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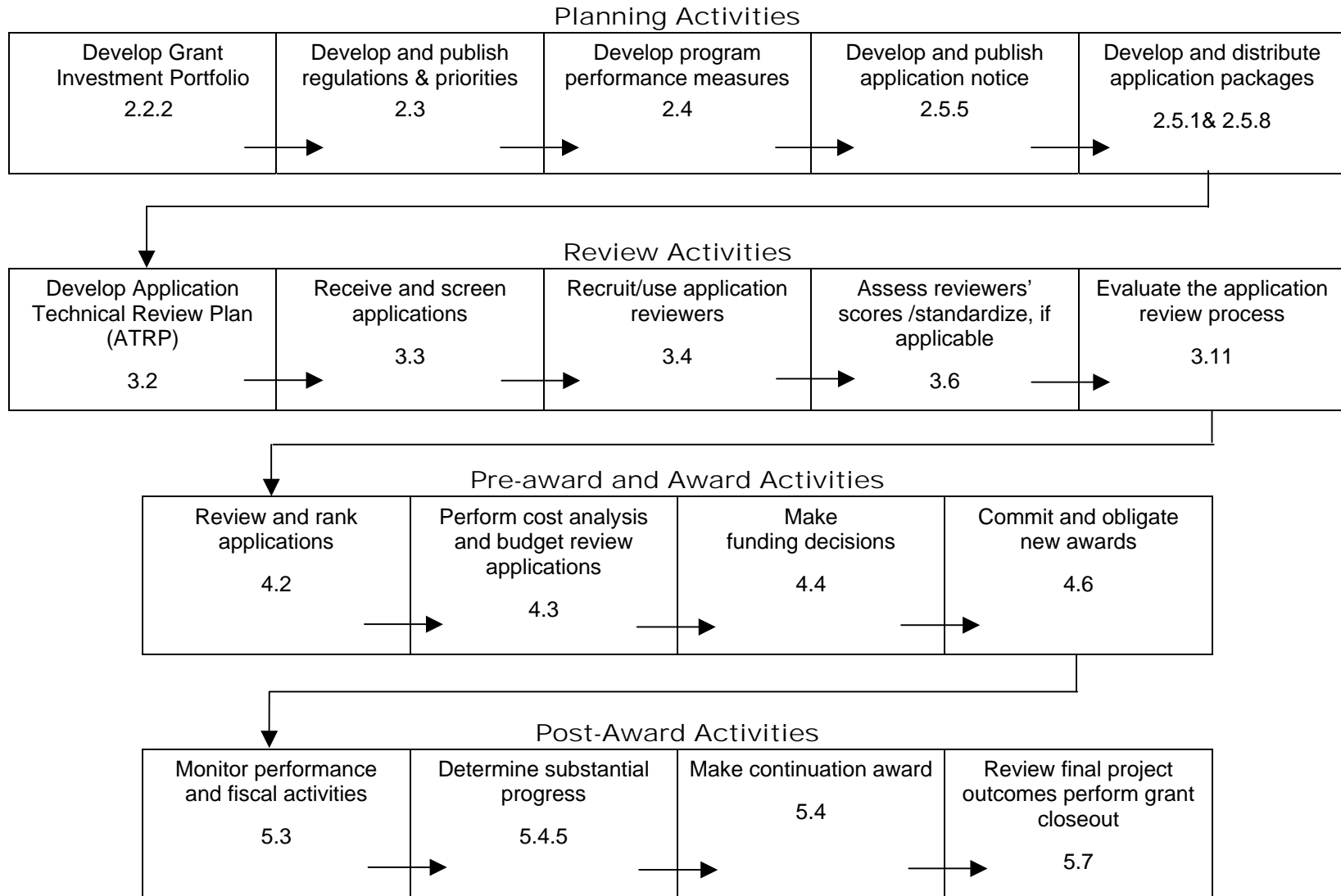
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The flow chart below provides an overview of the key steps in the grants process. Under each step are references to the sections of the Handbook that cover those steps. Each step is discussed in further detail in the appropriate chapters.



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# Chapter 1: General

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## 1.1 Purpose

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This Handbook for the Discretionary Grant Process (Handbook) provides the foundation and framework for the U.S. Department of Education (ED) discretionary grant process. It is designed to create consistent policies, standards and procedures for ED's discretionary grant programs to ensure that ED awards and administers Federal funds across every program in a fair and equitable manner, for the benefit of all children and other learners.

This Handbook establishes the internal policies and procedures that principal offices use to carry out the discretionary grant functions of planning, review, application selection, and award; partnership and accountability; sharing results; and closeout. Principal offices are responsible for the obligation, administration and monitoring of these awards under a variety of legislative authorities, governing regulations, policies and procedures. ED staff with discretionary grant-related responsibilities will ensure that –

1. ED's discretionary grant efforts are focused on achieving results, maintaining excellence, and accomplishing ED's strategic performance goals and objectives;
2. Management and internal controls are in place to permit effective monitoring of programs and processes;
3. Organizational structures, policies and procedures support ED's programs so that they achieve their intended results;
4. Structures are in place for monitoring and holding grantees accountable for their activities;
5. The capability is available to receive grant applications and other grant-related documents electronically, which encourages customers to do their business with ED online;
6. Barriers to the full participation of novice, community and faith-based organizations are removed;
7. The discretionary grant review and award process are consistent with applicable laws, regulations and published priorities;
8. The review process is fair and objective;
9. The award process allows for the broad participation of interested parties in all ED programs;
10. Competitions in different programs are carried out in a consistent manner;
11. The discretionary grant review and award processes are as efficient as possible;

12. Technical assistance is available to applicants to the greatest extent possible to assist them in the preparation and timely submission of applications;
13. The discretionary grant review and award processes are transparent to the public and consistent with applicable laws, such as the Freedom of Information Act and the Privacy Act);
14. Technical assistance is available to grant recipients to assist them in achieving the goals and objectives of their grant;
15. The knowledge gained from the grants is used to further the objectives of the grant programs and ED in general; and
16. Grants are closed out in a timely manner.

## 1.2 Applicability

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The policies and procedures in this Handbook apply to all organizational units in ED that are responsible for planning grant competitions, reviewing applications, application selection and award, partnership and accountability, sharing results, and closeout processes related to discretionary grants. Each principal office must follow the policies and procedures outlined in this Handbook. Nothing in this Handbook is intended to give grant applicants or grantees any rights not already provided by statutes, regulations, or published program priorities.

## 1.3 Oversight

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The Grants Policy and Oversight Staff (GPOS), Office of the Chief Financial Officer, is responsible for providing ED-wide oversight to ensure that policies relative to discretionary grant award and administration processes are effectively communicated to principal offices and to assist them in their efforts to adhere to the approved policies. GPOS oversight includes several interrelated responsibilities and functions that will be carried out in partnership with ED principal office officials and their staff. These responsibilities include, but are not limited to, the following:

1. Establishing clear policies that are based on statutes, regulations, and other requirements that enable consistent policy interpretation and implementation on grant administration issues. Policies are issued in this Handbook and grant bulletins, until such time as the bulletins are fully incorporated into this Handbook.
2. Providing training and technical assistance to principal offices. Principal offices must have a working knowledge of grant policy and how it applies to different situations. This knowledge is necessary for effective grant administration.

3. Collaborating with program officials responsible for grant programs to achieve effective monitoring of grant programs and to ensure that monitoring activities and processes are conducted with consistency and are compliant with ED regulations and policies.
4. Collaborating with program officials to conduct periodic reviews and to evaluate the internal policies and procedures of ED's overall discretionary grant process.
5. Coordinating ED's participation in interagency initiatives related to grants streamlining and electronic grantmaking. This includes, but is not limited to, coordinating ED's comments on work products of PL 106-107 (The Federal Financial Management Improvement Act); coordinating ED's participation in work groups and activities of the President's e-Grants initiative; and coordinating ED's participation in pilot and implementation efforts associated with these work products or activities.
6. Licensing those employees who have demonstrated knowledge about discretionary grant procedures through sufficient training and/or experience to obligate discretionary grant funds.

In the Education Department Performance Appraisal System (EDPAS), ED officials and staff define and develop specific employee performance standards that focus on tangible accomplishments that fulfill the mission of ED and the ED Strategic Plan. The roles and responsibilities noted in this Handbook should be addressed in the EDPAS standards for those individuals involved in the discretionary grant process.

## 1.4 Maintenance

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GPOS is responsible for maintaining and updating this Handbook. GPOS reviews and updates this Handbook periodically to incorporate any new ED discretionary grant regulations and policies and/or changes to current regulations or policies. This update rescinds the following GPOS Grants Policy Bulletins:

- Bulletin 2: Organization of the Official Grant File Folder;
- Bulletin 3: Attachment A – Special Conditions for Payments;
- Bulletin 4: Attachment B – Special Grant Terms and Conditions for Payments;
- Bulletin 5: Attachment C – An Overview of the Single Audit Requirements of State and Local Non-Profit Organizations;
- Bulletin 6: Attachment E – Pre-agreement (Pre-award) Costs;
- Bulletin 7: Attachment F – Special Grant Terms and Conditions for Using Program Income;
- Bulletin 8: Attachment S – Special Conditions for Disclosing Federal Funding in Public Announcements;

- Bulletin 10: General Education Provision Act (GEPA) Requirements – Section 427;
- Bulletin 15: Key Personnel;
- Bulletin 18: Discretionary Grant Transfers;
- Bulletin 19: Part 75 Amendments (Expanded Authorities);
- Bulletin 21: Discretionary Grants Closeout;
- Bulletin 22: Reinstatement of Discretionary Grants;
- Bulletin 24: Revised Agreement Forms for Grant Application Reviewers;
- Bulletin 25: Replacing a Grant Application Reviewer;
- Bulletin 27: Monitoring Discretionary Grants for Excessive Drawdowns; and
- Bulletin 28: Responding to Requests for Grant Information and the Freedom of Information Act (FOIA).

**Note:** Presently, principal offices are using various electronic systems to assist them with managing the ED discretionary grant process. Throughout this document where the ED electronic Grant Administration and Payment System (GAPS) is referenced, those systems may be used as appropriate. However, the ED policy is to convert all non-GAPS systems into integral parts of GAPS so that GAPS will become a unified electronic system used by ED, permitting greater consistency in grants administration at ED.

## 1.5 Cooperative Agreements

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The Federal Grant and Cooperative Agreement Act of 1977 (31 U.S.C. chapter 63), defines a cooperative agreement as an alternative assistance instrument to be used in lieu of a grant whenever ED anticipates substantial Federal involvement (beyond monitoring) with the recipient during the performance of the grant. A grant is an award of financial assistance in the form of money, or property in lieu of money, by the Federal government to an eligible grantee, usually made on the basis of a competitive review.

The key difference between a cooperative agreement and a grant is the degree of Federal programmatic involvement rather than the type of administrative requirements imposed on a type of award. The laws, regulations, and policies, and the information contained in this document are applicable to cooperative agreements as well as grants, unless a program statute or regulation stipulates otherwise (see section 4.8, “Cooperative Agreements” for detailed guidance on these agreements).

## 1.6 ED Discretionary Grant Policy

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It is the policy of ED that principal offices:

1. Develop and adhere to office plans for the award of discretionary grants that align with ED's priorities, goals and objectives, and customer needs;
2. Comply with the agreements made under the Grant Investment Portfolio for the fiscal year;
3. Develop the application notice and package and solicit applications for new grants using feasible solicitation methods tailored to reach as many eligible applicants as possible;
4. Develop and follow an Application Technical Review Plan that describes procedures for reviewing applications submitted for funding;
5. Recruit and select the experts needed for the application technical review process;
6. Review each new application against requirements in the authorizing statute and applicable regulations for the program under which the application is submitted, as well as the Education Department General Administrative Regulations (EDGAR § 75.217, or one of its alternatives), any published funding priorities (EDGAR § 75.105), and other requirements established in the *Federal Register*, and implemented in this Handbook;
7. Award the majority of their new grants and continuation awards as early as possible in the fiscal year, based on customer needs and funds availability;
8. Review each continuation Grant Performance Report in accordance with the authorizing statute, the program regulation, published funding priorities or other applicable requirements established in the *Federal Register*, the EDGAR requirements at § 75.253, and the requirements of this Handbook;
9. Treat their relationship with each grantee as a partnership, with the grantee providing the expertise necessary to carry out approved activities and ED providing both programmatic and financial technical assistance, however, this partnership shall not interfere with ED and the grantee's roles in ensuring that there is appropriate fiscal accountability and program administration and implementation;
10. Establish monitoring plans and procedures that promote substantial progress by each grantee in achieving their project scope and objectives, ED's goals of improving education in general and the goals established for the program under its authorizing statute;
11. Share and disseminate successful outcomes of the projects with the public; and
12. Implement the use of technology to simplify the discretionary grant process.

## 1.7 ED Principal Program Offices

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The principal program offices responsible for the development and execution of the discretionary grant process are:

- A. Office of English Language Acquisition (OELA);  
<http://www.ed.gov/about/offices/list/oela/index.html>
- B. Institute of Education Sciences (IES);  
<http://www.ed.gov/about/offices/list/ies/index.html>
- C. Office of Elementary and Secondary Education (OESE);  
<http://www.ed.gov/about/offices/list/oes/index.html>
- D. Office of Safe and Drug Free Schools (OSDFS);  
<http://www.ed.gov/about/offices/list/osdfs/index.html>
- E. Office of Innovation and Improvement (OII);  
<http://www.ed.gov/about/offices/list/oii/index.html>
- F. Office of Postsecondary Education (OPE);  
<http://www.ed.gov/about/offices/list/ope/index.html>
- G. Office of Special Education and Rehabilitative Services (OSERS);  
<http://www.ed.gov/about/offices/list/osers/index.html>
- H. Office of Vocational and Adult Education (OVAE); and  
<http://www.ed.gov/about/offices/list/ovae/index.html>
- I. Office of Indian Education (OIE).  
<http://www.ed.gov/about/offices/list/oes/oie/index.html>

Within each office are its Principal Officer, program officials, the program staff, program scheduling representatives, executive officers, and others who administer ED's discretionary grant programs on a daily basis.

**Note:** Unless otherwise noted, in this document, the term “principal office” refers, in this document, to only those offices cited in items A-H above. The Office of Indian Education referenced in item I is housed in OESE which is organizationally under the Office of the Deputy Secretary.



## 1.8 ED Staff Offices

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The following offices provide overall policy, administrative and other support to the principal offices during the discretionary grant process:

A. Office of the Deputy Secretary (ODS);

<http://www.ed.gov/about/offices/list/ods/index.html>

B. Office of the Under Secretary (OUS);

<http://www.ed.gov/about/offices/list/ous/index.html>

C. Office of the General Counsel (OGC);

<http://www.ed.gov/about/offices/list/ogc/index.html>

D. Office of the Chief Information Officer (OCIO);

<http://www.ed.gov/about/offices/list/ocio/index.html>

E. Office of the Chief Financial Officer (OCFO); and

<http://www.ed.gov/about/offices/list/ocfo/index.html>

F. Office of Legislation and Congressional Affairs (OLCA).

<http://www.ed.gov/about/offices/list/olca/index.html>

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# Chapter 2: Planning Activities

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## 2.1 Introduction

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The discretionary grant planning process includes all of the activities necessary to set up a discretionary grant competition. These activities are designed to ensure that ED meets its responsibilities to manage its programs with the broadest participation of interested parties in its competitions. The principal office must:

- Develop an Annual Grant Investment Portfolio that is aligned with ED’s priorities and goals;
- Establish schedules for all grant competitions within its office through the Grant Investment Portfolio process;
- Develop regulations and program priorities for grant competitions, only when absolutely necessary to achieve statutory purposes;
- Develop performance measures for each program;
- Develop application notices and packages for each competition; and
- Distribute application packages.

## 2.2 Planning Activities

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### 2.2.1 ED’s Strategic Plan

ED’s Strategic Plan describes the goals and objectives of ED. The Strategic Plan focuses on performance and creates the base of an accountability system for ED as it works to improve accountability throughout the nation’s educational system. The success of the Strategic Plan depends largely on the people who work in ED.

The discretionary grant process is one of the chief tools ED uses to help meet the goals and objectives of the Strategic Plan and improve accountability throughout the nation’s educational system.

## 2.2.2 Annual Grant Investment Portfolio

The Annual Grant Investment Portfolio (Portfolio) is a comprehensive document that gathers all principal office grantmaking information in one central location. Annually, the Secretary uses the Portfolio to establish new grant and continuation award goals to ensure that ED awards grants in a timely manner under all of its discretionary grant programs.

The intent of the Portfolio is to:

1. Align investment in grants with ED's priorities and sound policy;
2. Facilitate the awarding of high-quality grants in a timely fashion;
3. Ensure satisfactory results from grant investments through effective performance monitoring; and
4. Improve operational consistency across multiple offices and requirements, by making policy decisions early and integrating performance measures and budget activity.

## 2.2.3 Grant Schedule

The grant schedule is used to track principal office progress in completing the major steps described below to award new grants and continuation awards.

1. Program officials must develop a grant schedule for each discretionary grant program that contains estimates of the number of new grants and continuation awards to be made, the dollar amount authorized or allotted for the grants to be awarded, and the projected completion date for major steps in the award process. Programs with new legislation or with new or revised funding priorities should also include the publication dates of regulations or funding priorities, if any, in the schedules.

**Note:** Many new programs are under mandate not to publish program regulations.

The Secretary uses information from the schedules to monitor the status of each principal office's efforts to meet major milestones contained in its Portfolio. Program officials must consult with the ED Application Control Center (ACC) staff when planning the completion dates for major steps in the process to avoid workload problems in that office. ACC is the ED office officially authorized to receive hard copy of applications submitted to ED for funding under ED discretionary grant programs.

2. The program official of each principal office must designate a grant scheduling representative. The scheduling representative is responsible for ensuring that grant schedules are entered into and/or deleted from GAPS and for updating them routinely. To award grants, individual schedules must be developed and entered in GAPS for:
  - a. Each program under which new grant or continuing awards are planned in the upcoming fiscal year;

- b. Applications submitted for funding in the previous fiscal year that are being funded in the current fiscal year (see section 2.2.5 “Funding Applications from a Previous Competition” and section 4.9.3, “Mishandled Applications”); and
- c. Congressionally-directed awards (see section 4.9.1, “Directed Awards”) – principal offices must have a separate schedule for their directed awards for each CFDA program.

Individual program grant schedules should reflect ED’s goal to award new grants and continuation awards in accordance with ED’s priorities and customer needs. Grant schedule templates are provided at Appendix A, “Grant Administration and Payment System (GAPS) – Grant Schedule Reports.”

#### 2.2.4 Catalogue of Federal Domestic Assistance (CFDA)

For programs newly authorized by Congress, ED must announce the availability of assistance under the program through the CFDA. After Congress establishes a new program, the scheduling representative must request the creation of a CFDA program number by entering pertinent program information in GAPS to provide a description of the program. Then a representative in the ED Budget Service reviews the program description and approves the description after making any needed changes. Upon approval of the CFDA program description, GAPS automatically assigns the program a CFDA number.

#### 2.2.5 Funding Applications from a Previous Competition

Funding applications from a previous competition are handled as follows:

1. As a general matter, the policy of ED is to encourage the practice of funding down the slate wherever the standards specified in this section are met. Program officers should include in the application notice for every competition that would appear to meet the standards in this section the standard language developed by the Division of Regulatory Services for funding down the slate.
2. If a program official expects that ED will receive a sufficient number of high-quality applications to enable funding from the same slate in the next fiscal year, the program official should notify the public of the possibility in the application notice for the first year of funding. Whenever the program official decides to fund applications from the same slate in more than one fiscal year, the following standards apply:
  - a. The application(s) that would be funded in the second year are of such high quality that they benefit the congressional intent of the authorizing statute and are of comparable quality to those applications previously funded;
  - b. Current fiscal year funds are available under which the projects can be funded for the same program statute, regulations, and priorities, if any, established for the previous competition; and

- c. The program Principal Officer specifically authorizes using the same slate from the previous fiscal year to recommend grant awards for the second fiscal year.

If the program office did not include a statement about funding down the slate for the next fiscal year in the application notice for the competition, and the program official, after reviewing the applications received under the competition, determines that there are sufficient high-quality applications to meet the standards for funding down the slate, the program official should, if possible, publish a separate notice explaining the conditions that justify the Principal Officer's decision to fund applications from the previous competition. The notice should be published in the *Federal Register*, if feasible; otherwise, the Principal Officer's decision should be posted on the ED Web site.

3. The scheduling representative must create a new discretionary grant schedule in GAPS using current fiscal year data, and work with the Application Control Center (ACC) to reassign the applications' new or current fiscal year procurement request/award numbers (PR/Award numbers). The scheduling representative should note on the schedule that these applications were actually received and reviewed in the previous fiscal year but are being funded in the current year. The program official must document the Principal Officer's decision to fund these applications in the competition file.

## 2.3 Developing Regulations, Regulatory Documents, and Program Priorities

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This section contains references to appropriate provisions in the Regulatory Quality Manual (RQM) for clearing absolute and competitive preference priorities for competitions. However, the general policy of ED is not to use absolute or competitive preferences for competitions. The Grant Investment Portfolio process now includes procedures for justifying the use of a competitive or absolute priority.

ED will issue regulations only when it is necessary, and such regulations must be as flexible as possible and create the least possible burden for applicants and grantees. The procedures used to develop a regulatory document, as well as an application notice, may vary. In the following chart, the first column lists the type of regulatory document or documents that may need to be prepared to conduct a grant competition. The second column identifies the chapter of ED's RQM that contains the appropriate ED policies and guidance for the style and format for that document. The Division of Regulatory Services (DRS) of OGC is responsible for the requirements referenced here.

The procedures and chapters of the RQM referenced in the following chart can be found at the DRS Web site on ConnectEd at: <http://connected/index.cfm>.

**Table 2.1. DRS Regulatory Documents Procedures Chart**

<b>If you are preparing...</b>	<b>see the following chapter of the RQM...</b>
A Notice of Proposed Rulemaking (NPRM) or final regulations subject to the notice and comment rulemaking requirements of the Administrative Procedure Act	B for NPRMs or D for final regulations
Final regulations that waive rulemaking under section 437(d)(1) of the General Education Provisions Act because these final regulations apply to the first grant competition of a new or substantially revised program	E
A notice of proposed priority or priorities (NPP) for one program	O
A notice of final priority or priorities (NFP) for one program	P
An NPP for more than one program	Q
An NFP for more than one program	R
An application notice	J

**Note:** If the type of document being prepared does not correspond with an entry in the chart or there are questions regarding the instructions, contact the Regulations Quality Officer or the Regulations Coordinator for the specific program or type of document. The phone number for both of these DRS contacts is: (202) 401-8300.

## 2.4 Grant Program Performance Measures

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The Government Performance and Results Act of 1993 (GPRA) directs Federal departments and agencies to improve the effectiveness of their programs by engaging in strategic planning, setting outcome-related goals for programs, and measuring program results against those goals. The Office of Management and Budget (OMB) measures the effectiveness of an agency in meeting the goals of its programs using the Program Assessment Rating Tool (PART). ED must establish meaningful performance standards and measurements for its programs so that it can provide evidence to OMB that its programs are effective as rated by the PART.

Budget Services in the Office of Planning, Evaluation and Policy Development is responsible for coordinating the development of performance measures with OMB as that agency determines the effectiveness of ED programs. Program officers should work closely with Budget Services in developing the performance measures for a program.

The application notice must clearly convey to the public ED's performance measures and expectations for the program so potential applicants can design their projects to meet the established performance measures. The performance measures must also be included in the application package.

In preparing an application package, the program staff must also include specific program objectives, program performance measures and, if necessary, other program-specific

measures so that applicants can develop evaluation techniques that provide valid and reliable data on the established performance measures. The Web-based version of the application package must include a hyperlink to the reporting form that will be used for the program.

Applicants must understand that ED reports progress on the program performance measures annually to OMB and Congress and review of the performance data will vitally affect the continued existence of ED programs.

## 2.5 Application Packages and Notices

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### 2.5.1 Application Packages

New grant competitions have to be announced in an application notice published in the *Federal Register* before applicants can request application packages. However, application packages require attention early in the process of planning for a grant competition to ensure they are completed in a timely fashion. For that reason, application packages are covered here first.

1. ED generally uses two types of application packages to solicit applications for its discretionary grant program competitions: the OMB-approved ED generic application package or a program-specific application package. The information required for both application packages is the same with the exception of the application selection criteria. The generic application uses application selection criteria found in EDGAR at § 75.210 or developed under § 75.209, while the program-specific application uses selection criteria developed just for that particular program. The format and required information for both applications can be found in Appendix B, “Application Package Contents.”
2. Program officials are encouraged to use the generic application package, to the extent possible, when soliciting applications under discretionary grant competitions. The package contains the most commonly requested data items used by ED discretionary grant programs that use standard application selection criteria found in EDGAR at § 75.210 and statutory criteria developed under § 75.209. Using the package enables ED to obtain a single, uniform information collection approval from OMB for multiple programs.
3. Program officials should use the generic application for both new and existing programs that have invitational, absolute or competitive priorities as long as the selection criteria in EDGAR are used and the priorities do not have information collection requirements above and beyond the selection criteria. Program officials may also use the generic application package for programs that have program regulations without selection criteria. Program officials that use the generic application package may use the expedited clearance process and can expect to receive approval of an application package in one week to ten days once it has arrived

at OMB. See ED’s Guide to the Paperwork Clearance Process under Special Information Collection Processes at: <http://connected.ed.gov/index.cfm>.

The standard forms for the generic application package can be found at: <http://www.ed.gov/fund/grant/apply/appforms/appforms.html>. Program officials must assemble a hard copy of the generic application and submit it through the Regulatory Information Management Group (RIMG) for clearance by OMB and obtain an approved information collection number before the program can distribute the application package to potential applicants. This requirement also applies to programs that plan to use e-Applications to solicit applications for their competitions.

4. If the program officer decides not to use the generic application package, the program attorney for the program must review the application package.
5. When an application requires specific program selection criteria, program officials must follow the procedures in section 2.5.3, “Information Clearance Procedures,” to clear a separate package for use with the program.

### 2.5.2 Notifying Applicants of ED Indirect Cost Requirements

Program officials are required to inform applicants during the application process about each program's policy for reimbursing grantees for indirect costs that they incur as they undertake their projects. Indirect costs are not reimbursed on construction grants, grants to individuals, or grants to organizations located outside the territorial limits of the United States. For all other applicants or recipients, depending on the legal and regulatory requirements related to a specific program, each program has one of four options for reimbursing grantees for their indirect costs under a grant:

1. Full reimbursement for ED’s portion of the applicants indirect costs, based on an indirect cost rate that:
  - a. A grantee has negotiated with a cognizant Federal agency; or
  - b. A State educational agency (SEA) has established for a local educational agency (LEA).
2. Partial reimbursement, for grants in programs covered by the restricted rate requirements of EDGAR (§ 75.563, §§ 76.564-569);
3. Limited reimbursement for non-governmental grantees at a maximum of eight percent (8%) of modified total direct costs (MTDC), for programs that make training grants, as described in §75.562;
4. No reimbursement, for programs that have statutory or regulatory prohibitions on paying indirect costs under grants.

In order for applicants to have a better understanding of the requirements related to indirect cost reimbursement for each program's grants and to be able to estimate indirect costs more accurately in their application budget, each program is required to include in its application package one of the indirect cost guidance found in Appendix B,



“Attachment 2: Program Application Indirect Cost Instructions.” For more detailed discussion of indirect cost calculations, see section 4.3.6, “Indirect Costs - Overview.”

### 2.5.3 Information Clearance Procedures

ED information clearance procedures are as follows:

1. When a program official must develop a specific application package, it must be consistent with ED policies and applicable statutory or regulatory requirements. In such cases, the program official must clear the application package through the ED RIMG that manages the information collection process. Program officials should work closely with the RIMG during the development process to ensure compliance with information collection requirements. The information clearance liaison for each principal office, as well as guidance on the information collection process and the Paperwork Reduction Act of 1995, can be found at the OCIO Web site: <http://www.ed.gov/about/offices/list/ocio/index.html>.

Program officials must begin working with their RIMG liaison as early in the planning process as possible so the clearance process is completed in a timely manner. Additionally, program officials are encouraged to develop simple application forms and instructions to meet the needs of ED applicants and to facilitate the use of electronic applications.

2. RIMG forwards newly developed application packages to the OMB for approval. The normal OMB approval process can take up to 120 days and requires publication of two *Federal Register* documents requesting comments on the package. OMB must approve the application package before the application notice can be published in the *Federal Register*. The full clearance is not required if one of the following conditions apply:
  - a. The Expedited Clearance Process, which is designed for packages using the general selection criteria in EDGAR §§ 75.209 and 75.210 and generally takes only ten days after the RIMG review.
  - b. The Emergency Clearance Process, which is designed to clear packages within 30 days, but only if the following conditions exist:
    - 1) Harm to the public might occur otherwise;
    - 2) An unanticipated event has occurred that is beyond the control of ED; or
    - 3) The normal clearance is likely to cause a statutory or court ordered deadline to be missed.

**Note:** The program office must prepare an explanation of the reason for the emergency clearance and the approval period is limited to only 90 days.

See ED’s Guidance to the Paperwork Clearance Process for the conditions under which the emergency clearance process can be used at: <http://connected.ed.gov/index.cfm>.

- c. The Streamlined Clearance Process, which is designed to clear and approve packages within 60 days after RIMG review. See ED’s Guidance to the Paperwork Clearance Process for the conditions under which the Streamlined process can be used at: <http://connected.ed.gov/index.cfm>.
3. Program officials must allow sufficient time to accommodate all of the steps required in the information collection process, including the time needed to develop the application package and gain appropriate clearances within ED. OMB clearance of an application package is necessary if there are ten or more eligible applicants under a program and:
    - a. OMB has never approved the application package;
    - b. The OMB approval of the application package has expired or will expire before the proposed or announced deadline date; or
    - c. There are changes in program regulations or application conditions that affect paperwork burden.
  4. Program officials must ensure that OMB clearance for an application package will be effective through the scheduled or published application deadline date or take action to clear it before it expires. Before an OMB approval expires, and if there are no changes to the form, program officials may request from OMB a renewal of the current approval for a period not to exceed three years. Renewal requests must be processed as described in this section, items 1 and 2 above.

**Note:** OMB lists the application packages it is currently reviewing and their status on its Web site at <http://www.whitehouse.gov/omb> and the OCIO maintains a Web site that shows the status of all information clearance requests as well as the currently approved information clearances at <http://edicsweb.ed.gov/>.

#### 2.5.4 Sources of Funding Information

ED publishes, in various media, information about the grant programs and competitions under which ED expects to invite applications for new grant or cooperative agreement awards. Potential applicants can obtain information through:

- **Grants & Contracts Section on the ED’s Web Site** – Potential applicants can access information on discretionary grant funding by principal office and by types of programs available by logging on to ED’s Web site at [www.ed.gov](http://www.ed.gov). Click on the link “Grants & Contracts.”
- **Guide to U.S. Department of Education Programs (the Guide)** – The *Guide* describes the various discretionary grant programs sponsored by ED and gives a telephone number to call for further information for each program. Potential applicants can access the *Guide* on ED’s Web site at <http://web99.ed.gov/gtep/program2.nsf>.
- **e-Grants** – The Department of Education’s portal site for electronic grants is located at <http://e-grants.ed.gov>. Potential applicants can access ED’s Web-based grant systems from the e-Grants portal. Applicants can find information

about several of ED’s electronic grant initiatives including e-Application, which allows applicants to apply online to a selected group of programs. Individual programs must announce in their application notice whether e-Application will be an option for applicants. Prospective applicants can click on the e-Application tab to access program information and apply for a grant.

- **Grants.gov** – The Federal government maintains a portal for electronic grant applications at [www.grants.gov](http://www.grants.gov). ED is committed to using Grants.gov for some of its grant competitions now and will eventually post all of its grant competitions on Grants.gov. This portal has a feature called “Find” that potential applicants can use to locate grant opportunities from all Federal grantmaking agencies. ED currently posts notice of all of its grant competitions on the Grants.gov Find module, even if ED does not plan to use the Grants.gov portal for applicants to submit applications for a particular competition. Using Find, a potential applicant can click on a link that goes to the Application Notice published for a competition.
- **Forecast of Funding Opportunities** – The forecast is intended to assist potential applicants in planning projects and activities for upcoming ED competitions. It is advisory only and not an official application notice. It provides actual or estimated deadline dates for the submission of applications and the names and telephone numbers of persons to contact for information about a specific program. The forecast can be found at: <http://www.ed.gov/about/offices/list/ocfo/grants/grants.html>.

### 2.5.5 Application Notices

Before publishing an application notice, program officials may first have to publish in the *Federal Register* another document or documents, such as an NPRM, final regulations, a notice proposing one or more funding priorities, selection criteria or other requirements, or a notice announcing one or more final priorities, selection criteria, or other requirements.

Application notices are handled as follows:

1. Before preparing an application notice, program officials must consult with their Regulations Coordinator in DRS to determine what other types of documents might be needed for a particular competition. For those programs that do not use e-Grants or Grants.gov, program officials must also consult with ACC to ensure that the closing date for receipt of applications does not pose workload problems for that office. See section 2.3, “Developing Regulations, Regulatory Documents, and Program Priorities,” regarding the memorandum required for clearance by the DRS of draft application notices.
2. ED publishes application notices in the *Federal Register* to inform potential applicants of all new grant competitions (EDGAR § 75.100). An application notice is an announcement inviting applications for one or more competitions. The notice provides basic program and fiscal information on each competition and informs potential applicants when and where they may obtain applications and the deadlines

for when applications must be submitted to ED. Program officials must provide applicants a minimum of:

- a. 60 days to submit applications for funding under new programs; and
- b. 45 days to submit applications for funding under existing programs.

If program officials determine that a shorter application preparation time is necessary, and the shortened timeframe will not adversely affect the preparation of applications, the official must place a justification for shortening the deadline in the grant competition file. The applicant preparation time cannot be less than 30 days.

3. ED uses one type of application notice, the Short-Form Application Notice. This notice announces one or more competitions for new awards under one program. It must announce a deadline date for the submission of applications for the competition. It contains other important dates and fiscal information and may also include funding priorities. This notice should be kept simple and relatively brief. An example and a template can be found in Chapter J of the RQM that is posted on ConnectED at <http://connected/index.cfm>.
4. All application notices require approval through the DRS regulations clearance process that takes approximately ten working days to complete. To facilitate the clearance of a notice, program officials should take the following steps:
  - a. Clear the notice with the appropriate program attorneys and budget analysts before submitting it to DRS. If the program is of particular interest to the Secretary, consult with that office ahead of time as well;
  - b. Consult with DRS Regulations Coordinators in advance on format issues or questions that arise while preparing the notice, especially if there is a need to deviate from the standard format in Chapter J;
  - c. Ensure that the notice includes the program performance measures and instructions to applicants on project evaluation requirements; and
  - d. Include a cover memorandum describing changes from previous notices for the program.

