal entities must be authorized to submit requests for advance payments and reimbursements at least monthly when electronic fund transfers are not used, and as often as they like when electronic transfers are used, in accordance with the provisions of the Electronic Fund Transfer Act. Whenever possible, advance payments must be consolidated to cover anticipated cash needs for all Federal awards made by the Federal awarding agency to the recipient.

Advance payments of Federal funds:

- Must be deposited and maintained in insured accounts whenever possible
- Must be maintained in interest-bearing accounts, unless the following apply:
 - The District receives less than \$120,000 in Federal awards per year.
 - The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances.
 - Interest earned amounts up to \$500 per year may be retained by the District for administrative expense. If the District earns any additional interest on Federal advance payments deposited in interest-bearing accounts, contact NYSED or follow procedures stated in §200.305(9).
 - The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.

REIMBURSEMENT

Reimbursement is the preferred method of payment when the District is unable to minimize the time elapsing between the transfer of funds and disbursement

PROGRAM INCOME

Program income means gross income earned by the District that is directly generated by a supported activity or earned as a result of the federal award during the grant's period of performance. Program income must be used in accordance with the provisions of §200.307(e).

WRITTEN PROCEDURES

WRITTEN PROCEDURE

Payment §200.302(b)(6) Written procedures to implement the requirements of §200.305 Payment.

RECEIVING FUNDS

A. Cash/Check Received

- The individual (teacher, secretary, etc.) turning in cash/checks records a list of payees and amounts (use of a standard form is encouraged, i.e. class list with checkbox for each student receipt) or a receipt to turn in with the funds that they are depositing with the school (financial) Treasurer.
- The school treasurer reconciles the amount, letting the depositor know of any discrepancies and receipts all deposits (cash and checks.)
- The school treasurer signs deposits money to bank daily. A record signed by both the payroll clerk and the district treasurer indicating the date, time and amount of the deposit must be kept in the school.
- The business office verifies all deposits via online banking or through monthly bank statements.
- Deposits are receipted into financial accounting software by the business office staff.
- Cash receipts for student activity funds are recorded at the individual school and deposited by the district treasurer on a daily basis.
- Lunch payments are brought to the business office in bank bag to the treasurer. The food service manager signs over the lunch payments to the district treasurer for deposit on a daily basis. The hand over can be made at school site drop boxes in the business office as well.
- Lunch deposits are made online or by a food service employee. Students/families can deposit money into their lunch account by sending cash or check to the school lunch cashier or deposit funds on-line through electronic deposit company. The food service employee credits matching funds amounts into the student specific lunch fund. The food service employee submits a monthly report of deposits made to the business office. The business office monitors the lunch account daily via the on-line banking system.
- All government aid payments are received via ACH to the District master account. The business office completes a receipt for these payments and receipts them into financial accounting software each month.

- The Business Office reconciles all bank accounts on a monthly basis.
- The Business Office transfers funds online between bank accounts as needed or has sweep accounts to utilize bank investment accounts.

B. Federal Grants

- Budget is created and updated by grant administrator and approved by business manager in addition to the superintendent. The budget is submitted to the appropriate grant office using form FS-10.
- Expenditures must be approved by individual grant administrator along with the Purchasing Agent, School Business Executive and Superintendent. All expenditures must fall within the grant guidelines of the submitted budget.
- Receipts must be turned into business office showing items matching the budget and signed off by the grant administrator.

C. Claims

- Grant administrator approves expenditures and claims are filed quarterly by business manager or designated person(s).
- Claims are monitored and approved by the superintendent or business manager each quarter.
- District will provide funds for grants to cover grant expenditures until they are reimbursed through the claim process.
- Claims not paid in a reasonable amount of time will be investigated by the business manager or designated persons.

D. Receipt of Claim

- The Payroll Clerk verifies funds are received through bank records.
- The deposit records are entered into financial accounting software by the treasurer.
- Receipts will be reconciled with the claim and discrepancies will be investigated.

The District utilizes various bank and investment accounts with Bank and a Local Government Investment Pool Account. Accounts include:

- Multi Fund Account
- Tax Collector Account
- Payroll
- Debt Service
- Flex Spending
- Extra-Curricular

The District must minimize the time elapsing between the transfer of funds from NYSED and the disbursement by the District whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means.

COMPENSATION-PERSONAL SERVICES EXPENSES AND REPORTING

COMPENSATION-PERSONAL SERVICES EXPENSES

Costs of personal service compensation are allowable for a federal award to the extent that they satisfy the specific requirements of federal statute §200.430 Compensation—personal services. Charges to Federal awards must be based on records that accurately reflect the work performed. These records must:

- Be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated
- Be incorporated into the official records of the subrecipient

Compensation for employees engaged in work on federal awards will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the District.

PROCEDURES

All employees paid with Federal funds must adhere to the procedures to complete the appropriate personnel records. These procedures also apply to employees paid with non-Federal funds that are used as a match (or in-kind contribution) in a Federal program. The personal service compensation must reasonably reflect the total activity for which the employee is compensated by the sub recipient and cannot exceeding 100% of compensated activities.

A. Determining Cost Objectives

Process Owners: Director of Curriculum and the School Business Executive

A cost objective is defined as a Federal grant award or other category of costs the District used to track specific cost information. In certain circumstances, the District may track the time employees spend on particular activities within a single Federal grant in order to demonstrate compliance with Federal requirements such as earmarks, set-asides or match/in-kind contributions. When the District uses employee compensation costs to meet these requirements they are known as “cost objectives.” In such a circumstance, an individual grant programs may have more than one cost objective.

The Director of Curriculum and the School Business Executive will determine the cost objective for each employee and the Director of Curriculum and the School Business Executive will provide appropriate means of documenting time spent on activities to satisfy the Federal grant requirements.

B. Standards for Documentation

Process Owners: School Business Executive and the District Treasurer

Charges for federal awards for salaries and wages must be based on records that accurately reflect the work performed. In accordance with §200.430, these records must:

- Be supported by a system of internal controls which provides reasonable assurance that the charges are accurate, allowable, and properly allocated, Be incorporated into 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 District on an integrated basis

- Comply with the established accounting policies and practices of the District, and
- Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on:
 - More than one federal award
 - A federal award and non-federal award
 - An indirect cost activity and direct cost activity
 - An unallowable activity and a direct or indirect activity

All employees who are paid in full or part with federal funds must keep specific documents 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. These documents, known as time-and-effort records, are maintained in order to charge personnel costs to federal grants. Time and effort records must be maintained contemporaneously (as work occurs) and must contain the following elements:

- The activity (a brief description of what the employee did)
- Time frame (the amount of time it took the employee to do the work), and
- Funding source/program or other cost objective

Time-and-effort records must also:

- Be executed after the work is completed, and not before
- Account for the total activities of the employee (100% of their time) including employees working part time or overtime
- Specify the reporting period
- Be signed and dated by the employee
- Time and Effort records will be file in the individual's room and will be retained as per Record Retention Schedule ED-1.

C. Multiple Cost Objective Employees

Employees working on multiple cost objectives need to support the distribution of the compensation among cost objectives if the employee works on multiple, unrelated activities per grant guidelines. The federal grant subrecipient determines process to determine what amount gets charged to the grant.

- Sample Time and Effort records can be found in Appendix 4.

D. Reconciliation

Process Owners: Administrative Team

It is the District's practice to charge employee compensation costs to Federal programs based on budget estimates that reasonably approximate how an employee will work during the year. Documentation records should be adjusted in a timely manner if there are significant changes in the employee's work activity. District will reconcile payroll charges reflected in employee records at least annually, however it is recommended that the reconciliation occur quarterly or semi-annually. The District needs to determine if the time necessary maintaining supporting documentation is worth charging as a direct cost onto a Federal grant.

If the District identifies a variance between how an employee's salary was charged and how the employee actually worked, the District will adjust its payroll charges so that the amount charged to Federal funds reflects the employee's actual time and

effort. The District will perform the adjustment at least annually; however, it is recommended that the reconciliation occur quarterly or semi-annually. The final claim form should reflect actual (reconciled) amounts, not budget estimates.

All necessary adjustments must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated.

E. Document Retention

Process owners: District Clerk, School Business Executive, and the Treasurer.
Time and Effort records must be maintained for a period of five (6) years.

Legal References: 2 CFR, Part 225,
Federal Statutes §200.430 Compensation—Personal Services
General Education Provisions Act
Omni-Circular

EQUIPMENT AND SAFEGUARDING ASSETS

RATIONALE

The maintenance of accurate records of District-owned land, buildings, furniture, equipment, intellectual property and materials is essential to any well-managed school.

POLICY

The School Board, therefore, instructs the administration to establish and maintain an inventory system which will account for these on an annual basis (not less than once every two years - UGG) in accordance with generally accepted accounting principles. The inventory shall be conducted by building staff; departments or third parties using forms made available by the District office. The Procedure itself will need to identify the staff responsible by title for your District and the timing each year the task is expect to occur and be completed by. Inventories are to be taken in the spring of each year, prior to the close of the school year. A copy of the complete inventory shall be filed in the District office.

School districts are required by state law to safeguard assets of the District (identify by title responsible party). Assets acquired with Federal awards vest with the District subject to authorized use until the property is no longer needed for the project purpose, maintained un-encumbered and ultimate proper disposal. In addition, the terms of some Federal grants and bond covenants require specific identification of assets acquired with those moneys, impose restrictions on disposing of such assets and/or designate allowable uses of the proceeds of the sale of such assets.

PROCEDURES

All employees must adhere to the procedures to ensure the appropriate capitalization and safeguarding of assets with a useful life of more than one year.

WRITTEN PROCEDURES

Employees must adhere to the following procedures to ensure goods are maintained in a properly controlled and secured environment.

When the product or services are received, the receiving or the business office checks off the items received on the packing slip and the PO. The packing slip if available is then

attached to the PO with signature indicating goods received. When accounts payable receives the bill, accounts payable matches the documents to the PO to ensure the District is only paying for items/services that were received.

The Business Office provides the school board a detailed list of paid or unpaid checks for approval. The board accepts the list at their next meeting.