### 2.5.6 Pre-Application Assistance

Program officials may conduct pre-application workshops or use other media to provide technical assistance to applicants in preparing their applications for a competition for new awards. Program officials should publish a notice of the pre-application workshop in the application notice, if possible. The notice can also be published on the applicable program office Web site. Additionally, programs may use Web-based technology as another way to reach potential applicants and provide them with assistance. If a pre-application workshop is conducted, the workshop should include sessions that assist applicants in:

- Developing application narratives and budgets;

- Effectively addressing the program’s selection criteria;
- Using the e-Application or Grants.gov Pure Edge software for electronic submission of applications, if applicable
- Using other ED electronic business process software; and
- Administering their grants and mastering the fiscal management requirements in EDGAR.

Materials used at the workshop should be posted on the applicable program office’s Web site for the benefit of potential applicants who could not attend the workshop.

### 2.5.7 General Education Provisions Act (GEPA) – Section 427

In 1994 Congress enacted a provision in GEPA that affects all applicants for assistance under ED programs. According to section 427 applicants for new awards must provide in their applications a description of steps they plan to take to ensure equitable access to, and participation in the Federally assisted program under which the applicant may receive an award. The statute highlights six bases on which people may be denied equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, the applicant must determine whether there are barriers that prevent participation by any person based on any of the six bases and how the applicant intends to overcome those barriers.

Program officials must ensure that applicants provide the information required under section 427 of GEPA by including in all application packages the Notice to Applicants, found in Appendix B, “Attachment 4: Guidance on Section 427 of General Education Provisions Act (GEPA),” which explains the requirements of section 427. The applicant’s responses may be provided in a single narrative, or, if appropriate, may be described in connection with other related topics in their applications. The application package must inform applicants that they have to state in the application’s table of contents where this requirement is being addressed in the application.

Program officials must screen all applications to ensure that the applicant has addressed the requirements of section 427, because ED cannot make an award to an applicant that has not addressed that section. If the information is not included in the application, the program staff must contact the applicant, either before the deadline date or after selection to obtain the responses to the GEPA 427 requirements. ED cannot make an award to an applicant until this response is included in the application.

### 2.5.8 Application Package Distribution

Program officials must decide how to distribute application packages. The decision is usually based on whether applications will be accepted electronically and on the size of the competition and the estimated number of eligible applicants. Program officials must make every effort to distribute the application packages to as many potential applicants as possible by placing application packages on the ED Web site, or distributing the packages through ED Pubs or any other medium that can make applications widely available to

potential applicants. Program officials must also keep paper copies of the application package so they will be available to potential applicants that do not have access to the *Federal Register* or are otherwise unable to use the Internet to submit their applications. Posting the application in the ED electronic application system e-Grants does not satisfy this requirement.

Before distributing an application package, the program official must submit the final OMB-approved application package (including any forms) to the ACC for review. The ACC reviews the package and works with the program official to ensure that current forms, certifications, assurances and other requirements specific to ED have been included.

### 2.5.9 e-Applications

The Government Paperwork Elimination Act, P.L. 105-277, requires that all Federal agencies provide their customers the capability to conduct business electronically.

Program officials should require that the potential applicants use an electronic application process where available when submitting applications under discretionary grant competitions. The e-Application software provides potential applicants the capability to complete application forms online, attach narrative documents relating to the applications, and submit the entire document to ED through GAPS.

For applications submitted electronically, e-Application will:

- Assign the application a PR/Award number (an ED-specified identifying number) unique to ED applications;
- Provide the applicant with an immediate confirmation of the receipt of the application;
- Send out an e-mail confirmation of application receipt to all parties who worked on the electronic application;
- Store all data received from the electronic applications in the GAPS database and use the data to populate any data fields that are manually entered for paper applications; and
- Make the applications received available for electronic review through the e-Reader software (see section 3.9, “e-Reader – Electronic Peer Review System”).

Program officials, at the beginning of the fiscal year, should identify all potential grant competitions that may participate in e-Application and respond to the annual call from OCFO. If program officials decide to establish competitions that require potential applicants to submit their applications using e-Application, they must also explain in the application notice the waiver procedures for applicants who are unable to submit their applications electronically. Program officials should review the DRS Regulatory Documents Procedures Chapter J for guidance on voluntary versus mandatory submission of applications via the Internet.

## 2.5.10 Grants.gov

ED participates as a partner in the new government-wide Grants.gov Apply site. The Apply site, accessed through <http://www.grants.gov>, includes instructions on how an applicant can download an application package, complete it offline, and then upload and submit the application to the Federal agency handling the program from which funds are being sought through the Apply site. Grants.gov provides an index for application notices by CFDA number for the relevant competition. Under the policy established by ED, some programs may require applicants to use Grants.gov to apply for a grant. In order for program officials to have their competition participate in the Grants.gov Apply site, the program must use ED's generic standard application form, Application for Federal Education Assistance (ED 424). If a program official chooses to use Grants.gov for applicants to apply, the program may not use ED's e-Application site for the same competition.

To use Grants.gov, applicants must have a Data Universal Numbering System (DUNS) Number. A DUNS number is a unique nine-character identification number provided by the commercial company Dun & Bradstreet (D&B). The OMB has adopted the use of the DUNS number as a way to identify organizations that receive grant awards and to track how grant money is dispersed.

Once the applicant has a DUNS number, the applicant must register in the Central Contractor Registry (CCR). Applicants should allow five days to complete the CCR registration. Applicants must submit all documents electronically, including all information typically included on the ED 424, and all necessary assurances and certifications. Any narrative sections of their application must be attached as files in a .DOC (document) or .RTF (rich text) format. All electronic applications must comply with any page limit requirements described in the Application Notice for the program.

Applicants will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number. ED will retrieve the applications from Grants.gov and send applicants a second confirmation that will include a PR/Award number.

## 2.6 Novice Applicants

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### 2.6.1 Novice Application Procedures

To broaden and diversify the pool of applicants that apply for ED discretionary grant awards and to provide greater opportunities for inexperienced applicants to receive funding, program officials have the option of giving special consideration to novice applicants. The definition of "novice applicant," as well as novice application procedures, is found in EDGAR § 75.225. Generally, a novice applicant for a grant is an entity that:

- Never received a grant before from the program to which they are applying;

- Never been a member of a group application that received a grant from the program to which they are applying; or
- Not had an active grant from the Federal Government in the five years before the deadline date for applications under the ED discretionary grant programs to which they are applying.

Novice application procedures may only be used under those programs where they are legally permissible and consistent with the intent and purpose of the program. Novice application procedures are more appropriate for certain types of programs than others. For example, novice application procedures might be more appropriate for use in training, service, or demonstration programs, rather than in highly complex research projects.

In accordance with EDGAR § 75.225, when giving special consideration to novice applicants, program officials may either:

- Establish a separate competition for novice applicants; or
- Include novice applicants in the general program competition, but give competitive preference (such as bonus points) to novice applicants.

Program officials must provide information about the novice application procedures used for a competition in the Application Technical Review Plan (see section 3.2.2, “Contents of the Application Technical Review Plan”).

The program staff may use the Novice Applicant Report that is available for discretionary grant award applications and found in GAPS within the discretionary award function, in the reports menu. The report was designed to assist ED Program Offices in identifying applicants who have not received a grant from ED within the past five fiscal years.

### 2.6.2 Separate Competitions for Novice Applicants

When establishing a separate competition for novice applicants, program officials must:

- Determine the estimated number of awards and the estimated level of funding that will be made available for the novice competition, as well as the general program competition. This information must be included in the Annual Grant Investment Portfolio.
- Publish an application notice in the *Federal Register* for the novice competition. Information about the novice competition may be included in the same application notice that is used for a general program competition (see section 2.5.5, “Application Notices”).

Where appropriate, program officials are encouraged to employ streamlined procedures for awarding grants under a novice competition. For example, novice applicants might be required to submit a brief application of no more than seven to ten pages for smaller-than-average grants under the program. Application limitations for novice applications in a competition (for example, page limits, maximum award amounts) must be included in the application notice or application package, as appropriate.



### 2.6.3 Competitive Preference for Novice Applicants

When giving competitive preference (such as bonus points) to novice applicants under the general program competition, program officials must follow the procedures in EDGAR § 75.105(c)(2). Determinations about the number of bonus points awarded to novice applicants must be weighed carefully against quality concerns. The number of bonus points that will be awarded to novice applicants must be specified in the application notice for the competition. All applicants under the competition that qualify as novices must be awarded the same number of bonus points. However, if a novice application comes into the funding range solely based on the bonus points it received as a novice, the program staff should review the application to determine if the applicant has the fiscal and programmatic ability to implement the award.

Generally, weaknesses can be addressed by including special conditions in the award (see section 2.6.6, “Special Conditions for Novice Grantees”). However, if staff is concerned that special conditions would not be sufficient to help the applicant succeed, they should note those extensive weaknesses in the memorandum accompanying the funding slate. The Principal Officer may skip the applicant on the funding slate if the analysis of the weaknesses support that decision.

In competitions giving preference to novice applicants, ED panel monitors must closely observe scores assigned to novice applications to ensure that possible biases, either positive or negative, are not reflected in reviewers’ scores and supporting comments. Panel monitors detecting a problem in reviewer scoring practices must follow the procedures in section 3.7, “Assessment of Differences in Panel Scoring.”

### 2.6.4 Novice Applicant Designation and Certification

In programs using novice application procedures, instructions must be included in the application package directing applicants to respond to item 6 on ED 424. For programs giving competitive preference to novice applicants, applicants should be instructed to check either the “Yes” or “No” box included in item 6 to indicate whether or not they qualify as novice applicants. For programs holding separate novice competitions, applicants should be instructed to check only the “Yes” box, since only novice applicants are eligible to apply. In either case, by checking “Yes,” an applicant certifies that it meets the novice applicant requirements in EDGAR § 75.225. If a program is not using novice application procedures, then applicants should leave item 6 blank.

In cases where a group application is submitted in accordance with EDGAR §§ 75.127-75.129, all members of the group must meet the novice applicant definition (see EDGAR § 75.225(a)(1) and (a)(2)). By checking the “Yes” box on item 6 of the ED 424, the entity that is designated by the group to apply for the grant is certifying that each member of the group meets the novice applicant requirements. Further, in accordance with EDGAR § 75.128, the members of the group must enter into an agreement that, among other requirements, binds each member of the group to every statement and assurance made by the applicant in the application. The applicant must submit this agreement with its application.

### 2.6.5 Pre-Application Technical Assistance for Novice Applicants

In programs giving special consideration to novice applications, program officials are encouraged to conduct technical assistance workshops to assist applicants in preparing their applications (see section 2.5.6, “Pre-Application Assistance”). These workshops are an excellent vehicle for providing inexperienced novice applicants with the information needed to submit high-quality grant applications.

### 2.6.6 Special Conditions for Novice Grantees

In accordance with EDGAR § 75.225(d), before making a grant to a novice applicant, program officials may impose special conditions, if necessary, to ensure that the grant is managed effectively and project goals or objectives are achieved. For example, a novice grantee might be required to submit quarterly performance reports to facilitate close monitoring of the project (see section 5.6.6, “Special Award Conditions and Other Actions”).

The regulations in EDGAR § 75.225(d) provide independent authority to impose special conditions on awards made to novice grantees, so program officials do not need to designate a novice grantee as high-risk to impose conditions.

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# Chapter 3: Review Activities

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## 3.1 Introduction

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The discretionary grant review process includes all of the activities necessary to carry out a fair and objective evaluation of applications submitted for funding. The procedures in this chapter ensure that ED meets its responsibilities to use well-qualified application reviewers and that the review of applications submitted to a competition is done in a fair and efficient manner. For each discretionary grant competition, the Principal Officer must:

- Develop an Application Technical Review Plan;
- Develop and maintain a grant program competition file;
- Recruit and secure the services of highly qualified application reviewers;
- Receive and screen applications;
- Manage the review process;
- Assess and make recommendations to fund applications; and
- Evaluate the process annually.

## 3.2 Developing an Application Technical Review Plan (ATRP)

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### 3.2.1 General

The Application Technical Review Plan (ATRP) must be developed in conjunction with the Grant Investment Portfolio, which establishes the policy for the discretionary grant competitions of each principal office. Under the Grant Investment Portfolio process, the ATRP is limited to covering the specific conditions for each competition.

If there is a need to deviate from or change the ATRP during a competition, the program official must amend the plan and provide a written justification for why the plan was amended to the Principal Officer or his/her designee and include it in the grant program competition file. The program official may not proceed with the amended ATRP until the amendment is approved by the Principal Officer.

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### 3.2.2 Contents of the Application Technical Review Plan

The ATRP must include the following items, if applicable, to a grant program competition:

1. Panel information:
  - a. The schedule for review of applications as specified in the Grant Investment Portfolio;
  - b. The size of the panels and, if known, the number of panels and reviewers; and
  - c. A description of how applications will be assigned to panels.
2. A description of the process for identifying and involving application reviewers;
  - a. The standards and evaluation criteria to be used in recruiting and selecting reviewers (Federal and non-Federal), including the process for identifying reviewers with a conflict of interest. The list (roster) of the reviewers and their professional affiliation must be placed in the official grant competition file;
  - b. A description of how reasonable accommodations will be provided for reviewers with disabilities, where applicable;
  - c. A description of the orientation that will be provided to the reviewers, including orientation materials (see section 3.4.5, “Packages for Application Reviewers”), to the extent they are available;
  - d. A description of the procedures that will be used to ensure that each reviewer on a panel will independently review the applications assigned to the panel before any group panel discussion occurs;
  - e. A description of the procedures that will be used to replace a reviewer in situations where the reviewer is either unable or unwilling to perform his or her job; and
  - f. A copy of the scoring forms that reviewers will use to assess the quality of the applications.
3. A description of the process for identifying and resolving conflicts of interest:
  - a. The procedure to be used to have each reviewer check the list of applications received under the competition prior to the beginning of the review, so that conflicts of interest can be identified;
  - b. A description of how conflicts of interest will be minimized, and when they occur, how they will be resolved; and
  - c. If the program official anticipates that a large group exemption for conflicts of interest described in section 3.5.4, “Conflict of Interest Exemption for Large Competitions,” is applicable, the plan should state this and document that each condition required for utilizing the exemption has been met. To the extent

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possible, the plan should identify any additional conflict waivers that might be requested in accordance with 3.5.5, “Individual Conflict-of-Interest Waivers.”

4. A description of how program officials will work with the panels:
  - a. A description of the criteria program officials will use to determine when to meet with a panel to solicit discussion of a particular application or group of applications (see 3.4.6, Roles and Responsibilities in the Review Process); and
  - b. A description of the manner by which the program official will determine if review panels vary widely in their scoring of applications and the actions to be taken to resolve these matters (see 3.7, “Assessment of Differences in Panel Scoring,”).
5. A description of how applications –
  - a. Will be selected for funding (e.g., rank order listing, published priorities, other information per EDGAR § 75.217);
  - b. Will be handled if two or more receive the same score; and
  - c. Will be modified when it is within funding range but available program funds cannot support the applicant’s requested amount so that an award can be made without changing the scope or objectives of the original application.
6. If applicable, a description of the Novice Application procedures to be used when selecting applications for funding (see 2.6, “Novice Applicants”); and
7. If applicable, a description of how applications will be selected when a multi-tier review process is used (see 3.8, “Multiple-Tier Application Reviews,”).

If the technical review process is the same from one year to the next with only minor changes (e.g. dates of the review, and the number and size of the panels), program officials may use a copy of the original ATRP and update it as needed.

### 3.2.3 Developing the Grant Program Competition File

The Grant Program Competition File is a collection of all information, decisions, or documentation related to a specific grant program competition or a group of related or multiple competitions within a grant program. Program officials must establish a competition file for each grant program competition.

1. All documents related to the competition should be incorporated into the file as each stage of the process is completed. The file should include the following items:
  - a. Relevant sections from the authorizing statute;
  - b. Program regulations, if applicable;
  - c. *Federal Register* Notices (such as notices of priorities, application notices, notices extending application deadline dates);

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- d. Any legal opinions or policy decisions (such as conflict of interest actions, waivers, memoranda) relevant to the competition;
  - e. Application package;
  - f. Application Technical Review Plan;
  - g. Application log(s);
  - h. List of reviewers;
  - i. Reviewer agreements and evaluations of the application review process;
  - j. Documentation if any reviewers have been replaced;
  - k. Funding slates and funding slate transmittal memoranda;
  - l. Documentation of any rejection of funding slate recommendations and copies of amended slates;
  - m. Documentation of any funding decisions unique to particular applications; and
  - n. Records of any discussions between the program staff and specific reviewers or panels that had an effect on the outcome of the review (See section 5.3.2 “Policy”).
2. The competition file must be stored in a secure place until all of the grants awarded under the competition have been closed out. In accordance with the National Archives and Records Administration (NARA) retention schedule requirements, the program office must forward the competition file to the Federal Records Center (FRC) along with the last of the closed-out grant files under that particular competition.

## 3.3 Receiving and Screening Applications

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### 3.3.1 Receiving Applications

ED receives and processes applications as follows:

1. Among other purposes, ED uses the application notice to establish the type of applications that ED will consider for a particular competition, such as paper applications, e-Applications or Grants.gov applications. The notice also states the deadline for the competition and the basis for determining whether an application has been submitted in a timely manner.
2. For hard copy applications, ED generally uses a deadline date for the mailing of applications. For applications submitted electronically, ED uses a “receipt date” (meaning applications must be received in ED on or before the deadline date in the application notice).

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3. Unless otherwise stipulated in the application notice or other formal notice, the ACC is the official receipt point in ED for mailed or hand-delivered applications for ED discretionary grant competitions. Mailed or hand-delivered applications sent to a program office or other area in ED must immediately be forwarded to ACC in the original mailing package to comply with transmittal instructions outlined in the application package.

If staff in ACC receive a timely submitted application, they:

- a. Enter the applicant information into GAPS, which assigns the application a unique number (PR/Award number) that identifies it under a specific program;
  - b. Acknowledge receipt of an application by sending a notice to the applicant; and
  - c. Generate an application log from GAPS and send the applications along with the log to the appropriate program official.
4. If ACC receives an application that is not submitted on time, ACC returns the application to the person identified as the applicant's project director or authorized representative (meaning the individual who signed the ED 424) with a letter explaining why the application was not accepted. ACC keeps pertinent information related to the returned application, including the postmark or other proof of the date of mailing or receipt, on file for one year after the deadline date for mailing the applications. ACC also provides the program official for the competition with a copy of the explanation sent to the applicant explaining why the application was rejected.

### 3.3.2 Applications Submitted Electronically

Applications submitted electronically are handled as follows:

1. A program official can designate only one of two systems for applicants to use in submitting Electronic applications to ED: either e-Application or Grants.gov. Program officials using e-Application or Grants.gov must notify potential applicants in the application notice for the competition how an applicant can obtain an application package on <http://www.ED.gov> or through the Find Grant Opportunities section in <http://www.grants.gov>. A program official cannot permit a faxed application unless specifically authorized in the application notice for the competition.
2. Whenever program officials use e-Application or Grants.gov for their competitions, they may choose mandatory or voluntary electronic application submission. ED requires electronic submission or permits electronic submission for a competition. For both submission types, the application notice should use the language described as acceptable that is located in the RQM, Chapter J, "How Do I Prepare an Application Notice for a Discretionary Grant Competition."
3. For applications submitted through e-Application, the applicant must fax the ED 424 or the equivalent program-specific cover sheet, signed by the authorized representative of the applicant, within three days after the submission of the application. ED does not fund any application that does not have a signed ED 424.

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This fax requirement does not apply to Grants.gov applications, because Grants.gov uses e-Authentication.

### 3.3.3 Applications submitted via e-Application

Applications submitted via e-Application are handled as follows:

1. The GAPS program automatically sends the applicant an acknowledgement of the receipt of its application in the form of a screen confirmation from the e-Application Web site. The system will also send an e-mail to each individual who is identified as a contributor to the application. The acknowledgement receipt will indicate the date and time ED received the application, as well as the PR/Award number assigned to the application.
2. If the applicant fails to submit the application via e-Application by the application deadline date and time, e-Application will not accept the application. The system generates an error message that appears on the applicant's computer screen explaining that the application is rejected as not being submitted by the deadline.
3. Each applicant is responsible for submitting the electronic application to ED by the deadline date and time. Unless otherwise specified in the application notice, if an applicant's system has problems that prevent submission of an e-Application by the deadline, the applicant cannot submit a hard copy of the application.

### 3.3.4 Applications submitted via Grants.gov

Applications submitted via Grants.gov are handled as follows:

1. Grants.gov automatically generates an acknowledgement of the receipt of the applicant's application in the form of a screen confirmation on the Grants.gov Web site and via e-mail from Grants.gov. Once ED pulls the application from Grants.gov, GAPS will verify whether the submission to Grants.gov is timely and will also send an e-mail to the applicant. The acknowledgement receipt from ED will indicate the date and time Grants.gov received the application, as well as the PR/Award number assigned to the application.
2. If the applicant fails to have the entire application submitted to Grants.gov by the application due date and time, Grants.gov will still generate a confirmation that the application was received and provide a PR award number. However, GAPS will automatically generate an e-mail notification indicating that the application is rejected because it was submitted late. GAPS also marks the application as late in the GAPS database.

### 3.3.5 ED Accepts an Application for Review

ED accepts an application for review if it meets one of the following standards:



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1. The application is submitted in response to an application notice published in the *Federal Register* and mailed or hand-delivered to ACC in accordance with ED application transmittal instructions on or before the deadline date.
  2. The application is submitted electronically to either e-Application or Grants.gov, as specified in the application notice published in the *Federal Register*, and received on or before the deadline date and time established in the notice.
  3. The application is submitted as an unsolicited application and meets the standards for an acceptable unsolicited application (see section 4.9.2, “Unsolicited Applications”).
  4. The application qualifies as a “mishandled” application under EDGAR § 75.219(a) (see section 4.9.3, “Mishandled Applications”).

### 3.3.6 Extending the Application Deadline Date

Application deadline dates can be extended as follows:

1. Program officials may extend the deadline date for mailing applications by publishing a notice in the *Federal Register*, if:
  - a. Events, such as natural disasters as declared by the President, interfere with applicants’ ability to submit applications by the deadline. The length of the extension depends on the type of disaster and is limited to the declared disaster area(s); or
  - b. Other circumstances prevent timely submission of applications (such as the original notice or other published document gave incorrect or misleading information that had a significant effect on the application process).

Program officials must contact the ACC staff before extending the application deadline date for any program, including those programs participating in e-Applications or Grants.gov. ACC staff drafts the extension notice for publication in the *Federal Register* to inform applicants of the new deadline date. If several programs require an extended deadline date, ACC collaborates with program officials of the various programs before establishing the new deadline date for each program.

2. If the program participates in e-Application and that system is unavailable on the deadline date, the e-Grant staff extends the deadline date. The program staff must never give an applicant verbal approval of an extension of a deadline to submit an application until after consulting with the e-Grants staff. The e-Grants staff collaborates with OCIO to first determine whether technical problems might have prevented applicants from submitting applications by the deadline date because the e-Applications system was unavailable. Upon confirmation of system unavailability, the e-Grants staff informs the appropriate program official of a one-day extension of the deadline date for qualified applicants to transmit their applications electronically, by mail, or by hand delivery. For the e-Grants staff to grant this extension:
  - a. The applicant must be a registered user of e-Applications and have initiated an electronic application for the program competition; and

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- b. OCIO must determine that the e-Applications system was unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m. Eastern Time on the application deadline date; or
  - c. The e-Application system was unavailable for any period of time between 3:30 and 4:30 p.m. Eastern Time on the application deadline date.

The e-Grants staff notifies the qualified applicants via e-mail of the one-day extension.

### 3.3.7 Eligible Applications

Eligible applications are reviewed as follows:

1. Under EDGAR § 75.216, applications are reviewed for funding only if:
  - a. The applicant is eligible;
  - b. The applicant follows all of the procedural rules that govern submitting the application (such as the applicant proposes a funding amount that does not exceed the maximum award amount in the application notice);
  - c. The application contains the information required under the program; and
  - d. The proposed project can be funded under the authorizing statute and implementing regulations, if any, of the program.
2. If the program staff discovers that an application should not have been reviewed under §75.216 during or after the application review process has been completed, the application still must be rejected.
3. If the application notice included a maximum award amount and stated that applications that exceeded the award amount would be rejected, only those applications that did not exceed the maximum amount are evaluated.

### 3.3.8 Screening Applications

When application information for new grants is timely entered into GAPS (either by ACC or via e-Application or Grants.gov), GAPS automatically lists all applications as “eligible.” Therefore, the program staff must screen the applications for eligibility and completeness immediately upon their receipt from ACC or through e-Application.

If the program staff determines an application to be ineligible, they must choose one of the three content eligibility requirements listed in GAPS to indicate a status of “ineligible.” The three content eligibility requirements that GAPS shows are: “does not meet program eligibility requirements,” “outside of specified funding range,” which can only be used if the application notice included a mandatory cap on the amount of funds that can be requested, and “exceeds narrative page limits” for those programs that choose to reject applications that exceed the page limitations. All applications must be screened prior to beginning the application review process.

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1. If an application is determined to be ineligible (see section 3.3.7, “Eligible Applications”), the program official returns the application to the applicant and, if possible, provides a letter specifying the reason(s) why the application is ineligible (see EDGAR § 75.218). In case of a dispute, the program official must keep a copy of the ineligible application and associated documents for one year after the application review process is completed and grants are awarded. The application and associated documents can be discarded at that time.
  2. If an applicant indicated it was delinquent on a Federal debt and/or has a Federal judgment against it, the program staff may not make an award until the applicant either pays the debt or enters into an agreement to pay the debt with the creditor agency.
  3. If an application is determined to be ineligible after the review process has started, the program official must remove the application from further review and return the application following the procedures identified in item 1 above.
  4. If a hard copy application is incomplete, the program official may contact the applicant to request the missing information before the application deadline date (EDGAR § 75.109). The missing information must be received in ED on or before the application deadline in order to have it added to the application and considered in the application review process. Missing information received after the application deadline cannot be added to the application and considered in the review process. However, if the missing information does not affect the decision about whether to fund the application and the application is within the funding range, the program staff may request technical information after the application has been selected.
  5. If an electronic application is incomplete, the program official, in collaboration with Financial Systems Operations (FSO) must determine whether technical problems during transmission of the application caused the application to be incomplete or whether the applicant failed to submit the information. If a technical problem on ED’s part is the cause of the application being incomplete and the application deadline has passed, the program official should contact the applicant to request the missing information.

Program officials are responsible for printing hard copies of applications that are submitted electronically, when necessary for review or filing.

## 3.4 Application Reviewers

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### 3.4.1 Factors to Consider in Recruiting and Selecting Application Reviewers

1. ED uses a panel of experts to evaluate the applications submitted under a program. Panels usually consist of three or more experts unless otherwise provided by statute or regulation, or justified in the ATRP. These experts may include persons who are

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not employees of the Federal government (EDGAR § 75.217). Reviewers who are not Federal employees may receive reasonable compensation for their services. Under limited circumstances, reviewers may also volunteer their service without compensation. Principal offices may pay travel and per diem expenses in accordance with the Federal Travel Regulations.

2. A fair and competitive review process is enhanced by the use of reviewers from outside the principal office or ED to provide an independent perspective. As a general rule, program officials should try to use outside reviewers in all cases. However, sometimes-legitimate program management considerations may necessitate a departure from this approach. For those competitions where reviewers internal to the principal office (but not to the specific program) must be used, the program official must include a justification in the Application Technical Review Plan. The program staff shall not review applications under their own programs unless allowed by statute or Congress mandates funding a specific applicant or a group of applicants (see section 4.9.1, “Directed Awards (Earmarks)”).
3. If applications are reviewed by a panel of reviewers and more than one panel is convened, the number of reviewers on each panel is fixed and cannot be changed. The same number of reviewers must review all applications.

### 3.4.2 Recruiting Reviewers for the Reviewer Register

The process for recruiting reviewers for the reviewer register is as follows:

1. Program officials must recruit persons from as many sources as possible and who are highly qualified in areas pertinent to the competition. Program officials then develop and maintain a reviewer register identifying those individuals who are willing and available to review applications. Program officials may use a prospective reviewer’s resume or curriculum vitae or a standard form to determine the reviewer’s qualifications. The methods for recruiting individuals for the reviewer register include:<sup>1</sup>
  - a. Advertisements in appropriate publications, including but not limited to the *Federal Register*, journals, newspapers, and the principal office Web site;
  - b. Letters of request to key individuals (such as college or university deans, heads or prominent members of educational research institutions and professional associations, or private and public school officials);
  - c. Contacts with members of the educational community, professional associations, and current or former reviewers; and
  - d. Requests to employees of ED or other Federal agencies (see 3.5.7, “Reviewers Who Are Federal Employees”).

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<sup>1</sup> The reviewer register is protected under the Privacy Act of 1974, as amended in 5 U.S.C. 552a. ED employees must be careful not to disclose sensitive information and if in doubt should contact their OGC program attorney.

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2. In soliciting reviewers for a competition, program officials must include a statement that ED solicits reviewers without regard to race, color, national origin, gender, age or disability. The notice must also indicate that ED will provide reasonable accommodations for a qualified individual with a disability so that individual might participate in the review process.

### 3.4.3 Selecting Reviewers for a Reviewer Roster

The program staff selects grant application reviewers from the reviewer register to form the reviewer roster for a particular competition. The program staff must compare the entire list of applications for the competition to the list of potential reviewers to identify potential conflicts of interest before making final reviewer selections and before the start of the panel review process. To assist in identifying reviewers who have a conflict of interest, the program staff may use the Conflict-of-Interest Questionnaire (Appendix D, “Conflict of Interest Questions for Application Reviewers”). The program staff must also ensure that the names of any reviewers to be chosen do not appear on the GSA Excluded Parties List System (EPLS) list of persons who have been debarred or suspended. The EPLS is available at <http://epls.arnet.gov>.

After reviewers are selected, the program staff submits the reviewer roster for each competition to the program official for review and approval. The program official must approve the reviewer roster and include it as part of the Grant Program Competition File prior to beginning the review. The program staff must also make sure that the selected reviewers have obtained a DUNS number to receive payment for their work and that they are registered with the CCR online database, the primary Government repository for contractor and grantee information required for conducting business with the Government. The CCR database can be accessed at [www.ccr.gov](http://www.ccr.gov).

### 3.4.4 Using Reviewers in Consecutive Application Review Cycles

ED recognizes that to have a fair and equitable review process, the assessment of applications must remain objective. The continuous use of the same reviewer for a program may result in that reviewer becoming too familiar with both the program and its applicants, and thereby losing his or her ability to provide an objective assessment. To protect against this familiarity, program officials may not use a reviewer in the same program for more than three consecutive application cycles. An application cycle includes all grant competitions within a specific program conducted during one fiscal year. Reviewers generally must skip at least one cycle following their third consecutive time of service before they are allowed to continue to review applications for that particular program.

If program officials are unable to recruit a sufficient number of highly qualified reviewers to comply with the above requirements, they must obtain a waiver from the Principal Officer to use an application reviewer for more than three consecutive application cycles. The approved waiver must be included in the competition file (see section 3.2.3, “Developing the Grant Program Competition File”).

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**Note:** This requirement that reviewers must skip at least one cycle following their third consecutive time of service for a particular program does not apply to those programs that use standing panels and the tenure of the members of the standing panel is longer than three years.

### 3.4.5 Packages for Application Reviewers

Program officials should prepare and furnish to each reviewer an application reviewer package at least two weeks in advance of the application review process whenever possible. However, no packages should be sent to any reviewer who has not been approved, been registered in the CCR and not received a DUNS number. The package should contain the following:

1. Application reviewer letter (logistics of the review process);
2. Grant program application package(s);
3. List of applications to be reviewed in the competition;
4. Reviewer scoring forms must include a space to record the reviewer score and a space to provide a recommendation to fund or not fund the application;
5. Either an Agreement for Grant Application Reviewers Who Serve Without Compensation (ED 5249), or an Agreement for Grant Application Reviewers Who Receive Compensation (ED 5249-1) (see Appendix E, “Department of Education Agreement for Grant Application Reviewers”), whichever is applicable;
6. Certifications regarding lobbying; and
7. Evaluation form to be completed by each non-Federal reviewer at the conclusion of the review regarding the quality of the review process.

**Note:** If a contractor is used to hire the reviewers, the contractor is responsible for collecting the required certifications.

### 3.4.6 Roles and Responsibilities in the Review Process

Generally, the review process involves the roles and responsibilities listed below. These responsibilities apply to ED competitions whether the review is held at a central location or done electronically or by mail.

1. Competition Manager – the ED staff person or program official given the overall responsibility for ensuring the fair treatment of all applications in the competition. This individual oversees the entire competition and provides the direction and guidance for all the panels conducted under the competition. A panel consists of three or more application reviewers who are highly qualified in the areas pertinent to the program. The duties of a competition manager include but are not limited to the following:
  - a. Orienting the application reviewers and outlining the purpose of the review;

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- b. Monitoring the review process and providing guidance to other ED staff involved in the process by overseeing the various panels;
  - c. Checking the final computation of the scores submitted by reviewers;
  - d. Checking reviewers' comments to ensure they are objective and appropriate to the application, correctly correspond to the review criteria, and cover the entire application; and
  - e. Ensuring that the written evaluations correspond to and substantiate the scores/ratings assigned.
2. Panel monitor – the person who monitors the progress of an assigned panel or several panels. Panel monitors do not participate in the substantive panel discussions on individual applications and must not attempt to influence the outcome of the review in any way. Duties of a panel monitor include:
    - a. Handling the logistics of panel review, such as the distribution of supplies and the applications;
    - b. Monitoring the progress of individual reviews and facilitating panel discussion of an application, if necessary;
    - c. Answering procedural and administrative questions; and
    - d. Providing the first level of review of the overall scores and the comments to ensure the comments are objective and appropriate to the applicant prior to the competition manager's review.
  3. Panel Chair – generally, a reviewer who has previous experience with ED's application review process, has a general knowledge of the program, and is considered an expert on the panel. The panel chair leads the discussions among application reviewers and, in some competitions, performs limited duties similar to those of the panel monitor.