INVENTORY

The District needs to be able to provide information where the item is located. Item should be readily identifiable if purchased with Federal grant.

WRITTEN PROCEDURES

The inventory shall be conducted by building staff and/or departments (identify by title) on an annual basis, during the spring by April of each year. Federal Uniform Grant Guidance requires the inventory to occur at least once every two years (section 200.313 (d)(2)). A copy of the complete inventory shall be filed in the district office, no later than June 15th, to better coordinate all the inventory items.

Inventories must contain tag number, if applicable, description of the property, serial number or other I.D. number, source of funding, acquisition date, cost, vendor, and location. (Federal Uniform Grant Guidance section 200.313 (d)(1)).

1. Fixed assets are tagged with a District asset tag number by the department. The department is responsible for maintaining these inventories, including separate inventories for items purchased with federal funds.
2. Business Office Staff are required to update inventories for equipment valued over *the thresholds set by Board of Education Policy 5622: Capital Assets Accounting that are contained within their building.* (Federal Uniform Grant Guidance requires a capitalization level of not more than \$5,000 per unit acquisition cost, per section 200.333). An inventory of high-risk assets should also be performed every two years regardless of dollar amount.
3. Business Office Staff are also required to update inventories for non-consumable object purchases contained within their building.
4. The District inventories need to be stored in the vault for safe keeping.
5. Adequate maintenance should be performed to keep property in good condition.
6. Prior year inventory listings should be reviewed to assist in identifying assets missing, junked or sold during the current fiscal year.

DISPOSAL

- A. All School property and equipment deemed surplus shall be disposed of at the discretion of the School Board.
- B. When original or replacement equipment acquired under a Federal award is no longer needed for the original project or program or for other activities currently or previously supported by a Federal awarding agency, except as otherwise provided in Federal statutes, regulations, or Federal awarding agency disposition instructions, the School District must request disposition instructions from the Federal awarding agency, if required by the terms and conditions of the Federal award. Disposition of the equipment will be made as follows, in accordance with the Federal awarding agency disposition instructions
 - 1) Items of 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 the Federal awarding agency.
 - 2) If the Federal awarding agency fails to provide requested disposition instructions within 120 days, items of equipment with a current per-unit fair-market value in

excess of \$5,000 may be retained by the School District or sold. The Federal awarding agency is entitled to an amount calculated by multiplying the current market value or proceeds from sale by the Federal awarding agency's percentage of participation in the cost of the original purchase. If the equipment is sold, the Federal awarding agency may permit the School District to deduct and retain from the Federal share \$500 or ten percent of the proceeds, whichever is less, for its selling and handling expenses.

- 3) The District may transfer title to the property to the Federal Government or an eligible third party.

LOST OR STOLEN ITEMS

Lost or stolen property should be reported to the building principal or program director as soon as the individual is aware of the missing item. The building principal or program director should then report the lost or stolen item to the superintendent or his/her designee.

Lost or stolen items should include an explanation of what happened to the item as available.

If an item is valued at \$1,000 or more, a police report should be filed and included with the insurance claim.

REFERENCES IN UNIFORM GRANT GUIDANCE

Capital Assets §200.12

Equipment (Defined) §200.33

Equipment §200.313

- Title §200.313(a)
- Management Requirements §200.313(d)
- Use and Disposition of Equipment §200.313(e)

RECORDS RETENTION

RATIONALE

The purpose of a Records Retention procedure is to ensure that necessary records and documents of the District are adequately protected and maintained and to ensure that records that are no longer needed by the District, or are of no value are discarded at the proper time. The procedure will also assist District employees in understanding their obligations in retaining documents.

PROCEDURE

- A. The District will comply with the New York State Records Retention and Disposal Schedule ED-1, as updated from time to time. A printed copy of the New York State Records Retention and Disposal Schedule ED-1 can be found in the District Office.
- B. If retention requirements under Federal Uniform Guidance requires a longer period the District will comply with OMB Part 200, Section 200.333 Retention Requirements for Records. Generally, Section 200.333 requires retention for three years from the date of submission of the final expenditure report or the submission of the quarterly or annual financial report to the Federal awarding agency or pass-through entity.

Special conditions extend this period for any litigation, claim or audit started, notification received from awarding, cognizant or oversight agency to extend, records for real property or equipment (three years from disposition) and program income transaction occurring after the period of performance. If records are transferred to the awarding agency the retention period is not applicable. Further specific conditions apply to indirect cost rate proposal and cost allocations plan as to when the three-year period commences.

Attachments to Procedure: An electronic copy of New York State Records Retention and Disposal Schedule ED-1 can be found at:
http://www.archives.nysed.gov/records/retention_ed-1

SUBRECIPIENT MONITORING AND MANAGEMENT

RATIONALE

The District may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities (PTEs). Therefore, a PTE must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor.

POLICY

SUBRECIPIENT / CONTRACTOR DETERMINATION

A non-federal entity may concurrently receive Federal awards as a:

- Recipient
- Subrecipient
- Contractor

PTE must make case-by-case determination whether each agreement it makes for the disbursement of federal program funds casts the party receiving the funds in the role of a Subrecipient, or Contractor.

The differences between Subrecipient and Contractor are as follows:

Subrecipient	Contractor
Creates a Federal assistance relationship	Purpose is to obtain goods and services for the District's own use and creates a procurement relationship
Determines who is eligible to receive what Federal assistance	Provides the goods and services within normal business operations
Has its performance measured in relation to whether objectives of a Federal program were met	Provides similar goods or services to many different purchasers
Has responsibility for programmatic decision making	Normally operates in a competitive environment
Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and	Provides goods or services that are ancillary to the operations of the Federal program; and
In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing stature,	Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may

as opposed to providing goods or services for the benefit of the PTE apply for other reasons

SUBRECIPIENT REQUIREMENTS

The following information must be provided to all subrecipients:

- Federal award identification
- All requirements imposed by the PTE
- Any additional requirements that the PTE imposes on the subrecipient for the PTE to meet its own responsibility to the federal awarding agency including identification of any required financial or performance reports.
- An approved federally recognized indirect cost rate negotiated between the subrecipient and the federal government or, if no such rate exists, either a rate negotiated between the PTE and the subrecipient or a de minimis indirect cost rate
- A requirement that the subrecipient permit the PTE and auditors to have access to the subrecipient's records and financial statements, as necessary for the PTE to meet its requirements
- Appropriate terms and conditions concerning the closeout of the subaward

SUBRECIPIENT RISK OF NONCOMPLIANCE

Audit will evaluate subrecipient risk of noncompliance for purposes of determining appropriate subrecipient monitoring including consideration of such factors as:

1. Subrecipient experience with the same or similar subawards;
2. Results of previous audits, including whether the subrecipient receives a single audit and the extent to which the subaward has been audited as major;
3. Whether subrecipient has new personnel or substantially changed systems; and
4. Extent and results of Federal awarding agency monitoring.

REQUIRED SUBRECIPIENT MONITORING ACTIVITIES

The PTE must monitor the activities of the subrecipient 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. PTE monitoring of the subrecipient must include:

- Review financial and programmatic reports
- Follow-up and ensure that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the federal award through audits, on-site reviews, and other means
- Issue management decisions for audit findings pertaining to the federal award provided to the subrecipient

PTE monitoring of the subrecipient plan should be

- Clearly identify necessary activities and responsible parties
- Review debarment lists

- Allow for consistency throughout monitoring activities
- Characteristics include data quality reviews, required progress reporting, site and desk reviews, potentially critical for large-scale projects, compliance auditing and develop corrective action plans
- Once the process has concluded, develop and implement an internal action plan to revise policies and procedures, enforce compliance with the internal requirements and execute ongoing monitoring
- Utilize your internal auditors to conduct regular, detailed reviews
- Document the execution of monitoring activities and corrective action taken.

The remedies for non-compliance are as follows:

- If non-federal entities fail to comply with requirements, the PTE may impose additional conditions as described in statute §200.207
- If noncompliance cannot be remedied with additional conditions, the PTE may take one or more of the following actions, as appropriate:
 - Temporarily withhold cash payments
 - Disallow all or part of cost of the activity not in compliance
 - Wholly or partly suspend or terminate the federal award
 - Recommend that the federal agency initiate suspension and debarment proceedings
 - Withhold further federal awards
 - Take other remedies that may be legally available

APPENDIX 1

Important Sections of the Federal Register Rules and Regulations

§200.212 Suspension and debarment.

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

§200.301 Performance measurement.

The Federal awarding agency must require the recipient to use OMB-approved standard information collections when providing financial and performance information. As appropriate and in accordance with above mentioned information collections, the Federal awarding agency must require the recipient to relate financial data to performance accomplishments of the Federal award. Also, in accordance with above mentioned standard information collections, and when applicable, recipients must also provide cost information to demonstrate cost effective practices (e.g., through unit cost data). The recipient's performance should be measured in a way that will help the Federal awarding agency and other non-Federal entities to improve program outcomes, share lessons learned, and spread the adoption of promising practices. The Federal awarding agency should provide recipients with clear performance goals, indicators, and milestones as described in §200.210 Information contained in a Federal award. Performance reporting frequency and content should be established to not only allow the Federal awarding agency to understand the recipient progress but also to facilitate identification of promising practices among recipients and build the evidence upon which the Federal awarding agency's program and performance decisions are made.

§200.302 Financial management.