#### 3.4.7 Orientation of Application Reviewers

The competition manager must ensure that the review process adheres to the approved Application Technical Review Plan and all other governing procedures. The competition manager convenes the panel meetings; briefs reviewers about their responsibilities as application reviewers, the purpose of the program, the purpose of the review; and collects the results of panel reviews. Before individuals begin to review applications, the competition manager will:

1. Instruct reviewers on confidentiality (see section 3.4.9, "Confidentiality of the Review Process");
2. Instruct reviewers to review and score independently all applications assigned to them and evaluate each application based solely on the selection criteria and priorities, if any, published in the *Federal Register*;

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3. Provide each reviewer with the list of all applications to be reviewed, if they have not already done so, to identify potential conflicts of interest before the application reviewer packages are given out;
  4. Instruct reviewers that they must immediately notify the appropriate program staff if they identify a possible conflict of interest at any time in the review process;
  5. Furnish each reviewer an Application Reviewer package, if they have not already done so (see section 3.4.5, “Packages for Application Reviewers”);
  6. Ensure that each reviewer understands conflict of interest and signs the appropriate conflict of interest form;
  7. Confirm that each reviewer who is receiving compensation under a purchase order does not appear on any debarred or suspension lists;<sup>2</sup>
  8. Inform reviewers that they must complete and sign a scoring form for each application reviewed;
  9. Explain to reviewers that scores must be based on published criteria and that scores can be changed after panel discussions if necessary (however changes are not required);
  10. Inform reviewers that it is the program official who has final authority to address any questions or resolve any issues that might arise concerning ED rules and practices;
  11. Inform reviewers that they must consider only the information in the application to assign points to the selection criteria;
  12. Inform reviewers that all applications in the competition are competing with the entire pool of applications – not just the applications their panel is reviewing;
  13. Instruct reviewers to complete an evaluation of the process at its conclusion;
  14. Instruct reviewers to provide required information necessary for reimbursement for their services; and
  15. Instruct reviewers that they must complete all reviews by the end of the review process to receive payment or reimbursement.

### 3.4.8 Application Reviewer Standards or Expectations

In general, ED expects application reviewers to be qualified as specified in the Application Technical Review Plan, and during the review process, ED expects reviewers to:

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<sup>2</sup> ED directs the contractor about whom they should use in conducting the application reviews. Therefore, ED is responsible for determining whether any peer reviewer is suspended or debarred. Before providing the contractor a list of reviewers, ED must do a scan of the peer reviewer database to check the names against the GSA.



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1. Read the entire application or the parts identified by the competition manager;
  2. Follow the instructions of the competition manager;
  3. Review only the information in the applications assigned to them and not attempt to introduce other materials;
  4. Respect the other participants in the process;
  5. Participate in a professional manner in the panel discussions and not attempt to influence the other reviewers;
  6. Document scores with comments that justify or explain the assigned score;
  7. Provide constructive written comments that provide meaningful information to the applicant, including suggestions for improvement where it would be helpful;
  8. Treat all applications in a fair and equitable manner;
  9. Attend and participate in all panel discussions; and
  10. Notify the appropriate official if they have a possible conflict of interest with one or more applications.

#### 3.4.9 Confidentiality of the Review Process

1. The competition manager must ensure the confidentiality and integrity of the review process. Before the review of any applications, the competition manager must instruct the reviewers that:
  - a. They must not discuss or share the contents of an application with anyone outside of their panel during the review process or after the review process has been completed;
  - b. They must destroy at the end of the review process any notes that were taken during the review of any/all applications they have been assigned;
  - c. They must destroy any copied documents from the application;
  - d. They must ensure no other person has access to the grant applications in an electronic review process (this includes ensuring that no other person has access to the software or their password or identification number or can study the computer screen while the person enters scores and comments);
  - e. They must not allow others to enter their comments or scores into the e-Reader system except for readers with a disability who may need assistive services of other persons;
  - f. They must delete all electronic files that were created in conjunction with the review process; and
  - g. They must destroy mailed applications or return them to ED (per the program official's instructions) immediately after completing the review.

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2. The competition manager must also provide these instructions to the reviewers in writing.

#### 3.4.10 Replacement of Reviewers During the Review

1. If panels of reviewers are used to review the applications, each panel must consist of the same number of people. The reviewers assigned to a panel must participate in that panel throughout the review process. On rare occasions, the competition manager may find it necessary to replace a reviewer after the start of the review process. Other than the replacement of reviewers for conflict of interest issues, there are two conditions that may require the competition manager to replace a reviewer: a) the reviewer is not performing to expectations, or b) the reviewer has an emergency that prohibits him/her from participating in the review process.
2. If it becomes necessary to replace a reviewer after the competition has begun for either of the two conditions, the program official must provide the following documentation and place it in the competition file:
  - a. An explanation of the reasons for the replacement;
  - b. The process used to assign applications to the replacement reviewer;
  - c. A description of the efforts taken to resolve any problems prior to the replacement, if applicable;
  - d. The number of applications assigned to the panel;
  - e. The number of applications read by the original reviewer with the PR/Award number of each;
  - f. Explanation of the steps taken to ensure that both the original and replacement reviewers have reviewed sufficient applications to ensure fair and equitable treatment of applications (such as either the original reviewer or the replacement reviewer did not read enough applications to properly evaluate applications in the context of the competition);
  - g. The number of applications to be reviewed by the replacement reviewer; and
  - h. The original reviewer's completed application review forms, if any.

The competition manager must not replace a reviewer because the program staff disagrees with the reviewer's documented scores or comments, or because there is a disparity in the scores of this reviewer and those of other reviewers, unless the disparate scores are not well documented. The competition manager must ensure that the replacement reviewer meets the same standard for approval as the original reviewer and is provided orientation, training, and consultation comparable to that provided to other reviewers. Every attempt should be made to maintain the diversity of the panel, taking into account the qualifications, background, and experience of the reviewer(s) being replaced.

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## 3.5 Conflict of Interest

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### 3.5.1 Reviewer Conflict of Interest

All reviewers must complete the appropriate Agreement for Grant Application Reviewers form (Appendix E.1, “Department of Education Agreement for Grant Application Reviewers Who Receive Compensation,” and Appendix E.2, “Department of Education Agreement for Grant Application Reviewers Who Serve Without Compensation”). Program officials should work closely with the Ethics Division in OGC when dealing with conflict of interest issues.

For the purposes of this policy, a reviewer who is not a Federal employee will be considered to have a conflict of interest when the reviewer, or certain individuals and entities with whom the reviewer has a relationship, has a financial interest in the outcome of the competition for which he or she is serving as a reviewer. *If a reviewer has a conflict of interest with any application, that reviewer shall not participate as a reviewer in the competition unless the exemption described for large competitions in section 3.5.4, “Conflict of Interest Exemption for Large Competitions,” applies or the reviewer has been granted a waiver pursuant to 3.5.5, “Individual Conflict-of-Interest Waivers.”*

1. A reviewer has a conflict of interest if:
  - a. The reviewer has agreed to serve as an employee or consultant on a project for which funding is being sought in an application under review, or has been offered the opportunity to do so and has not yet accepted or declined, based on whether a grant is awarded;
  - b. The reviewer’s personal financial interests will be affected by the outcome of the competition;
  - c. The reviewer helped prepare an application in the competition, even if the reviewer has no financial interest in the outcome of that application; or
  - d. The reviewer has a relationship with an entity or individual that has a financial interest in the outcome of the competition. The following relationships are covered under this section:
    - 1) The reviewer’s spouse, his or her child, a member of his or her household, or any relative with whom he or she has a close relationship;
    - 2) Any employer the reviewer has served within the last 12 months, a business partner, an organization the reviewer has served as an officer, director, or trustee within the last 12 months, or an organization that he or she serves as an active volunteer;
    - 3) Any person or organization with whom the reviewer is negotiating for or has an arrangement concerning future employment;
    - 4) Any professional associate – including any colleague, scientific mentor, or student – with whom the reviewer is currently conducting research or other

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professional activities or with whom he or she has conducted such activities within the last 12 months; or

- 5) Any individual with whom the reviewer has, or has had, a personal relationship where the nature, duration, or recentness of that relationship would impair his or her ability to impartially review any application in the competition.
2. Both before and during the review process, the program official and reviewers should identify any circumstances that might cause a reasonable person to question a reviewer's impartiality in serving as a reviewer on a particular competition.
3. To the extent possible, before selecting reviewers, the program staff must compare the list of all applicants in the competition to the list of potential reviewers to determine if the employer of any potential reviewer has an application in the competition. Before the start of the review, the program staff must also provide each reviewer with a list of the applications to be reviewed in the competition so that the reviewer may identify other conflicts of interest.

### 3.5.2 Conflicts Related to Applications from a Consortium of Entities

Some discretionary grant programs require applicants to include several different types of entities in their proposals. When an application is received from a consortium or other cooperative arrangement of several entities, it is not always easy to tell from simply looking at the list of applicants what potential conflicts of interest exist. The program official must develop and implement techniques for identifying and avoiding conflicts of interest that arise when a reviewer has a relationship with a member of a consortium or partners in an application that may not be immediately apparent from reviewing an application's title page. For example, the program official should ask a series of questions concerning possible conflicts of interest when an individual is contacted about serving as a reviewer. A list of questions that should be used for this purpose is included in Appendix D, "Conflict of Interest Questions for Application Reviewers."

### 3.5.3 Conflicts Related to State University Systems and Multiple Campuses

An application submitted by a campus that is a member of a multi-campus system is generally NOT considered an application from the entire system of institutions. Therefore, reviewers from most multi-campus institutions may serve as a reviewer in a competition in which another campus of the system has submitted an application. Examples of multi-campus systems that consider campuses in their system as individual entities are listed in Appendix F, "Multi-Campus Higher Education Systems."

For institutions not included on this list, program officials should consult with the Ethics Division in the Office of the General Counsel on a case-by-case basis in order to determine whether a specific campus of a multi-campus system is independent to eliminate the conflict of interest. Factors that can be considered when making this

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determination include whether the campus has a different geographical location, an independent governing body, and/or a separate funding source.

#### 3.5.4 Conflict of Interest Exemption for Large Competitions

1. With respect to grant competitions with a large number of applications, ED has determined that some individuals may participate as reviewers, notwithstanding certain conflicts of interest. An individual for whom a conflict of interest has been identified may serve as a reviewer when the following conditions are met:
  - a. The competition has received and will review at least 80 applications;
  - b. The review will be comprised of at least eight panels of three or more reviewers;
  - c. The individual does not have a personal financial interest in any proposed project (for example, if a reviewer's or a reviewer's spouse's salary or other compensation, in whole or in part, is being specifically sought in any application in the competition, that individual may not serve as a reviewer);
  - d. The individual did not prepare or help prepare an application under review in the competition, even if he or she has no financial interest in the funding of that application; and
  - e. The individual will not serve as an employee or consultant, or otherwise provide services, on any proposed project even if his or her compensation is not contingent on a grant award.
2. If an individual with a conflict of interest is permitted to serve as a reviewer because the conditions listed above are met, program officials must apply the following restrictions. A reviewer will not:
  - a. Be assigned to review any application submitted by his or her employer, nor anyone for whom he or she serves as a consultant;
  - b. Be assigned to review applications submitted by applicants located in his or her state;
  - c. Serve on the panel assigned to review the application giving rise to the conflict of interest;
  - d. Attend any panel meetings during which that application is discussed; and
  - e. Serve as a panel chairperson.

Prior to reviewing any applications, reviewers will examine the assigned applications. If a reviewer identifies any of the applications as having been submitted by an applicant in his or her state, or by his or her employer, or by any organization for which he or she serves as a consultant, the program official will assign the application to another panel. If a reviewer identifies any other real or apparent conflict of interest – for instance, that his or her sibling is named as the project director for implementation of the proposed program in another state – the reviewer must notify the program official as soon as possible.

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It is not necessary for ED to issue a written waiver or exemption when these conditions have been met.

### 3.5.5 Individual Conflict-of-Interest Waivers

An individual waiver may be requested when the exemption for large competitions does not apply. To the extent possible, individual waivers should be requested and issued prior to the start of a review. However, individual waivers will be considered after the start of the review when conflicts of interest are identified through the review process. An individual waiver may be issued only when a determination is made that the financial interest at issue is not so substantial as to affect the integrity of the reviewer's services.

The Principal Officer and the ED contracting officer will ordinarily issue individual waivers, with concurrence of the Office of the General Counsel's Ethics Division. In the rare cases where a reviewer is hired as an employee, rather than under a purchase order or contract, the Principal Officer may issue the waiver with Ethics Division concurrence. To obtain a waiver, program officials must provide a memorandum requesting approval of a waiver to the appropriate officials. Appendix I.1., "Request for Approval of a Conflict of Interest Waiver," is a template that may be used for this purpose.

**Note:** A waiver will almost never be approved when the conflict of interest arises from the personal financial interest of the reviewer. A personal financial interest includes situations in which: 1) a reviewer or reviewer's spouse would receive or lose compensation depending on whether an application in the competition is funded; or 2) the reviewer or reviewer's spouse has agreed to serve as a paid consultant to an applicant if its application is funded. Also, waivers are approved on a case-by-case basis and are not granted automatically.

Documentation concerning a reviewer's conflict of interest and a copy of any waiver must be included in the grant program competition file.

### 3.5.6 Waiver Restrictions

A reviewer who has been granted a waiver or who is reviewing applications under the exemptions for large competitions must not review the application with which the reviewer has a conflict of interest. For instance, if a reviewer employed by the University of Arkansas is granted a waiver to review applications in a competition in which the University of Arkansas is an applicant, that reviewer must not review the University of Arkansas's application.

Additionally, a reviewer who has a conflict of interest with a particular application must not attend any panel meetings in which the application is discussed or have access to the application or any information concerning its review. Reviewers who have a conflict of interest with an application being reviewed by the panel will generally be required to serve on a different review panel.

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### 3.5.7 Reviewers Who Are Federal Employees

Rules governing conflicts of interest for Federal employees are found in 18 U.S.C. 208 – a Federal criminal statute – and subpart E of the Standards of Ethical Conduct for Federal Employees. Federal employees serving as peer reviewers should consult with their ethics office to discuss potential conflicts of interest. At ED, employees should call the Ethics Division in the Office of the General Counsel.

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## 3.6 Standardization of Reviewer Scores

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Experience has shown that – in some cases – some panels and some reviewers consistently score applications of equal quality differently (higher or lower) than other reviewers and panels. The competition manager may apply the GAPS score standardization process to correct the effect of any possible bias introduced by differing reviewer approaches to assigning raw scores. The GAPS score standardization process should be used if the following assumptions are met.

### **GAPS Score Standardization Assumptions**

1. At least eight applications are read by each reviewer on a panel;
2. The applications are distributed to each panel without regard to quality and each panel has a normal distribution in the quality of applications reviewed;
3. All panels have the same training and direction; and
4. Any resulting deviation must be due to reader differences in the use of the rating scale.

If any one of these assumptions is not met for a particular competition, the program official must not use the GAPS standardization process for that competition.

If, after the review process is complete, there appears to be a distortion in the competition results using the standardized scores, the program staff must analyze standardized scores to ensure the assumptions were met. When entering scores in GAPS, when an application was not scored, the score field should be left blank rather than entering a score of zero. Entering a zero will skew the results.

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## 3.7 Assessment of Differences in Panel Scoring

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Panel monitors must review the scores and comments of the reviewers as soon as possible after the reviewers complete the reviewer forms and before the panelists leave the review site. Based on the procedures outlined in the Application Technical Review Plan, if there is a major discrepancy between the scores produced by one panel and the scores produced

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by other panels, and GAPS standardization or other models do not adequately address the problem, the panel monitor must take the following steps to address the problem:

1. If the review is conducted at a central location, review the panels' scores and report any wide differences in scoring among the panels to the competition manager during the review.
2. If the review is not conducted at a central location, collect and review the panels' scores as soon as practicable, and report the differences to the competition manager.
3. If the panel monitor finds that there are consistent wide differences between the scores of one panel and the scores of other panels, he or she must review the applications to determine if the quality of the applications assigned to that panel explains the difference, or if the panel has a different view than the other panels have about the quality of applications.
4. If the panel monitor and competition manager determine that the differences in the panels' scoring are not based on the quality of applications, the competition manager must explain the situation to the involved panel. The competition manager must review the selection criteria and scoring process with the members of the panel and reiterate to them that their scores must be based on the selection criteria and nothing else and clarify how the criteria should be applied in the review of the applications. This discussion must be noted in the grant program competition file. Under no circumstances should the competition manager force reviewers to change their scores.

### 3.8 Multiple-Tier Application Reviews

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Under the regulations in EDGAR § 75.224, program officials have the option of using a multiple-tier review process to evaluate applications. In addition, certain programs have program regulations that specify the procedures for conducting a multiple-tier review. A multiple-tier review process involves the use of more than one review of an application or separate reviews for a pre-application and a full application in the same competition. A multiple-tier review process is most commonly used to narrow the pool of qualified applicants that will be considered for funding. For example, after the first level of review, only some of the applications are forwarded to the next tier for further consideration. A multiple-tier review process might also be used to gain different perspectives on an application (such as a group of researchers and a group of practitioners might review an application).

Under EDGAR § 75.224, program officials may refuse to review applications in any tier that do not meet a minimum cut-off score established for the prior tier. The minimum cut-off score may either be established: 1) in the application notice published in the *Federal Register*, or 2) after reviewing the applications to determine the overall range in quality of the applications received. In any tier of the review, program officials may use more than one group of experts to gain different perspectives on an application. Further, in any



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tier, program officials may refuse to consider an application if any of the groups in the prior tier scored it below the established minimum cut-off score.

When a multiple-tier review process is used as a means for narrowing the pool of applications that will be considered for funding, it would not be unusual for an application to receive a considerably different rating in the subsequent tiers (such as second or third tiers) than it did under the previous tier's review, even from the same reviewers.

Although the reviewers in the subsequent tiers are still reviewing the applications under the same selection criteria, the applications are now being reviewed within the context of a higher quality pool of applications, which has the potential for affecting reviewers' rating practices. For this reason, these differences in ratings do not indicate errors in judgment at the prior tier.

A description of the multiple-tier review procedures that will be used for the competition must be included in the ATRP, including how or whether minimum cut-off score(s) will be established (see section 3.2.2, "Contents of the Application Technical Review Plan"). GAPS can support three tiers of review.

### 3.9 e-Reader – Electronic Peer Review System

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Program officials may conduct their application review process electronically by utilizing the ED GAPS e-Reader software. Program officials interested in conducting electronic application reviews must contact the staff in FSO, OCFO to utilize the e-Reader application review system. The e-Grants Web site contains the most updated list for the contact names and numbers of the e-Grant liaisons. e-Reader automates the current paper-based ED grant application review process. Within GAPS, the program staff can develop a Web-based electronic technical review form and publish the form electronically to the Internet for selected reviewers to complete online. Upon completion by reviewers, e-Reader will manage the return and validation of the completed form(s) to ED.

e-Reader will store reviewer information, including special needs and contact information. It will also store reviewer panel assignments and a review history for each reviewer. Program officials can also assign the roles of the competition manager and panel monitor to the appropriate program staff.

e-Reader allows reviewers to access and complete technical review forms via the Internet. It requires reviewers to complete a conflict of interest statement prior to the start of the review, and requires them to input their unique user name, password, and social security number to verify their identity.

e-Reader automatically enters scores directly into the discretionary scoring module in the discretionary grants portion of GAPS, once reviewers have completed and submitted their forms to ED.

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For specific e-Reader system requirements, see Appendix J, “e-Reader.”

The program staff can get assistance with e-Reader or any other part of the e-Grants system by contacting the persons shown in the contact list, found at:

<http://connected1.ed.gov/po/ocfo/egrants/contacts.html>

### 3.10 Recognizing Application Reviewers

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After the review process is completed, program officials are encouraged to find appropriate ways (such as thank you letters, plaques, certificates) to recognize reviewers, especially those who served without compensation for their services.

### 3.11 Evaluating the Application Review Process

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Program officials must annually review their application technical review process including procedures for recruiting, qualifying, and selecting reviewers. This review should include collecting and analyzing feedback on the review process from both Federal and non-Federal reviewers. Program officials should also evaluate the performance of each reviewer after the application review process is complete and use this evaluation to update their reviewer register annually. Program officials should examine and assess any major variations that occurred among the panels to determine the effectiveness of the peer review management controls. A sample Application Reviewer Evaluation Form can be found at Appendix K, “Sample Application Reviewer Evaluation Form.” The evaluations should be shared with the reviewers. Reviewing the procedures and updating the reviewer register ensures that ED is using experienced and knowledgeable reviewers and that the application review process is conducted efficiently and as fairly as possible.

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# Chapter 4: Pre-Award and Award Activities

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## 4.1 Introduction

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The pre-award and award phases of the discretionary grant process include all activities necessary for selecting applications, awarding new grants and making continuation awards for existing ED grants. The procedures presented in this chapter ensure that ED awards grants across its principal offices consistently.

The principal office must:

- Generate a rank order list of applications (using standardization procedures, as appropriate);
- Review and analyze grant applications;
- Conduct budget reviews of grant applications;
- Make funding recommendations and prepare a funding slate;
- Select applications for funding;
- Record commitments and obligations in GAPS and complete the legal requirements for obligation by signing and mailing awards; and
- Review Grant Performance Reports and make continuation awards.

## 4.2 Application Review

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### 4.2.1 Reviewing Applications

Program officials must generate a rank order list of applications based solely on the reviewers' evaluation of their quality according to the program application selection criteria. After the reviewers complete their work, the program staff must enter the individual reviewers' raw scores into GAPS or other appropriate systems, following the review and score methods established in the ATRP. If e-Reader was used, the scores are entered into GAPS automatically. Program officials use the scores to generate a rank order list from which the Principal Officer will select applications for funding [EDGAR § 75.217 (c)].

1. Using the rank order list of applications and other information as indicated in EDGAR § 75.217, the program staff must develop specific funding recommendations

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- for those applications within the funding range. The program staff may also want to review additional applications on the rank order list in case additional funds become available.
2. The program staff must conduct a thorough review of each applicant’s project activities and budgets before making funding recommendations. The major goal of this review is to ensure that grantees receive funding that is both fair and adequate to the needs of their projects To be allowable, a cost must:
    - a. Be necessary and reasonable;
    - b. Be allocable;
    - c. Conform to limitations under relevant Federal statutes and the cost principles.
  3. When conducting its review, the program staff must ensure that any recommended changes to the project activities or requested amounts do not impede the applicant’s ability to perform the proposed activities and achieve the project’s intended goals. ED policy is that any reductions to the project activities or budget should be limited to deleting activities and costs that are unallowable. While ED has authority to fund up to 100 percent of the allowable cost in the applicants budget (EDGAR § 75.233), in limited circumstances, ED may fund projects for less than their requested amounts as long as it does not result in a change to the scope or objectives of the funded application (see section 5.5.11, “Prohibiting Changes to the Project Scope or Objectives of a Grant”).
  4. In performing their review, the program staff must:
    - a. Consider any project activity or budget issues or concerns identified by the reviewers on the comment forms;
    - b. Analyze both the project activities and budgets for all years of the project to determine whether the activities and budgets are allowable. This includes any non-Federal portion of the budget in accordance with EDGAR § 75.232 [see section 4.3.2, “Grantee Cost-Sharing or Matching (Non-Federal Share)”];
    - c. Eliminate items that are not allowable from an applicant’s project or requested funding level;
    - d. Balance sound stewardship of Federal funds while giving the grantee flexibility in using grant funds for project activities and administration;
    - e. Consider comments received from state single points-of-contact under Executive Order 12372, if applicable;
    - f. Ensure that the grant applicant has responded to the requirements under section 427 of the General Education Provisions Act (see section 2.5.7, “General Education Provisions Act (GEPA) – Section 427”); and
    - g. Consider other items identified on the Funding Recommendations Checklist (see Appendix L, “Funding Recommendation Checklist”).

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5. Funding recommendations must also be made in accordance with EDGAR § 75.217(d), which requires the Principal Officer to consider the following in addition to the information in the application and the rank order:
    - a. Any other information--
      - 1) relevant to a criterion or priority or other requirement that applies to selecting applications for new grants;
      - 2) Concerning the applicant's performance and use of funds under a previous grant under any ED program; and/or
      - 3) Concerning the applicant's failure, under any ED program, to submit a performance report or its submission of a performance report of unacceptable quality (see section 4.4.3, "Selecting Applications for Funding").

#### 4.2.2 Determining Applicant Competence and Responsibility

ED policy requires grant recipients to be competent, responsible and committed to achieving the objectives of the awards they receive.

1. In reviewing applications being selected for funding, the program staff should consider the following factors in determining an applicant's ability to carry out the proposed project activities responsibly:
  - a. The financial stability of the applicant;
  - b. The applicant's previous experience, if any, in administering Federal grants;
  - c. Whether the applicant has adequate internal, fiscal and administrative controls (EDGAR §§ 74.21 and 80.21);
  - d. The applicant's performance under other ED awards [EDGAR § 75.217 (d)(3)(ii)]; and
  - e. Any adverse information regarding the applicant's officials or key employees that calls into question their ability to perform satisfactorily. The program staff must forward the information to OCFO/GPOS if the applicant's ability to perform is questionable or if the applicant's conduct otherwise appears to meet the standards for debarment and suspension. [(EDGAR § 85, Government-Wide Debarment and Suspension (Non-Procurement) and Government-Wide Requirements for Drug-Free Workplace.)]
2. If the program staff finds evidence of problems regarding item 1, they must recommend that the program official take one of the following actions:
  - a. Delay the award until the conditions are corrected;
  - b. Deny the award; or
  - c. Designate the applicant as "high-risk" and make the award with special award conditions (see section 5.6.6, "Special Award Conditions and Other Actions").

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### 4.2.3 Protection of Human Subjects Requirements

The program staff must review an applicant's response to the item on the ED Application Cover Sheet (ED 424) regarding human subjects research. (Refer to item 13a. on the 2005 OMB-approved ED 424 and item 3 on ED's Supplemental Information Form SF 424 for competitions that use Grants.gov.) This review occurs when grant applications are included in a funding slate.

1. If an applicant is planning research involving human subjects at any time during the project period, they check "Yes" in item 13. If the applicant checked "Yes," the applicant needs to indicate in 13a. whether the research is exempt or not exempt from the protection of human subjects requirements of EDGAR part 97. The program staff must review the applicant's response against the application itself to determine its accuracy. The human subjects staff in GPOS assists in this process, as needed. Where necessary, the program staff may contact the applicant for additional information or clarification after the Principal Officer (or designee) has approved the funding slate.

Under no circumstance should the program staff accept a change from "Yes" to "No" or from "not exempt" to "exempt" from the project director. Only the authorized representative or other appropriate institutional official of the applicant can make a change of this nature.

2. The application does not need to be forwarded to GPOS for clearance if the applicant checked "No" (not human subjects research) for item 13 or if the applicant indicated in 13a. that the research is exempt and the program staff agrees with either applicant response. If the project appears to include human subjects research activities that are not exempt, the program staff must forward the application to GPOS for clearance.

An obligation generally cannot be recorded for the application until GPOS reviews the application, obtains all the necessary assurances and/or certifications of Institutional Review Board (IRB) approval, and clears the project for human subjects research activities. GPOS does the follow-up work with the applicant to request any required materials. The IRB clearance process generally takes at least 35 days, and varies depending on IRB review schedules and the complexity of the research. When the applicant has met all the necessary pre-award requirements for award, GPOS will notify the program staff in writing. The program staff may then make the award.

If the end-of-fiscal-year deadline for funding applications cannot be met before the human subject pre-award clearance process is complete, the program staff may obligate grants and make the awards before they send the application to GPOS. The program staff may make the awards using the HS 3 special attachment for the protection of human research subjects as a condition of the awards, as applicable. This attachment can be found in ACS Directive OCFO: 1-105, Protection of Human Subjects in Research: Extramural Research. The directive and other information about the protection of human subjects clearance process is on the GPOS ConnectED Web site.

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#### 4.2.4 Key Personnel

Grantees are responsible for defining and identifying key personnel positions in their applications. The program staff is responsible for ensuring that grantees have identified the key positions in the applications and have either provided job descriptions or identified the qualifications of key personnel, as appropriate. In either case, the program staff needs to verify the percentage of time that each person occupying a key position will work on the project.

1. If an applicant is selected and has not included the names or qualifications for any key staff in the application, the program staff must require the grantee to submit the qualifications before award. Before the grantee makes a final selection of key staff, resumes for each person must be provided. The program staff uses this information to determine if the person is qualified before permitting the grantee to hire the individual as key personnel.
2. It is ED's policy to always designate at least either the grantees' principal investigator, project director, or both, as key personnel on a grant. The program staff should use the following factors to determine whether those hired for a grant project are covered by the concept of key personnel:
  - a. Whether the person's participation has direct bearing on the outcome of the project;
  - b. Whether the person bears substantive responsibility for developing or achieving the scope or objectives of the project;
  - c. Whether the person possesses the experience, knowledge or skills that the project requires; and
  - d. Whether the individual is identified in the application and that person's qualifications are relevant to a criterion for selecting the grantee.
3. The program staff consider the following conditions in identifying key personnel:
  - a. In many cases, key personnel in a project are permanent staff members of the institution, organization or educational agency that receives funding. However, ED policy does not exclude consultants or temporary staff members with essential expertise or skills when they are specifically identified in the application as working on or advising the project.
  - b. Key personnel generally excludes supporting staff, such as administrative or special assistants, and rarely, if ever, includes clerical personnel.
  - c. When applying requirements of ED policy and/or regulations for key personnel to particular individuals of a grantee's staff, the program staff should first look at the persons and/or positions named by an applicant in response to a selection criterion for key personnel. This criterion can be found in EDGAR criteria, § 75.210(e), or program regulations that govern selection of grantees for a particular discretionary grant competition.

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- d. Subordinate personnel may occasionally fall within the scope of key personnel when they have responsibility for a major subdivision of a project (such as activity directors, team coordinators, co-investigators or co-directors of project components at consorting institutions or organizations).

The program staff must ensure that grantees understand that ED does not select key personnel from among competing individuals on behalf of grantees. ED's concern is to make certain that key personnel the grantee hires possess the experience, qualifications and skills necessary to ensure that the grantee achieves the scope or objectives of the project and its outcomes.

The program staff must enter the names, titles, percentage of time on the project and other required information into the "key personnel" tab of the discretionary budget sub-function in GAPS, when making a new award. If key personnel have not been identified, the program staff must describe the position to be filled in the Title field in GAPS and enter the term "Vacant" in Last Name field in GAPS. The GAPS requires the program staff to verify, via a link to the GSA Web site, that the key persons identified are not included on the EPLS.

**Note:** If a key person is identified on the EPLS list, the program staff must contact GPOS before proceeding. GPOS investigates the reasons the person is included on the list and advises the program staff of any issues that would prevent the person from participating on the grant.

## 4.3 Cost Analysis and Budget Review

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### 4.3.1 Budget Analysis - General

The general guidelines in evaluating the budget of a grant application are as follows:

1. Before setting the amount of a new grant, the program staff must conduct a cost analysis of the applicant's budget. If the application is for a multi-year award, a cost analysis must be conducted for each year (see EDGAR § 75.232). This analysis ensures that cost items in an applicant's proposed budget (both Federal and non-Federal) are related to specific project activities and that those costs are allowable.

When reviewing specific cost items, staff members should determine whether the costs:

- a. Are necessary for the proper and efficient performance and administration of the grant project;
- b. Conform to any limitation or exclusions set forth in any governing principles or regulations that apply to the types or amounts of cost items associated with the funded project;
- c. Reflect generally-accepted accounting principles;



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- d. Include indirect cost reimbursement based on a current Federally-approved indirect cost rate agreement;
  - e. Are adequately documented and justified;
  - f. Are incurred specifically for the project; and
  - g. Are treated consistently with costs used for the same purpose in similar circumstances.

**Note:** Grantees must have a Federally-approved indirect cost rate to charge indirect costs to a Federal grant. If a grantee does not have an indirect cost rate, the program staff must refer to the instructions in Appendix N: of this Handbook.

2. Grants and cooperative agreements are defined by Federal law as being for the purpose of addressing a public purpose, rather than fostering private gain among recipients. In addition, the OMB circulars related to cost principles for Federal grants are cost-based and do not provide for profits under grants. Therefore, ED staff may make no allowance in grant budgets or funding for profits, fees, or other items above project costs, even where the recipient is a commercial, for-profit entity.
3. When entering the budget data into GAPS, the program staff must enter budget data for all requested/recommended budget line items (such as Personnel, Supplies, and Other, etc.) for all years of multi-year applications. The budget data must identify key personnel and the percentage of time they are working on the project. The program staff must enter the key personnel data in the appropriate fields in GAPS. Whenever key personnel are not identified at the beginning of a project, the program staff must enter the title of the position in GAPS and enter the term Vacant in the name field.
4. The program staff must check the EPLS to see if the applicant and any of the key personnel listed in the application and entered into GAPS have been debarred or suspended from participation in Federal programs. If the applicant appears in the EPLS, the program staff must contact GPOS with the name and any related information before proceeding. GPOS will verify the information and instruct the program staff on how to proceed if an award is to be made (see ACS Directive: Nonprocurement Debarment and Suspension). The EPLS address is: <http://epls.arnet.gov/>.
5. The program staff must obtain and enter the grantee's DUNS number into GAPS to process a new award. If the DUNS number is missing from the application, the program staff may contact the applicant and obtain it. The program staff, when attempting to save the applicant's budget on the discretionary budget tab page, will be notified via a message in GAPS if the applicant's DUNS number is associated with a high-risk grant or grantee (see section 5.6.9, "GAPS – High-Risk Module").

**Note:** In accordance with EDGAR § 75.233, an applicant's budget must not be funded above the requested amount. To make an increase after an initial award has been made, see section 5.5.7, "Supplemental Awards."

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#### 4.3.2 Grantee Cost-Sharing or Matching (Non-Federal Share)

The policies governing grantee cost-sharing or matching are as follows:

1. Cost-sharing or matching is the portion of project/program costs not borne by the Federal government. The terms are used interchangeably and refer to either:
  - a. A statutorily-specified percentage of project/program costs that must be contributed by a grant applicant in order to be eligible for funding; or
  - b. Any situation where the applicant voluntarily shares in the costs of a project.
2. Any cost-sharing promised by the grantee in its application must be fully documented and accounted for in the grantee's expenditure records and reports. Applications submitted for funding that have either required or voluntary cost-sharing must include:
  - a. The specific costs or contributions proposed to meet the matching or cost-sharing requirement;
  - b. The source of the cost-sharing; and
  - c. In the case of in-kind contributions, a description of how the value was determined for the donated or contributed services or goods.
3. Any applicant selected for a grant who volunteers additional cost-sharing above that required by statute or regulation or cost-sharing where there is no requirement for it, is required to provide that level of volunteered cost-sharing as a condition of award.
4. A program official may require or encourage cost-sharing by applicants by establishing absolute or competitive priorities. If cost-sharing is required, the final requirement must be specified in the application notice. The application notice must indicate whether:
  - a. The cost-sharing is a fixed percentage or a minimum percentage;
  - b. The cost-sharing applies to each budget period or to the project period as a whole if deemed appropriate by the program official; and
  - c. There are any restrictions on meeting the cost-sharing through in-kind contributions.

Costs for the non-Federal share of an applicant's budget must meet the same standards as the Federal share; the costs must be allowable (EDGAR §§ 74.23 and 80.24). The program staff must then include the non-Federal share in the terms and conditions of the award.

Grantees must report their cost-share expenditures in their annual Grant Performance Report (ED 524B), if applicable, and in their final performance report at the end of the award. Programs that do not use ED 524B must have grantees report their cost-share expenditure information on the Financial Report Form (SF 269).

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### 4.3.3 Calculating Cost-Share Amounts

Applicant cost-share amounts are calculated as follows:

1. The cost-share requirement is usually stated in one of two ways. The applicant is either required to share a percentage of the total cost of the program or is required to match a percentage of the amount of the Federal share. The following formulas may be used to calculate the applicant's share:

- a. Percentage of the total costs of the program

$$\frac{\text{Federal recommended amount}}{\text{Federal share (\%) of the total cost of the project}} \times \text{Applicant's share (\%) of the total cost of the project} = \text{Applicant matching amount}$$

**Example:** The applicant's cost-share requirement is 25 percent of the total cost of the project. The Federal recommended amount is \$90,000.

$$\frac{\$90,000 \times 25 \text{ percent}}{75 \text{ percent}} = \$30,000$$

Adding the two amounts together, the total cost of the project is \$120,000, of which the applicant must pay \$30,000.

- b. Percentage of the Federal amount

$$\text{Federal recommended amount} \times \text{percentage of recommended amount} = \text{Applicant's matching amount}$$

**Example:**

$$\$90,000 \times 25\% = \$22,500$$

Adding the two amounts together, the total cost of this project is \$112,500, of which the applicant must pay \$22,500.

2. For multi-year projects, cost-share amounts should be calculated for each year of the project separately, entered into GAPS and included as part of the terms and conditions of the grant award. The estimated Federal funding amount can be used to calculate the matching amounts for the out-years of the project.
3. The application of cost-sharing to a Federal grant must be consistent with the applicant's application of those costs to Federal and non-Federal projects alike. For example, if the applicant's organization normally treats a cost for an activity as an indirect cost, that same cost must not be treated as a direct cost for cost-sharing purposes. To determine if the cost-share proposed by the applicant is allowable, the program staff must apply the criteria and exceptions listed in EDGAR §§ 74.23 or 80.24, as appropriate.

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4. For any grant award that includes cost-sharing, the grant award notification must specify the level or percentage of matching funds the applicant is required to contribute to the grant.

#### 4.3.4 Pre-Award Costs

Sometimes grantees that anticipate receiving a new award incur expenses for allowable purchases and activities before the funding period begins. These expenditures, known as pre-award costs, are authorized by 34 CFR 75.707(h) and by the cost principles (OMB Circulars A-21, A-87, or A-122) that ED applies to discretionary grants through provisions in parts 74 and 80 of EDGAR .

Examples of legitimate pre-award costs in a grant project can include:

1. Engaging a consultant to do work directly related to the project's success, which must be done before its start;
2. Buying equipment before the beginning date in order to receive a concessionary price from a vendor; and
3. Traveling for ED-sponsored conferences that occur before the start of the project period.

##### *Pre-award Costs for Time Periods Up to 90 Calendar Days Before the Beginning of an Award Period*

If ED learns that an applicant or grantee (grantee) intends to incur allowable project costs within 90 days before a new grant or continuation award, ED does not need to take any action for the costs to be allowable. The grantee already has authority to do so under §§ 75.263 and 74.25 of EDGAR. However, if a grantee informs ED that it plans to incur pre-award costs within the 90-day period, program staff should inform the grantee that it incurs these costs at its own risk and, if for some reason the grantee does not get a grant or continuation award, ED will not reimburse the applicant for the pre-award costs.

##### *Pre-award Costs for Time Periods More than 90 Calendar Days Before the Beginning of a Project or Budget Period*

If an applicant or grantee (grantee) wants to incur pre-award costs for allowable expenses more than 90 days before the beginning of a new project or budget period, EDGAR § 74.25(e)(1), requires the applicant to first obtain approval from ED before incurring the cost. If prior approval for pre-award costs is required, the grantee must submit a written request to ED that describes the reason for pre-award costs and the period during which the funds will be used.

If the grantee requests approval to incur pre-award costs before the initial GAN is issued, the program staff can append Attachment E in Appendix H: "Pre-Award Costs," available in GAPS, when the GAN is printed and sent to the grantee. The program staff uses this form to authorize the grantee to spend grant funds in some or all budget cost categories, depending upon how the form is completed. If prior approval is given after the initial GAN is issued, the program staff must generate a modified GAN, append Attachment E to it, and send it to the grantee.

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If an applicant or grantee requests prior approval to incur pre-award costs before funds are obligated in GAPS and a GAN is issued, the program official, after reviewing the request, may approve the request in writing. In this case, Attachment E would not be used since a GAN has not been issued. The approval letter must:

1. Inform the prospective grantee that it incurs pre-award costs at its own risk. The grant is not legally binding on ED until grant funds have been obligated and a signed GAN, with the appropriate attachment, has been mailed to the grantee;
2. State that ED is not obligated to pay for pre-award costs in the event the grantee does not receive a new or continuation award;
3. State that the grantee may not use pre-award cost authority to reimburse itself retroactively for cost overruns that a project incurred in a prior budget period of a multi-year award or in any other Federally-funded project; and
4. State that the grantee must use pre-award cost authority in a manner consistent with the approved scope and objectives of the funded project.

#### *Disapproval of Pre-award Costs*

ED may decide to disallow pre-award costs, even if the applicant or grantee incurs them within 90 days before the beginning of the budget period. For example, the applicant might attempt to use the funds for costs outside the scope and objectives of the project. In such cases, ED would prohibit the grantee from exercising their automatic authority by appending Attachment Z to the GAN and checking the appropriate box to deny pre-award costs or disapproving a grantee's written request in a written response.

#### 4.3.5 Program Income

Sometimes grantees receive funds that are directly generated by a project activity or earned as a result of the award. These proceeds, known as program income, are authorized by EDGAR §§ 74.24 and 80.25. In general, grantees may handle program income by:

1. Deducting from total allowable costs and third-party in-kind contributions the amount of program income generated in order to determine the level of Federal support allowed;
2. Adding to funds committed to the project by the Secretary and recipient and used to further eligible project or program objectives; and
3. Using funds for cost-sharing and cost-matching purposes to finance the non-Federal share of the project or program.

The regulations in both parts 74 and 80 provide that grantees must use the first, deductive outcome unless a condition in the grant award specifies otherwise. ED policy allows grantees to exercise any combination of the various options specified in EDGAR. To permit grantees to exercise any of these options, ED has created Attachment F, "Special Grant Terms and Conditions for Using Program Income," to the GAN. Attachment F must be included as a standard attachment on all new and continuation award GANs

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when program income is anticipated, unless, in a particular case, the program office decides not to permit a grantee to use all of the options, e.g., high-risk or profit-making grantees for which the program office determines either that the use of program income would not be appropriate or that a grantee should use only one or two of the permitted methods.

**Note:** If program income was earned under the grant, a final SF-269 is required. (See Section 5.7.2, item 2, Required Reports.)

#### 4.3.6 Indirect Costs - Overview

Indirect costs are incurred by a grantee for common objectives that cannot be readily and specifically identified with a particular grant project or other institutional activity without effort disproportionate to the results achieved. Examples include:

1. The costs of operating and maintaining facilities, equipment, and grounds (part of “facilities costs”)
2. Depreciation or use allowances (part of “facilities costs”)
3. Salaries of administrators and services, such as payroll and personnel (known as administrative costs)

These costs are usually charged to the grant as a percentage of direct costs. This percentage is called the indirect cost rate and is obtained by dividing indirect costs by the total costs of a grantee (or the total modified costs of the grantee).

#### 4.3.7 Indirect Cost Rate Agreements

A grantee must have a current indirect cost rate agreement to charge indirect costs to a grant.

1. To establish a current agreement and obtain an indirect cost rate, a grantee must submit an indirect cost proposal to their cognizant agency and negotiate an indirect cost agreement [EDGAR § 75.560 (b)]. The cognizant agency is generally the Federal department or agency providing the grantee with the most Federal funding subject to indirect cost support (or an agency otherwise designated by OMB).
2. If an organization receives most of its Federal funding indirectly as a sub-recipient via another entity (for example, a State Education Agency [SEA]), the conduit organization that provides the most pass-through Federal funding is responsible for establishing indirect cost rates for the sub-recipient.
3. If an organization receives a combination of direct Federal funding and pass-through funding as a sub-recipient, and the entity does not have a rate established by some other cognizant agency, the Federal agency providing the most direct funding (or otherwise designated by OMB) is the cognizant agency for cost negotiation.

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The only exceptions to these rules are indirect cost negotiations with institutions of higher education that are subject to OMB circular A-21, G.11 a., “Cognizant agency assignments.”

#### 4.3.8 Indirect Cost Reimbursement

The policies for reimbursing indirect costs are as follows:

1. Indirect costs are not reimbursed on construction grants, grants to individuals, or grants to organizations located outside the territorial limits of the United States, or grants exclusively to support conferences. Also, indirect costs are not reimbursed for fellowships and similar awards if the Federal assistance is exclusively in the form of fixed amounts such as scholarships, stipend allowances or the tuitions and fees of an institution.
2. The Federal government’s general policy on reimbursement of indirect costs, as described in the OMB Circulars A-21, A-87 and A-122, is that Federal agencies pay their portion of allowable indirect costs that are allocable to their programs.
3. Indirect cost reimbursements may be subject to legal and administrative limitations [specifically training grants (EDGAR § 75.562) or grant programs that have statutory supplement-not-supplant provisions (EDGAR § 75.563)] that limit or restrict the amount of indirect costs that grantees may claim. In addition, there may be cases where a specific program statute or regulation limits or excludes certain indirect costs for reimbursement from an ED program. For example, some program statutes limit or prohibit reimbursement of administrative costs, both direct and indirect.
4. Unless statutory or regulatory restrictions apply to indirect cost reimbursements, ED staff cannot require grantees to accept an indirect cost rate that is lower than the Federally negotiated indirect cost rate shown on their indirect cost agreement.

#### 4.3.9 Training Grants

The policies for reimbursing training grants under indirect costs are as follows:

1. ED regulations limit recovery of costs on training grants to the grantee’s indirect cost rate or 8% of a modified total direct cost base, whichever is lower. This limitation to 8% indirect costs does not apply to state and local governments, including Federally recognized Indian tribal governments. EDGAR §75.562(c).
2. ED policy does not require that an applicant that does not have an approved indirect cost rate negotiate one with a cognizant agency solely for the purpose of receiving the 8% indirect cost reimbursement under ED training grants. In such instances, the program staff should advise recommended applicants that they must maintain records to demonstrate that they have an indirect cost rate of at least 8% and that the documentation must be available for audit. If the documentation does not support a rate of at least 8%, program staff should advise the applicant that it must only charge indirect costs at the rate justified by the documentation. EDGAR §75.562(d).

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3. Indirect costs in excess of 8% may not be charged directly, used to satisfy matching or cost-sharing requirements, or be charged to another Federal award. EDGAR § 75.562(c)(3).

For purposes of calculating indirect costs for training grants, EDGAR §75.562(c) defines modified total direct cost base as “total direct costs less stipends, tuition and related fees, and capital expenditures of \$5,000 or more.” This limitation on indirect cost reimbursement for training grants does not apply to states, agencies of local governments, or Federally recognized Indian tribal governments. However, the 8% limit applies to cost-type contracts under grants, if these contracts are for training as defined in EDGAR §75.562(c)(2).

#### 4.3.10 Restricted Rate Programs

Under ED discretionary grant programs statutes that contain supplement-not-supplant provisions (restricted rate programs), the grantee or sub-grantee must use a restricted indirect cost rate when claiming indirect cost reimbursement (EDGAR § 75.563).

Restricted indirect cost rates are lower than the negotiated indirect cost rates and exclude certain items of general management and fixed costs, which would exist without Federal funds, from being included in the indirect cost rate that grantees use in charging indirect costs to ED grants. The program staff should refer grantees to EDGAR §§ 76.563 – 76.569 for assistance in calculating restricted indirect cost rates.

Restricted rates for SEAs are included on the SEA’s negotiated indirect cost rate agreement. Restricted rates for Local Educational Agencies are provided by the SEA, using a method approved by ED.

All applicants must use the restricted rate included on the negotiated indirect cost rate agreement. Applicants for discretionary grants that are not a state or a local government and that do not have a negotiated restricted rate may use the eight percent rate described at EDGAR § 76.564(c)(2).<sup>3</sup> However, if ED determines that an applicant’s calculated restricted rate would be less than eight percent, the lower rate must be used for the applicant’s budget.

The eight percent rate in EDGAR § 76.564(c)(2) must also be multiplied by the modified total direct cost base described in EDGAR § 76.569.

For grants under restricted rate programs, EDGAR § 76.569 requires that grantees multiply their restricted indirect cost rate by the “total direct costs of the grant minus capital outlays, sub-grants, and other distorting or unallowable items as specified in the grantee’s indirect cost rate agreement.” This calculation is otherwise known as multiplying by a modified total direct cost base.

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<sup>3</sup> Do not confuse the eight percent training grant rate under EDGAR §75.562 with the eight percent rate under EDGAR §75.564(d), which incorporates EDGAR §76.564(c). The training rate must be used for all training grants made to non-governmental organizations (see section 5.8.4). The eight percent optional rate under EDGAR §76.564(c) can be used to avoid the expense to non-governmental grantees of calculating the actual restricted rate.



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#### 4.3.11 Period of Application of Indirect Cost Rate Agreements

Indirect cost rate agreements are usually established for periods coinciding with a grantee's accounting year, not its grant award budget period or performance period. Consequently, a grantee might have to calculate the amount of indirect cost reimbursement to which it is entitled during a budget period by using two indirect cost rates. In the context of discretionary grants, ED is not required to increase the amount of a grant to cover increased indirect costs that were negotiated after the start of the budget period. However, on a discretionary basis, ED can, if funds are available for this purpose, increase the amount of a grant to cover increased indirect costs.

#### 4.3.12 Reviewing Indirect Cost Information During Cost Analysis

The program staff must review an applicant's responses to the indirect cost questions on the Budget Form (ED 524) if the applicant is requesting indirect cost reimbursement on line item #10 of the budget form.

The first question asks whether the applicant has an indirect rate agreement approved by the Federal government. If the answer is yes, the second question asks the applicant to provide the period of time the indirect cost agreement covers and to specify the Federal agency that approved the agreement.

**Note:** The program staff must include the conditions specified in Appendix N: "Indirect Cost Recovery for Grantees that Do Not Have Negotiated Rates of this Handbook," if:

- Applicants indicate on the budget form that they do not have a Federally-negotiated indirect cost rate agreement; or
- The period covered by the rate agreement rate has expired.

A third question must be completed by applicants who are requesting indirect cost reimbursement under a restricted rate program. These applicants must indicate whether they are using a restricted rate included in their approved indirect cost rate agreement or that complies with 34 CFR 76.564(c)(2) [see section 4.3.10, "Restricted Rate Programs"]. Note that state or local government agencies may not use the provision for a restricted indirect cost rate in EDGAR § 76.564 (c) (2).

If the program staff is unsure about the reasonableness of the applicant's requested indirect cost rate, or they have other questions about the applicant's stated indirect cost rate or the base to which it is being applied, they may contact the applicant prior to award. In doing so, the program staff must follow the procedures for funding recommendation clarification contacts (see section 4.4.4, "Funding Recommendation Clarification Contact").

At the time the continuation award is made, the program staff must review the grantee's responses to these same questions concerning indirect cost on the Grant Performance Report. If the responses indicate that the rate has expired, program staff must append Appendix N, Attachment D, "Indirect Cost Recovery for Grantees that Do Not Have Negotiated Rates," as a term and condition of the grant award. In addition, grantees

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submitting a final performance report must indicate the rate to be used during the final budget period of the grant: provisional, final or other. If the grantee indicates “other,” they must specify the type of rate.

**Note:** Federal agencies will only engage in negotiations for an indirect cost rate agreement *after* a grant is awarded.

#### 4.3.13 Indirect Cost Recovery if the Grantee Doesn't Have A Rate

License holders should not delay obligating and awarding grants to otherwise qualified applicants simply because they do not have a negotiated indirect cost rate.

When an applicant is selected for funding but does not have a current indirect cost rate agreement with its cognizant agency, the program staff must use the conditions included in Appendix N, Attachment D, “Indirect Cost Recovery for Grantees that Do Not Have Negotiated Rates.”

#### 4.3.14 Other Considerations

The program staff must scrutinize carefully any direct costs in a grantee’s application. All direct costs chargeable to a grant must be allowable, reasonable, and specifically allocable to the grant activities and not otherwise recoverable as a reimbursement through the negotiated indirect cost rate.

Applicants may charge all eligible costs directly to the grant if they:

1. Have only one Federal grant from one Federal agency;
2. Have no other sources of revenue (such as state, local or private grants); and
3. Engage in no other activities (such as fundraising activities or other business development activities).

Applicants with multiple Federal grants and no other revenue sources must allocate all eligible costs directly and proportionally to each grant.

#### 4.3.15 Budget and Project Periods - General

Congress appropriates most ED funds on a fiscal year basis, meaning the funds are available for obligation by ED for only one fiscal year. Few discretionary grant programs make funds available for obligation for more than one year. However, under discretionary grant programs, ED has flexibility to set the period that grant funds are available for obligation. By regulation in EDGAR §§ 75.250 and 75.251, ED has established a system of budget periods and project periods to divide funding of single and multi-year grants.

#### 4.3.16 Project Periods

A project period, sometimes referred to as the performance period, is the entire project from beginning to end. Under EDGAR § 75.250, ED can fund a project for up to 60

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months unless a program statute or regulation provides for a longer project period. A project period can also be less than a year.

#### 4.3.17 Budget Periods

Budget periods are defined as follows:

1. When ED funds grants with project periods longer than a year, it generally funds the grants in annual increments called budget periods. A budget period is usually 12 months (EDGAR § 75.251), and funding for each budget period generally comes from separate fiscal year appropriations.
2. Program officials may establish shorter or longer budget periods if there is a compelling program reason to do so, such as:
  - a. To arrange more advantageous start and end dates for the grantee;
  - b. To allow for project periods not evenly divisible into 12 month increments;
  - c. To take into account an unavoidable extended absence of a grantee's principal investigator; or,
  - d. To accommodate a change in the grantee's fiscal year.

The program official must document the reason(s) for the shorter or longer budget period(s) in the grant file.

3. A single budget period covering the entire project period will generally be used if:
  - a. The budget period is greater than a year but less than two years;
  - b. The method of funding is required by authorizing legislation, funding appropriation or to satisfy the intent of Congress; or
  - c. Either:
    - 1) The project is exclusively for construction, alteration or renovation, or acquisition of property, and is funded from a multi-year or "no-year" appropriation; or
    - 2) The project period is two years or longer and OGC concurs with the longer budget period.
4. Sometimes a project period can be extended at no cost to ED (see section 5.5.9, "Extension of the Final Budget Period").

## 4.4 Funding Decisions

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### 4.4.1 General

ED's policy is to first prepare a rank order list of applications. This rank order is based solely on the reviewers' evaluation of the quality of the applications according to

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program-specific selection criteria or criteria identified in EDGAR § 75.210. Under EDGAR § 75.217(d), the Principal Officer then determines the order in which the applications will be selected for funding.

#### 4.4.2 Funding Slate for New Grants

After evaluating the information in the application, the rank ordering and other information as indicated in EDGAR § 75.217, the program staff develops a proposed funding slate listing applications recommended for funding. The program staff must also enter into GAPS the project abstract for each application recommended for funding. The program staff should use the program descriptors available in GAPS when completing this task. The program official reviews the slate and prepares a transmittal memo with a copy of all project abstracts for the recommended applications and submits them to the Principal Officer, his/her designee or the appropriate higher level for approval.

1. The funding slate must contain the following information:
  - a. A rank order list of all applications in the competition;
  - b. The amounts requested by the applicants selected for funding (including all years for multi-year projects); and
  - c. The recommended funding amounts for the applications selected for funding (including all years for multi-year projects).
2. The transmittal memo (usually about two pages in length) accompanies the funding slate and contains the following information:
  - a. Background information on the program and competition including:
    - 1) Legislative authority and any significant legislative history;
    - 2) A description of how the competition fits into the overall program budget;
    - 3) A description of how the program fits within ED's Strategic Plan;
    - 4) Deadline date for the competition;
    - 5) Total funds available for the competition;
    - 6) Number of applications received and number of new grants to be awarded;
    - 7) Number of awards and the amount of funding needed for continuation awards, if applicable;
    - 8) Panel characteristics, including number of panels, number of reviewers per panel, and number of applications read by each panel;
    - 9) Description of any unique review procedures such as multiple-tier review;
    - 10) Location and dates of the panel review;
    - 11) Whether raw or standardized scores were used in developing the rank order;
    - 12) Description of any anomalies that occurred in the conduct of the competition;

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- 13) The identification (with an asterisk) of any applications recommended for funding that require a clarification contact prior to the commitment of funds (see section 4.4.4, “Funding Recommendation Clarification Contact”); and
  - 14) The identification of an alternate application(s) that should be funded if an application(s) requiring additional clarification is deleted from the list;
- b. Scoring reports generated from GAPS (as an attachment); and
  - c. Justification for any deviation from the rank order [see EDGAR § 75.217(d)].

#### 4.4.3 Selecting Applications for Funding

In selecting applications for funding, the Principal Officer may consider the following information specified in EDGAR § 75.217 and other requirements in EDGAR, including:

1. Criteria and any other requirements specified in the application notice, such as geographical distribution of awards;
2. An applicant’s use of funds and documented performance under a previous award under any ED program [EDGAR § 75.217(d)(3)(ii)];
3. Failure of the applicant under any ED program to submit performance reports or its submission of a performance report of unacceptable quality [EDGAR § 75.217(d)(3)(iii)];
4. An applicant’s receipt of funding from another organization within ED or another Federal agency to support identical or very similar project activities;
5. An applicant’s selection of key personnel whose total time committed to the project exceeds the amount of time that each of these key personnel can reasonably devote to other obligations and also meet the commitments of the grant<sup>4</sup>;
6. The reviewers’ failure to consider information in the application related to the selection criteria (this must be documented and justified with rationale provided for determining that the reviewers missed the information);
7. An applicant’s inclusion of unallowable project activities or costs that lead to a determination not to fund an application;
8. Activities not authorized by legislation, regulation or absolute priorities; and
9. Excessive (unreasonable) costs that, if reduced, would result in a change of the scope or objectives of the project.

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<sup>4</sup> If the applicant is an institution of higher education, ED staff must accept the institution’s written policy on full-time faculty time limits, if one exists. Otherwise, the program official should determine reasonable time limits and explain that in the official file. See OMB Circular A-21, paragraph J.10.e, available at [http://www.whitehouse.gov/omb/circulars/a021/a21\\_2004.html](http://www.whitehouse.gov/omb/circulars/a021/a21_2004.html).

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If the Principal Officer concludes that the reviewers erred in scoring on a particular criterion, the Principal Officer must document the basis for that determination before approving the final slate.

#### 4.4.4 Funding Recommendation Clarification Contact

The program staff may contact applicants to clarify technical issues, such as unsigned or missing certifications, errors in the budget calculations or improperly labeled budget items. Contact may occur prior to the development of the funding slate and before the applications are selected for funding by the Principal Officer. Unallowable costs and/or activities are already deleted during the program staff's review of the applications. When contacting an applicant for clarification of technical issues, the program staff should only indicate that the application is being reviewed, not that it is "funded."

The program staff may have serious questions regarding a recommended applicant's budget and/or activities that must be resolved prior to awarding the grant. If more detailed information is needed, the program staff may only contact an applicant for additional information after the funding slate has been approved and the application has been selected for funding (see EDGAR § 75.231). In these cases, the application should be included on the funding slate and marked with an asterisk, indicating that funds should not be committed for the application until outstanding issues are resolved.

If the program staff receives satisfactory technical information from the applicant, the staff must inform the individual responsible for committing funds to proceed with commitment. However, if the information submitted by the applicant is unsatisfactory, the program staff must send a memorandum withdrawing the recommendation to fund the application, stating the reasons why it will not be funded and identifying the next application on the rank order list that may be selected with the funds made available. This memorandum must be sent to the Principal Officer responsible for selecting applications for funding

The program staff must document any funding clarification contact with a selected applicant and include a written summary of the discussion in the official grant file (see section 4.10, "The Official Grant File").

## 4.5 Qualifications Needed to Commit, Obligate and Award Grants

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### 4.5.1 General

The Principal Officer or his/her designee must identify different individuals to record commitments than the individuals identified to record obligations and award grants. The principal office, or executive office staff, commits funds. However, the Principal Officer may choose to assign the commitment or obligation functions to qualified individuals working directly with the grant programs, meaning supervisors, program officials, team

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leaders or program staff. The individual designated to perform the commitment function must meet the minimum skill sets identified in section 4.5.2, “Qualifications of Individuals Who Commit Funds”. The individuals selected to perform the obligation and award functions must have a license to obligate (license) from the director of GPOS and meet the skill sets in section 4.5.3, “Qualifications of Individuals Who Record Obligations and Award Grants.”

#### 4.5.2 Qualifications of Individuals Who Commit Funds

The individual(s) selected to perform this function must possess the following qualifications and skills:

1. Knowledge of ED’s budgeting process, including:
  - a. An understanding of appropriation law and the appropriation process;
  - b. An understanding of the theory and processing of funds allotments for each authorized program;
  - c. An understanding of the process for transferring program funds from one principal office to another;
  - d. The ability to create and maintain accurate and complete records of various programs and funding sources; and
  - e. The ability to create and maintain records for each program and project code and present reports that:
    - 1) Track fund commitments;
    - 2) Track uncommitted balances; and
    - 3) List funds to be allotted (indicating when they will be allotted).
2. Knowledge of ED’s grant award process, including:
  - a. The ability to identify where in the process funds are committed; and
  - b. An understanding of the roles and responsibilities of key persons or positions in the process.
3. Knowledge of and the ability to use GAPS, including:
  - a. The ability to use the financial management system;
  - b. Familiarity with the various reports and report formats in GAPS and the finance system; and
  - c. An understanding of computer access and other security issues.

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#### 4.5.3 Qualifications of Individuals Who Record Obligations and Award Grants

1. The director of GPOS issues a license to an individual (license holder) selected by the Principal Officer to record obligations and award grant funds . This individual must have the appropriate security clearance and appropriate access to GAPS.
2. License holders have the authority to record obligations in GAPS, and sign, and mail new and continuation awards for discretionary grants and cooperative agreements for specific CFDA programs up to a specified dollar limit.
3. License holders perform ED's final review to ensure that the integrity of the discretionary grant process has not been compromised. The license holder's signature on a GAN certifies that the grant award is made in accordance with all applicable rules, regulations and ED policies. Accordingly, license holders are ED's primary contact for discussing any legal requirements imposed on a grant, whether by statute, regulation or terms and conditions of the award.
4. The individuals selected to perform the responsibilities of a license holder must be at the GS-12 or higher grade and possess the following qualifications and skills:
  - a. Knowledge of and the ability to apply the program regulations and requirements to grants they are authorized to award;
  - b. Knowledge of and the ability to apply the requirements of OMB grant-related circulars, EDGAR, GPOS Grants Policy Bulletins that have not yet been incorporated into this Handbook and ACS Directives applicable to grants;
  - c. Knowledge of ED's grant award process;
  - d. The ability to conduct a grant budget cost analysis;
  - e. The ability to communicate grant management and program policies and procedures to both internal and external customers;
  - f. The ability to explain any funding or administrative decision related to the grants they are authorized to award;
  - g. The ability to use GAPS;
  - h. At least one year of experience with the program(s) under which they will record obligations and sign and award grants.
5. Individuals selected to be license holders will successfully complete training to ensure that:
  - a. The principal office is awarding grants in compliance with all applicable laws, regulations, and policies;
  - b. Best practices are shared among the principal offices;
  - c. License holders gain an in-depth understanding of grants management;



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- d. License holders acquire a reference library with resource tools from course materials; and
  - e. ED receives information and feedback on its discretionary award process for continuous evaluation and improvement.
6. License holders must also meet the following training requirements:
- a. Current license holders must identify and attend training to gain additional grant knowledge and must be aware of updates or changes in the OMB circulars, EDGAR, or other grant award issues and administration documents.
  - b. All license holders must attend an annual briefing sponsored by GPOS to meet the annual renewal requirement. The purpose of this briefing is to:
    - 1) Update the license holders on current grant-related information;
    - 2) Share best practices; and
    - 3) Discuss any issues related to their responsibilities.
  - c. All license holders must attend GAPS training that includes, but is not limited to courses related to the discretionary award, post-award and, closeout processes.

#### 4.5.4 Requesting a License

To request a license to obligate funds, the Principal Officer or his/her designee (such as executive office staff) must provide a memo to the director of GPOS stating:

1. The name and grade of each individual nominated to obligate funds;
2. The CFDA number and the name of each program for which the individual is nominated to obligate funds, as well as the recommended maximum grant amount for which the he/she will have authority;
3. The individual has completed the required training;
4. The selected individual(s) have the qualifications and skills identified in section 4.5.3, “Qualifications of Individuals Who Record Obligations and Award Grants”;
5. The individual(s) has/have the appropriate Education Central Automated Processing System (EDCAPS) systems access (as required by the Clinger-Cohen Act); and
6. A copy of the EDCAPS Production System – User Access Request Form is included.

GPOS then issues a license if the individual possesses the required qualifications, skills and training. The license identifies the CFDA program numbers and the monetary amount of the individual’s obligation authority. GPOS then forwards the license to the Principal Officer or his/her designee who forwards the license to the selected individual. The license holder must display the original license in their work area at all times.

**Note:** The Principal Officer should identify at least one person in their principal office to have a license with sufficient obligation authority to cover the maximum obligation amount for any grant issued by the office.

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#### 4.5.5 Maintaining the License

Principal Officers must review licenses of license holders annually. After the end of the fiscal year (September 30<sup>th</sup>), GPOS provides each principal office a list of current license holders. The list contains the name(s), grade(s), CFDA's and authorized obligation amounts. The Principal Officer or his/her designee must review the list to determine whether changes to individual licenses are needed or if licenses should be revoked or canceled. The Principal Officer or his/her designee must certify to GPOS that the license holders who remain on the list have met all applicable training requirements established by GPOS, including the annual briefing for license holders.

#### 4.5.6 Revoking or Canceling a License to Obligate Funds

The authority to obligate ED funds and to make certain administrative changes to approved projects on behalf of ED commits the license holder to a higher personal level of responsibility and accountability for Federal funds. The authority is not absolute and may be revoked or canceled upon written request by a Principal Officer to GPOS, or by GPOS.

1. GPOS revokes the authority to obligate if the license holder:
  - a. Misuses the authority to obligate funds and award grants by:
    - 1) Making awards that exceed the authorized obligation amount of the license or for making awards not covered by license; or
    - 2) Making cumulative awards that exceed the limits of a program appropriation or fund allotment.
  - b. Violates ED's computer security requirements by sharing a user ID or allowing an unauthorized user access to secured screens;
  - c. Misrepresents ED deliberately on matters of grants regulations or policy; and/or
  - d. Otherwise demonstrates the inability or unwillingness to comply with grant management requirements, including program statutes, GEPA/DEOA, EDGAR, this Handbook and all other directives related to ED's grantmaking functions.

**Note:** The list above is not inclusive. Any use of the license that indicates a lack of responsibility on the part of the licensee is grounds for revoking a license.

2. GPOS can revoke or cancel a license for any of the following reasons:
  - a. The individual is no longer with the principal office that issued the license;
  - b. The individual's authorized obligation amounts and programs have changed (a new license may be issued);
  - c. The individual did not meet the training requirements for renewal of the license;
  - d. The individual is no longer performing the duties of a license holder; and/or
  - e. The principal office requests the cancellation for other reasons.

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## 4.6 Commitment, Obligation and Award Functions

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### 4.6.1 General

There are three key steps in awarding discretionary grants:

1. Recording the commitments for selected applications in GAPS;
2. Recording “obligations” of funds for selected applications in GAPS; and
3. Signing an official GAN and sending it to the grantee.

A commitment is an administrative “reserve” placed on funds to ensure their availability to make an award at the time an obligation is recorded. The recording of an obligation in GAPS is required for the ED finance system to make payments of Federal funds to a grant recipient. An obligation is made when a license holder signs the GAN and sends it to an applicant notifying them of the specific award of funds under a grant competition. Under EDGAR and appropriations law, there is no “obligation” until the GAN has been sent to the grantee. The award document also indicates the project period, the current budget period and the grant conditions.

To guard against any potential misuse of funds and reduce the possibility of errors in awarding grants, individuals selected to record commitments of funds for a discretionary grant program must not record obligations of funds, nor sign and issue grant awards for the same discretionary grant program. Likewise, individuals selected to record obligations of funds and sign and issue grant awards for a discretionary grant program must not record commitments of funds for the same discretionary grant program.

### 4.6.2 Recording Commitments

The individual selected to record commitments does so after receiving the approved funding slate. Commitments may be recorded in GAPS by PR/Award number or by a group of PR/Award numbers within a CFDA subprogram and schedule. Funds must not be committed for any application needing a clarification contact (indicated by asterisk). Commitments for those applications may be recorded only after the outstanding issues are resolved.

After recording the commitment for the selected applications, the program official must forward a copy of the slate along with copies of all project abstracts to the Office of Legislation and Congressional Affairs (OLCA) to enable OLCA to notify Congress. The program official must provide the abstracts to OLCA for all applications selected for funding under the program, including those for which funds have not been committed due to clarification contacts.

The individual selected to commit funds reconciles committed funding amounts between Oracle Financial (OF) and GAPS to ensure the funds are properly posted for each grantee and that all funds for a given competition have been committed.

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### 4.6.3 Congressional Notification

OLCA is responsible for notifying individual members of Congress of any new grant awards made to the member's constituents. Congressional notification must take place before the recipients of such awards are officially notified and before ED notifies unsuccessful applicants.