- (a) Each state must expend and account for the Federal award in accordance with state laws and procedures for expending and accounting for the state's own funds. In addition, the state's and the other non-Federal entity's financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award. See also §200.450 Lobbying.
- (b) The financial management system of each non-Federal entity must provide for the following (see also §§200.333 Retention requirements for records, 200.334 Requests for transfer of records, 200.335 Methods for collection, transmission and storage of information, 200.336 Access to records, and 200.337 Restrictions on public access to records):
- (1) Identification, in its accounts, of all Federal awards received and expended and the Federal programs under which they were received. Federal program and Federal award identification must include, as applicable, the CFDA title and number, Federal award identification number and year, name of the Federal agency, and name of the pass-through entity, if any.
 - (2) Accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements set forth in §§200.327 Financial reporting and 200.328 Monitoring and reporting program performance. If a Federal awarding agency requires reporting on an accrual basis from a recipient that maintains its records on other than an accrual basis, the recipient must not be required to establish an accrual accounting system. This recipient may develop accrual data for its reports on the basis of an analysis of the documentation on hand. Similarly, a pass-through entity must not require a subrecipient to establish an accrual accounting system and must allow the subrecipient to develop accrual data for its reports on the basis of an analysis of the documentation on hand.
 - (3) Records that identify adequately the source and application of funds for federally-funded activities. These records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation.
 - (4) Effective control over, and accountability for, all funds, property, and other assets. The non-Federal entity must adequately safeguard all assets and assure that they are used solely for authorized purposes. See §200.303 Internal controls.
 - (5) Comparison of expenditures with budget amounts for each Federal award.
 - (6) Written procedures to implement the requirements of §200.305 Payment.
 - (7) Written procedures for determining the allowability of costs in accordance with Subpart E—Cost Principles of this part and the terms and conditions of the Federal award.

§200.303 Internal controls.

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (c) Evaluate and monitor the non-Federal entity's compliance with statutes, regulations and the terms and conditions of Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.
- (e) Take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive or the non-Federal entity considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

§200.305 Payment.

(a) For states, payments are governed by Treasury-State CMIA agreements and default procedures codified at 31 CFR Part 205 “Rules and Procedures for Efficient Federal-State Funds Transfers” and TFM 4A-2000 Overall Disbursing Rules for All Federal Agencies.

(b) For non-Federal entities other than states, payments methods must minimize the time elapsing between the transfer of funds from the United States Treasury or the pass-through entity and the disbursement by the non-Federal entity whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means. See also §200.302 Financial management paragraph (b)(6). Except as noted elsewhere in this part, Federal agencies must require recipients to use only OMB-approved standard governmentwide information collection requests to request payment.

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

(2) Whenever possible, advance payments must be consolidated to cover anticipated cash needs for all Federal awards made by the Federal awarding agency to the recipient.

(i) Advance payment mechanisms include, but are not limited to, Treasury check and electronic funds transfer and must comply with applicable guidance in 31 CFR part 208.

(ii) Non-Federal entities must be authorized to submit requests for advance payments and reimbursements at least monthly when electronic fund transfers are not used, and as often as they like when electronic transfers are used, in accordance with the provisions of the Electronic Fund Transfer Act (15 U.S.C. 1693-1693r).

(3) Reimbursement is the preferred method when the requirements in paragraph (b) cannot be met, when the Federal awarding agency sets a specific condition per §200.207 Specific conditions, or when the non-Federal entity requests payment by reimbursement. This method may be used on any Federal award for construction, or if the major portion of the construction project is accomplished through private market financing or Federal loans, and the Federal award constitutes a minor portion of the project. When the reimbursement method is used, the Federal awarding agency or pass-through entity must make payment within 30 calendar days after receipt of the billing, unless the Federal awarding agency or pass-through entity reasonably believes the request to be improper.

(4) If the non-Federal entity cannot meet the criteria for advance payments and the Federal awarding agency or pass-through entity has determined that reimbursement is not feasible because the non-Federal entity lacks sufficient working capital, the Federal awarding agency or pass-through entity may provide cash on a working capital advance basis. Under this procedure, the Federal awarding agency or pass-through entity must advance cash payments to the non-Federal entity to cover its estimated disbursement needs for an initial period generally geared to the non-Federal entity's disbursing cycle. Thereafter, the Federal awarding agency or pass-through entity must reimburse the non-Federal entity for its actual cash disbursements. Use of the working capital advance method of payment requires that the pass-through entity provide timely advance payments to any subrecipients in order to meet the subrecipient's actual cash disbursements. The working capital advance method of payment must not be used by the pass-through entity if the reason for using this method is the unwillingness or inability of the pass-through entity to provide timely advance payments to the subrecipient to meet the subrecipient's actual cash disbursements.

(5) Use of resources before requesting cash advance payments. To the extent available, the non-Federal entity must disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional cash payments.

(6) Unless otherwise required by Federal statutes, payments for allowable costs by non-Federal entities must not be withheld at any time during the period of performance unless the conditions of §§200.207 Specific conditions, Subpart D—Post Federal Award Requirements of this part, 200.338 Remedies for Noncompliance, or one or more of the following applies:

(i) The non-Federal entity has failed to comply with the project objectives, Federal statutes, regulations, or the terms and conditions of the Federal award.

(ii) The non-Federal entity is delinquent in a debt to the United States as defined in OMB Guidance A-129, "Policies for Federal Credit Programs and Non-Tax Receivables." Under such conditions, the Federal awarding agency or pass-through entity may, upon reasonable notice, inform the non-Federal entity that payments must not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal Government is liquidated.

(iii) A payment withheld for failure to comply with Federal award conditions, but without suspension of the Federal award, must be released to the non-Federal entity upon subsequent compliance. When a Federal award is suspended, payment adjustments will be made in accordance with §200.342 Effects of suspension and termination.

(iv) A payment must not be made to a non-Federal entity for amounts that are withheld by the non-Federal entity from payment to contractors to assure satisfactory completion of work. A payment must be made when the non-Federal entity actually disburses the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.

(7) Standards governing the use of banks and other institutions as depositories of advance payments under Federal awards are as follows.

(i) The Federal awarding agency and pass-through entity must not require separate depository accounts for funds provided to a non-Federal entity or establish any eligibility requirements for depositories for funds provided to the non-Federal entity. However, the non-Federal entity must be able to account for the receipt, obligation and expenditure of funds.

(ii) Advance payments of Federal funds must be deposited and maintained in insured accounts whenever possible.

(8) The non-Federal entity must maintain advance payments of Federal awards in interest-bearing accounts, unless the following apply.

(i) The non-Federal entity receives less than \$120,000 in Federal awards per year.

(ii) The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances.

(iii) The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.

(iv) A foreign government or banking system prohibits or precludes interest bearing accounts.

(9) Interest earned amounts up to \$500 per year may be retained by the non-Federal entity for administrative expense. Any additional interest earned on Federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services Payment Management System (PMS) through an electronic medium using either Automated Clearing House (ACH) network or a Fedwire Funds Service payment. Remittances must include pertinent information of the payee and nature of payment in the memo area (often referred to as "addenda records" by Financial Institutions) as that will assist in the timely posting of interest earned on federal funds. Pertinent details include the Payee Account Number (PAN) if the payment originated from PMS, or Agency information if the payment originated from ASAP, NSF or another federal agency payment system. The remittance must be submitted as follows:

(i) For ACH Returns:

Routing Number: 051036706

Account number: 303000

Bank Name and Location: Credit Gateway—ACH Receiver St. Paul, MN

(ii) For Fedwire Returns*:

Routing Number: 021030004

Account number: 75010501

Bank Name and Location: Federal Reserve Bank Treas NYC/Funds Transfer Division New York, NY

(* Please note organization initiating payment is likely to incur a charge from your Financial Institution for this type of payment)

(iii) For International ACH Returns:

Beneficiary Account: Federal Reserve Bank of New York/ITS (FRBNY/ITS)

Bank: Citibank N.A. (New York)

Swift Code: CITIUS33

Account Number: 36838868

Bank Address: 388 Greenwich Street, New York, NY 10013 USA

Payment Details (Line 70): Agency

Name (abbreviated when possible) and ALC Agency POC: Michelle Haney, (301) 492-5065

(iv) For recipients that do not have electronic remittance capability, please make check** payable to: "The Department of Health and Human Services."

Mail Check to Treasury approved lockbox:

HHS Program Support Center, P.O. Box 530231, Atlanta, GA 30353-0231

(** Please allow 4-6 weeks for processing of a payment by check to be applied to the appropriate PMS account)

(v) Any additional information/instructions may be found on the PMS Web site at <http://www.dpm.psc.gov/>.

§200.308 Revision of budget and program plans.

(a) The approved budget for the Federal award summarizes the financial aspects of the project or program as approved during the Federal award process. It may include either the Federal and non-Federal share (see §200.43 Federal share) or only the Federal share, depending upon Federal awarding agency requirements. It must be related to performance for program evaluation purposes whenever appropriate.

(b) Recipients are required to report deviations from budget or project scope or objective, and request prior approvals from Federal awarding agencies for budget and program plan revisions, in accordance with this section.

(c) For non-construction Federal awards, recipients must request prior approvals from Federal awarding agencies for one or more of the following program or budget-related reasons:

(1) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).

(2) Change in a key person specified in the application or the Federal award.

(3) The disengagement from the project for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.

(4) The inclusion, unless waived by the Federal awarding agency, of costs that require prior approval in accordance with Subpart E—Cost Principles of this part or 45 CFR part 75 Appendix IX, “Principles for Determining Costs Applicable to Research and Development under Awards and Contracts with Hospitals,” or 48 CFR part 31, “Contract Cost Principles and Procedures,” as applicable.

(5) The transfer of funds budgeted for participant support costs as defined in §200.75 Participant support costs to other categories of expense.

(6) Unless described in the application and funded in the approved Federal awards, the subawarding, transferring or contracting out of any work under a Federal award, including fixed amount subawards as described in §200.332 Fixed amount subawards. This provision does not apply to the acquisition of supplies, material, equipment or general support services.

(7) Changes in the approved cost-sharing or matching provided by the non-Federal entity. No other prior approval requirements for specific items may be imposed unless an exception has been approved by OMB. See also §§200.102 Exceptions and 200.407 Prior written approval (prior approval).

(8) The need arises for additional Federal funds to complete the project.

(d) Except for requirements listed in paragraph (c)(1) of this section, the Federal awarding agency is authorized, at its option, to waive prior written approvals required by paragraph (c) this section. Such waivers may include authorizing recipients to do any one or more of the following:

(1) Incur project costs 90 calendar days before the Federal awarding agency makes the Federal award. Expenses more than 90 calendar days pre-award require prior approval of the Federal awarding agency. All costs incurred before the Federal awarding agency makes the Federal award are at the recipient's risk (i.e., the Federal awarding agency is under no obligation to reimburse such costs if for any reason the recipient does not receive a Federal award or if the Federal award is less than anticipated and inadequate to cover such costs). See also §200.458 Pre-award costs.