When funds are committed for a slate of applications, GAPS automatically notifies OLCA electronically of the applications the Principal Officer has selected. The program staff must wait five business days (starting on the next business day after the commitment date) before communicating funding decisions to applicants (either by mailing award documents or making direct contact with them). However, if the abstract and other documents required for congressional notification are not given to OLCA immediately after commitment, then the program staff cannot start the five business day waiting period. The waiting period does not begin until OLCA has received all of the required documents.

In order to proceed with congressional notification, OLCA must have either:

1. A customized abstract for each project application being funded; or
2. A copy of the generic abstract for all grants that a program uses.

To ensure the timely completion of the congressional notification process, the program official, or the individual authorized to commit funds, must send a copy of the funding slate and a copy of the program abstract or each project abstract to OLCA immediately after the funds have been committed. (Abstracts may also be sent to OLCA before commitment.) OLCA will not conduct notification for projects for which program offices have not made commitments in GAPS and sent abstracts to OLCA.

OLCA will notify the appropriate program official of any problems with the timely completion of the congressional notification process. In such cases, the program official should confirm with OLCA that the congressional notification process has been completed before notifying applicants of their status.

### 4.6.4 Recording Obligations and Signing and Mailing New Awards

After the commitments are recorded, the license holder records the obligation of funds and signs and issues grant awards. Obligations may be recorded, the GAN may be signed, and packages may be prepared for mailing during the five-day waiting period for Congressional notification. However, as indicated in section 4.6.3, "Congressional Notification," the Congressional notification process must be completed (including the five-day waiting period) before successful applicants are contacted and the grant packages mailed, unless OLCA approves an early contact.

1. Before recording an obligation, the license holder must review the materials in the official grant file, the award data in GAPS and the information printed on the GAN.

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The purpose of the review is to verify that all information on the GAN is accurate and to ensure that the file contains the following:

- a. The original application signed by the applicant's authorizing representative;
  - b. The originals of all required certification and assurance forms signed and dated by the applicant's authorizing representative;
  - c. The original application technical review forms with reviewer comments and ratings;
  - d. Documentation that the assigned program staff member has reviewed the application and has conducted an analysis of the applicant's budget to ensure that all budget items are allowable (for all years of a multi-year project) (see Appendix L, "Funding Recommendation Checklist");
  - e. Documentation that unallowed activities, if any, have been identified and addressed and have been deleted from the project and budget;
  - f. Documentation of any requested clarifications or revised materials; and
  - g. Documentation that all human subjects concerns have been addressed, if applicable.
2. The license holder must sign and date three copies of the GAN immediately after recording the obligation in GAPS. One copy of the original signed and dated GAN is given to the staff to be filed in the official grant file; the second and third copies are mailed to the grantee's authorized representative and project director.

**Note:** In lieu of a signed copy, a stamped signature copy may be sent to the grant's project director.

3. The program staff must include, with the GAN, the following standard grant attachments:
- a. Attachment A, "Special Grant Conditions for Payments." This attachment is used to communicate to grantees information about getting payment under discretionary grant awards;
  - b. Attachment B, "Special Grant Terms and Conditions for Financial and Performance Reports." This attachment is used to communicate to grantees any performance and financial reporting requirements under the grant award;
  - c. Attachment C, "An Overview of Single Audit Requirements of States, Local Governments and Non-Profit Organizations." This attachment contains instruction to guide grantees who are required to conduct audits in accordance with OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations." It instructs grantees on how to obtain copies of single audit requirement documents;
  - d. Attachment F, "Special Grant Terms and Conditions for Using Program Income." This attachment informs grantees of the options or combination of options they

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may exercise when using program income generated in the course of the grantee's authorized project activities, unless the program official has decided not to permit all available income options or is precluded from doing so by regulation (see section 4.3.5, "Program Income"; and

- e. Attachment S, "Special Conditions for Disclosing Federal Funding in Public Announcement." This attachment is used to communicate to grantees the requirement that they must disclose the amount and percentage of Federal funding and funding from nongovernmental sources when making public announcements about Federally-funded projects.

These attachments are included in the GAPS grant award process function. Any other attachment that is required because of the nature of the grant or special grant conditions, such as attachment HS, "Protection of Human Subjects," must also be included with the GAN. The HS attachment can be found at <http://connected/index.cfm>.

**Note:** In some cases the license holder may need to add a condition to Block 9 of the GAN that amends one or more of the provisions in a standard attachment if the grant or grantee has to be designated high-risk and additional special conditions have to be placed on the grant or grantee.

#### 4.6.5 Requirements for Awarding a Grant

Simply recording an obligation of funds in GAPS for a grant does not meet the legal requirements for awarding a grant. Legal requirements for awarding a grant are as follows:

1. There must be documented action to establish a firm commitment on the part of ED;
2. The commitment to award a grant must be unconditional on the part of ED;

**Note:** As used in appropriations, "unconditional" relates to any acts the applicants must complete before funding is secured; it does not limit ED's ability to attach conditions to an award that must be followed during the course of the grant.

3. There must be documented evidence of the commitment to award the grant; and
4. The commitment must be made during the period the funds are available for obligation by ED.

These requirements are met if the GAN is sent to the grantee before the end of the fiscal year EDGAR § 75.235.

[Reference: Principles of Federal Appropriation Law, Vol. II at 7-32-3(1991)]

**Note:** Appropriations law and EDGAR § 75.235 (a) require that, for grants that must be made by the end of the fiscal year, the license holder must 1) record the obligations, and 2) send the GAN by midnight on September 30 to make the award. Grant award notifications that are not delivered to the U.S. Postal Service or other commercial carrier

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by midnight September 30 are presumptively not valid. The affected grant funds may lapse and would be returned to the U.S. Department of Treasury.

## 4.7 Notifying Applicants

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### 4.7.1 Notifying Successful Applicants

The GAN serves to inform applicants officially that their applications have been selected for funding. The document is also the official record of award. The document provides specific details about the grant, including the amount of the award, special terms and conditions, and contact information.

The program staff's review of the selected applicant's project plans and budgets will often result in the project being funded at a level less than the applicant's requested amount for the project. To inform the grantee of these changes, the program staff should use Attachment J, "Special Attachment for Budget Recommendations/Changes," in GAPS to incorporate any budgetary changes and/or specific cost items that have been reduced or deleted from the budget. In order to access this attachment, the program staff must contact the GAPS hotline.

If time permits after Congressional notification occurs, the program staff may contact the applicants before mailing awards. The purpose of the contact would be to inform the applicant of the planned funding level and to determine any changes to the project based on the planned funding level or other technical matters, such as the elimination of unallowable costs. The program staff must file any requested revisions in the official grant file folder.

The program staff must also prepare appropriate terms and conditions for the award, which include standard attachments to the GAN about payment procedures; performance and financial reporting requirements; audit requirements; program income; and any other required information that the grantee needs to know. The program staff should also address any special condition imposed on the grantee – including high-risk conditions and associated conditions – and any cost-sharing or matching requirements, whether mandatory or voluntary, and should include them as one of the conditions of the award. (See section 4.3.2, "Grantee Cost-Sharing or Matching (Non-Federal Share)" and 5.6, "High-Risk, Special Award Conditions, Other Special Actions.")

### 4.7.2 Notifying Unsuccessful Applicants

Program officials must notify unsuccessful applicants that their applications were not selected. Unless statutes or program regulations provide otherwise, the notifications may take place at the same time successful applicants are notified, after the five-day Congressional notification period. Unsuccessful applicants may not be notified earlier without approval of the OLCA.

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The notifications must be in writing and must specify why the application was not selected for funding. The notifications may also include the applicant's rank order and reviewer comments with reviewers' names deleted. Notifications may be form letters for the entire program or may be customized for each application. The form letters may be generated via GAPS. Program officials who intend to notify unsuccessful applicants before successful applicants have been notified must submit a written request to OLCA stating their rationale for early notification to request a waiver of the standard ED procedure.

Program officials must send the original copies of unfunded applications and related documents to the FRC within 90 days after the unsuccessful applicants have been notified. Applications submitted electronically must be printed before being sent. FRC retains the records for three years and then destroys them. Any other copies of the application and related documents should be destroyed. Guidance on how to prepare records and transfer them to FRC can be found in Appendix Z, "Archiving Procedures."

#### 4.7.3 Appeals by Unsuccessful Applicants

Unless an administrative appeals process is provided in a program statute,<sup>5</sup> ED does not provide a right of administrative review for applicants who have unsuccessfully competed for discretionary grants. Therefore, generally grant applicants cannot administratively appeal ED's decision not to select their application for funding.

ED may reconsider an unsuccessful application if the applicant notifies ED of substantive problems related to the review of its application, or provides proof that its application was mishandled (see section 4.9.3, "Mishandled Applications").

ED's policy is that the program official must review the situation and consult with OGC to determine if corrective action is needed. If the program official agrees that there are substantive problems related to the review of the application, and those problems resulted in the application not being funded, he/she may take appropriate steps for resolution.

**Note:** A substantive issue related to the actual review may exist when the applicant can show that one or more reviewers did not read the entire application, or there is evidence of reviewer bias against the applicant. A substantive issue does not include an applicant's disagreement with a reviewer's scores or comments. The program official should contact OGC if further guidance is needed in determining whether there are substantive issues.

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<sup>5</sup> As of the date of this Handbook, the only discretionary grant program managed by ED that, by statute, gives unsuccessful applicants a right of appeal is the Native American Program authorized by Section 116 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2326). This right is granted under Section 116(b)(2) through a cross-reference to section 102 of the Indian Self-Determination Act.



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## 4.8 Cooperative Agreements

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### 4.8.1 General

In accordance with the Federal Grant and Cooperative Agreement Act of 1977 (31 U.S.C. chapter 63), Congress permits Federal agencies to choose the appropriate instrument to use in making awards. Program officials determine whether to use a cooperative agreement as the award instrument based on the nature of the relationship and the activities to be performed by the grantee. Program officials may use a cooperative agreement only when ED anticipates having substantial involvement with the grantee during the performance of the funded project (see section 4.8.2, “Determining Substantial Involvement”). Program officials must not use cooperative agreements for the following purposes:

1. To increase ED’s involvement in projects beyond those authorized by statute;
2. To take away management control of a project from the recipient or to obtain stricter control over the administrative operations of its organization;
3. As a substitute for a procurement or contracting instrument to purchase goods or services for the benefit of the Federal government; or
4. For projects in which the program staff will not have substantial involvement with the grantee during the period of the award.

If a cooperative agreement is to be used, it must explicitly state the character and extent of the anticipated programmatic involvement of the program staff in the project and clearly define the responsibilities of both parties in the agreement. The agreement must clearly convey the programmatic benefits that the recipient would not otherwise have available to it in carrying out the project. Also, it must be developed carefully to avoid excessive ED involvement under the agreement.

Cooperative agreements are subject to the basic procedures and requirements established in EDGAR for application notice, application processing, technical review, program recommendation, award and record retention established for grants. Additional requirements unique to cooperative agreements are presented in the sections below.

The program staff must make sure that the award document for cooperative agreements is produced using one of the optional clauses in GAPS designated for cooperative agreements. The award notification for the cooperative agreement must contain the appropriate special provisions and attachments, including a copy of the actual agreement.

### 4.8.2 Determining Substantial Involvement

Federal statutes related to cooperative agreements neither define the phrase, “substantial involvement,” nor provide exact criteria for determining its presence in a project. This is because it is a relative rather than an absolute concept. However, OMB has published

guidance for Federal agencies to use in determining whether or not substantial involvement with the recipient can be anticipated when making an award.

**Table 4-1. OMB Guidance on Determining Substantial Involvement**

<b>Substantial involvement is usually considered to be present if:</b>	<b>Substantial involvement is usually considered NOT to be present if:</b>
<p>ED must be able to halt an activity immediately if detailed performance specifications or requirements are not met.</p> <p>ED must review and approve one stage of work before the recipient can begin a subsequent stage during the period covered by the award.</p> <p>ED must review substantive provisions of proposed contracts under the cooperative agreement.</p> <p>ED is involved in the selection of key recipient personnel.</p> <p>ED and the recipient collaborate or participate jointly in the assisted activities.</p> <p>ED undertakes monitoring that permits it to direct or redirect the work because of interrelationships with other projects.</p> <p>Substantial and direct operational involvement of or participation by ED in the project is anticipated before the award is made to ensure compliance with such statutory requirements, such as civil rights, environmental protection and provisions for the disabled. Such participation would exceed what is normally undertaken to comply with general statutory requirements that are a condition of every award.</p> <p>ED has established highly prescriptive requirements before the award is made, which limit the recipient's discretion with respect to scope of services offered, organizational structure, staffing, mode of operation and other management processes. Requirements coupled with close monitoring or operational involvement during performance would exceed the normal exercise of Federal oversight responsibilities.</p>	<p>ED approves recipient plans before the award is made.</p> <p>ED exercises normal oversight responsibilities during the project period to ensure that the objectives, terms and conditions of the award are accomplished. Examples include telephone monitoring, site visits, performance reporting, financial reporting and audit.</p> <p>ED does not anticipate involvement to correct deficiencies in project performance or financial management.</p> <p>ED undertakes activity to comply with general statutory requirements that are a condition of every award, such as civil rights, environmental protection and provisions for the handicapped.</p> <p>ED reviews performance after completion.</p> <p>ED undertakes activity to comply with general administrative requirements such as those included in EDGAR and program regulations.</p> <p>ED provides technical assistance, advice or guidance to recipients of grant awards when:</p> <ol style="list-style-type: none"> <li>(1) it is requested by the recipient;</li> <li>(2) the recipient is not required to follow it; or</li> <li>(3) the recipient is required to follow it, but it is provided before the assisted activity begins, and the recipient understands the requirements before the award is made.</li> </ol>

Table 4.1 above lists criteria that reflects OMB's guidance on the subject but is not intended to be an all-inclusive listing of potential situations affecting the decision of whether to award a cooperative agreement. Contact OCFO/GPOS for assistance if there is uncertainty regarding whether a cooperative agreement is appropriate for a particular grant.

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### 4.8.3 Alternating Award Instruments

Using the guidance discussed in Table 4-1 above, some ED programs that award Federal assistance as grants may decide to use cooperative agreements as the award instrument in future competitions, or vice versa. During the performance of a multi-year award, program officials may also decide to convert a particular award from one instrument to the other. However, such a change may occur only at the time a continuation award is made, unless the grantee voluntarily consents to such a change (EDGAR § 75.262). A recommendation for changing the award instrument will depend on the nature of the program, individual project or the ability of the recipients. For example:

1. Some projects may start out as cooperative agreements in the first year and may be converted to grants after determining the grantee's ability to perform; or
2. Other projects, initially funded as grants, may have to be continued for subsequent budget periods as cooperative agreements, if there is a need to revise the project or protect the Federal interest (such as when monitoring or reports indicate that substantially increasing ED's programmatic involvement would benefit the work of the project).

## 4.9 Other Awards

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### 4.9.1 Directed Awards (Earmarks)

Directed awards and their requirements are listed below.

1. If Congress mandates a directed award in a statute, the mandate identifies the specific recipient(s), the funding level of the award, and possibly the project activities the recipient is to conduct. The recipient must still submit an application [EDGAR § 75.104(a)]. However, since the award is mandated, the application from the recipient is not required to be reviewed in the same manner as that used for competitive applications. In all cases, the program official will conduct a review of the application as described below. The program official may also decide to have the application reviewed by one or more ED staff that possesses, to the extent feasible, the expertise in the area(s) addressed in the application or by external application reviewers.
2. Before making an award, the program official must ask the recipient to submit an application that addresses the purpose for which the award is to be made [EDGAR § 75.104 (a)]. The application must include, at a minimum, a detailed description of the activities to be carried out and a detailed budget.<sup>6</sup> The application must also include

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<sup>6</sup> There must be statutory authority for the activity that the recipient proposes. For example: Congress specifically appropriates \$1,000,000 for X program that ED awards to State University for rehabilitation assistance. State University proposes to build a swimming pool with the funds to help rehabilitate individuals. If the authorizing statute for X program does not authorize construction, ED could not make an award to build the swimming pool. State University would have to submit a different application to use the

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the required assurances and certification forms and any other documentation required before a grant award is made. The application must then be reviewed to:

- a. Ensure that the award recipient describes the intended use of the funds with sufficient specificity to make certain that funds will in fact be used for the purposes intended;
  - b. Ensure that the budget costs are allowable;
  - c. Ensure that the applicant has the fiscal and administrative ability to implement the award and account for the funds; and
  - d. Determine the appropriate conditions to be included with the GAN, including conditions to assure proper administration of the grant and accounting for the funds.
3. Unless otherwise dictated by statute or regulation, or by the scope of the project and its level of funding, directed awards usually have a one-year budget and performance period. Whenever possible, the program staff should designate “K”, X000K1000, as the alpha indicator in the PR/Award number for all directed or earmarked awards. The program staff must monitor and administer the award closely to ensure that the recipient completes the approved project activities described in the application.
  4. The EDGAR requirements applicable to discretionary grants (other than those requiring a grant competition) and the ED policies and practices that relate to those EDGAR requirements apply to earmarked grants. The program staff must include the standard GAPS attachments for earmarked grants.

**Note:** In cases where there is statutory authority for a directed or earmarked award, but where there is no appropriation, ED is not required to fund the activity. Similarly, ED is not required to fund an entity in cases where there is no statutory authority but Congress states its belief, in legislative history, that a particular entity deserves an award under a particular program. If the entity meets all the substantive and procedural requirements for participation in a competition, however, it may be considered under a competition.

#### 4.9.2 Unsolicited Applications

ED policy does not encourage the submission of unsolicited applications. The majority of ED’s discretionary grant funds are awarded through the competitive process. However, ED does have authority under EDGAR § 75.222 to accept unsolicited applications if the applications meet certain standards.

Because unsolicited applications are not encouraged, a Principal Officer may decide not to accept unsolicited applications for a particular program by publishing a notice in the

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funds for some other, non-construction project or the funds would go to the Treasury. If Congress had been more specific in the appropriation and appropriated \$1,000,000 for State University to build a swimming pool to be used for rehabilitation, the appropriation would have provided sufficient statutory authority to build a swimming pool.

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Federal Register that it will not accept unsolicited applications under that program. (34 CFR 75.222, introductory paragraph)

Each Principal Officer should take the following steps regarding unsolicited applications:

1. Establish a central receiving point in each principal office for all unsolicited applications. Upon receipt of the unsolicited application, notify the applicant that the application has been received and describe the next steps appropriate for that application.
2. Determine whether an unsolicited application should be considered for funding and if so, under which program it should be funded using the detailed procedures contained in EDGAR § 75.222.
3. Immediately forward the unsolicited application to OII if it proposes activities that can be supported by the Fund for the Improvement of Education (FIE). OII then notifies the applicant of the next steps and processes the application under the procedures in this section. If the Principal Officer wishes to provide funding recommendations, those recommendations should be provided in writing when the application is transmitted to OII.
4. Review the unsolicited application by either of the following:
  - a. If the application could be funded under a current competition for which the deadline for submission of applications has not passed, the Principal Officer must refer the application to the appropriate competition for consideration under the procedures found in EDGAR § 75.217.
  - b. If the application could have been funded under a current fiscal year competition but the deadline has passed, the Principal Officer may consider funding the application only under exceptional circumstances. Exceptional circumstances must be determined on a case-by-case basis. In most cases, the Principal Officer will not find exceptional circumstances and must contact their OGC Liaison before making an “exceptional circumstance” decision.
  - c. If no competition has been planned or conducted under which the application could be funded, the application may be considered. If this is the case, the Principal Officer must determine if:
    - 1) There is a substantial likelihood that the application is of exceptional quality and its project outcomes have national significance for a program administered by ED 34 CFR 75.222;
    - 2) The application meets the requirements of all applicable statutes and regulations that apply to the program; and
    - 3) Selection of the project will not have an adverse impact on the funds available for other planned awards.
5. If the Principal Officer determines that the three factors in item 4c. above appear to be satisfied, then the Principal Officer must sign a memorandum for the official grant file that documents this determination and explains the rationale behind the

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- determination. The Principal Officer assembles a panel of experts from outside ED to review the application. This panel of experts, which must not include ED employees, must:
- a. Meet the same Conflict of Interest requirements found in section 3.5, “Conflict of Interest;”
  - b. Use the same scoring forms as used for regular competitions to rate the application (see section 3.4.5, “Packages for Application Reviewers”);
  - c. Evaluate the application based on the selection criteria established under EDGAR § 75.211(b) or, if the application is being considered under exceptional circumstances, under the criteria selected for the relevant competition; and
  - d. Each separately determine whether the application is of such exceptional quality and national significance that it should be funded and document the basis for that conclusion on the scoring form.
6. If the panel of experts has reviewed the unsolicited application and determined that it satisfies the criteria of exceptional quality and national significance, and has rated it highly, the Principal Officer may fund the application.
  7. A Principal Officer must include all documentation of pre-award contacts with the unsolicited applicant in the grant file. If the application is forwarded to OII for consideration under FIE, the Principal Officer must include documentation of the pre-award contacts that occurred before the transfer of the file.
  8. The program staff then forwards the application’s information to the ACC for entry of data into GAPS. The program staff must designate “U” as the alpha indicator in the PR/Award number (such as X000U1000) for all unsolicited awards whenever possible.

**Note:** Principal Officers and their staff must be aware of the need to avoid circumstances where unsolicited applications—either in fact or appearance—are not genuinely unsolicited or are pre-selected.

#### 4.9.3 Mishandled Applications

The procedure for mishandled applications is as follows:

1. Under EDGAR §§ 75.219 and 75.221, program officials may consider an application as mishandled only under the following circumstances:
  - a. The application did not get funded because the application was mishandled by ED due to an administrative error such as the application having been:
    - 1) Incorrectly assigned to the wrong grant program or priority within a grant program;
    - 2) Addressed properly by the applicant but sent to the wrong address in ED;
    - 3) Incorrectly determined to have been received late; or

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- 4) Lost where the applicant can show proof the application was completed and submitted on time; and
  - b. Either:
    - 1) The application was evaluated under the preceding competition of the program and the application rated high enough to deserve selection; or
    - 2) The application was not evaluated under the preceding competition but would have rated high enough in the competition to deserve selection.
  2. When a program official determines that an application was mishandled, the program official provides a written justification to the Principal Officer who may then approve funding of the mishandled application. If the mishandled application is discovered in time, it can be included in the appropriate competition. If, however, the application is discovered too late to participate in the appropriate competition and there are no funds available in the current fiscal year appropriation, the application may be funded off the top of the next year's appropriation if:
    - a. The program staff evaluates the application under the criteria for the competition; and
    - b. The application ranks high enough to be in the funding range for the competition.

If the application was not evaluated under the competition to which it was submitted, the program staff must assemble a panel to review the application to determine if it is in the funding range.

## 4.10 The Official Grant File

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The program staff must create and maintain an official grant file for each application awarded a grant. The file holds the:

1. Original application and reviewer's comments;
2. Required forms;
3. Grant award notifications;
4. Annual Grant Performance Reports;
5. Correspondence;
6. Decisions; and
7. Any other documentation relevant to the grant throughout its life cycle.

This includes documents submitted, processed and maintained electronically. The content and organization of the official file is provided in Appendix O, "Organization of the Official Grant File."

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Program officials must establish a secure area in their respective offices to store the official grant files. Program officials should routinely review the official files and reinforce proper controls and procedures with program staff as inconsistencies are noted. Documents maintained electronically during the life of the grant must be printed or copied to a diskette and included in the official file when the grant is closed out.

In compiling the official grant file, the program staff and officials must make appropriate distinctions between personal notes, which should not be included in the official grant file, and official records that should be kept in the file. Personal notes are those documents made by staff and officials that are used for their personal recollection and are not shared with other ED personnel.



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# Chapter 5: Post-Award Activities

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## 5.1 Introduction

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Post-award activities are necessary to develop a partnership with grantees in order to administer, monitor, and close out awards made under ED grant competitions. The procedures in this chapter ensure that ED monitors its grants for both performance and compliance, and that ED can provide technical assistance to grantees to help them achieve successful project outcomes. Each principal office must:

- Establish working partnerships with its grantees;
- Review and approve post-award administrative changes to grants;
- Monitor projects for performance and financial compliance;
- Determine substantial progress and issue continuation awards;
- Provide technical assistance and feedback to grantees on their progress;
- Review grantees' final project outcomes and disseminate successful results where authorized and appropriate; and
- Close out expired grants timely.

## 5.2 Partnership with Grantees

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### 5.2.1 Post-Award Performance Conference

The post-award performance conference is the first step in developing a partnership between ED and the grantee. This partnership is characterized by on-going communication between the grantee and ED throughout the life of the project.

1. The conference is between the ED program staff member who will monitor the grant and the grantee's project director or other authorized representative. The conference can take place in person, by telephone, through workshops, via e-mail, or written communications. This initial conference should take place within 30 days of the award and must be documented in the official grant file.
2. The purpose of the conference is to:
  - a. Establish a mutual understanding of the expected performance outcomes;
  - b. Establish a mutual understanding of the measures for assessing the project's progress and results;

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- c. Clarify the frequency and method for monitoring and ongoing communication between ED and the grantee;
  - d. Discuss other technical assistance that ED or other service providers will provide (such as OPE Area Representatives, OESE Technical Assistance Centers);
  - e. Review and clarify specific regulatory or statutory requirements affecting the grantee's performance, if applicable; and
  - f. Review and clarify any project activity or budget issues or concerns (i.e., key personnel, indirect cost, cost-sharing or matching, changes in project activities due to changes in requested amounts).
3. The grantee's approved application should have project outcomes and measures consistent with performance measures for the grant program (see section 2.4, "Grant Program Performance Measures"). If program performance measures have not been established, the scope or objectives of the grantee's approved application should be discussed at the conference.
  4. The program staff may not permit the grantee to make changes in project scope or objectives during the conference discussion (see section 5.5.11, "Prohibiting Changes to the Project Scope or Objectives of a Grant"). However, some budgetary discussions might be necessary if changes were made to the budget before the grant award was issued. During the conference, the program staff must request a revised budget that reflects any changes made for the grant file. The program staff should document the conference and place in the official grant file.

The program staff should document all subsequent contacts with the grantee in the official grant file. If changes in the grant are required or approved, a copy of the documentation should be sent to the grantee.

## 5.3 Monitoring

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### 5.3.1 Introduction

The performance conference described in section 5.2.1, "Post-Award Performance Conference," usually is the first official contact between the ED program staff and grantee personnel after receipt of the GAN. This conference begins the partnership and monitoring process and aligns pre- and post-award activities.

The goal of monitoring is to establish partnerships with grantees that allow for flexibility in local decision-making, in conjunction with a results-oriented approach to program management that demonstrates excellence, accountability, and successful performance outcomes. Monitoring must also address ED's fiduciary responsibility to ensure the grantee's legal and fiscal compliance and to protect against fraud, waste, and abuse.

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### 5.3.2 Policy

It is ED's policy to monitor active discretionary grants with a focus on technical assistance, continuous improvement, and attaining promised results. Monitoring a grantee shall continue for as long as ED retains a residual financial interest in the project, whether or not ED is providing active grant support.

ED staff is to monitor each grantee to the extent appropriate so as to achieve expected results under approved performance measures, while assuring compliance with grant requirements. Existing requirements in EDGAR extend equally to all grantees and their partners.

### 5.3.3 Purpose

Systematic and regular monitoring by ED staff of a grantee's activities measures the project quality and progress, including strengths and weaknesses in the areas listed below.

1. A grantee's project must:
  - a. Conform to a grantee's approved application and any approved revisions, as well as the effectiveness and quality of the project (Program Management);
  - b. Progress against previously established performance measures (Performance Measurement);
  - c. Adhere to laws, regulations, conditions of the grant, certifications, and assurances (Compliance); and
  - d. Manage Federal funds according to Federal cash management requirements, including expenditure of funds for authorized purposes (Fiscal Accountability).
2. Regular monitoring enables ED staff to provide customized technical assistance, appropriate feedback, and follow-up to help grantees to:
  - Improve areas of need;
  - Identify project strengths; and
  - Recognize significant achievements.

### 5.3.4 Responsibilities of Principal Officers

Every Principal Officer overseeing a discretionary grant program is required to:

1. Establish and adhere to uniform monitoring procedures that facilitate grantee:
  - a. Progress in achieving ED program goals and objectives;
  - b. Adherence to laws, regulations and assurances governing the ED program; and
  - c. Conformity with the approved applications, ED reporting or other requirements.

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2. Document monitoring by developing and using performance measurement systems that:
    - a. Identify core performance measures for each program;
    - b. Incorporate performance measures into program operations and documents; and
    - c. Conduct continuous review and improvement to assure useful, high-quality data.
  3. Utilize data collected, analyzed, and reported to:
    - a. Improve the principal office program monitoring and procedures;
    - b. Provide technical assistance to improve performance;
    - c. Target Federal and grantee resources and redistribute to areas of greatest need;
    - d. Recommend revisions to program laws and regulations to enhance program effectiveness; and
    - e. Adjust program priorities.
  4. Share program results and information about significant achievements including the best available research and practices that could serve as models for other projects, the Federal government, and the public.
  5. Consult with OGC to resolve any concerns raised by applicant, grantee, or beneficiary of a grant either that ED has treated the applicant or grantee differently or that the grantee has treated the beneficiaries differently on the basis of religious identity in the award or administration of a grant.
  6. Report possible violations of Federal law or regulations to the cognizant officials, such as the Inspector General for financial misconduct or the Assistant Secretary for Civil Rights for civil rights violations.
  7. Update program information in the Monitoring Information System (MIS) and submit it annually to the OCFO. [See Appendix T, “Monitoring Information System (MIS)”.]
  8. Prepare a report detailing the previous year’s principal office monitoring activities and submit it to the OCFO.

### 5.3.5 Annual Monitoring Report

Annually, each Principal Officer must prepare and send to the Chief Financial Office a report of monitoring activities undertaken in the principal office during the previous fiscal year. The annual monitoring report must:

1. Describe general monitoring activities undertaken in the principal office, including the types of activities, the improvements made in the monitoring process, and the existing barriers to further improvement;

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2. Contrast the programs monitored and the monitoring activities with those anticipated in the Annual Monitoring and Technical Assistance Plan developed in section 5.3.6, “Responsibilities of Program Officials”;
  3. Describe the effectiveness of risk management procedures used to identify at-risk or high-risk grantees;
  4. Describe the effectiveness and results of technical assistance opportunities, including site visits in improving grantee performance;
  5. Summarize any unusual findings (favorable or unfavorable) revealed through the monitoring process, such as exemplary projects recommended for replication or dissemination, unauthorized expenditures, or violations of Federal law or regulation, and describe actions taken;
  6. Describe the efforts undertaken in the principal office to resolve any problems described in the Annual Monitoring and Technical Assistance Plan;
  7. Assess the effectiveness of the various monitoring methods and instruments;
  8. Describe any recommendations made to the Secretary for improvements in laws, regulations, or policies based on information gained from the monitoring activities of the principal office; and
  9. Verify that the program contact at ED headquarters has received and reviewed all materials, reports, and other documentation developed by the regional program staff monitoring grantees.

### 5.3.6 Responsibilities of Program Officials

Program officials must:

1. Develop a monitoring and technical assistance plan for each grant program that serves as a standard and guide for monitoring grants in the program (see Appendix R, “Monitoring and Technical Assistance Plan”). The plans are maintained within the principal office.
2. Develop suitable monitoring tools that are designed to:
  - a. Gather information that addresses the purposes of monitoring outlined in section 5.3.3, “Purpose”;
  - b. Describe performance and outcomes of projects and assess the extent to which projects are meeting established program goals, objectives, and performance measures; and
  - c. Describe the scope, frequency and methods of monitoring for each type of monitoring activity.

**Note:** If these tools require responses from ten or more entities, they generally require paperwork clearance according to the procedures established by OMB

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under 5 CFR part 1320. The program staff should consult with the RIMG in OCIO for information about paperwork requirements.

### 5.3.7 Responsibilities of Program Staff

The program staff must:

1. Develop the most appropriate form of monitoring for each grant, such as site visits, telephone reviews, reports, milestone evaluations, or written communication. Some factors to consider in determining the appropriate form of monitoring are:
  - a. Legal requirements for on-site monitoring;
  - b. Significant funding levels;
  - c. Risk factors on the part of a grantee (including designation as a high-risk grantee);
  - d. Reported problems and grantee requests for assistance;
  - e. Availability of funds and staff for on-site monitoring;
  - f. The need to review a grantee's records or exchange documents;
  - g. Special significance of a project;
  - h. Geographic proximity of two or more grantees; and
  - i. Opportunity for monitoring multiple awards at the same grantee location, especially as joint monitoring with other ED program staff.
2. Provide technical assistance to grantees to improve performance;
3. Create detailed records of all monitoring activities by ED personnel, contact with grantees (including e-mail and telephone), and information gathered;
4. Provide to grantees timely reports of monitoring activities that include:
  - a. Any findings and recommendations for changes and improvements to projects, if necessary;
  - b. Corrective actions needed in case of noncompliance;
  - c. Identification of specific elements of exemplary performance in projects; and
  - d. Recommendations for recovery of funds in cases of adverse findings, as discussed in section 5.3.8, item 14, "Adverse Findings Requiring Consultation with Other Offices."
5. Report project-specific findings to other offices of ED, if appropriate;
6. Ensure that the appropriate disclaimer is included in the project materials, as required by 34 CFR 75.620, if the grant activities include publications such as those described in section 5.5.12, "Publications,"; and
7. Close out grants in a thorough and timely manner.

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### 5.3.8 Fiscal Monitoring

As part of the monitoring process, the program staff is required to pay particular attention to grantee's fiscal activities.

1. The program staff must use GAPS as the primary tool for fiscal oversight. The payee award sub-function provides expenditure information, such as payment histories and spending patterns, by PR/Award number.
2. The program staff must review a grantee's expenditure information on a quarterly basis (more frequently when the grantee is experiencing performance problems). Reviewing this information in GAPS is the primary method of determining if the rate of cash draws is consistent with the expected expenditure pattern for a project's approved scope of work and project milestones.
3. By noticing problems early in a budget or project period, the program staff can partner with the grantee to resolve any issues involving cash drawdowns. Some questions the program staff should consider are:
  - a. Is the work being performed?
  - b. Are performance measures being met?
  - c. Is there a financial management problem?
  - d. Is the grantee making substantial progress?
  - e. Was the project start delayed?
  - f. Did the grantee have a difficult time hiring or replacing key personnel, including the project director?
  - g. Did key personnel leave the project?
  - h. Does the grantee understand ED's procedures for drawing funds?
  - i. Is the rate of the grantee's cash draws justified considering the nature of the project?
4. In fiscal monitoring, the program staff might discover financial management problems that could indicate performance problems. The program staff should be particularly concerned if the grantee:
  - a. Has drawn few or no funds;
  - b. Is not drawing funds on a consistent basis; or
  - c. Has a large fund balance near the end of each quarter of a budget period.
5. The program staff must review two reports generated in GAPS to assist them with fiscal monitoring:
  - a. The Excessive Drawdown Activity Report; and
  - b. The Large Available Balance Report.