(2) Initiate a one-time extension of the period of performance by up to 12 months unless one or more of the conditions outlined in paragraphs (d)(2)(i) through (iii) of this section apply. For one-time extensions, the recipient must notify the Federal awarding agency in writing with the supporting reasons and revised period of performance at least 10 calendar days before the end of the period of performance specified in the Federal award. This one-time extension may not be exercised merely for the purpose of using unobligated balances. Extensions require explicit prior Federal awarding agency approval when:

(i) The terms and conditions of the Federal award prohibit the extension.

(ii) The extension requires additional Federal funds.

(iii) The extension involves any change in the approved objectives or scope of the project.

(3) Carry forward unobligated balances to subsequent periods of performance.

(4) For Federal awards that support research, unless the Federal awarding agency provides otherwise in the Federal award or in the Federal awarding agency's regulations, the prior approval requirements described in paragraph (d) are automatically waived (i.e., recipients need not obtain such prior approvals) unless one of the conditions included in paragraph (d)(2) applies.

(e) The Federal awarding agency may, at its option, restrict the transfer of funds among direct cost categories or programs, functions and activities for Federal awards in which the Federal share of the project exceeds the Simplified Acquisition Threshold and the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total budget as last approved by the Federal awarding agency. The Federal awarding agency cannot permit a transfer that would cause any Federal appropriation to be used for purposes other than those consistent with the appropriation.

(f) All other changes to non-construction budgets, except for the changes described in paragraph (c) of this section, do not require prior approval (see also §200.407 Prior written approval (prior approval)).

(g) For construction Federal awards, the recipient must request prior written approval promptly from the Federal awarding agency for budget revisions whenever paragraph (g)(1), (2), or (3) of this section applies.

(1) The revision results from changes in the scope or the objective of the project or program.

(2) The need arises for additional Federal funds to complete the project.

(3) A revision is desired which involves specific costs for which prior written approval requirements may be imposed consistent with applicable OMB cost principles listed in Subpart E—Cost Principles of this part.

(4) No other prior approval requirements for budget revisions may be imposed unless an exception has been approved by OMB.

(5) When a Federal awarding agency makes a Federal award that provides support for construction and non-construction work, the Federal awarding agency may require the recipient to obtain prior approval from the Federal awarding agency before making any fund or budget transfers between the two types of work supported.

(h) When requesting approval for budget revisions, the recipient must use the same format for budget information that was used in the application, unless the Federal awarding agency indicates a letter of request suffices.

(i) Within 30 calendar days from the date of receipt of the request for budget revisions, the Federal awarding agency must review the request and notify the recipient whether the budget revisions have been approved. If the revision is still under consideration at the end of 30 calendar days, the Federal awarding agency must inform the recipient in writing of the date when the recipient may expect the decision.

§200.313 Equipment.

See also §200.439 Equipment and other capital expenditures.

(a) Title. Subject to the obligations and conditions set forth in this section, title to equipment acquired under a Federal award will vest upon acquisition in the non-Federal entity. Unless a statute specifically authorizes the Federal agency to vest title in the non-Federal entity without further obligation to the Federal Government, and the Federal agency elects to do so, the title must be a conditional title. Title must vest in the non-Federal entity subject to the following conditions:

(1) Use the equipment for the authorized purposes of the project during the period of performance, or until the property is no longer needed for the purposes of the project.

(2) Not encumber the property without approval of the Federal awarding agency or pass-through entity.

(3) Use and dispose of the property in accordance with paragraphs (b), (c) and (e) of this section.

(b) A state must use, manage and dispose of equipment acquired under a Federal award by the state in accordance with state laws and procedures. Other non-Federal entities must follow paragraphs (c) through (e) of this section.

(c) Use. (1) Equipment must be used by the non-Federal entity in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the Federal award, and the non-Federal entity must not encumber the property without prior approval of the Federal awarding agency. When no longer needed for the original program or project, the equipment may be used in other activities supported by the Federal awarding agency, in the following order of priority:

(i) Activities under a Federal award from the Federal awarding agency which funded the original program or project, then

(ii) Activities under Federal awards from other Federal awarding agencies. This includes consolidated equipment for information technology systems.

(2) During the time that equipment is used on the project or program for which it was acquired, the non-Federal entity must also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, provided that such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use must be given to other programs or projects supported by Federal awarding agency that financed the equipment and second preference must be given to programs or projects under Federal awards from other Federal awarding agencies. Use for non-federally-funded programs or projects is also permissible. User fees should be considered if appropriate.

(3) Notwithstanding the encouragement in §200.307 Program income to earn program income, the non-Federal entity must not use equipment acquired with the Federal award to provide services for a fee that is less than private companies charge for equivalent services unless specifically authorized by Federal statute for as long as the Federal Government retains an interest in the equipment.

(4) When acquiring replacement equipment, the non-Federal entity may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.

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

(1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the FAIN), who holds title, the acquisition date, and cost of the property,

percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

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

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

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

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

(e) Disposition. When original or replacement equipment acquired under a Federal award is no longer needed for the original project or program or for other activities currently or previously supported by a Federal awarding agency, except as otherwise provided in Federal statutes, regulations, or Federal awarding agency disposition instructions, the non-Federal entity must request disposition instructions from the Federal awarding agency if required by the terms and conditions of the Federal award.

Disposition of the equipment will be made as follows, in accordance with Federal awarding agency disposition instructions:

(1) Items of 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 the Federal awarding agency.

(2) Except as provided in §200.312 Federally-owned and exempt property, paragraph (b), or if the Federal awarding agency fails to provide requested disposition instructions within 120 days, items of equipment with a current per-unit fair-market value in excess of \$5,000 may be retained by the non-Federal entity or sold. The Federal awarding agency is entitled to an amount calculated by multiplying the current market value or proceeds from sale by the Federal awarding agency's percentage of participation in the cost of the original purchase. If the equipment is sold, the Federal awarding agency may permit the non-Federal entity to deduct and retain from the Federal share \$500 or ten percent of the proceeds, whichever is less, for its selling and handling expenses.

(3) The non-Federal entity may transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the non-Federal entity must be entitled to compensation for its attributable percentage of the current fair market value of the property.

(4) In cases where a non-Federal entity fails to take appropriate disposition actions, the Federal awarding agency may direct the non-Federal entity to take disposition actions.

§200.314 Supplies.

See also §200.453 Materials and supplies costs, including costs of computing devices.

(a) Title to supplies will vest in the non-Federal entity upon acquisition. If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other Federal award, the non-Federal entity must retain the supplies for use on other activities or sell them, but must, in either case, compensate the Federal Government for its share. The amount of compensation must be computed in the same manner as for equipment. See §200.313 Equipment, paragraph (e)(2) for the calculation methodology.

(b) As long as the Federal Government retains an interest in the supplies, the non-Federal entity must not use supplies acquired under a Federal award to provide services to other organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute.

§200.318 General procurement standards.

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

(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

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

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

(d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

(f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

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

(h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also §200.212 Suspension and debarment.

(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(j)(1) The non-Federal entity may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to a non-Federal entity is the sum of:

(i) The actual cost of materials; and

(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

§200.319 Competition.

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

(1) Placing unreasonable requirements on firms in order for them to qualify to do business;

(2) Requiring unnecessary experience and excessive bonding;

(3) Noncompetitive pricing practices between firms or between affiliated companies;

(4) Noncompetitive contracts to consultants that are on retainer contracts;

(5) Organizational conflicts of interest;

(6) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and

(7) Any arbitrary action in the procurement process.

(b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state

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

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

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

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

(d) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

§200.320 Methods of procurement to be followed.

The non-Federal entity must use one of the following methods of procurement.

(a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (§200.67 Micro-purchase). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

(b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

(c) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.

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

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

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

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

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

(i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for state, local, and tribal governments, the invitation for bids must be publically advertised;

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

(iii) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;

(iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

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

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

(1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(2) Proposals must be solicited from an adequate number of qualified sources;

- (3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
- (4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
- (5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.
- (e) [Reserved]
- (f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:
 - (1) The item is available only from a single source;
 - (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
 - (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
 - (4) After solicitation of a number of sources, competition is determined inadequate.

§200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

- (a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
- (b) Affirmative steps must include:
 - (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 - (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
 - (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
 - (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

§200.322 Procurement of recovered materials.

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

§200.323 Contract cost and price.

- (a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.
- (b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

- (c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.
- (d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

§200.325 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

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

200.326 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

§200.327 Financial reporting.

Unless otherwise approved by OMB, the Federal awarding agency may solicit only the standard, OMB-approved governmentwide data elements for collection of financial information (at time of publication the Federal Financial Report or such future collections as may be approved by OMB and listed on the OMB Web site). This information must be collected with the frequency required by the terms and conditions of the Federal award, but no less frequently than annually nor more frequently than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes, and preferably in coordination with performance reporting.

§200.330 Subrecipient and contractor determinations.

The non-Federal entity may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The Federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.

(a) Subrecipients. A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. See §200.92 Subaward. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:

- (1) Determines who is eligible to receive what Federal assistance;
- (2) Has its performance measured in relation to whether objectives of a Federal program were met;
- (3) Has responsibility for programmatic decision making;
- (4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
- (5) In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

(b) Contractors. A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor. See §200.22 Contract. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the non-Federal entity receiving the Federal funds:

- (1) Provides the goods and services within normal business operations;
- (2) Provides similar goods or services to many different purchasers;
- (3) Normally operates in a competitive environment;

- (4) Provides goods or services that are ancillary to the operation of the Federal program; and
 - (5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.
- (c) Use of judgment in making determination. In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.

§200.331 Requirements for pass-through entities.