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Each report identifies those grants that appear to have atypical drawdown patterns, either excessive or insufficient, as determined by percentages established in GAPS.

6. Excessive Drawdown Activity Report:

Grantees are required to minimize the amount of time between the drawdown and the use of funds from their bank accounts. (See EDGAR §§ 74.21-22 and 80.20-21.) Funds must be drawn only to meet a grantee's immediate cash needs for each individual grant.

- a. Program offices must closely monitor drawdown activity to ensure that drawdowns are not made in excess of each grant's immediate cash needs. In addition to the Excessive Drawdown Activity Report mentioned above, GAPS also provides the program staff with the Award History Report that can supplement the review of the Excessive Drawdown Activity Report. The following three groups within each program office ensure that the GAPS reports are used for monitoring excessive drawdowns:
  - 1) **Points of contact:** Each principal office must designate at least one point of contact to generate and distribute the Excessive Drawdown Activity Report on a weekly basis. The point-of-contact is responsible for following up with the appropriate program officials to verify that either:
    - a) Funds were drawn in appropriate amounts; or
    - b) Any issues about excess cash balances were resolved.The points of contact are also responsible for documenting the status of each grant on the report.
  - 2) **Program officials:** Program officials are responsible for directing program staff members to research each grant on the report to determine whether excessive drawdowns have been made and, if needed, to assist the grantee in resolving problems with excess cash drawdowns. Program officials are responsible for keeping the points of contact informed on the status of grants on the report.
  - 3) **Program staff:** For each grant on the report, the program staff must review the approved budget and application to ensure consistency between the large drawdown and the activities scheduled for the corresponding time in the budget period. If the program staff determines that cash drawdowns are excessive, they must contact the grantee within seven calendar days after receiving the report from the program official to resolve the situation.
- b. The thresholds for excessive drawdown activity in any quarter of a budget period are as follows:
  - 1) First quarter: more than 50 percent of the funds for that budget period have been drawn by the end of this quarter;
  - 2) Second quarter: more than 80 percent of the funds for that budget period have been drawn by the end of this quarter; and
  - 3) Third quarter: 100 percent of the funds for that budget period have been drawn by the end of this quarter.



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- c. If grantees appear on the report because they are not aware of ED’s cash management policies, the program staff should inform the grantee of the correct policies and regulations regarding drawdown and disbursement of funds and tell the grantee that the excess cash must be returned to ED and the interest earned on excess balances must be returned to --

- 1) ED, if the grantee is subject to part 80 (governments); or
- 2) HHS, if the grantee is subject to part 74 (non-governmental entities).

**Note:** Generally, the amount of interest a discretionary grantee owes the Federal government is determined under 34 CFR §74.22(i) for non-governmental entities and 80.21(i) for governments.

- d. If large drawdowns are consistent with planned activities, the program staff is responsible for documenting the official grant file and informing program officials that drawdown amounts are appropriate.
- e. When drawdowns are not consistent with the activities planned for the grant, the program staff person must follow the requirements in paragraph 7, below, “Resolving Excessive Cash Balances.”

7. Resolving Excessive Cash Balances:

- a. When excess cash balances occur, the grantee can either return the funds to ED electronically or by check or make an on-line adjustment to redistribute funds that have been drawn on one grant to other awards with immediate expenditure needs. If the grantee wants to make adjustments to the balances of its various grants, the program staff should direct the grantee to the User’s Guide on the e-Payments Web site (<http://e-Grants.ed.gov>). The User’s Guide is a secure document that can only be accessed by those authorized to draw down funds. The grantee must resolve excess cash balances within two weeks after being contacted by the program staff.
- b. The program staff should instruct grantees returning funds by check to provide the PR/Award and DUNS numbers along with the name and telephone number of the person authorized to resolve the excess balance issue. The check should be mailed to: U.S. Department of Education; P.O. Box 979053; St. Louis, MO 63197-9000. This address may be used by grantees that are returning all funds by check, such as unbilled related funds, instead of electronically.
- c. If the grantee does not resolve excess cash balances within two weeks after being contacted, the program official must consult with the program attorney and take one of the following actions:
  - 1) Activate the Route Payment Flag in GAPS and notify the grantee that all future payment requests will be routed to the program office for approval. Activating this flag ensures that payments will not be made without program staff approval.
  - 2) Require the program staff to transfer the grant from the advance payment method to the reimbursement payment method in GAPS, which requires that

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the grantee be reimbursed for expenses incurred. The license holder must activate the Reimbursement Flag in GAPS to take this action. Under the reimbursement method, the grantee must submit vouchers as proof of expenditures and explain why these expenditures are allowable. The program staff member may approve drawdowns only after the grantee has substantiated expenditures greater than the amount of the excess balances. If a new drawdown is appropriate, the program staff member brings supporting documentation to the license holder, who then can authorize payment.

- d. If the excess cash balances remain unresolved after taking the actions under paragraph c. above, the program official must consult with the program attorney and decide whether to designate the grantee as high-risk. If the grantee is designated high-risk, the program official must notify the grantee, and activate the stop payment flag in GAPS. Activating the stop payment flag will prevent the grantee from drawing down funds on an individual award or, if necessary, any award made to the entity until the excess cash issue has been resolved. (See section 5.6.4, “EDGAR Standards for High-Risk Designation,” and 5.6.6, “Special Award Conditions and Other Actions.”)
  - e. If the grantee does not resolve the excessive cash balances within a reasonable time period under the conditions of section 5.3.8, item 7, c1. or c2. above, the program official must take action specified in section 5.6.14, “General Recovery of Funds.”
8. Large Available Balance Report:

Large balances remaining in grant accounts at the end of a budget period may indicate non-performance or financial mismanagement. The Large Available Balance Report flags grants where 70 percent of the project budget is available 90 days or less before the budget period ends. The Large Available Balance Report is generated by the points of contact and delivered to the program official. The program official then assigns the program staff to research each grant on the report and to work with the grantee for resolution. The program staff must review the report before issuing continuation awards or accepting a grantee’s notification of a time extension to the final budget period.

Points of contact must run the report 90 days before the end of the budget period. If there are varying budget period end dates on grants within the same program, the report must be run on a recurring basis to ensure all of the grants can be evaluated based on the Large Available Balance Report criteria. The program staff may run this report at anytime for monitoring purposes.

Having a large available balance does not always mean there is a problem or a failure on the part of the grantee. Some grantees use their own funds and reimburse themselves with funds from the ED GAPS account. Other grantees draw funds from the GAPS accounts on set schedules, such as monthly or quarterly according to the accounting and cash management procedures of the organization.

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The program staff should contact the grantee to verify the grantee's institutional drawdown practices and provide technical assistance in complying with effective cash management practices. The program staff also must document in the grant file how the large available balance issue was resolved. Program officials must sign, date, and return the Large Available Balance Report to the point of contact. The point of contact then maintains the report until it is no longer needed.

#### 9. Resolving Large Available Balances:

After determining why a grantee has a large available balance and having reached an agreement with the grantee for a revised expenditure plan, the program staff must recommend to the program official either to approve the grantee's plans for spending the funds or recommend a reduction in the amount of the new funds to be awarded for the following budget period (see section 5.4.7, "Carryover"). The program official may also decide not to make a continuation award.

**Note:** Recommending a reduction of the continuation award by the entire remaining amount shown on the report might be appropriate. The program staff must consider whether the grantee can simultaneously perform grant activities they did not complete in the prior budget period and pursue activities planned for the new budget period.

When a grantee identified on the report is in the final budget period of its grant, the program staff must follow the procedures in section 5.5.9, "Extension of the Final Budget Period," if an extension is being considered.

#### 10. Performance Monitoring and High-Risk:

When the program staff monitors specific grantees, they must identify any performance, financial, or administrative problems and determine if intervention is required to prevent the grantee from being designated "high-risk." If a grantee is unresponsive to intervention or the problem is very serious, the program staff must inform the program official and decide what additional measures may be needed to bring the grantee into compliance, including, for example, designating the grant or grantee as high-risk.

Another way to think about this type of monitoring is to identify the action or inaction of a grantee that needs attention. For example, the grantee has had minor performance, financial, or management problems that raise concern. The problems are typical of all grants and are usually resolved with program staff intervention but have the potential to escalate if intervention and technical assistance is not provided.

The following chart, Figure 5.1, "Problems or Concerns and Possible Solutions," although not all-inclusive, provides some of the most common examples of actions or inactions of a grantee that might require attention. The chart also includes possible solutions, if appropriate.

**Figure 5.1. Problems or Concerns and Possible Solutions**

<b>Problem or Concern</b>	<b>Possible Solutions</b>
Grant had start-up difficulties, such as the delayed hiring of the project director or other key personnel.	Provide necessary technical assistance. Maintain regular contact with grantee to monitor progress. Plan for potential large carryover balance and possible no-cost extension at the end of the grant.
An audit or other report is late or grantee has failed to submit previous reports.	Ask grantee about report. Establish a date for grantee to submit report. Work with the Post Audit Group to obtain the report. Inform grantee that failure to submit reports is considered in continuation and new award decisions.
The original budget contained many or large unallowable costs.	Contact grantee to provide technical assistance. Provide grantee with the appropriate OMB cost principles and other guidance.
Grant has excessive drawdowns.	Review drawdown history in GAPS. Contact grantee to inquire about the excessive drawdown and explain ED's policy on drawdowns. Monitor, more frequently, the grantee's financial information in GAPS.
Grantee has drawn down few or no funds.	Contact grantee to confirm work is taking place on the grant. Provide technical assistance and explain ED's drawdown policy. Monitor progress.
Frequent turnover in key personnel working on the grant.	Ensure key personnel replacements are qualified before providing approval. Contact grantee to discuss why turnover is taking place and any management concerns related to personnel. Ensure new personnel are familiar with ED regulations and other governing regulations.

11. Using Audit Data in Monitoring:

- a. The program staff uses any available audit information to assist in grant monitoring. Prior to performing any monitoring activity, the program staff should access and review available audit data to determine whether the grantee is in compliance with OMB Circular A-133 audit requirements. This audit data will provide the program staff with the following information:

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- 1) Whether, based on available audit data, the grantee is/was required to submit an A-133 audit report; and
  - 2) Whether, based on available audit data, the grantee is in compliance with the OMB Circular A-133 audit report.

The program staff may also access the audit database maintained by the Federal Audit Clearinghouse, generally referred to as the Single Audit Clearinghouse, in order to obtain relevant audit data.

- b. If the review of the audit data reveals that the grantee failed to comply with the A-133 audit requirement, the program staff should follow-up with the grantee. The information will help determine the next steps to take. The program staff should document the grant file with the information received.
- c. If the review of the audit data reveals findings, the program staff must check the grant file for a copy of a Program Determination Letter. If a copy is not found, the program staff must contact its Audit Liaison Officer (ALO). Based upon the findings, the program staff should work with the grantee to minimize the effect of any deficiencies on the project. In some cases, the program staff may need to recommend that the program official impose special conditions on the grant and provide additional monitoring and technical assistance to the grantee. (See section 5.6.6, “Special Award Conditions and Other Actions.”)

**Note:** The following paragraph is included in this Handbook pending dissolution of RSA regional offices.

#### 12. Regional Monitoring:

- a. Principal Officers are encouraged to use the program staff in regional offices for monitoring grant projects funded in their respective regions.
- b. Principal Officers must ensure that:
  - 1) ED’s regional staff assigned monitoring responsibilities receives the same level of training, preparation, and guidance as headquarters staff assigned monitoring responsibilities;
  - 2) The principal office has procedures in place to send copies of all regional monitoring reports and other documentation to ED headquarters;
  - 3) All programs that use regional program staff for monitoring designate a program contact at ED headquarters who will receive and review regional monitoring reports and other documentation; and
  - 4) The grantee and program staff act upon the results of such monitoring.

#### 13. Documentation Requirements:

The program staff must document all monitoring activity in each grantee’s official file. Each Principal Officer will strive to standardize the documentation required in programs throughout a principal office. At a minimum, documentation of monitoring activities must describe:

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- a. Purpose of the monitoring activity;
  - b. Methods and instruments used for monitoring a project;
  - c. Documentation of all monitoring contacts;
  - d. An assessment of the activities that have been completed and how much a grantee's project scope and objectives have been met;
  - e. Results of project activities observed in monitoring or reported by the grantee;
  - f. Findings of grantee noncompliance with Federal legislative or regulatory requirements; and
  - g. Corrective actions for each finding or specific recommendations made for project improvements that have been communicated to the grantee in writing, and the grantee's responses.
14. Adverse Findings Requiring Consultation with Other Offices:
- a. If monitoring reveals noncompliance with laws, regulations, or grant terms and conditions, the program staff will work to bring the grantee into compliance by:
    - 1) Providing technical assistance;
    - 2) Having the grantee make needed changes to the conduct of a project; and
    - 3) Recommending the program official impose actions such as a suspension, termination or reimbursement of funds (see section 5.6.6, "Special Award Conditions and Other Actions").
  - b. If monitoring reveals an unallowable obligation under the grant, failure to account for funds properly, or other need for the recovery of funds, the program official shall work with other appropriate offices of ED, such as OGC and Financial Management Service, and, if appropriate, establish a claim for recovery of funds in accordance with the collection procedures set forth in 34 CFR part 30.
  - c. If findings require a follow-up audit, the program or regional staff will refer such requests to the OIG.
  - d. Principal Officers should report findings involving possible violation of Federal law or regulation to the cognizant officials, such as the Assistant Secretary for civil rights for apparent violations of civil rights assurances, or other Federal agencies.

## 5.4 Continuation Awards

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### 5.4.1 Making a Continuation Award

Recipients of multi-year discretionary awards must submit an annual Grant Performance Report in either hard copy or by utilizing the e-Reports software in e-Grants to receive

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continuation funding. (See section 5.4.3, “e-Reports – Electronic Grant Performance Reports” and EDGAR §§ 74.51, 75.118, 75.590, 75.720, and 80.40.) The annual report provides data on the status of the funded project that corresponds to the scope and objectives established in the approved application and any approved amendments. Under EDGAR § 75.118, the report must provide the most current performance and financial information (including cost-share data, if applicable).

Unless additional requirements are imposed by the program statute or regulations, under EDGAR § 75.253, continuation funding is contingent upon the following requirements in EDGAR :

1. Congress has appropriated sufficient funds under the program [EDGAR § 75.253(a)(1)];
2. The grantee has made substantial progress toward meeting the project objectives or the program staff has obtained approval from the program official for changes to the project that enable the grantee to make substantial progress in meeting those objectives in the succeeding budget periods [EDGAR § 75.253(a)(2)];

**Note:** The program official cannot approve changes that increase the cost of the grant or change the scope or objectives of the grant).;

3. The grantee has submitted every required report (including the annual Grant Performance Report) [EDGAR § 75.253(a)(3)];
4. The program staff has determined that continuing funding is in the best interest of the Federal government (e.g., the program staff believes the project continues to serve the priorities of the program) [EDGAR § 75.253(a)(4)]; and
5. The program staff has determined that the grantee continues to maintain management practices and financial accounting systems that provide appropriate stewardship of Federal funds (EDGAR §§ 74.21 and 80.20).

If the program staff informs the license holder that the grantee meets these standards, the license holder may issue a continuation award.

#### 5.4.2 Grant Performance Report Form

Program officials, whenever possible, must have grantees use the ED standard annual Grant Performance Report form (ED 524B) to submit their grant performance and financial data to ED, unless additional information is needed beyond that requested on the report form. ED 524B may be used as both the continuation and final Performance Report. It can be found at <http://connected/index.cfm?navid=461>

In rare circumstances, if program officials decide additional reporting information is necessary, program officials may develop program-specific performance report forms. These program-specific performance report forms must include the budget and indirect cost information requested on the ED 524B. In such cases, the program official must obtain approval from OCIO/RIMS and OMB to use separate program-specific forms and instructions under the Paperwork Reduction Act.

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**Note:** Gaining OMB’s approval of the specific form can take up to 120 days after RIMS review. (See section 2.5.1, “Application Packages.”)

### 5.4.3 e-Reports – Electronic Grant Performance Reports

e-Reports software allows existing grantees to complete and submit annual performance reports to ED electronically via the Internet. The program staff must notify grantees of the availability of e-reports. The program staff may create an electronic performance report in GAPS that includes:

1. All applicable report forms;
2. Narrative headings and space for grantees to address project issues; and
3. Space for grantees to provide narrative documents to support a determination of substantial progress by the program staff.

Grantees will get an immediate notice confirming the receipt of their report, followed by an e-mail confirmation message.

### 5.4.4 Grant Performance Report Due Date

Program officials are responsible for establishing the date when grantees must submit their annual Grant Performance Report to ED for each program they administer. The submission date for the report should be established as late in the budget period as reasonably possible. Generally, the program official should require grantees to submit their reports seven to ten months after the start of the budget period. Report dates can vary based on program requirements, special circumstances, and whether reports are submitted electronically.

The program staff should inform grantees of their next performance report due date when they send the original grant award notification to them and with subsequent continuation grant award notifications. The program staff must notify grantees of any changes to these dates as soon as possible. The instructions for submitting the reports should clearly state where the reports should be mailed. GAPS has a template for a reminder letter to assist with this task.. The annual Grant Performance Report is usually sent directly to the program staff member assigned to the grant or to a central location within the principal office. The program official is responsible for establishing procedures for receiving and logging in the reports in GAPS if the e-Reports software is not used.

### 5.4.5 Substantial Progress

The project data included in a grantee’s annual Grant Performance Report must correspond to the scope and objectives that were established in the approved project application or any approved amendments. The determining factor in awarding a continuation grant is whether the recipient has made substantial progress within the scope of the approved application in attaining the objectives of the grant as evidenced by meeting the grant’s performance measures.



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The program staff must review, sign, and date the report and include it in the grant file. Staff must also update GAPS to indicate that the report has been received. A staff member's signature certifies that:

- The report was read;
- The grantee is making substantial progress; and
- The license holder may record the obligation and obligate the funds by signing and mailing the continuation award.

The program staff must analyze each report to ensure that the grantee has made substantial progress toward reaching the objectives included in the grantee's approved application. What constitutes substantial progress will vary across programs and projects. Unless the grant is for a service project, performance measures will not be useful until the project is complete.

The program staff must review the grantee's responses to the indirect cost questions. If the indirect cost rate is expired or raises other concerns, please review and follow the procedures in section 4.3.6, "Indirect Costs - Overview," through 4.3.14, "Other Considerations," before proceeding. Furthermore, the program staff must review the grantee's financial data in GAPS when determining substantial progress and before issuing a continuation award. This financial review will include reviewing the Large Available Balance Report.

If a grant that is currently being reviewed for substantial progress is listed in either report, then the program staff will need to compare this data on the report with the grantee's financial data in GAPS and the financial data submitted on the annual Grant Performance Report. If major discrepancies are found in the financial information, the program staff should determine the reasons for the discrepancies, resolve any issues, and recommend to the program official to either approve the grantee's plans for expenditure of the funds or recommend a reduction in the amount of the new funds to be awarded for the following budget period (see section 5.4.7, "Carryover") and 34 CFR 75.253. The program staff must record the resolution and the basis for the resolution in the grant file prior to issuing the continuation award.

The program staff must recommend discontinuing funding to grantees that have not demonstrated substantial progress toward meeting project goals and objectives, unless the program official approves changes to the project that will enable the grantee to make substantial progress in succeeding budget periods [see EDGAR § 75.253 (a)(2)]. In such cases, the grantee must submit a plan describing how substantial progress will be made in the future to justify continued funding. If funding is discontinued, the program official must send the grantee a written explanation. The grantee has no formal appeal rights to the program official's decision to discontinue funding of the grant for failure to demonstrate substantial progress.

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#### 5.4.6 Setting the Continuation Award Amount

The program staff establishes the budget levels for each budget period of a multi-year award when the original award is made. After the program staff reviews the Grant Performance Reports, the license holder can record the obligations and obligate the funds by signing and mailing the continuation grant award if there are no changes to the funding levels in the new and succeeding budget periods.

Continuation amounts are sometimes affected by changes to the ways grantees carry out their approved project activities or the appropriated funding level for the program. In such cases, grantees may be required to submit a revised description of the manner in which the work is to be performed and a revised budget to reflect the changes. These changes cannot result in a change to the project scope or objectives (see section 5.5.11, “Prohibiting Changes to the Project Scope or Objectives of a Grant”).

#### 5.4.7 Carryover

The policy for unexpended or carryover funds is as follows:

1. Unexpended funds at the end of one budget period can be used in the next budget period without any action by ED or the grantee unless restricted by the program staff as a condition of the award [see EDGAR §§ 74.25(e)(3) and 75.253(c)(1)].

If there is a large available balance, the program staff must require a written explanation from the grantee, unless the balance can be explained by the budget. (See section 5.3.8, “Fiscal Monitoring,” item 8.)

Program staff may require a description of how the unexpended funds will be used. EDGAR §75.253(c)(2). If a description is required, it must include:

- a. A description of how the grantee plans to use the unexpended funds in the next budget period; and
  - b. A list of activities that were not completed in the previous budget period (if applicable).
2. When the program staff requires a written statement from the grantee, the staff must consider the statement in deciding how much funding to provide the grantee for the next budget period.

If the program staff discovers excessive unobligated balances (see section 5.3.8, “Fiscal Monitoring”), they must make a good faith effort to work with the grantee to resolve any issues related to the circumstances that resulted in the unobligated funds.

In cases where the program staff does not concur with the grantee’s planned expenditures, staff recommends that the program official reduce new grant funds awarded for the following budget period. Before making this recommendation, however, the program staff must be sure that the grantee has enough funds available to complete the next budget period and any activities not completed from the prior budget period.

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In general, ED policy is not to limit use of carryover or reduce the amount of new funds awarded. The program staff should become sufficiently familiar with grantee projects through financial monitoring and technical assistance that funds balance issues are resolved before the time to make a continuation award decision arrives.

#### 5.4.8 OMB Circular A-133 Audit Review Prior to Issuing a Continuation Award

Program staff must review and document audit data, if applicable, before issuing a continuation award to a grantee.

1. A grantee that expended \$500,000 or more in Federal funds during the previous fiscal year must have an audit that meets the requirements of OMB Circular A-133. If the fiscal year ended on or before December 31, 2003, the audit threshold for an A-133 audit is \$300,000. The program staff can access the audit database maintained by the Federal Audit Clearinghouse, which has detailed information, at:  
<http://harvester.census.gov/sac/>
2. If the review of the audit data reveals that the grantee failed to comply with the A-133 filing requirement, the program staff must contact PAG to discuss any issues and coordinate follow-up with the grantee. If the grantee's audit report is missing, PAG contacts the grantee to inquire about the status of the missing audit report, establish a deadline for the grantee to submit the report to the Federal Audit Clearinghouse, and directs the grantee to the appropriate data collection forms. If the grantee fails to submit the report by the established deadline and all efforts to get the grantee to submit the report have failed, the program staff must consider not issuing a continuation grant. However, the program staff must consult with OGC before taking any final actions based on audit information. The program staff must document in the grant file all actions taken to bring the grantee in compliance with the A-133 requirement.
3. If the A-133 audit data reveals that the grantee's audit report had findings, the program staff should check with their ALO to determine whether the audit findings have been resolved or are being resolved and whether a Program Determination Letter (PDL) has been transmitted to the grantee. If a PDL has been transmitted, the ALO must obtain a copy for the official file. If the findings are serious, the program staff may need to:
  - a. Recommend that the program official impose special conditions on the grant;
  - b. Provide additional monitoring and technical assistance to the grantee; or
  - c. Not make a continuation award. (See section 5.6.6, "Special Award Conditions and Other Actions.")

**Note:** In the future, program staff should be able to access audit data via the Image Management System (IMS). This system allows program staff to access a particular grantee's audit data.

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## 5.5 Grant Administration

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### 5.5.1 Grantee Flexibility with Administrative Actions (Expanded Authorities)

Grantees are allowed a certain degree of flexibility to make post-award changes and budget revisions. However, post-award changes must be consistent with the project activities and budgets in the approved application and must not change the scope or objectives of a competitive grant. Listed below are policies regarding these flexibilities.

1. Unless otherwise restricted by the terms and conditions of the award (see section 5.5.3, “Technical Changes to a Grant that do not Require Prior Approval,” or if the grant is funded under a program of NIDRR, the program staff cannot require grantees to seek prior approval for the following categories of administrative actions:
  - a. Budget transfers (EDGAR § 75.264), unless the transfer requires specific prior approval under EDGAR § 74.25 or the OMB cost circulars (Appendix P, “Prior Approval Requirements in the Cost Principles”).
  - b. Use of carryover funds for allowable activities or costs that fall within the scope and objectives of the project (see section 5.4.7, “Carryover”).
  - c. Pre-award costs or expenditures for allowable items and activities of a project for a period up to 90 days before the beginning of either a new award (EDGAR § 75.263). See section 4.3.4, “Pre-Award Costs,” for guidance on pre-award cost proposed for periods greater than 90 days before the beginning of a project period.)
  - d. A one-time extension of the final budget period of an award for a period of up to 12 months, as authorized in EDGAR § 75.261, unless law, regulations, or the grant terms and conditions specify otherwise. EDGAR § 74.25(e) requires the grantee to notify ED of the intended extension at least ten days before the end of the budget period and give supporting reasons for the extension. ED can deny a no-cost extension under §74.25(e) if a grantee wants the extension simply to obligate unused funds after the objectives of the project have been met. ED cannot obligate additional funds to the grant for the extension or permit the grantee to conduct activities outside the scope and objectives of the approved project.
2. If the program staff has concerns that grant funds are not being obligated and expended properly as a result of any administrative action undertaken by a grantee, the program staff should ask the grantee to provide additional information on how grant funds are being used. In such cases, the program staff must make a determination whether to approve the actions being taken upon receipt of the written statement. The program staff must notify the grantee of their determination, document the official file and, where appropriate, update GAPS, and issue a revised GAN.

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### 5.5.2 Administrative Actions Requiring Prior Approval from ED

Administrative actions may be monetary or non-monetary in nature and might or might not require prior approval from ED. EDGAR and relevant OMB circulars define the types of administrative actions that require grantees to seek ED prior approval.

1. Grantees must submit a written request to the program staff if prior approval is required. After receiving a written request, the program staff may contact grantees directly for clarification or additional information as needed. For some administrative actions, the program staff must consult the program official before the program staff can approve or disapprove a request or, in some cases, the program official is the one that must approve or disapprove the request.
2. The decision to approve or disapprove a request must be based on requirements imposed by applicable Federal statutes, including GEPA, program legislation and regulations, EDGAR, and OMB circulars. All resulting costs and activities related to approved changes must be allowable. No official may authorize any administrative actions that conflict with any applicable Federal statute, program legislation or regulation, EDGAR, grant conditions; or permit changes that would alter the scope or objectives of a competitive discretionary grant.
3. If the grantee has been designated as high-risk, the program staff must consult with the program official before approving or disapproving a grantee's request. The program staff must also document the grant file with any discussion held with the program official about the request and decisions reached.
4. The table on the next page identifies the administrative actions that require prior approval. The column titled "Responsible ED Staff" identifies the person that responds to the administrative request with an approval or disapproval.

**Note:** Some actions, such as grant transfers, require consultation with an OGC program attorney or others before making a final decision to approve or disapprove the action. Do not rely solely on the table, Figure 5.2, but refer to the section listed under the column titled Handbook Reference where the administrative action is discussed in detail.

**Figure 5.2. Administrative Actions that Require Prior Approval**

Administrative Action	Responsible ED Staff	Handbook Reference
Restricting grantee flexibility to take administrative action without prior approval (implement Attachment Z).	Program Official	5.5.4, "Restricting Grantee Flexibility under Expanded Authorities"
Any prior approval requirement established by the terms and conditions of the grant [EDGAR § 74.25 (e)].	Program Staff	N/A
Pre-award costs incurred more than 90 days prior to the budget period.	Program Official	4.3.4, "Pre-Award Costs"
Changes in key personnel.	Program Staff	5.5.5, "Changes to Key Personnel"
The absence of the project director or principal investigator for more than three months (EDGAR § 74.25). <b>Note:</b> This requirement applies only to institutions of higher education, hospitals, and non-profit organizations.	Program Staff	5.5.5, "Changes to Key Personnel"
A 25 percent reduction in the project director or principal investigator's time (EDGAR § 74.25). <b>Note:</b> This requirement applies only to institutions of higher education, hospitals, and non-profit organizations.	Program Staff	5.5.5, "Changes to Key Personnel"
The transfer of substantive work to a third party (EDGAR §§ 74.25, 75.701, and 80.30).	License Holder	N/A
Any other costs that require approval in accordance with the OMB Cost Circulars A-21, A-87, and A-122.	Program Staff	Appendix P, "Prior Approval Requirements in the Cost Principles"
Revising grantee cost-sharing.	Program Official License Holder After consulting with OGC.	5.5.6, "Revising Grantee Cost-sharing"
The need for additional funds (supplemental grant awards).	Program Official License Holder	5.5.7, "Supplemental Awards"
The transfer of a grant from one entity to another or a change in legal status.	License Holder	5.5.8, "Grant Transfers"
First-time grant extension requests (except those requesting longer than 12 months).	Program Staff	5.5.9, "Extension of the Final Budget Period"
Second grant extension requests EDGAR § 75.261(c) [except those requesting longer than 12 months].	Program Staff	5.5.9, "Extension of the Final Budget Period"
All other grant extension requests after the second request, including those submitted after the project end date and those requesting an extension beyond 12 months.	Program Official	5.5.9, "Extension of the Final Budget Period"

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In all cases where prior approval is required, the program staff must keep a copy of the grantee's original request in the official grant file, along with additional information received from the grantee, documentation of discussions with program official, ED's written decision (including ED's reason for the action), and any amended GAN (see section 5.5.10, "e-Administration").

### 5.5.3 Technical Changes to a Grant that do not Require Prior Approval

Many changes are made to a grant that do not require ED prior approval. Some of these changes the grantee has to document in its own files. However, some technical changes require action by ED to be effective. For example, a grantee may change the business address of its offices or change to a new e-mail address. ED needs to document these technical changes so it can stay in contact and fulfill its monitoring responsibilities. Program staff can enter these technical changes in GAPS, sign and issue an updated GAN, then note the change via an updated GAN in the grant file without further approval. In entering these technical changes, program staff must research the change with the grantee's authorized official, project director or other sources to make sure that the requested change is authorized by the grantee and not used to harm the Federal interests in the grant

### 5.5.4 Restricting Grantee Flexibility under Expanded Authorities

Circumstances might arise in which a grantee should not be allowed to exercise flexibilities to make changes and budget revisions as permitted under EDGAR § 74.25(e). In this instance, program officials must use Attachment Z, in Appendix Q, "Prior Approval Requirements" to prohibit one or all of the flexibilities authorized under EDGAR § 74.25(e). Program officials should also establish a procedure for determining when the use of the language in Attachment Z is appropriate for a particular grant program. A common reason for disallowing flexibilities involves making the terms of one or more grant awards conform to statutory or regulatory requirements for a grant program or a particular category of grantee.

After issuing a new or continuation award, the program official may remove a grantee's authority to exercise these administrative flexibilities, but only after consultation with the ED program attorney. Removing the grantee's authority to exercise these administrative actions can be implemented as a special award condition with or without designating the grantee high-risk (see section 5.6.6, "Special Award Conditions and Other Actions").

**Note:** Per EDGAR § 75.261(b), grantees under NIDRR programs must request prior approval to extend their grants under EDGAR § 75.261(c).

### 5.5.5 Changes to Key Personnel

After an award, the program staff may approve or disapprove request for changes to key personnel and sign and issue a revised GAN.

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1. The program staff must consider the differing yet complementary requirements in EDGAR parts 74 and 80 regarding changes in key personnel. Both parts require that a grantee receive ED prior approval for a change in key personnel in the application or award document. Specifically:
    - a. EDGAR § 74.25 (applicable to institutions of higher education, hospitals, and non-profit organizations) requires that a grantee obtain prior approval from ED for:
      - 1) Changes in key personnel specified in the application or award document;
      - 2) The absence of the approved project director or principal investigator from the project for more than three months; or
      - 3) A reduction of 25 percent (or more) in time devoted to the project by the approved project director or principal investigator.
    - b. EDGAR § 80.30 (applicable to state, local, and tribal governments) requires that a grantee obtain prior approval from ED for changes to key persons identified in the application and for changes in the project director or principal investigator in research projects regardless of whether those individuals were identified in the application.
  2. Grantees must receive approval for:
    - a. The initial hiring of a person to fill a position described in an application when no one was named or no resume was provided;
    - b. Changing persons who occupy key positions that were identified in the application; or
    - c. Substantively redefining a key position and its duties.

In order to maintain current and accurate information on key personnel in GAPS, the program staff must enter the names, titles, percentage of time, and other required information into the key personnel tab of the discretionary budget sub-function in GAPS whenever key personnel changes occur during the life of a project. The GAPS requires the program staff to verify, via a link to the GSA Web site, that the key persons identified are not included in EPLS. If the key person is included, the program staff must contact GPOS before proceeding with the request for the personnel change. GPOS will investigate the reasons the person is included on the EPLS and advise the program staff of any issues that would prevent the processing of the request.

#### 5.5.6 Revising Grantee Cost-sharing

The combination of Federal funds and the value of the grantee's cost-sharing contribution equal the total cost of the grant. (EDGAR, §§ 74.23(a) and 80.24(a) and 4.3.3, "Calculating Cost-Share Amounts.") The minimum dollar amount or percentage of cost-sharing the grantee is required to pay is specified in the relevant statute or program regulation. If the grantee a) volunteers to provide additional cost-sharing above what is



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required or b) volunteers cost-sharing where none is required, the total cost-sharing, including the required or volunteered amounts or percentages, must be specified in the GAN.

Occasionally, a grantee might raise concerns with the program office about its ability to contribute the required or volunteered dollar amount specified in the GAN. In such cases, the program staff must make every effort to work with the grantee to help them find ways to meet the cost-sharing requirements, especially since the amount of cost-sharing proposed in the grantee's application could have been a significant or decisive factor for reviewers who recommend funding the project. In such cases, the program staff should make clear that ED expects grantees to honor their cost-sharing commitments since they are a condition of the award.