All pass-through entities must:

- (a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:
 - (1) Federal Award Identification.
 - (i) Subrecipient name (which must match the name associated with its unique entity identifier);
 - (ii) Subrecipient's unique entity identifier;
 - (iii) Federal Award Identification Number (FAIN);
 - (iv) Federal Award Date (see §200.39 Federal award date);
 - (v) Subaward Period of Performance Start and End Date;
 - (vi) Amount of Federal Funds Obligated by this action;
 - (vii) Total Amount of Federal Funds Obligated to the subrecipient;
 - (viii) Total Amount of the Federal Award;
 - (ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);
 - (x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official,
 - (xi) CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement;
 - (xii) Identification of whether the award is R&D; and
 - (xiii) Indirect cost rate for the Federal award (including if the de minimis rate is charged per §200.414 Indirect (F&A) costs).
 - (2) All requirements imposed by the pass-through entity on the subrecipient so that the Federal award is used in accordance with Federal statutes, regulations and the terms and conditions of the Federal award.
 - (3) Any additional requirements that the pass-through entity imposes on the subrecipient in order for the pass-through entity to meet its own responsibility to the Federal awarding agency including identification of any required financial and performance reports;
 - (4) An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal Government or, if no such rate exists, either a rate negotiated between the pass-through entity and the subrecipient (in compliance with this part), or a de minimis indirect cost rate as defined in §200.414 Indirect (F&A) costs, paragraph (f) of this part.
 - (5) A requirement that the subrecipient permit the pass-through entity and auditors to have access to the subrecipient's records and financial statements as necessary for the pass-through entity to meet the requirements of this part; and
 - (6) Appropriate terms and conditions concerning closeout of the subaward.
- (b) Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described in paragraphs (d) and (e) of this section, which may include consideration of such factors as:
 - (1) The subrecipient's prior experience with the same or similar subawards;
 - (2) The results of previous audits including whether or not the subrecipient receives a Single Audit in accordance with Subpart F—Audit Requirements of this part, and the extent to which the same or similar subaward has been audited as a major program;
 - (3) Whether the subrecipient has new personnel or new or substantially changed systems; and
 - (4) The extent and results of Federal awarding agency monitoring (e.g., if the subrecipient also receives Federal awards directly from a Federal awarding agency).
- (c) Consider imposing specific subaward conditions upon a subrecipient if appropriate as described in §200.207 Specific conditions.

(d) Monitor the activities of the subrecipient 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. Pass-through entity monitoring of the subrecipient must include:

(1) Reviewing financial and performance reports required by the pass-through entity.

(2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.

(3) Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by §200.521 Management decision.

(e) Depending upon the pass-through entity's assessment of risk posed by the subrecipient (as described in paragraph (b) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:

(1) Providing subrecipients with training and technical assistance on program-related matters; and

(2) Performing on-site reviews of the subrecipient's program operations;

(3) Arranging for agreed-upon-procedures engagements as described in §200.425 Audit services.

(f) Verify that every subrecipient is audited as required by Subpart F—Audit Requirements of this part when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements.

(g) Consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.

(h) Consider taking enforcement action against noncompliant subrecipients as described in §200.338 Remedies for noncompliance of this part and in program regulations.

§200.333 Retention requirements for records.

Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities. The only exceptions are the following:

(a) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

(b) When the non-Federal entity is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.

(c) Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.

(d) When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the non-Federal entity.

(e) Records for program income transactions after the period of performance. In some cases recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned.

(f) Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

(2) If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

§200.343 Closeout.

The Federal awarding agency or pass-through entity will close-out the Federal award when it determines that all applicable administrative actions and all required work of the Federal award have been completed by the non-Federal entity. This section

specifies the actions the non-Federal entity and Federal awarding agency or pass-through entity must take to complete this process at the end of the period of performance.

- (a) The non-Federal entity must submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award. The Federal awarding agency or pass-through entity may approve extensions when requested by the non-Federal entity.
- (b) Unless the Federal awarding agency or pass-through entity authorizes an extension, a non-Federal entity must liquidate all obligations incurred under the Federal award not later than 90 calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award.
- (c) The Federal awarding agency or pass-through entity must make prompt payments to the non-Federal entity for allowable reimbursable costs under the Federal award being closed out.
- (d) The non-Federal entity must promptly refund any balances of unobligated cash that the Federal awarding agency or pass-through entity paid in advance or paid and that are not authorized to be retained by the non-Federal entity for use in other projects. See OMB Circular A-129 and see §200.345 Collection of amounts due, for requirements regarding unreturned amounts that become delinquent debts.
- (e) Consistent with the terms and conditions of the Federal award, the Federal awarding agency or pass-through entity must make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.
- (f) The non-Federal entity must account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with §§200.310 Insurance coverage through 200.316 Property trust relationship and 200.329 Reporting on real property.
- (g) The Federal awarding agency or pass-through entity should complete all closeout actions for Federal awards no later than one year after receipt and acceptance of all required final reports.

200.344 Post-closeout adjustments and continuing responsibilities.

- (a) The closeout of a Federal award does not affect any of the following:
 - (1) The right of the Federal awarding agency or pass-through entity to disallow costs and recover funds on the basis of a later audit or other review. The Federal awarding agency or pass-through entity must make any cost disallowance determination and notify the non-Federal entity within the record retention period.
 - (2) The obligation of the non-Federal entity to return any funds due as a result of later refunds, corrections, or other transactions including final indirect cost rate adjustments.
 - (3) Audit requirements in Subpart F—Audit Requirements of this part.
 - (4) Property management and disposition requirements in Subpart D—Post Federal Award Requirements of this part, §§200.310 Insurance Coverage through 200.316 Property trust relationship.
 - (5) Records retention as required in Subpart D—Post Federal Award Requirements of this part, §§200.333 Retention requirements for records through 200.337 Restrictions on public access to records.
- (b) After closeout of the Federal award, a relationship created under the Federal award may be modified or ended in whole or in part with the consent of the Federal awarding agency or pass-through entity and the non-Federal entity, provided the responsibilities of the non-Federal entity referred to in paragraph (a) of this section, including those for property management as applicable, are considered and provisions made for continuing responsibilities of the non-Federal entity, as appropriate.

§200.430 Compensation—personal services.

- (a) General. Compensation for personal services includes all remuneration, paid currently or accrued, for services of employees rendered during the period of performance under the Federal award, including but not necessarily limited to wages and salaries. Compensation for personal services may also include fringe benefits which are addressed in §200.431 Compensation—fringe benefits. Costs of compensation are allowable to the extent that they satisfy the specific requirements of this part, and that the total compensation for individual employees:
 - (1) Is reasonable for the services rendered and conforms to the established written policy of the non-Federal entity consistently applied to both Federal and non-Federal activities;
 - (2) Follows an appointment made in accordance with a non-Federal entity's laws and/or rules or written policies and meets the requirements of Federal statute, where applicable; and
 - (3) Is determined and supported as provided in paragraph (i) of this section, Standards for Documentation of Personnel Expenses, when applicable.
- (b) Reasonableness. Compensation for employees engaged in work on Federal awards will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the non-Federal entity. In cases where the kinds of employees required for Federal awards are not found in the other activities of the non-Federal entity, compensation will be

considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the non-Federal entity competes for the kind of employees involved.

(c) Professional activities outside the non-Federal entity. Unless an arrangement is specifically authorized by a Federal awarding agency, a non-Federal entity must follow its written non-Federal entity-wide policies and practices concerning the permissible extent of professional services that can be provided outside the non-Federal entity for non-organizational compensation. Where such non-Federal entity-wide written policies do not exist or do not adequately define the permissible extent of consulting or other non-organizational activities undertaken for extra outside pay, the Federal Government may require that the effort of professional staff working on Federal awards be allocated between:

(1) Non-Federal entity activities, and

(2) Non-organizational professional activities. If the Federal awarding agency considers the extent of non-organizational professional effort excessive or inconsistent with the conflicts-of-interest terms and conditions of the Federal award, appropriate arrangements governing compensation will be negotiated on a case-by-case basis.

(d) Unallowable costs. (1) Costs which are unallowable under other sections of these principles must not be allowable under this section solely on the basis that they constitute personnel compensation.

(2) The allowable compensation for certain employees is subject to a ceiling in accordance with statute. For the amount of the ceiling for cost-reimbursement contracts, the covered compensation subject to the ceiling, the covered employees, and other relevant provisions, see 10 U.S.C. 2324(e)(1)(P), and 41 U.S.C. 1127 and 4304(a)(16). For other types of Federal awards, other statutory ceilings may apply.

(e) Special considerations. Special considerations in determining allowability of compensation will be given to any change in a non-Federal entity's compensation policy resulting in a substantial increase in its employees' level of compensation (particularly when the change was concurrent with an increase in the ratio of Federal awards to other activities) or any change in the treatment of allowability of specific types of compensation due to changes in Federal policy.

(f) Incentive compensation. Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc., is allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the non-Federal entity and the employees before the services were rendered, or pursuant to an established plan followed by the non-Federal entity so consistently as to imply, in effect, an agreement to make such payment.

(g) Nonprofit organizations. For compensation to members of nonprofit organizations, trustees, directors, associates, officers, or the immediate families thereof, determination must be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of earnings in excess of costs. This may include director's and executive committee member's fees, incentive awards, allowances for off-site pay, incentive pay, location allowances, hardship pay, and cost-of-living differentials.

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

(i) Allowable activities. Charges to Federal awards may include reasonable amounts for activities contributing and directly related to work under an agreement, such as delivering special lectures about specific aspects of the ongoing activity, writing reports and articles, developing and maintaining protocols (human, animals, etc.), managing substances/chemicals, managing and securing project-specific data, coordinating research subjects, participating in appropriate seminars, consulting with colleagues and graduate students, and attending meetings and conferences.

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

(2) Salary basis. Charges for work performed on Federal awards by faculty members during the academic year are allowable at the IBS rate. Except as noted in paragraph (h)(1)(ii) of this section, in no event will charges to Federal awards, irrespective of the basis of computation, exceed the proportionate share of the IBS for that period. This principle applies to all members of faculty at an institution. IBS is defined as the annual compensation paid by an IHE for an individual's appointment, whether that individual's time is spent on research, instruction, administration, or other activities. IBS excludes any income that an individual earns outside of duties performed for the IHE. Unless there is prior approval by the Federal awarding agency, charges of a faculty member's salary to a Federal award must not exceed the proportionate share of the IBS for the period during which the faculty member worked on the award.