If the grantee is still unable to provide a cost-share dollar amount, even after program office intervention, the program staff may permit reductions to the amount. The reduction, however, cannot change the scope or objectives of the original application (see section 5.5.11, "Prohibiting Changes to the Project Scope or Objectives of a Grant"). If a reduction can be made without changing the scope or objectives of the grant, the program official may take one or more of the following actions:

1. If the statute, regulation, or application notice establishes a maximum percentage for the Federal share of project costs, the program official may reduce the amount of Federal funds awarded so that the maximum Federal percentage share of total costs is not exceeded; or
2. If a) the program legislation or regulations permit changes to cost-sharing percentages or amounts and the program official has consulted with the appropriate ED program attorney, or b) the cost-sharing was volunteered by the grantee, the program official may waive all or part of the established level of cost-sharing; or
3. If the grantee had promised cost-sharing at a level exceeding that required by statute or regulation and ED made the whole amount a condition of the grant award, the program official may reduce the Federal grant in proportion to the amount of reduction made to the grantee's share of the costs down to its legally required minimum.

If the program official takes one of the actions described above, the license holder must issue a revised GAN updating the terms and conditions for the award. If a change in the scope of the project is likely to occur as a result of such reductions, the program official must contact the ED program attorney to discuss appropriate courses of action. All actions taken by the program staff and program official must be documented in the official grant file.

### 5.5.7 Supplemental Awards

There are many situations where a grantee may request a supplement to its grant or where ED may see a need to supplement a grant or group of grants. Because the facts in each circumstance are different, this section cannot describe every situation where a supplement would be appropriate. This section provides basic guidance to help determine

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whether a supplement is appropriate. It also addresses supplements in the joint-funding context and provides information on cases where ED wants to supplement a grant of another agency or another agency wants to supplement an ED grant.

Program officials must exercise great care in deciding whether to give a supplemental award. Except for the examples referenced in items 5.a and 5.b below, program officials must consult with their ED program attorney when deciding whether to make a supplement or group of supplements.

1. To determine if a supplement is appropriate for a grant made with ED funds, a program official must determine whether the supplement would change the scope or objectives of the grant that was awarded initially. This is known as the scope or objectives test.
2. While EDGAR states that ED only funds up to 100 percent of the allowable costs of a grant when an award is made [34 CFR § 75.233(a)], a supplement that raises the funding level above the 100 percent cap may be appropriate if the supplement does not change the scope or objectives of the grant.
3. If ED enters into a joint funding agreement with another Federal agency under GEPA section 430, or another joint funding authority, and one of the agencies wants to supplement a joint-funded project, the determination to supplement depends upon the nature of the joint funding agreement between the agencies and the identity of the agency managing the grant.
4. The program official may have to use an analysis other than the scope or objectives test when:
  - a. Another agency wants to supplement an ED grant that is not jointly funded; or
  - b. ED wants to supplement a grant of another agency that was not jointly funded.
5. Examples of when a supplement is appropriate include:
  - a. A program official may supplement grants awarded under a program if the program receives less money than anticipated in an appropriation or allotment for that program and the original awards were made in amounts that were less than the amounts needed to fund all the allowable costs budgeted by the applicants. In this case, the grant may be supplemented to provide up to 100 percent funding of allowable costs.
  - b. A program official may supplement a grant that was not fully funded because it was last on the funding list and there were insufficient funds available at the time of the award for full funding. In this case, the grant may be supplemented to provide up to 100 percent funding of allowable costs.
  - c. A grantee runs into unexpected costs in performing the grant and requests an increase in support. Generally, the program official may supplement the grant if funds are available and the funds are used for activities within the scope and objectives of the initial award.

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- d. A grantee develops a new line of research growing out of the original research or develops a new method for conducting its research. Generally, the program official would not be able to supplement the award because the grantee won the competition based on the method proposed in the application and for the objectives of the original line of research. However, in some cases where the additional research is very small in comparison to the overall scope of the grant, a supplement might be acceptable.
  - e. A Program Officer in ED learns about a grant funded by another program of ED or funded by another Federal agency and wants to give the grantee funds to pursue an interest relevant to the ED non-funding office. These types of supplements may or may not be appropriate depending upon whether the supplement would have the effect of changing the scope or objectives of an ED grant.
  - f. Another agency comes in contact with an ED grantee and sees an opportunity to fund more work by the grantee in the same or similar areas to the work already being conducted by the grantee. Generally, these situations are resolved based on the law applicable to the other agency's funds.
  - g. A program official sees an opportunity under an ED program to supplement grants to carry out activities that support and enhance general program activities as provided in the program statute or regulations. This general supplement to all the grants under a program may be acceptable if the supplemented grants still have the same scope or objectives.
6. If the program official decides that a supplement is appropriate, the program official must obtain from the grantee a revised budget showing how the funds will be used and a description of the activities being supplemented.
  7. If the supplement is awarded at the request of the grantee, the program official must require the grantee to provide a written justification demonstrating why the supplement is necessary. If the supplement is based on program needs of ED, the program official must provide a written justification demonstrating why the supplement(s) is (are) necessary. In either case, the justification must be included in the official file for the affected grant or in the original competition file if a group of grants is affected.

Sometimes a program official may want to use unobligated funds to supplement grants from a current appropriation at the end of the fiscal year. The mere presence of additional funds at the end of a fiscal year is not relevant to whether a grant may be supplemented. However, if funds are available and grants can be supplemented within the guidelines in this paragraph, the program official may use the funds for supplements.

#### 5.5.8 Grant Transfers

Generally, a grant transfer is a voluntary action initiated by the grantee. A circumstance may arise which does not permit the grantee to carry on the work for which the grant award was made. While the appropriate procedure in some cases is termination of the

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grant, in others, a preferred course of action may be to transfer the remaining work and grant funds to another eligible organization. Both the current and future grantee must agree to the transfer. Generally, transfers can be affected only if the transfer involves a change in the legal recipient and all other aspects of the grant are not changed.

1. Although the circumstances that make a grant transfer necessary can vary widely, usually a grant transfer is done for one of the following reasons:
  - a. **Change in eligibility, identity, or legal status.** Some changes in grantee status (such as the loss of eligibility to participate in ED programs) eliminate a grantee's legal authority to carry out one or more objectives of the project. Other changes in grantee status are of a legal or formal nature and do not materially affect a grantee's performance of the project (such as merger of two institutions, or institutional name change resulting in a new DUNS Number).  
  
**Note:** A grant transfer is not required for an organization that only changes its name. In these cases, the name change should be recorded in GAPS.
  - b. **Movement of key personnel.** Some grants are awarded to eligible entities that function only as "nominal" or "accommodation" grantees. Although they are the grantees of record, their sole function is to sponsor the participation of certain key individuals whose work is the sum and substance of the project. If such a key person moves to another eligible entity, a grant transfer may be made if all the other conditions for a transfer are met.
  - c. **Other reasons.** For a variety of reasons (such as major restructuring, loss of resources, impending bankruptcy), a grantee may lose their ability to honor their commitment to finish the work of a project. Under these circumstances, there may be conditions that warrant transfer of the grant to another eligible entity to (1) complete the project and (2) ensure that the grant's intended beneficiaries are served.
2. Before approving a grant transfer, the license holder must ensure that:
  - a. The transfer does not circumvent or appear to circumvent the ED competitive grant process;
  - b. The need for the project or activity that existed at the time of original award still exists;
  - c. The terms and conditions of the transfer are acceptable to both the original grantee and the new organization;
  - d. The new organization meets all standards of eligibility for the grant program;
  - e. The new organization agrees to carry out future activities as specified in the original application and, if possible, keep the same key personnel to manage the grant as were identified in the original grant;
  - f. The new organization will continue to serve the same population with the same level of service as the original grantee;

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- g. The change is made in a timely manner; and
  - h. No increase in funding over the original amount of the award is required.

A transfer cannot take place when it involves an award to an individual. Similarly, a grant cannot be transferred to or between foreign institutions or international organizations.

The transfer agreement template to be completed by all parties can be found at Appendix U, “Grant Transfer Agreement.”

### 5.5.9 Extension of the Final Budget Period

The terms for budget extensions are as follows:

#### 1. First time extension:

For the first time extension, grantees must notify ED in writing with the supporting reasons and revised expiration date at least ten days before the project period end date (as discussed in section 5.5.1, item 1.d). The program staff must review the grantee’s plan for using the remaining funds to:

- a. Determine if the proposed use of the funds is within the scope and objectives of the grant; and
- b. Determine that the extension does not suggest management problems with the project or the grantee entity.

The program staff must keep in mind that the grantee may not give itself an extension for the purpose of using unexpended or undrawn funds [see EDGAR § 74.25(e)(2)(ii)].

**Note:** ED may waive the ten day notification requirement on a case-by-case basis per EDGAR § 74.4 if the extension is otherwise appropriate.

The program staff reviewing the grantee’s reasons for a first time-extension must review the grantee’s financial data to:

- a. Ensure that the remaining funds are sufficient for the activities that the grantee proposes to complete;
- b. Determine whether the grantee has appeared on the Large Available Balance report (see section 5.3.8, “Fiscal Monitoring”).

**Note:** If the program staff has concerns, they should contact the grantee to resolve any problems before amending the award.

The program staff, if accepting the grantee’s reason for a time extension notification, must:

- a. Amend the data field in GAPS to show the new project period end date;
- b. Print, sign, and mail a copy of an amended GAN to the grantee;

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- c. Place a copy of the amended GAN in the official grant file along with the grantee's notification and supporting reasons for the extension.

If the program staff does not accept the grantee's explanation of the reasons for the funds remaining or their intended use, or cannot resolve questions about the remaining fund balances for the grant, the program staff may deny the time extension. The program staff must immediately notify the grantee in writing, with reasons for the denial and place a copy of the response in the official grant file.

If a grantee sends a time-extension notification to ED after the project period end date, the program staff must forward the request to the appropriate program official along with a recommendation for either accepting or rejecting the extension. After the program official issues a decision, the program staff must place a record of the decision and any supporting documentation in the official grant file.

**Note:** Because requests for extensions exceeding 12 months do not fall within the scope of EDGAR § 74.25(e)(2)(ii), they must be considered under §75.261(c) & (d). In these cases, program staff must forward to the appropriate program official along with a recommendation for either accepting or rejecting the extension. The program official must issue a written decision on the recommendation and the program staff must place a record of the decision and any supporting documentation in the official file. These provisions of §75.261 require the grantee to submit its request at least 45 days before the end of the project period, unless certain conditions exist, as described in §75.261(d).

2. Subsequent time extensions:

When grantees have exercised their flexibility for a first-time extension (even if the original extension was for less than a year), in accordance with EDGAR § 75.261(c), the grantee must submit a written request for prior approval for the second time extension from the program staff, and provide supporting reasons.

The request must be submitted to ED at least 45 days before the end of the project period unless the grantee could not have known of the need for the extension on or before the start of the 45-day period, or the failure to give notice on or before the start of the 45-day period was unavoidable. §75.261(d)

The program staff must review the grantee's account data in GAPS and compare the remaining amount in the account with the amount the grantee identifies in the time-extension request when deciding whether the time extension is appropriate to the project. The program staff, before approving or disapproving the request for this second extension, must consult with a license holder. The consultation must be documented in the official file.

The program staff accepting the grantee's reasons for a time extension must:

- a. Amend the data field in GAPS to show the new project period end date;
- b. Print, sign, and mail to the grantee a copy of an amended GAN showing the new end date; and

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- c. Place a copy of the amended GAN in the official grant file along with the grantee's notification and supporting reasons for the extension.

If a grantee requests a time extension beyond the second one, or an extension exceeding 12 months, the program staff must forward the request to a program official, along with a recommendation for either accepting or rejecting the extension. The program official must issue a written decision and the program staff must place a record of the decision and any supporting documentation in the official file.

#### 5.5.10 e-Administration

Grantees should submit an administrative request to modify their active grants to the program staff via ED's e-Administration Web site. Upon its receipt, the request is saved in the GAPS database and is immediately available to ED staff to accept, approve or disapprove it. The e-Administration software will send an email to the grantee confirming receipt of the request. The software will also send an email to the appropriate ED program staff notifying them that an administrative request has been received. Program staff must act upon the request within 30 days of its receipt following the procedures for approval or disapproval of administrative request as identified in section.5.5.2, "Administrative Actions Requiring Prior Approval from ED."

#### 5.5.11 Prohibiting Changes to the Project Scope or Objectives of a Grant

EDGAR §§ 74.25 and 80.30 appear to give ED program officials the authority to review and approve requests to change the scope or objectives of a discretionary grant. However, to ensure the integrity of ED's competitive review process, ED does not permit changes to the scope or objectives of a grant except in rare cases where the competition for the grant was not truly competitive. Unsolicited applications are not exempt from this requirement because unsolicited applications must be evaluated for quality against selection criteria in the same manner as grants made under a competition.

If a grantee requests a change to its grant, and the change might involve a change in the scope or objectives of the grant, the responsible program official must consult with the ED program attorney for the program before approving or disapproving the request. The program attorney provides assistance in determining whether the change will constitute a change in the scope or objectives of the grant. The program official must notify the grantee in writing of the status of its request whether it is approved, approved in part, or not approved. A copy of the written approval or disapproval of the request must be placed in the grantee's official grant file.

#### 5.5.12 Publications

Sometimes grantees indicate in their applications that as part of their outreach efforts, they plan to publish editorials, opinion-editorials (Op-Ed), and other articles and publications. If the program staff has reason to believe that a grantee is going to produce these kinds of materials as part of the grant activities, the staff must notify the grantee of

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the requirement to include in any such materials the disclaimer in EDGAR § 75.620 that states:

The contents of this (insert type of publication; such as book, report, film) were developed under a grant from the Department of Education. However, those contents do not necessarily represent the policy of the Department of Education, and you should not assume endorsement by the Federal government.



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## 5.6 High-Risk, Special Award Conditions, Other Special Actions

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### 5.6.1 General

This section provides guidance to program officials on how to impose special award conditions or take other special actions on a grant if the program official determines that, without the special conditions or actions, the grantee might not be successful in implementing its project or projects. Program officials should note that the special award conditions might be imposed or the special actions taken with or without designating a grant or grantee high-risk, depending upon the circumstances of each case.

The policy of ED is to designate a grant or the grantee as high-risk whenever the EDGAR standards for high-risk are met (see section 5.6.4, “EDGAR Standards for High-Risk Designation.”) If a grant or a grantee is designated high-risk, the program official or designee must forward a copy of all the correspondence related to the program official’s decision to the GPOS for input into the High-Risk Module (Module) in GAPS. That information will then be available to all ED principal offices for their consideration in monitoring the grantee and when making a new or continuation award to a grantee that has been designated high-risk or that has a high-risk grant. If the grantee’s performance does not meet the EDGAR standards for high-risk, a program official may still impose special award conditions or take other actions on a grant, but the information about those conditions or actions will not be entered in the GAPS Module.

This section also provides the policy and procedures for submitting and reviewing data in the GAPS High-Risk Module (see section 5.6.9, “GAPS – High-Risk Module”).

### 5.6.2 Grant Performance and Administration

When the program staff discovers that a grantee is experiencing performance, management, or financial problems that affect the conduct of a grant, they must provide the grantee with technical assistance to help overcome those problems. Generally, the program staff should talk with the grantee to determine if the problem(s) can be remedied as part of the normal monitoring and technical assistance efforts. The program staff must document the results of the discussions through an e-mail or letter to the grantee and include it in the grant file. If any information about the problem is provided to the grantee over the telephone, the program staff should document the discussion in the grant file. If these efforts are not successful, program staff must immediately alert the program official to determine whether special award conditions should be imposed on the grant or grantee, or whether another special action is required, including designating the grant or grantee high-risk (see section 5.6.3, “High-Risk Designation” below). The program official must consult with the ED program attorney before imposing any special award condition or initiating a special action. A list of award conditions and special actions can be found in section 5.6.6, “Special Award Conditions and Other Actions,” below.

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When special conditions are imposed, they must be included in the award conditions by amending the GAN and sending a revised GAN to the grantee. In addition to sending the revised GAN, program officials may include a cover letter to the grantee that explains the conditions or actions required under the amended GAN. The cover letter must be included in the grant file.

If a grantee appears to have materially failed to comply with the conditions of its grant, the program staff must immediately alert the program official to determine whether special award conditions should be imposed on the grant or whether a different special action is required. Similarly, if a program official believes that a grantee or one or more of its employees is or has engaged in illegal conduct, the program official must contact the program attorney immediately to get legal assistance.

### 5.6.3 High-Risk Designation

The designation of a grant or grantee as high-risk requires ED to give the grantee a right to reconsideration of that designation and is used to assist grantees in coming into compliance with the conditions of its grant (or grants) so that the grant(s) is successful. The program official must collaborate with the program staff and program attorney prior to making a decision to designate a grant or grantee as high-risk. The program attorney will assist the program official in determining the appropriate course of action under applicable requirements in statutes, regulations and conditions of the grant, and ensure that ED's interests are protected. The Principal Officer notifies the grantee of any new conditions and its right to ask for reconsideration.

If a program official intends to designate an entire grantee organization as high-risk, the program official must inform the OCFO/GPOS, which will assist in collaborating with the applicable program attorney and with other principal offices that have awarded grants to that organization. This collaboration will allow all principal offices that have grants with the organization the opportunity to weigh in on the high-risk decision and, if a high-risk designation is imposed, ensure a consistent approach to resolving the problems of performance under all of the grants awarded to it.

### 5.6.4 EDGAR Standards for High-Risk Designation

This paragraph explains ED standards for designating a grant or grantee high-risk and imposing special award conditions on a grant under both 34 CFR §§ 74.14 and 80.12. As it relates to imposing special conditions on a grant, EDGAR parts 74 and 80 are not identical. Part 80 provides examples of actions that can be taken under a high-risk designation but part 74 does not provide examples. Also, part 74 does not specify that a grant or grantee be designated as high-risk before or in conjunction with imposing special conditions. However, under both sections, the bases for imposing conditions are identical.

For simplicity, both authorities are treated as high-risk authorities in the Handbook. A program official may designate a grant or grantee as high-risk and impose special award conditions if:

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1. The grantee:
    - a. Has a documented history of unsatisfactory performance;
    - b. Is not financially stable;
    - c. Has a management system that does not meet Federal management standards, as listed in section 5.6.5, “Federal Standards for Grantee Financial Management Systems”;
    - d. Did not conform to the terms and conditions under a previous grant; or
    - e. Is otherwise not responsible; and
  2. The conditions are necessary to ensure that the grantee materially complies with the requirements of the grant.

#### 5.6.5 Federal Standards for Grantee Financial Management Systems

The standards for financial management systems are defined in EDGAR §§ 74.21 & 80.20. Those standards require the grantee to maintain:

1. Accurate, current and complete records that disclose the financial results of each grant;
2. Records that identify the source and application of Federal and matching funds (including awards, authorizations, obligations, unobligated balances, assets, outlays, interest earned and income);
3. Effective control and accountability over all funds, property and other assets so they are only used for authorized grant purposes;
4. Records that show a comparison of outlay with budgeted amounts for each award;
3. Accounting records including cost accounting records that are supported by source documentation;
4. Written procedures for determining the reasonableness, allocability, and allowability of costs; and
5. Written procedures for minimizing the time between drawdowns and disbursements.

#### 5.6.6 Special Award Conditions and Other Actions

After consulting with OGC, the program official may impose special conditions or take a special action on a grant. The following lists are actions that a program official may take regarding a grant or grantee exhibiting performance problems:

1. Temporarily stop the ability of the grantee to draw funds from their grant account(s) (the grantee must be given notice and an opportunity to justify why this action should not be taken – see section 5.6.8, “High-Risk Notification to the Grantee”);

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2. Stop, on an emergency basis, the ability of the grantee to draw funds before giving the grantee notice of the stoppage if the program official determines there is an immediate need to do so;
  3. Require the grantee to submit detailed quarterly financial and performance reports;
  4. Require the grantee to obtain prior approval for certain expenditures or actions that would otherwise not require prior approval (for example, prohibiting the grantee from using expanded authorities or incur pre-award costs within 90 days before the start of the grant);
  5. Require changes in the grantee's project that do not change the scope and objectives of the grant, but that permit the grantee to complete the project successfully;
  6. Transfer the grant to another organization if the conditions under section 5.5.8, "Grant Transfers" are met;
  7. Place the grantee on a cost reimbursement payment basis, requiring the grantee to submit receipts for expenditures, so that ED releases payments only if it approves the expenditures for allowable costs;
  8. Prohibit the grantee from proceeding to later phases of its project until ED has received satisfactory evidence of acceptable performance within a specified period;
  9. Withhold issuance of a continuation grant, or as a special condition of a continuation grant, only continue the grant under certain conditions or for a part of the normal project period. (If the special conditions are based on EDGAR § 75.253, failure to make substantial progress, then a high-risk designation is not required. However, if the circumstances meet high-risk standards, as discussed in section 5.6.4 "EDGAR Standards for High-Risk Designation", then a high-risk designation may be used in conjunction with conditions imposed under EDGAR § 75.253);
  10. Designate the grant or grantee as high-risk with special conditions for that grant or all of the grants to that grantee. The grantee must be given notice and an opportunity to request a reconsideration of this decision by the Principal Officer;
  11. Suspend the grant if warranted under EDGAR § 74.62 or EDGAR § 80.43. See section 5.6.12, "Voluntary and Adversarial Termination, Suspension" to determine the procedures that apply to the suspension;
  12. Partially or fully withhold funds from the grantee under GEPA (the grantee must be given notice and opportunity to request a hearing). For grants made under the Higher Education Act of 1965 (HEA), see section 5.6.15, "Withholding and Recovery of Funds under the HEA";
  13. Terminate a grant voluntarily under EDGAR §§ 74.60-62 or 80.44;
  14. Bring a cease-and-desist action under GEPA (does not apply to grants made under HEA); and
  15. Enter into a compliance agreement with the grantee under GEPA. (This is subject to public hearing and publication in the *Federal Register*. While this statutory procedure

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does not apply to grants made under HEA, program officials can enter into a compliance agreement under the informal procedures specified for HEA actions in sections 5.6.13, “Suspension and Termination for Cause under the HEA,” and 5.6.15, “Withholding and Recovery of Funds under the HEA.”).

If a program official imposes special conditions or takes special actions on a particular grant or grantee, the program official must monitor the grantee more closely and give it additional technical assistance, as appropriate, to assist the grantee.

### 5.6.7 High-Risk Status

The GAN is the official document through which high-risk status is communicated to the grantee (EDGAR § 75.235). If special conditions are imposed, as part of a high-risk designation, the program official includes those conditions in the GAN. The special conditions must inform the grantee of the following:

1. That the grantee or the project has been designated high-risk;
2. The nature of the special conditions imposed on the grant or grantee;
3. The reasons for imposing the conditions;
4. The corrective actions which must be taken before the conditions are removed; and
5. The time allowed for completing the corrective actions.

### 5.6.8 High-Risk Notification to the Grantee

If the program official imposes special conditions on a grant designated as high-risk, the following notices and information must be provided to the grantee in a separate cover letter:

1. Failure to comply with the high-risk conditions may constitute a material failure to comply with the requirements of the grant;
2. If the grantee disagrees with the conditions, they may request reconsideration of the conditions by the Principal Officer;
3. The address to which the grantee must submit such request;
4. The time period within which the grantee must submit such request; and
5. The Principal Officer will reach a decision on the request and notify the grantee of the decision within a reasonable period of time, which shall be specified in the notice.

**Note:** The imposition of high-risk conditions is the final decision of ED and the grantee has no formal right of review within ED. If the grantee fails to request reconsideration within the time period specified in the notice, the high-risk designation becomes final when the time period expires.

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### 5.6.9 GAPS – High-Risk Module

The GAPS High-Risk Module is the official central repository for all information related to grants or grantees that have been designated high-risk. The data in the GAPS high-risk module is available to all ED principal offices and allows them to be consistent in their treatment of grants to organizations that have been designated high-risk and that receive multiple grant awards from ED.

1. The GAPS High-Risk Module contains:
  - a. Identifying information about the high-risk grant or grantee along with the name of an ED contact involved in the high-risk designation;
  - b. The high-risk designation letter and all other correspondence from or to the grantee about the conditions; and
  - c. The special conditions or actions imposed as part of the designation and identified in the Grant Award Notification (GAN).
2. GAPS uses the DUNS to search for matches in the high-risk database. If a DUNS number is associated with a grant or grantee that has been designated high-risk, at the time of entering or reviewing budget data for a new or continuation award, GAPS generates an alert to the program staff monitoring grants with the same DUNS number. GAPS also alerts program staff when processing a DUNS number change or a grant transfer. If the program staff receives a high-risk alert, they must access the GAPS High-Risk module and conduct an assessment of the information. In this assessment, the program staff must:
  - a. Review the information in the module;
  - b. Ask the principal office that assigned the high-risk status for updates, if any;
  - c. Print the high-risk letter and any other supporting documentation;
  - d. Inform their program official and program attorney of the high-risk status and provide them with the documentation from the module; and
  - e. Determine whether a grant they monitor should be designated high-risk, or any other actions should be taken with regard to a new grant or continuation award being considered for funding.

The GAPS module requires program staff to certify that the assessment is completed, and records the date and ID of the person who made that certification.

3. Program staff are required to access the GAPS High-Risk Module when:
  - a. Making a new or continuation award and a high-risk alert is displayed on the budget tab page;
  - b. A problem arises on a grant during a budget period; and
  - c. An alert message is received from GPOS indicating that a particular grant or grantee has been designated high-risk and the information is contained in the

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high-risk module (see section 5.6.10, “High-Risk Module Information & Maintenance”).

4. If the Module indicates that a DUNS has been associated with a grantee whose entire organization has been designated high-risk, the program official must impose the same conditions or actions as those identified in the GAPS module on any award being considered for funding. The program official may also consider additional conditions or actions from the list in section 5.6.6, “Special Award Conditions and Other Actions”, if necessary to address specific high-risk concerns not covered with a grant in the GAPS module.

The program official is not required to use the same conditions or actions if the entire grantee organization is not high-risk and, in consultation with the program attorney, may choose any item from the list in section 5.6.6, “Special Award Conditions and Other Actions”, appropriate to that particular grant.

5. If GPOS alerts the program staff that an entire entity has been designated high-risk, during an interim budget period, the program staff, with grants associated to the high-risk entity’s DUNS, must access the high-risk module and inform their program official of the high-risk status. The program official will require the license holder to issue a revised GAN establishing the same terms and conditions as the entire entity.

#### 5.6.10 High-Risk Module Information & Maintenance

When a program official designates a grant or grantee high-risk, that official must forward to GPOS the high-risk designation letter and all other documentation supporting that designation for entry into the GAPS high-risk database. The documentation must be forwarded to GPOS within 48 hours after a grantee has been designated high-risk. Similarly, the program staff must also submit changes regarding the high-risk status of the grant or grantee to GPOS within 48 hours of the effective date of the changes. GPOS will alert license holders and Principal Program Executive Offices within 48 hours after receiving and entering the information in GAPS whenever:

- A grant or grantee has been designated high-risk;
- A grant or grantee is removed from high-risk status; or
- The conditions or actions taken on a grant or grantee under a high-risk designation are changed.

Additionally, the program staff may generate reports listing grants designated high-risk within their principal office or across ED for informational purposes and to assist in their overall monitoring activities.

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### 5.6.11 Failure to Comply with Conditions of a Grant

When a grantee's failure to comply with one or more of the conditions of its award constitutes a material failure to comply<sup>7</sup>, including any requirement specified in Federal statutes, regulations, or conditions of the grant, the program official can:

1. Direct the grantee to comply with the conditions of the grant or ED will initiate action to suspend or terminate<sup>8</sup> the grant; or
2. Take action to suspend or terminate the grant under one of the following procedures:
  - a. If the grant was awarded under the HEA, the program official must use the procedures specified under 5.6.12, "Voluntary and Adversarial Termination, Suspension," to suspend or terminate the grant;
  - b. If the grant was awarded under the Impact Aid program, the program official must use the procedures specified under 20 U.S.C. 7711 to suspend or terminate the grant (see 34 CFR part 222, subpart J);
  - c. If the grant was awarded under any authority other than the HEA or Impact Aid, the program official must use the procedures of OALJ to suspend or terminate the grant (see 20 U.S.C. 1234(c) and 1234(d) as well as 34 CFR part 81);
  - d. A decision not to release funds for an advance payment request and a denial of a reimbursement request are not, in themselves, suspensions of a grant. However, if these decisions or denials are coupled with an action to permanently deny access to some or all remaining grant funds, the program official must take action to either suspend or terminate the grant under the procedures specified in section 5.6.12, item 2, e2.

### 5.6.12 Voluntary and Adversarial Termination, Suspension

1. As stated in section 5.6.2, "Grant Performance and Administration," a program official must work informally with a grantee to resolve performance, management, and financial problems. If a grantee decides that they cannot perform the grant as required under the program statute, regulations of ED, and the conditions in the grant award, including any high-risk conditions, they may request termination of their grant in whole or in part (see EDGAR §§ 74.60-62 and 80.44). The program official may assist the grantee in preparing their request. The grantee must send the program official a letter stating:
  - a. The reasons for the termination;

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<sup>7</sup>Under those programs subject to review by the OALJ, this standard is stated slightly differently as a "failure to comply substantially with any requirement of law applicable to [the grant] funds." (20 U.S.C. 1234(c)(a).) Also, grants made under the Higher Education Act of 1965 do not have a right to request reconsideration of actions before the OALJ.

<sup>8</sup>Suspend or terminate are terms used in EDGAR parts 74 and 80 to describe an ED action that temporarily or permanently ends the grantee's ability to receive payments under a grant.



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- b. The effective date of the termination; and
  - c. In the case of a partial termination, the portion of the grant to be terminated.
2. In the case of partial terminations:
- a. If the grantee requests a partial termination, the program official must determine whether funding the remaining portion of the grant will change the scope or objectives of the grant;
  - b. If the partial termination does not change the scope and objectives of the grant, the program official may amend the GAN to reflect the partial termination.
  - c. If partial termination would result in a change to the scope or objectives of the grant, the program official may obtain consent from the grantee for other changes that do not affect the scope or objectives of the grant, and amend the GAN to reflect any agreed upon changes.
  - d. If the program official cannot get a grantee to consent to appropriate changes that do not change the scope or objectives of the grant, the official must inform the grantee in writing that they must either:
    - 1) Agree to terminate the entire grant; or
    - 2) Continue performance of the grant as specified under the statute, regulations and conditions of the GAN or as proposed by the program official.
  - e. The program official must take action to suspend or terminate the grant under the procedures appropriate to the program under which the grant was awarded if:
    - 1) The grantee refuses the options offered under items 2a.-d. listed immediately before this item; and
    - 2) The grantee has materially failed to comply with a requirement of the grant award, including any requirement specified in Federal statutes, regulations or conditions of the grant.
  - f. If the grant was awarded under the HEA, the program official must use the procedures specified under 5.6.13, “Suspension and Termination for Cause under the HEA”, to suspend or terminate the grant.
  - g. If the grant was awarded under the Impact Aid program, the program official must use the procedures specified under 20 U.S.C. § 7711 to suspend or terminate the grant. See 34 CFR part 222, subpart J.
  - h. If the grant was awarded under any authority other than the HEA or Impact Aid, the program official must use the procedures of the OALJ to suspend or terminate the grant 20 U.S.C. 1234(c) and 1234(d). See 34 CFR part 81.

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### 5.6.13 Suspension and Termination for Cause under the HEA

If a program official believes that a grantee has materially failed to comply with a condition of the grant, and the program funding the grant is authorized under the HEA, the program official shall use the following procedures to suspend or terminate the grant.

1. The program official must send the grantee a notice including:
  - a. The reasons for the suspension or termination;
  - b. The effective date of the suspension or termination;
  - c. A note indicating the grantee's right to appeal the suspension or termination to the Principal Officer;
  - d. The address where the appeal must be sent;
  - e. The date by which the grantee must submit their appeal;
  - f. That the Principal Officer will reach a decision on the appeal and notify the grantee of the decision within a reasonable period of time, as specified in the notice.
2. The Principal Officer must work with counsel designated by OGC to conduct the appeal as informally as possible and, to the extent possible, limit the grantee and the program official to written submissions.

### 5.6.14 General Recovery of Funds

If a program official believes that a grantee has expended funds for unallowable costs or has improperly accounted for funds, the program official may take the following action to recover those funds.

1. If the grant was made under a program authorized by HEA, the program official must use the procedures specified in section 5.6.15, "Withholding and Recovery of Funds under the HEA."
2. If the grant was made under the Impact Aid program, the program official must use the procedures specified under 20 U.S.C. 7711 (see 34 CFR part 222, subpart J).
3. If the grant was made under any authority other than HEA or Impact Aid, the program official must use the procedures specified in 20 U.S.C. 1234(a) and 1234(b) to recover the funds (see 34 CFR part 81).

If ED has completed actions to recover the funds under the appropriate procedures specified in item 1 in this section above, and the grantee has failed to make payment on the debt, the program official must transfer the collection action to the OCFO for collection under the procedures in 34 CFR part 30.

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### 5.6.15 Withholding and Recovery of Funds under the HEA

A program official may recover or withhold funds under a program authorized by HEA, as follows:

1. The program notice must be sent to the grantee stating:
  - a. The facts and reasons that form the basis for withholding or recovering the funds, including:
    - 1) The amount of funds ED seeks to recover;
    - 2) The date by which the funds must be repaid to ED, either by direct payment or by returning funds to the grant account in GAPS; and
    - 3) The address to which the funds must be sent or the account that must be refunded in GAPS to recover the funds;
  - b. The grantee's right to appeal the withholding decision or demand for recovery to the Principal Officer;
  - c. The address to which the appeal must be sent;
  - d. The time period within which the grantee must submit their appeal; and
  - e. That the Principal Officer will reach a decision on the appeal and notify the grantee of the decision within a reasonable period of time, as specified in the notice.
2. The Principal Officer must work with counsel designated by OGC to conduct the appeal as informally as possible and, to the extent possible, limit the grantee and the program official to written submissions.

## 5.7 Grant Closeout

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### 5.7.1 General

The program staff should promptly close and transmit files for expired grants to the Federal Records Center (FRC) after either the performance period end date or after the termination of the grant and the post-award 90-day liquidation period. Information on preparing and retiring expired grant files to the FRC in accordance with the National Archives and Records Administration (NARA) requirements can be obtained from each principal office Records Liaison Officer and Appendix Z, "Archiving Procedures." Additionally, the program staff must complete a Grant Closeout Checklist, (Appendix Y, "Closeout Checklist for Discretionary Grants"). The checklist requires the signature of the program staff person who closed the grant and the signature of the license holder when funds were deobligated.