(3) Intra-Institution of Higher Education (IHE) consulting. Intra-IHE consulting by faculty is assumed to be undertaken as an IHE obligation requiring no compensation in addition to IBS. However, in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the faculty member is in addition to his or her regular responsibilities, any charges for such work representing additional compensation above IBS are allowable provided that such consulting arrangements are specifically provided for in the Federal award or approved in writing by the Federal awarding agency.

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

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

(ii) The non-Federal entity establishes a consistent written definition of work covered by IBS which is specific enough to determine conclusively when work beyond that level has occurred. This may be described in appointment letters or other documentations.

(iii) The supplementation amount paid is commensurate with the IBS rate of pay and the amount of additional work performed. See paragraph (h)(2) of this section.

(iv) The salaries, as supplemented, fall within the salary structure and pay ranges established by and documented in writing or otherwise applicable to the non-Federal entity.

(v) The total salaries charged to Federal awards including extra service pay are subject to the Standards of Documentation as described in paragraph (i) of this section.

(5) Periods outside the academic year. (i) Except as specified for teaching activity in paragraph (h)(5)(ii) of this section, charges for work performed by faculty members on Federal awards during periods not included in the base salary period will be at a rate not in excess of the IBS.

(ii) Charges for teaching activities performed by faculty members on Federal awards during periods not included in IBS period will be based on the normal written policy of the IHE governing compensation to faculty members for teaching assignments during such periods.

(6) Part-time faculty. Charges for work performed on Federal awards by faculty members having only part-time appointments will be determined at a rate not in excess of that regularly paid for part-time assignments.

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

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

(ii) Where sabbatical leave is included in fringe benefits for which a cost is determined for assessment as a direct charge, the aggregate amount of such assessments applicable to all work of the institution during the base period must be reasonable in relation to the IHE's actual experience under its sabbatical leave policy.

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

(i) Standards for Documentation of Personnel Expenses (1) Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:

(i) Be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated;

(ii) Be incorporated into the official records of the non-Federal entity;

(iii) Reasonably reflect the total activity for which the employee is compensated by the non-Federal entity, not exceeding 100% of compensated activities (for IHE, this per the IHE's definition of IBS);

(iv) Encompass both federally assisted and all other activities compensated by the non-Federal entity on an integrated basis, but may include the use of subsidiary records as defined in the non-Federal entity's written policy;

(v) Comply with the established accounting policies and practices of the non-Federal entity (See paragraph (h)(1)(ii) above for treatment of incidental work for IHEs.); and

(vi) [Reserved]

(vii) Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one Federal award; a Federal award and non-Federal award; an indirect cost activity and a direct cost activity; two or more indirect activities which are allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity.

(viii) Budget estimates (i.e., estimates determined before the services are performed) alone do not qualify as support for charges to Federal awards, but may be used for interim accounting purposes, provided that:

(A) The system for establishing the estimates produces reasonable approximations of the activity actually performed;

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

(C) The non-Federal entity's system of internal controls includes processes to review after-the-fact interim charges made to a Federal awards based on budget estimates. All necessary adjustment must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated.

(ix) Because practices vary as to the activity constituting a full workload (for IHEs, IBS), records may reflect categories of activities expressed as a percentage distribution of total activities.

(x) It is recognized that teaching, research, service, and administration are often inextricably intermingled in an academic setting. When recording salaries and wages charged to Federal awards for IHEs, a precise assessment of factors that contribute to costs is therefore not always feasible, nor is it expected.

(2) For records which meet the standards required in paragraph (i)(1) of this section, the non-Federal entity will not be required to provide additional support or documentation for the work performed, other than that referenced in paragraph (i)(3) of this section.

(3) In accordance with Department of Labor regulations implementing the Fair Labor Standards Act (FLSA) (29 CFR part 516), charges for the salaries and wages of nonexempt employees, in addition to the supporting documentation described in this section, must also be supported by records indicating the total number of hours worked each day.

(4) Salaries and wages of employees used in meeting cost sharing or matching requirements on Federal awards must be supported in the same manner as salaries and wages claimed for reimbursement from Federal awards.

(5) For states, local governments and Indian tribes, substitute processes or systems for allocating salaries and wages to Federal awards may be used in place of or in addition to the records described in paragraph (1) if approved by the cognizant agency for indirect cost. Such systems may include, but are not limited to, random moment sampling, "rolling" time studies, case counts, or other quantifiable measures of work performed.

(i) Substitute systems which use sampling methods (primarily for Temporary Assistance for Needy Families (TANF), the Supplemental Nutrition Assistance Program (SNAP), Medicaid, and other public assistance programs) must meet acceptable statistical sampling standards including:

(A) The sampling universe must include all of the employees whose salaries and wages are to be allocated based on sample results except as provided in paragraph (i)(5)(iii) of this section;

(B) The entire time period involved must be covered by the sample; and

(C) The results must be statistically valid and applied to the period being sampled.

(ii) Allocating charges for the sampled employees' supervisors, clerical and support staffs, based on the results of the sampled employees, will be acceptable.

(iii) Less than full compliance with the statistical sampling standards noted in subsection (5)(i) may be accepted by the cognizant agency for indirect costs if it concludes that the amounts to be allocated to Federal awards will be minimal, or if it concludes that the system proposed by the non-Federal entity will result in lower costs to Federal awards than a system which complies with the standards.

(6) Cognizant agencies for indirect costs are encouraged to approve alternative proposals based on outcomes and milestones for program performance where these are clearly documented. Where approved by the Federal cognizant agency for indirect costs, these plans are acceptable as an alternative to the requirements of paragraph (i)(1) of this section.

(7) For Federal awards of similar purpose activity or instances of approved blended funding, a non-Federal entity may submit performance plans that incorporate funds from multiple Federal awards and account for their combined use based on performance-oriented metrics, provided that such plans are approved in advance by all involved Federal awarding agencies. In these instances, the non-Federal entity must submit a request for waiver of the requirements based on documentation that describes the method of charging costs, relates the charging of costs to the specific activity that is applicable to all fund sources, and is based on quantifiable measures of the activity in relation to time charged.

(8) For a non-Federal entity where the records do not meet the standards described in this section, the Federal Government may require personnel activity reports, including prescribed certifications, or equivalent documentation that support the records as required in this section.

§200.431 Compensation—fringe benefits.

(a) Fringe benefits are allowances and services provided by employers to their employees as compensation in addition to regular salaries and wages. Fringe benefits include, but are not limited to, the costs of leave (vacation, family-related, sick or military), employee insurance, pensions, and unemployment benefit plans. Except as provided elsewhere in these principles, the costs of fringe benefits are allowable provided that the benefits are reasonable and are required by law, non-Federal entity-employee agreement, or an established policy of the non-Federal entity.

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

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

(2) The costs are equitably allocated to all related activities, including Federal awards; and,

(3) The accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the non-Federal entity or specified grouping of employees.

(i) When a non-Federal entity uses the cash basis of accounting, the cost of leave is recognized in the period that the leave is taken and paid for. Payments for unused leave when an employee retires or terminates employment are allowable in the year of payment.

(ii) The accrual basis may be only used for those types of leave for which a liability as defined by GAAP exists when the leave is earned. When a non-Federal entity uses the accrual basis of accounting, allowable leave costs are the lesser of the amount accrued or funded.

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

(d) Fringe benefits may be assigned to cost objectives by identifying specific benefits to specific individual employees or by allocating on the basis of entity-wide salaries and wages of the employees receiving the benefits. When the allocation method is used, separate allocations must be made to selective groupings of employees, unless the non-Federal entity demonstrates that costs in relationship to salaries and wages do not differ significantly for different groups of employees.

(e) Insurance. See also §200.447 Insurance and indemnification, paragraphs (d)(1) and (2).

(1) Provisions for a reserve under a self-insurance program for unemployment compensation or workers' compensation are allowable to the extent that the provisions represent reasonable estimates of the liabilities for such compensation, and the types of coverage, extent of coverage, and rates and premiums would have been allowable had insurance been purchased to cover the risks. However, provisions for self-insured liabilities which do not become payable for more than one year after the provision is made must not exceed the present value of the liability.

(2) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibility are allowable only to the extent that the insurance represents additional compensation. The costs of such insurance when the non-Federal entity is named as beneficiary are unallowable.

(3) Actual claims paid to or on behalf of employees or former employees for workers' compensation, unemployment compensation, severance pay, and similar employee benefits (e.g., post-retirement health benefits), are allowable in the year of payment provided that the non-Federal entity follows a consistent costing policy.

(f) Automobiles. That portion of automobile costs furnished by the entity that relates to personal use by employees (including transportation to and from work) is unallowable as fringe benefit or indirect (F&A) costs regardless of whether the cost is reported as taxable income to the employees.

(g) Pension Plan Costs. Pension plan costs which are incurred in accordance with the established policies of the non-Federal entity are allowable, provided that:

(1) Such policies meet the test of reasonableness.

(2) The methods of cost allocation are not discriminatory.

(3) For entities using accrual based accounting, the cost assigned to each fiscal year is determined in accordance with GAAP.

(4) The costs assigned to a given fiscal year are funded for all plan participants within six months after the end of that year. However, increases to normal and past service pension costs caused by a delay in funding the actuarial liability beyond 30 calendar days after each quarter of the year to which such costs are assignable are unallowable. Non-Federal entity may elect to follow the "Cost Accounting Standard for Composition and Measurement of Pension Costs" (48 CFR 9904.412).

(5) Pension plan termination insurance premiums paid pursuant to the Employee Retirement Income Security Act (ERISA) of 1974 (29 U.S.C. 1301-1461) are allowable. Late payment charges on such premiums are unallowable. Excise taxes on accumulated funding deficiencies and other penalties imposed under ERISA are unallowable.

(6) Pension plan costs may be computed using a pay-as-you-go method or an acceptable actuarial cost method in accordance with established written policies of the non-Federal entity.

(i) For pension plans financed on a pay-as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries.

(ii) Pension costs calculated using an actuarial cost-based method recognized by GAAP are allowable for a given fiscal year if they are funded for that year within six months after the end of that year. Costs funded after the six month period (or a later period agreed to by the cognizant agency for indirect costs) are allowable in the year funded. The cognizant agency for indirect costs may agree to an extension of the six month period if an appropriate adjustment is made to compensate for the timing of the charges to the Federal Government and related Federal reimbursement and the non-Federal entity's contribution to the pension fund. Adjustments may be made by cash refund or other equitable procedures to compensate the Federal Government for the time value of Federal reimbursements in excess of contributions to the pension fund.

(iii) Amounts funded by the non-Federal entity in excess of the actuarially determined amount for a fiscal year may be used as the non-Federal entity's contribution in future periods.

(iv) When a non-Federal entity converts to an acceptable actuarial cost method, as defined by GAAP, and funds pension costs in accordance with this method, the unfunded liability at the time of conversion is allowable if amortized over a period of years in accordance with GAAP.

(v) The Federal Government must receive an equitable share of any previously allowed pension costs (including earnings thereon) which revert or inure to the non-Federal entity in the form of a refund, withdrawal, or other credit.

(h) Post-Retirement Health. Post-retirement health plans (PRHP) refers to costs of health insurance or health services not included in a pension plan covered by paragraph (g) of this section for retirees and their spouses, dependents, and survivors. PRHP costs may be computed using a pay-as-you-go method or an acceptable actuarial cost method in accordance with established written policies of the non-Federal entity.

(1) For PRHP financed on a pay-as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries.

(2) PRHP costs calculated using an actuarial cost method recognized by GAAP are allowable if they are funded for that year within six months after the end of that year. Costs funded after the six month period (or a later period agreed to by the cognizant agency) are allowable in the year funded. The Federal cognizant agency for indirect costs may agree to an extension of the six month period if an appropriate adjustment is made to compensate for the timing of the charges to the Federal Government and related Federal reimbursements and the non-Federal entity's contributions to the PRHP fund. Adjustments may be made by cash refund, reduction in current year's PRHP costs, or other equitable procedures to compensate the Federal Government for the time value of Federal reimbursements in excess of contributions to the PRHP fund.

(3) Amounts funded in excess of the actuarially determined amount for a fiscal year may be used as the Federal Government's contribution in a future period.

(4) When a non-Federal entity converts to an acceptable actuarial cost method and funds PRHP costs in accordance with this method, the initial unfunded liability attributable to prior years is allowable if amortized over a period of years in accordance with GAAP, or, if no such GAAP period exists, over a period negotiated with the cognizant agency for indirect costs.

(5) To be allowable in the current year, the PRHP costs must be paid either to:

(i) An insurer or other benefit provider as current year costs or premiums, or

(ii) An insurer or trustee to maintain a trust fund or reserve for the sole purpose of providing post-retirement benefits to retirees and other beneficiaries.

(6) The Federal Government must receive an equitable share of any amounts of previously allowed post-retirement benefit costs (including earnings thereon) which revert or inure to the non-Federal entity in the form of a refund, withdrawal, or other credit.

(i) Severance Pay. (1) Severance pay, also commonly referred to as dismissal wages, is a payment in addition to regular salaries and wages, by non-Federal entities to workers whose employment is being terminated. Costs of severance pay are allowable only to the extent that in each case, it is required by (a) law, (b) employer-employee agreement, (c) established policy that constitutes, in effect, an implied agreement on the non-Federal entity's part, or (d) circumstances of the particular employment.

(2) Costs of severance payments are divided into two categories as follows:

(i) Actual normal turnover severance payments must be allocated to all activities; or, where the non-Federal entity provides for a reserve for normal severances, such method will be acceptable if the charge to current operations is reasonable in light of payments actually made for normal severances over a representative past period, and if amounts charged are allocated to all activities of the non-Federal entity.

(ii) Measurement of costs of abnormal or mass severance pay by means of an accrual will not achieve equity to both parties. Thus, accruals for this purpose are not allowable. However, the Federal Government recognizes its obligation to participate, to the extent of its fair share, in any specific payment. Prior approval by the Federal awarding agency or cognizant agency for indirect cost, as appropriate, is required.

(3) Costs incurred in certain severance pay packages which are in an amount in excess of the normal severance pay paid by the non-Federal entity to an employee upon termination of employment and are paid to the employee contingent upon a change in management control over, or ownership of, the non-Federal entity's assets, are unallowable.

(4) Severance payments to foreign nationals employed by the non-Federal entity outside the United States, to the extent that the amount exceeds the customary or prevailing practices for the non-Federal entity in the United States, are unallowable, unless they are necessary for the performance of Federal programs and approved by the Federal awarding agency.

(5) Severance payments to foreign nationals employed by the non-Federal entity outside the United States due to the termination of the foreign national as a result of the closing of, or curtailment of activities by, the non-Federal entity in that country, are unallowable, unless they are necessary for the performance of Federal programs and approved by the Federal awarding agency.

(j)(1) For IHEs only. Fringe benefits in the form of tuition or remission of tuition for individual employees are allowable, provided such benefits are granted in accordance with established non-Federal entity policies, and are distributed to all non-Federal entity activities on an equitable basis. Tuition benefits for family members other than the employee are unallowable.

(2) Fringe benefits in the form of tuition or remission of tuition for individual employees not employed by IHEs are limited to the tax-free amount allowed per section 127 of the Internal Revenue Code as amended.

(3) IHEs may offer employees tuition waivers or tuition reductions for undergraduate education under IRC Section 117(d) as amended, provided that the benefit does not discriminate in favor of highly compensated employees. Federal reimbursement of tuition or remission of tuition is also limited to the institution for which the employee works. See §200.466 Scholarships and student aid costs, for treatment of tuition remission provided to students.

(k) For IHEs whose costs are paid by state or local governments, fringe benefit programs (such as pension costs and FICA) and any other benefits costs specifically incurred on behalf of, and in direct benefit to, the non-Federal entity, are allowable costs of such non-Federal entities whether or not these costs are recorded in the accounting records of the non-Federal entities, subject to the following:

(1) The costs meet the requirements of Basic Considerations in §§200.402 Composition of costs through 200.411 Adjustment of previously negotiated indirect (F&A) cost rates containing unallowable costs of this subpart;

(2) The costs are properly supported by approved cost allocation plans in accordance with applicable Federal cost accounting principles; and

(3) The costs are not otherwise borne directly or indirectly by the Federal Government.

§200.432 Conferences.

A conference is defined as a meeting, retreat, seminar, symposium, workshop or event whose primary purpose is the dissemination of technical information beyond the non-Federal entity and is necessary and reasonable for successful performance under the Federal award. Allowable conference costs paid by the non-Federal entity as a sponsor or host of the conference may include rental of facilities, speakers' fees, costs of meals and refreshments, local transportation, and other items incidental to such conferences unless further restricted by the terms and conditions of the Federal award. As needed, the costs of identifying, but not providing, locally available dependent-care resources are allowable. Conference hosts/sponsors must exercise discretion and judgment in ensuring that conference costs are appropriate, necessary and managed in a manner that minimizes costs to the Federal award. The Federal awarding agency may authorize exceptions where appropriate for programs including Indian tribes, children, and the elderly. See also §§200.438 Entertainment costs, 200.456 Participant support costs, 200.474 Travel costs, and 200.475 Trustees.

§200.434 Contributions and donations.

(a) Costs of contributions and donations, including cash, property, and services, from the non-Federal entity to other entities, are unallowable.

(b) The value of services and property donated to the non-Federal entity may not be charged to the Federal award either as a direct or indirect (F&A) cost. The value of donated services and property may be used to meet cost sharing or matching requirements (see §200.306 Cost sharing or matching). Depreciation on donated assets is permitted in accordance with §200.436 Depreciation, as long as the donated property is not counted towards cost sharing or matching requirements.

(c) Services donated or volunteered to the non-Federal entity may be furnished to a non-Federal entity by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services may not be charged to the Federal award either as a direct or indirect cost. However, the value of donated services may be used to meet cost sharing or matching requirements in accordance with the provisions of §200.306 Cost sharing or matching.

(d) To the extent feasible, services donated to the non-Federal entity will be supported by the same methods used to support the allocability of regular personnel services.

(e) The following provisions apply to nonprofit organizations. The value of services donated to the nonprofit organization utilized in the performance of a direct cost activity must be considered in the determination of the non-Federal entity's indirect cost rate(s) and, accordingly, must be allocated a proportionate share of applicable indirect costs when the following circumstances exist:

(1) The aggregate value of the services is material;

(2) The services are supported by a significant amount of the indirect costs incurred by the non-Federal entity;

(i) In those instances where there is no basis for determining the fair market value of the services rendered, the non-Federal entity and the cognizant agency for indirect costs must negotiate an appropriate allocation of indirect cost to the services.

(ii) Where donated services directly benefit a project supported by the Federal award, the indirect costs allocated to the services will be considered as a part of the total costs of the project. Such indirect costs may be reimbursed under the Federal award or used to meet cost sharing or matching requirements.

(f) Fair market value of donated services must be computed as described in §200.306 Cost sharing or matching.

(g) Personal Property and Use of Space.

(1) Donated personal property and use of space may be furnished to a non-Federal entity. The value of the personal property and space may not be charged to the Federal award either as a direct or indirect cost.

(2) The value of the donations may be used to meet cost sharing or matching share requirements under the conditions described in §200.300 Statutory and national policy requirements through 200.309 Period of performance of subpart D of this part. The value of the donations must be determined in accordance with §§200.300 Statutory and national policy requirements through 200.309 Period of performance. Where donations are treated as indirect costs, indirect cost rates will separate the value of the donations so that reimbursement will not be made.

§200.438 Entertainment costs.

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

§200.439 Equipment and other capital expenditures.

(a) See §§200.13 Capital expenditures, 200.33 Equipment, 200.89 Special purpose equipment, 200.48 General purpose equipment, 200.2 Acquisition cost, and 200.12 Capital assets.

(b) The following rules of allowability must apply to equipment and other capital expenditures:

(1) Capital expenditures for general purpose equipment, buildings, and land are unallowable as direct charges, except with the prior written approval of the Federal awarding agency or pass-through entity.

(2) Capital expenditures for special purpose equipment are allowable as direct costs, provided that items with a unit cost of \$5,000 or more have the prior written approval of the Federal awarding agency or pass-through entity.

(3) Capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life are unallowable as a direct cost except with the prior written approval of the Federal awarding agency, or pass-through entity. See §200.436 Depreciation, for rules on the allowability of depreciation on buildings, capital improvements, and equipment. See also §200.465 Rental costs of real property and equipment.

(4) When approved as a direct charge pursuant to paragraphs (b)(1) through (3) of this section, capital expenditures will be charged in the period in which the expenditure is incurred, or as otherwise determined appropriate and negotiated with the Federal awarding agency.

(5) The unamortized portion of any equipment written off as a result of a change in capitalization levels may be recovered by continuing to claim the otherwise allowable depreciation on the equipment, or by amortizing the amount to be written off over a period of years negotiated with the Federal cognizant agency for indirect cost.

(6) Cost of equipment disposal. If the non-Federal entity is instructed by the Federal awarding agency to otherwise dispose of or transfer the equipment the costs of such disposal or transfer are allowable.

(7) Equipment and other capital expenditures are unallowable as indirect costs. See §200.436 Depreciation.

§200.441 Fines, penalties, damages and other settlements.

Costs resulting from non-Federal entity violations of, alleged violations of, or failure to comply with, Federal, state, tribal, local or foreign laws and regulations are unallowable, except when incurred as a result of compliance with specific provisions of the Federal award, or with prior written approval of the Federal awarding agency. See also §200.435 Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements.

§200.449 Interest.

(a) General. Costs incurred for interest on borrowed capital, temporary use of endowment funds, or the use of the non-Federal entity's own funds, however represented, are unallowable. Financing costs (including interest) to acquire, construct, or replace capital assets are allowable, subject to the conditions in this section.

(b)(1) Capital assets is defined as noted in §200.12 Capital assets. An asset cost includes (as applicable) acquisition costs, construction costs, and other costs capitalized in accordance with GAAP.

(2) For non-Federal entity fiscal years beginning on or after January 1, 2016, intangible assets include patents and computer software. For software development projects, only interest attributable to the portion of the project costs capitalized in accordance with GAAP is allowable.

(c) Conditions for all non-Federal entities. (1) The non-Federal entity uses the capital assets in support of Federal awards;

(2) The allowable asset costs to acquire facilities and equipment are limited to a fair market value available to the non-Federal entity from an unrelated (arm's length) third party.

(3) The non-Federal entity obtains the financing via an arm's-length transaction (that is, a transaction with an unrelated third party); or claims reimbursement of actual interest cost at a rate available via such a transaction.

- (4) The non-Federal entity limits claims for Federal reimbursement of interest costs to the least expensive alternative. For example, a capital lease may be determined less costly than purchasing through debt financing, in which case reimbursement must be limited to the amount of interest determined if leasing had been used.
- (5) The non-Federal entity expenses or capitalizes allowable interest cost in accordance with GAAP.
- (6) Earnings generated by the investment of borrowed funds pending their disbursement for the asset costs are used to offset the current period's allowable interest cost, whether that cost is expensed or capitalized. Earnings subject to being reported to the Federal Internal Revenue Service under arbitrage requirements are excludable.
- (7) The following conditions must apply to debt arrangements over \$1 million to purchase or construct facilities, unless the non-Federal entity makes an initial equity contribution to the purchase of 25 percent or more. For this purpose, "initial equity contribution" means the amount or value of contributions made by the non-Federal entity for the acquisition of facilities prior to occupancy.
- (i) The non-Federal entity must reduce claims for reimbursement of interest cost by an amount equal to imputed interest earnings on excess cash flow attributable to the portion of the facility used for Federal awards.
- (ii) The non-Federal entity must impute interest on excess cash flow as follows:
- (A) Annually, the non-Federal entity must prepare a cumulative (from the inception of the project) report of monthly cash inflows and outflows, regardless of the funding source. For this purpose, inflows consist of Federal reimbursement for depreciation, amortization of capitalized construction interest, and annual interest cost. Outflows consist of initial equity contributions, debt principal payments (less the pro-rata share attributable to the cost of land), and interest payments.
- (B) To compute monthly cash inflows and outflows, the non-Federal entity must divide the annual amounts determined in step (i) by the number of months in the year (usually 12) that the building is in service.
- (C) For any month in which cumulative cash inflows exceed cumulative outflows, interest must be calculated on the excess inflows for that month and be treated as a reduction to allowable interest cost. The rate of interest to be used must be the three-month Treasury bill closing rate as of the last business day of that month.
- (8) Interest attributable to a fully depreciated asset is unallowable.
- (d) Additional conditions for states, local governments and Indian tribes. For costs to be allowable, the non-Federal entity must have incurred the interest costs for buildings after October 1, 1980, or for land and equipment after September 1, 1995.
- (1) The requirement to offset interest earned on borrowed funds against current allowable interest cost (paragraph (c)(5), above) also applies to earnings on debt service reserve funds.
- (2) The non-Federal entity will negotiate the amount of allowable interest cost related to the acquisition of facilities with asset costs of \$1 million or more, as outlined in paragraph (c)(7) of this section. For this purpose, a non-Federal entity must consider only cash inflows and outflows attributable to that portion of the real property used for Federal awards.
- (e) Additional conditions for IHEs. For costs to be allowable, the IHE must have incurred the interest costs after September 23, 1982, in connection with acquisitions of capital assets that occurred after that date.
- (f) Additional condition for nonprofit organizations. For costs to be allowable, the nonprofit organization incurred the interest costs after September 29, 1995, in connection with acquisitions of capital assets that occurred after that date.
- (g) The interest allowability provisions of this section do not apply to a nonprofit organization subject to "full coverage" under the Cost Accounting Standards (CAS), as defined at 48 CFR 9903.201-2(a). The non-Federal entity's Federal awards are instead subject to CAS 414 (48 CFR 9904.414), "Cost of Money as an Element of the Cost of Facilities Capital", and CAS 417 (48 CFR 9904.417), "Cost of Money as an Element of the Cost of Capital Assets Under Construction".

§200.472 Training and education costs.

The cost of training and education provided for employee development is allowable.

§200.473 Transportation costs.

Costs incurred for freight, express, cartage, postage, and other transportation services relating either to goods purchased, in process, or delivered, are allowable. When such costs can readily be identified with the items involved, they may be charged directly as transportation costs or added to the cost of such items. Where identification with the materials received cannot readily be made, inbound transportation cost may be charged to the appropriate indirect (F&A) cost accounts if the non-Federal entity follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms and conditions of the Federal award, should be treated as a direct cost.

§200.474 Travel costs.

(a) General. Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the non-Federal entity. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in the non-Federal entity's non-federally-funded activities and in accordance with non-Federal entity's written travel reimbursement policies. Notwithstanding the provisions of §200.444 General costs of government, travel costs of officials covered by that section are allowable with the prior written approval of the Federal awarding agency or pass-through entity when they are specifically related to the Federal award.

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

(1) Participation of the individual is necessary to the Federal award; and

(2) The costs are reasonable and consistent with non-Federal entity's established travel policy.

(c)(1) Temporary dependent care costs (as dependent is defined in 26 U.S.C. 152) above and beyond regular dependent care that directly results from travel to conferences is allowable provided that:

(i) The costs are a direct result of the individual's travel for the Federal award;

(ii) The costs are consistent with the non-Federal entity's documented travel policy for all entity travel; and

(iii) Are only temporary during the travel period.

(2) Travel costs for dependents are unallowable, except for travel of duration of six months or more with prior approval of the Federal awarding agency. See also §200.432 Conferences.

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

e) Commercial air travel. (1) Airfare costs in excess of the basic least expensive unrestricted accommodations class offered by commercial airlines are unallowable except when such accommodations would:

(i) Require circuitous routing;

(ii) Require travel during unreasonable hours;

(iii) Excessively prolong travel;

(iv) Result in additional costs that would offset the transportation savings; or

(v) Offer accommodations not reasonably adequate for the traveler's medical needs. The non-Federal entity must justify and document these conditions on a case-by-case basis in order for the use of first-class or business-class airfare to be allowable in such cases.

(2) Unless a pattern of avoidance is detected, the Federal Government will generally not question a non-Federal entity's determinations that customary standard airfare or other discount airfare is unavailable for specific trips if the non-Federal entity can demonstrate that such airfare was not available in the specific case.

(f) Air travel by other than commercial carrier. Costs of travel by non-Federal entity-owned, -leased, or -chartered aircraft include the cost of lease, charter, operation (including personnel costs), maintenance, depreciation, insurance, and other related costs. The portion of such costs that exceeds the cost of airfare as provided for in paragraph (d) of this section, is unallowable.

§200.501 Audit requirements.

- (a) Audit required. A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this part.
- (b) Single audit. A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single audit conducted in accordance with §200.514 Scope of audit except when it elects to have a program-specific audit conducted in accordance with paragraph (c) of this section.
- (c) Program-specific audit election. When an auditee expends Federal awards under only one Federal program (excluding R&D) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with §200.507 Program-specific audits. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the case of a subrecipient, approves in advance a program-specific audit.
- (d) Exemption when Federal awards expended are less than \$750,000. A non-Federal entity that expends less than \$750,000 during the non-Federal entity's fiscal year in Federal awards is exempt from Federal audit requirements for that year, except as noted in §200.503 Relation to other audit requirements, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and Government Accountability Office (GAO).
- (e) Federally Funded Research and Development Centers (FFRDC). Management of an auditee that owns or operates a FFRDC may elect to treat the FFRDC as a separate entity for purposes of this part.
- (f) Subrecipients and Contractors. An auditee may simultaneously be a recipient, a subrecipient, and a contractor. Federal awards expended as a recipient or a subrecipient are subject to audit under this part. The payments received for goods or services provided as a contractor are not Federal awards. Section §200.330 Subrecipient and contractor determinations sets forth the considerations in determining whether payments constitute a Federal award or a payment for goods or services provided as a contractor.
- (g) Compliance responsibility for contractors. In most cases, the auditee's compliance responsibility for contractors is only to ensure that the procurement, receipt, and payment for goods and services comply with Federal statutes, regulations, and the terms and conditions of Federal awards. Federal award compliance requirements normally do not pass through to contractors. However, the auditee is