Within 12 months after the performance period end date, the program staff must complete all the necessary steps to close out a grant and send it to FRC. These steps include

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reviewing the final performance report and determining whether the grantee achieved the scope and objectives of the grant. The program staff must also determine if all applicable administrative actions and financial obligations have been completed by the grantee and that the grant is ready for closeout. A grant can be closed out if:

- The project period has ended;
- All of the required reports have been received and found to be satisfactory; and
- GAPS indicates there are zero funds available in the grant account.

### 5.7.2 Closeout Procedures

The program staff must follow the procedures below when performing grant closeout. Templates for each of the letters referenced in this section are located in the GAPS award closeout module under the sub-function “award status monitoring” and can be accessed by selecting Create Notifications.

1. **Pre-expiration letter.** Issue a Pre-Expiration Reminder Letter (Appendix V, “Pre-Expiration Reminder Letter”) to grantees at least 60 days prior to their performance period end date. This letter reminds grantees of their reporting responsibilities once the grant ends. The letter should detail the grantee’s financial obligation to draw down funds for outstanding obligations during the liquidation period. It should also remind grantees that if they fail to comply with the terms and conditions of the award, both performance and financial, the grant may be closed in noncompliance.
2. **Required reports.** Request and review the final performance and financial status reports to determine if the grant is ready to be closed or needs to remain open for further post-award action. Record the receipt of the final performance and financial status report (if applicable) in GAPS under the performance monitoring screens.
  - a. **Final Performance Report:** All recipients, in accordance with EDGAR § 75.590, are required to submit a final performance report.

The program staff must review the final performance report to ensure that the grantee has achieved the grant’s objectives, and must sign the report to certify that the report was read and is acceptable as submitted. If any information in it is unclear, contact the grantee to get clarification. Contact the grantee if the report has not been received or the information in the report is unclear regarding the status of expected outcomes. If efforts to resolve these issues are unsuccessful, close the grant in noncompliance (see section 5.7.2, item 5 , “Closing Out a Grant in Noncompliance”).

- b. **Financial Status Report:** Some recipients are required to submit a Financial Status Report (SF 269). A final SF 269 is required if the grant involved cost-sharing and the ED 524B was not used, program income was earned under the grant, or program regulations or a special grant condition require it.

If the SF 269 is required, use the following steps to determine total expenditures, cost-sharing requirements, and indirect costs, if applicable. When following these

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steps, if there are differences between what the grantee reports on the SF 269 and the data in GAPS, contact the grantee to determine the cause of the difference.

- 1) Compare the total Federal share reported on the SF 269 to the performance period total in block 6 of the GAN and the balance in GAPS.
  - 2) Compare the total recipient outlay amounts reported on the SF 269 to the payee award information screen in GAPS. The status should indicate that the award is in one of the four closeout statuses defined in section 5.7.2, “Closeout Procedures,” item 7. The amounts in the completed payments field should equal the Federal share reported by the recipient on the SF 269 and the amount indicated on the GAN under block 7, performance period. If any of the amounts under completed payments or Federal share reported are less than what is reported on the GAN under block 7, performance period, then staff must follow-up to determine the basis for the discrepancy. Additional follow-up, if necessary, may include a review of the grantee’s payment history from GAPS.
  - 3) Compare the combined total amount of cost-sharing/matching reported on the SF 269 to the cost-sharing/matching amount shown in the approved budget. Block 7 of the GAN indicates the required cost-sharing stated as a percentage or an amount of funds identified by the grantee in their application under the heading non-Federal funds.
- c. Compare the indirect cost rate shown in block 11b of the SF 269 to the rate indicated on the approved budget.
  - d. The program staff must inform the grantee that acceptance of final reports does not constitute approval of all activities under the grant and that the grant is subject to further review and audit.
3. **Closing a grant with zero balance of funds remaining.** The program staff must complete the grant closeout checklist and notify the grantee via the Notification of Closeout Letter (available in Appendix W, “Notification of Closeout,” or through GAPS) after the following criteria have been met:
- a. The final performance report has been received, reviewed, and accepted;
  - b. All other terms of the grant were met; and
  - c. A review of the financial status in GAPS indicates that no funds remain in the grant account.

The Notification of Closeout letter (Appendix W, “Notification of Closeout”) informs the grantee of the status of their award and serves to remind them of the three-year record retention requirements found in EDGAR §§ 74.53 and 80.42. The program staff must place a copy of the signed and dated letter in the official grant file, prepare the file for transfer to FRC, and record the closed grant information in GAPS as described in section 5.7.2 item 6, “Recording Closed File Information in GAPS.”

4. **Closing a grant with fund balances.** If the final performance report was received, reviewed and accepted and all other terms of the grant were met but GAPS indicates

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that funds remain on the grant, the program staff must do either of the following before closing the grant:

- a. If more than 10 percent of the Federal funds awarded remain on the grant, the program staff must contact the grantee before de-obligating the funds and ask for a letter verifying that the funds are not needed and that all of the financial obligations of the grant were met. The grantee's certifying official should sign the letter. Upon receiving this letter, program staff should close out the grant. An authorized license holder must then deobligate the funds and approve the closeout in GAPS.

If the grantee needs any of the remaining funds, the program staff must require the grantee to provide a written request and justification for using the funds and an SF 269 Financial Status Report. The SF 269 should be signed by either the certifying official and/or the finance officer. If program staff approves the request, a license holder should modify the liquidation dates in GAPS to allow the grantee to draw down the agreed amount of funds. The drawdown period should not exceed 30 days. If the request is not approved, program staff must ask an authorized license holder to de-obligate the remaining funds and approve the closeout in GAPS. The program official signs and sends to the grantee a letter informing the grantee of the disapproval.

- b. When the funds remaining on the grant represent less than 10 percent of the total Federal award, the program staff should determine, based on their knowledge of the project, if any follow-up with the grantee is necessary.

If the program staff determine that follow-up with the grantee is unnecessary, the program staff person must ask an authorized license holder to de-obligate the remaining funds and approve the closeout in GAPS.

5. **Closing a grant in noncompliance.** A grant closed out in noncompliance may seriously affect a grantee's ability to receive awards under future grant competitions with ED (EDGAR § 75.217). Therefore, it is critical that the program staff ensure that this happens rarely and only in appropriate circumstances. If the grantee has failed to comply with a material requirement under the grant, the program staff must close the grant in non-compliance.

However, if a missing final performance report is the reason for noncompliance, the program staff must contact grantees to obtain the report. The program staff should make several attempts to contact the grantee in writing requesting submission of the final report.

If the final performance report failed to communicate or substantiate that the goals of the grant were achieved, the program staff should follow-up with the grantee to determine whether an oversight occurred or if the recipient truly failed to meet the grant's objectives.

If the program staff's efforts to get the missing report are unsuccessful or the grantee has failed to comply with a material requirement of the grant, the program staff must close the grant in noncompliance using the following steps:

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- a. Issue a Noncompliance Letter (Appendix X, “Noncompliance Letter”) signed by the program official explaining the basis for the noncompliance and whether the grantee materially failed to meet the requirements of the grant;
  - b. Place a copy of the letter in the grant file along with the documentation of the program staff member’s efforts to resolve any noncompliance issues and the consultation with the appropriate program official concerning closing out the grant in noncompliance; and
  - c. Check noncompliance and record the reason that the grant was closed out in noncompliance in the GAPS award history screens.

**Note:** In the future, GAPS will be able to track a grantee’s noncompliance with ED via a system report or DUNS number. Until that feature is available, the program staff must keep a manual log of grants that were closed in noncompliance and review a grantee’s noncompliance when making future funding decisions.

6. **Recording grant closeout information in GAPS.** The Records Liaison Officer in each principal office ensures that closed records are properly prepared and sent to the FRC. The program staff must record information related to the archival of the physical grant files in GAPS. The information entered into GAPS allows for electronic retrieval of archived information and electronic tracking of closed grant files. The system requires the following information to be entered:

- a. Grantee Name;
- b. PR/Award number;
- c. Performance period begin date;
- d. Performance period end date;
- e. Closeout date;
- f. Record archival date;
- g. The accession number under which the file was included;
- h. The number of the box in which the file was stored; and
- i. Location of records at the FRC.

The location where the accession number must be entered in GAPS is included on the approved copy of the Records Transmittal and Receipt Form (SF 135) that was submitted to the FRC when records were transferred. The location information received by FRC is needed to retrieve any files at a later date.

7. **Closeout statuses in GAPS.** GAPS automatically assigns the closed status to grants where all the reports have been received and logged, the remaining balance is zero and the grant has been in suspension for more than 30-days. At the end of a grant’s performance period end date, the grant will be placed in one of four closeout statuses,

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indicating which phase of the closeout process the award is in. The four statuses and their associated activities are as follows:

- a. **Liquidation.** The liquidation status is the first closeout phase in GAPS and occurs immediately after the grant's performance period has ended. In the liquidation status, a grantee is given 90 days from the end of the grant's performance period to submit final performance and financial reports and draw down funds for obligations incurred prior to their grant's performance period end date. No action is required by ED program staff.
  - b. **Suspension.** The suspension status (the second closeout phase in GAPS) provides an additional six (6) month period following the liquidation period to complete grant closeout activities. A grant in the suspension status has either unexpended funds remaining or a required report was not received and recorded in GAPS, or both. While in this status, a grantee may make online adjustments to their grant's financial data. However, the grantee may not draw down any funds remaining in the grant account in GAPS without the program staff's approval and intervention.
  - c. **Manual closeout.** At the end of the six (6) month suspension status period, if a grant still has either unexpended funds or a required report was not received, and recorded in GAPS by the program staff, GAPS automatically moves the grant to a manual closeout status. While in the manual closeout status, the program staff must contact the grantee regarding the unexpended funds or missing report(s) and resolve any issues preventing the grant from being closed out.
  - d. **Closed.** A grant in the closed status indicates that the grant's performance period has ended, all required reports have been submitted, and the remaining balance is zero (see section 5.7.2 item 4, "Closing a grant with fund balances").
8. **Changing the closeout status of an award in GAPS.** A grantee may need to contact the program staff to make adjustments to their grant's financial data and request authorization to draw down funds for obligations incurred during the performance period. This usually occurs after the grant's liquidation period has ended and the grant is in the suspension or manual closeout status in GAPS. The program staff must review the request and contact the grantee, if necessary, to confirm the need and amount of the draw down and the time needed to complete the transaction.

After review of the request, program staff may authorize the draw down:

- a. If the grant is in the suspension status, by changing the grants closeout status in GAPS from suspension back to liquidation and extending the liquidation period for a period not to exceed 30 days on any single request and 60 days cumulatively for all requests<sup>9</sup>; or

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<sup>9</sup> A system edit and corresponding flag prevents the program staff from processing in GAPS any single extension of the liquidation period that exceeds a 30-day time period. Further, a flag alerts the program staff that the grantee has already received cumulative extensions of 60 days or more and that only the license holder can approve and process any further extension of the liquidation period in GAPS. The



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- b. If the grant is in the manual closeout status, by requesting a license holder to review and approve the request and to take action to move the grant from manual closeout status back to the liquidation status; or
  - c. If the grant is in the closed status, by taking action to reinstate the grant following the procedures described in section 5.8, “Grant Reinstatements.”

## 5.8 Grant Reinstatements

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### 5.8.1 General

A grant reinstatement reopens and restores Federal funds to a grant for which unused fund balances were de-obligated as part of the closeout process. In general, reinstatements of discretionary grants should be an action taken only in rare circumstances. The program staff should monitor grant activities and review grantee expenditure histories in GAPS and provide technical assistance to grantees to avoid reinstatements.

### 5.8.2 Processing a Reinstatement

1. The funds needed for a grant reinstatement are usually available from the appropriation account under which the original award was made.

**Note:** Program appropriation accounts are canceled five fiscal years after the last date that ED could obligate the funds; therefore, in some cases, it may be necessary to request funds from a current year appropriation account to restore funds to the grant. As a general matter, however, ED has no legal obligation to use current-year funds to help a grantee liquidate an old obligation.

2. Before program staff can reinstate a grant, staff must coordinate the reinstatement with the program official and receive an approval from the program official to submit the necessary paperwork to the Executive Office. The reinstatement process is as follows:
  - a. The program staff must first obtain from the grantee a written request to reinstate the grant, which must include:
    - 1) The PR/Award and DUNS number and a Financial Status Report;
    - 2) The total actual dollar amount of expenditures for which reinstatement is needed, not to exceed the grant award authorization for the project period; and

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license holder must document the official grant file stating the reasons for approving an extension of the liquidation period beyond a 60-day period.

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- 3) A written statement describing the allowable costs for which the funds will be used, why this use of funds should be allowed and why they were not drawn during the performance or liquidation periods of the grant closeout process.
  - b. Upon receipt of the grantee's written request, the program staff must review to:
    - 1) Verify grantee's name, address, and DUNS number in GAPS;
    - 2) Verify information provided on the SF 269 against the award history information in GAPS;
    - 3) Determine whether the costs were authorized under the grant, if an adjustment is needed, and whether the obligations underlying the expenditures occurred prior to the grant's project period end date; and
    - 4) Ensure that the reinstatement amount does not exceed the amount authorized for the performance period and that the appropriation is available for adjustments, 31 U.S.C. 1553.
  - d. The program official must submit a Use of Prior Year Funds Request located in *ACS Directive, ODS:1-102, Adjustments to Obligations in Expired Appropriation or Fund Accounts*, found at: [http://wdcrobiis09/doc\\_img/acs\\_ods\\_1\\_102.doc](http://wdcrobiis09/doc_img/acs_ods_1_102.doc) to the Executive Office for review and verification. The Executive Officer, after review, submits the form to BECS for approval. BECS is required to review and approve the use of prior-year funds. BECS approval is needed to determine if enough funds exist in the ED program appropriation account to allow the grantee to make the needed adjustments. The Executive Officer must provide the following information to BECS:
    - 1) The grantee's written request for reinstatement of funds;
    - 2) A copy of the original GAN and any amendments reflecting the grantee's total award amount;
    - 3) Documentation validating the prior year obligation, and a Status of Funds Report showing an available unobligated balance; and
    - 4) A copy of any requests for written advice from the OGC, if the obligation adjustment involves legal issues (such as written advice pertaining to the validity of the grantee's request).
3. BECS reviews the request for the use of prior-year funds and other documents to either:
    - a. Approve the request, issue any allotment changes needed, and return the package to the Executive Office; or
    - b. Disapprove the request, return the package to the program official via the Executive Office, and suggest alternative methods of funding the reinstatement (such as use of current year funds).
  4. If BECS approves the request to use prior-year funds, the Executive Office reinstates the grant in GAPS for a period not to exceed 30 days. The closeout function/reinstatement sub-function must be used to reopen a closed discretionary award and reinstate funds to a grant.

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5. If BECS determines that the appropriation is cancelled or that prior year funds are not available for the reinstatement, the program official (with the approval of the Principal Officer) may use grant funds available for the purposes of the program and from a current year program appropriation to allow the grantee to make the needed adjustments. In accordance with 31 U.S.C. 1553, a principal office may only use up to one percent of a current appropriation for the program.
  6. The program staff must ensure that a copy of the grantee's request, other supporting materials, and the signed Use of Prior Year Funds Request Form, from BECS, are placed in the grantee's official file.

## 5.9 Sharing Results

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The program staff may identify successful projects within their grant programs that contributed significantly to the goals of the program mission and also have national significance. These projects are of exceptional quality and demonstrate best practices. The program staff should share this information with other grantees, potential grantees, and the public. The Education Resource Information Center (ERIC) clearinghouse and national centers can be used to disseminate information. ED may also share such information with the educational community through its Web site and through training, technical assistance, and conferences.

Some of the material developed by grantees and recipients of cooperative agreements might be subject to ED's Information Quality (IQ) Guidelines. Under the IQ Guidelines, publications, audiovisual products and Web sites produced by grantees and recipients of cooperative agreements are subject to the guidelines if ED:

- Represents or uses the information as the official position of ED, or in support of the official position of ED;
- Has authority to review and approve the information before release; or
- Directs that the information be disseminated.

If a grantee produces material that meets these standards, the program staff must review the material to ensure that it meets the standards of the IQ Guidelines.

## 5.10 External and Internal Audits of Discretionary Grants

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### 5.10.1 External Audits

External audits are reviews of grant-related (or contract-related) activities of external organizations doing business with ED.

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1. Grantees that spend \$500,000 or more in Federal funds during fiscal years ending after December 31, 2003, or \$300,000 or more in Federal funds during fiscal years ended on December 31, 2003 or earlier, are required to have an annual institutional audit (see Single Audit Act of 1997, OMB Circular A-133, and Attachment C which is included in all ED discretionary grant award packages). Generally, these audits, referred to as "A-133 audits" or "single audits," review expenditures of Federal funds across an entire organization instead of specific costs of individual grants. These audits must be conducted in accordance with "Standards for the Audit of Governmental Organizations, Programs, Activities and Functions," published by the Comptroller General of the Government Accountability Office (GAO). Independent Non-Federal auditors selected by the grantee may perform these audits. Grantees that fail to meet the A-133 audit requirement are subject to the conditions authorized in section 5.6, "High-Risk, Special Award Conditions, Other Special Actions."
  2. Individual grantees may also be audited by the ED-Office of the Inspector General (ED-OIG), or by independent public accountants under contract with ED-OIG. The ED-OIG audits are conducted to review specific costs of individual grants. These audits are usually performed:
    - a. At the request of an ED program official based on fiscal or program performance concerns about the grantee;
    - b. At the request of the OCFO Post Audit Group as a result of information contained in an "A-133" audit of the grantee; or
    - c. As determined independently by the OIG based on audit reports or other information about the grantee.

#### 5.10.2 Resolution of External Audits

The following describes requirements for resolving external audits..

1. A-133 audit reports are external audits conducted by an independent auditor selected by the grantee. The grantee is required to submit the report to the Federal Audit Clearinghouse. The Clearinghouse maintains the reports showing expenditures of Federal funds for conformance with the requirements of OMB Circular A-133. Audit reports with findings are forwarded to the appropriate Federal agencies for resolution of the findings.
2. The PAG receives and is responsible for processing all A-133 audit reports of entities receiving direct payments from ED including audits of discretionary grants. PAG, in conjunction with program staff, must take steps to resolve these findings upon their receipt in accordance with the procedures established in the ED Post Audit User Guide, section III at: <http://connected1.ed.gov/po/ocfo/index.html>. The resolution of audit findings must be documented and that documentation must be included in the audit file. Information about how all findings are resolved is included in the Audit Accountability Resolution Tracking System (AARTS).

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3. For those audits containing findings related to ED discretionary grants, PAG prepares a Program Determination Letter (PDL) which sets forth ED’s decisions on these findings, including actions required of the grantee and the amount of funds that the grantee must repay to resolve each financial finding. PAG shares the PDL with the principal office’s audit liaison officer (ALO). The ALO, in turn, forwards the PDL to the appropriate program staff for inclusion in the official file for the grant.

Based on the PDL, the program staff may recommend that the program official impose special conditions on one or more current awards of the grantee. Program officials must follow the steps outlined in section 5.6, “High-Risk, Special Award Conditions, Other Special Actions,” if they decide to impose special conditions or take other actions against a current grant award.

### 5.10.3 Internal Audits

Internal audits are conducted by ED-OIG’s regional inspectors general for audit to identify and address problems and to recommend improvements in internal ED operations. These audits are conducted to ensure that Federal education funds are used effectively and efficiently, and that program goals are accomplished. Audits conducted by the Government Accountability Office (GAO), a type of internal audit, are usually directed at evaluating the effectiveness of entire programs or broad aspects of programs.

1. Internal audits provide ED managers with an independent evaluation of whether:
  - a. ED financial operations are managed properly and financial statements are presented fairly;
  - b. Applicable laws, regulations, policies and procedures are complied with;
  - c. ED resources are managed economically and efficiently; and
  - d. Desired results or objectives of ED programs are being achieved.

For additional information, see section IV, “Internal Audits,” of the ED Post Audit User Guide.

2. Internal audits performed by the ED-OIG are performed as part of that office’s general oversight and review function, and as a result of a specific request by authorized ED officials. GAO reviews or studies ED operations or program activities on behalf of Congress, specific members of Congress, or congressional committees.

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## 5.11 Freedom of Information Act (FOIA) Request

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### 5.11.1 General

The Freedom of Information Act (FOIA)(5 U.S.C. § 552) provides that any person or organization (excluding Federal agencies) has the right to request access to Federal

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agency records or information. In general, all agency records must be made available to the public except for those portions of records that fall under one of nine FOIA exemptions:

1. Exemption One, Properly classified as secret;
2. Exemption Two, Related to internal personnel rules and practices;
3. Exemption Three, Specifically exempted by law;
4. Exemption Four, Privileged or confidential information or concerning trade secrets;
5. Exemption Five, Interagency and intra-agency communications (except final decisions);
6. Exemption Six, Personnel and medical files that would constitute a clearly unwarranted invasion of personal privacy;
7. Exemption Seven, Compiled for law enforcement purposes;
8. Exemption Eight, Contained in records concerning financial institutions; and
9. Exemption Nine, Geological or geophysical-related documents.

The discussion in this section complements ED's official FOIA policies and procedures and focuses on discretionary grant-related information requests received by ED under FOIA and the exemptions most relevant to the documents related to the discretionary grant processes. The program staff is directed to ED's Administrative Communication System (ACS), Departmental Directive OCIO 1-102 *Freedom of Information Act (FOIA) Policies and Procedures: Release or Denial of Department of Education Records Responsive to FOIA Requests* found at: <http://connected1.ed.gov/po/om/executive/acs/main.html> and ED's FOIA Web site at: <http://www.ed.gov/policy/gen/leg/foia/foia.html> for a more in-depth discussion of the Act and ED procedures and guidelines for processing and responding to FOIA requests. When handling complex information requests, requests requiring greater sensitivity, privacy issues, or other matters pertaining to FOIA, program staff should contact ED's FOIA office for assistance.

### 5.11.2 Commonly Requested Discretionary Grant Information

The following list identifies some of the most commonly requested discretionary grant items requested from ED under FOIA:

- Funded or unfunded grant applications
- Grant application reviewer information (comments, evaluations, reviewer lists)
- Funding slates and rank order lists
- Procedures for the Review of Applications (Application Technical Review Plan)
- Project materials

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- Data in the Grants Administration and Payment System (GAPS)
  - Program-specific reports
  - Information regarding discretionary grants that have been closed out and sent to a the Federal Records Center

### 5.11.3 Funded or Unfunded Grant Applications

Most of the FOIA requests received in ED concerning discretionary grants are for copies of funded or unfunded applications, particularly applications that ranked highest in a particular competition. Generally, copies of all applications received by ED under any of its grant competitions may be released. However, before releasing an application, program staff must review the application to ensure that it does not contain information that may not be disclosed under Exemptions 4 or 6 of the FOIA (5.U.S.C. §552(b)(4) and (6)); 34 CFR Part 5 Appendix. The text of FOIA can be found at: <http://www.usdoj.gov/04foia/foiastat.htm>.

#### **A. Information that may be released in an application includes:**

1. The Grant Award Notification (the grantee's DUNS number must be removed, based on Exemption 2).
2. The names of the project director and other key staff as well as general descriptions of the duties/activities of staff or the qualifications of key positions when these are specified in the application.
3. The resumes or vitae of staff working on a grant project when they are included in the application. These documents must be reviewed and redacted as appropriate for the types of personal information that would fall under Exemption 6 of the FOIA (5 U.S.C. §552(b)(6)).
4. Information on amounts for salaries and fringe benefits of project staff paid from Federal grant funds.
5. The application's itemized budget and budget narrative outlining the costs of a grant project.
6. Any requests a grantee submits to ED to modify their original award (whether prior approval is needed from ED or not) and the response to the request.
7. General internal documents, such as informal notes taken by the program staff from telephone discussions with grantees, e-mail, personal post-it note reminders on a particular grant matter, site visit reports generated after visiting a grantee, and customized forms developed for personal use that are used as part of managing and monitoring a grant and which are later placed into the official file.
8. The reviewer forms with reviewer comments and scoring of a particular application (the names of the reviewers must be removed from the completed reviewer forms).

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**B. Other grant-related information that may be released:**

1. A grantee's interim and final performance reports (the reports must be reviewed for any information that would meet any of the FOIA exemptions).
2. The information in an A-133 audit report from an independent auditor and/or a Department of Education Inspector General Audit of a particular grant. The names of the organization's officers, which are generally specified in the report, may be released even when the audit report contains negative information about the grantee.

**C. Information that may not be released in applications includes:**

1. Private information about individuals who are either working on a grant project as project staff or are participants of a research project funded by the grant that would constitute a clearly unwarranted invasion of privacy such as:
  - a. Names and other personal information of individuals that are the subject of research activities;
  - b. Names of spouses and children of project personnel;
  - c. Home and personal cellular phone numbers;
  - d. Home and personal email addresses;
  - e. Social Security numbers;
  - f. Medical records; and
  - g. Dates of birth.
2. The salaries and fringe benefits of project staff that are paid from in-kind contributions, cost-sharing, or matching funds.
3. Any confidential commercial or financial information that may have the possibility of causing competitive harm to a person or organization. Possible items that fall under this category could be:
  - a. Trade secrets (a formula, an exclusive design, a computer program);
  - b. Research and development activities; and
  - c. Commercial or other financial data of an organization.

**Note:** The important point for competitive harm in the FOIA context is that it is limited to harm flowing from the affirmative use of proprietary information by competitors – it is not simply any injury to competitive position resulting from decisions by consumers or end users. In other words, Exemption 4 is designed to stop industrial espionage, but not to shield competitors from the marketplace. Prior to releasing information that may fall within Exemption 4, ED is required by Executive Order to seek the submitter's opinion regarding the public availability of the information. Please refer to FOIA Directive OCIO 1-102 for procedural guidance regarding the application of Exemption 4.



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#### 5.11.4 Grant Application Reviewer Information

1. ED recognizes that a fair and competitive review process is enhanced by the use of reviewers from outside of the Federal Government. ED recruits persons who are highly qualified to review, score, and recommend applications for funding under its discretionary grant competitions. The following information concerning application reviewers is generally releasable:
  - a. A list of the names of the reviewers that participated in evaluating and scoring a group of applications;
  - b. A program official's evaluation of a reviewer's performance during an application review process.
2. With respect to application reviewer forms with reviewer comments and scores, ED has the legal discretion to release or withhold such comments. At least one court has recognized that a summary statement that contains the peer review group's recommendations, numerical scores, and factors considered on review may be part of an agency's deliberative process. Such peer review information may be withheld under a proper analysis pursuant to Exemption 5 of the FOIA. To withhold such information, the program staff must prepare for signature by the FOIA Officer a denial letter describing the decision-making process, the role of the peer review documents in that decision-making process, and why the peer review documents are denied under Exemption 5.

For example, if a competition is particularly small (meaning the competition required only three reviewers or two or three panels of reviewers), the actual handwritten application reviewer forms should not be disclosed because of the possibility that someone may link a reviewer's specific comments to their handwriting. In such a case, prior to disclosure of the reviewer comments, the hand written comments should be typed on a separate document and sent to the requester.

Similarly, the program staff must pay attention to requests for both the reviewer forms and comments where the public might be able to associate the name of a reviewer on the lists with his or her evaluation forms and comments. If the program official can establish that, in those circumstances, reviewers may temper their comments because of potential public dissemination to the detriment of the agency's deliberations and decision-making, the reviewer list may be withheld under Exemption 5 (while the evaluations may be disclosed). The official grant file should be annotated to that effect to ensure consistency in responding to FOIA requests for those records.

In all cases where application reviewer forms with reviewer comments and scores are released, the names of the reviewers and other personal information must be removed from the completed reviewer forms and reviewer evaluation forms before the forms are released.

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### 5.11.5 Funding Slate and Rank Order List

1. The Principal Officer approves a funding slate that considers information in applications, the rank ordering of those applications, and other information as indicated in EDGAR § 75.217 (see section 4.4.2, “Funding Slate for New Grants”). The final funding slate of successful applicants is releasable under FOIA. Regarding rank order lists, in accordance with EDGAR § 75.217(d)(2), the ordering of the applications is an integral part of the pre-decision information that informs the Secretary’s deliberations and decision on the final selection of applications for awards. As such, the rank order lists may be exempted from disclosure under Exemption 5.
2. When a rank order list is denied, the program staff must prepare for signature by the FOIA Officer a denial letter describing the decision process, the role of the rank order list in that decision process, and why the rank order list was denied under Exemption 5. If applicable, an explanation should also be included describing the reasons why supplementary information was used in the funding decision. The program staff must ensure that the denial letter is factually accurate.

### 5.11.6 Application Technical Review Plan (ATRP)

The ATRP is the roadmap each principal office uses to conduct its grant program competitions. The plan provides instructions for carrying out the phases of the application review process including the process and procedures used in scoring applications (raw scores, averaging, and standardization) for a program competition and the circumstances that prompted the program official to use a particular scoring method (see section 3.2.2, “Contents of the Application Technical Review Plan”). The ATRP is releasable under FOIA.

### 5.11.7 Project Materials

1. Project materials in ED’s possession that were developed with funds from an ED grant are generally releasable under the FOIA. EDGAR § 75.622 defines project materials as “a copyrightable work developed with grant funds from a grant of the Department.” Project materials can include such items as publications, manuals, videos, curriculum, software programs, or any other items copyrighted by the grantee (except for items containing confidential business information).
2. If ED does not have the project materials in its possession, ED does not have to get them from a grantee for the FOIA requester except in limited situations. Under §74.36(d), grantees subject to that part are required, at ED’s request, to provide research data to ED so that ED may disclose it to a FOIA requester if the following requirements are met:
  - a. ED officially cites the research findings to support an agency action that has the force or effect of law; or

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- b. The research results are published in a peer-reviewed scientific or technical journal and ED used the findings in developing an agency action that has the force or effect of law.
  3. The research data that a grantee must provide to ED under 5.11.2, “Commonly Requested Discretionary Grant Information,” is the recorded factual material commonly accepted in the scientific community as necessary to validate research findings. However, those data do not include preliminary analyses, drafts of scientific papers, plans for future research, peer reviews or communications with colleagues. Those data also do not include physical objects or specimens. If you receive a FOIA request for data that might be subject to this rule, consult with the FOIA coordinator before requesting data from the grantee.

### 5.11.8 FOIA and Electronic Grants Data

#### *Information in the E-Grants module*

Program officials may conduct their application review and other discretionary grant administration process electronically through the various modules of the ED’s e-Grants system. Applications may be submitted to ED via e-Application; administrative action requests from grantees may be submitted via e-Administration; ED application reviewers may compose their comments in e-Reader; and grantees may submit any required performance reports to ED via e-Reports. Information available in the modules of ED’s e-Grants system should be treated the same way as the paper versions of the documents or information the modules contain. These documents should be printed and redacted as necessary before the information is sent to a requestor.

#### *Data in GAPS*

Data contained in GAPS that ED uses for decision-making and management purposes are not releasable under the FOIA. Financial information, such as a grantee’s drawdown and payment history and other kinds of internal reports generated from GAPS, should be withheld. The information is exempt under Exemption 5 and is considered internal governmental communication.

### 5.11.9 Program-specific Reports

Generally ED programs produce program-specific reports after a group of grants has expired and the evaluation of the program is complete. The program-specific report may summarize the outcomes of the projects in the program and contain statistical or other information that illustrates how the particular program as a whole had an impact on the issues that the program was funded to address. These reports are also sent to Congress and used to meet GPRA reporting requirements. Program reports are releasable under the FOIA.

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#### 5.11.10 Information at the Federal Records Center

Occasionally ED receives a FOIA request for information that has been sent to the Records Center for storage (such as information on expired grants). To respond to a request that requires information from the Records Center, the program staff must make a reference request by submitting a request to the Records Center via the Centers Information Processing System (CIPS), U.S. Postal Service, commercial courier, email, fax or telephone. The reference request, Federal Records Centers Optional Form 11, or an appropriate agency request form can be used to recall records from the records center. Regardless of the method employed for requesting records, if records are being requested under the provision of FOIA, the Privacy Act, or due to congressional interest, a notation should be made to that effect in the Remarks section of the OF-11 to ensure proper handling.

For additional information on retrieving records at the Records Center visit their Web site at: <http://www.archives.gov/>.

#### 5.11.11 Electronic Freedom of Information Act Amendments of 1996 (e-FOIA)

In 1996, Congress passed the Electronic Freedom of Information Act (E-FOIA), which amended the FOIA. A major part of the amendment requires Federal agencies to create electronic reading rooms on their Web sites to make available electronic copies of documents that the agency determines have become or are likely to become the subject of subsequent requests by the public. In response to the revisions to E-FOIA, ED has created the E-FOIA reading room. The reading room serves as a central location on ED's Web site for specific types of documents made accessible electronically and created by ED on or after November 1, 1996.

In accordance with 5 U.S.C. § 552(a)(2), electronic "reading room" records consist of:

1. Final opinions and orders made in adjudicating cases;
2. Final statements of policy and interpretations not published in the *Federal Register*;
3. Administrative staff manuals and instructions to staff;
4. Copies of previous FOIA requests and responses ED believes are likely to be requested again;
5. The agency's annual FOIA reports to Congress; and
6. ED's Records Disposition Schedules.

ED program offices may also maintain their own reading rooms on ED's E-FOIA Reading Room Homepage. Program offices are encouraged to post information when the information is requested from the public three or more times (meaning top ranking applications of a particular competition). The program staff is also urged to become familiar with the types of documents that are listed in ED's E-FOIA reading room in

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order to direct inquirers to the information without having them submit a request for the information under FOIA.

#### 5.11.12 Withholding Exempted Information

In some instances, some or all of the information in a FOIA request is exempt from disclosure. When information is requested that is exempt, the program staff must remove the exempted material from the document by blocking it out with a marker, correction fluid, or removing the entire page from the materials being prepared as part of the response to the request. If a marker is used to redact information, the program staff must ensure that the redacted information cannot be seen at all. If correction fluid is utilized, a notation must be made in the redacted area to indicate that information has been redacted.

If all of the information asked for in the request is exempt from disclosure, the program staff, through the appropriate FOIA officer, must deny the entire request citing the applicable FOIA exemption authorities. When a request for information is denied (either in whole or in part), the program staff must prepare either a memorandum to the FOIA officer explaining why the information should be denied or a draft letter to the requestor (for review and approval of the FOIA officer) explaining the denial.

## 5.12 Review of ED's Discretionary Grant Processes

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To ensure fairness, objectivity and consistency across all of ED's programs and to promote continuous improvement, GPOS works in partnership with each principal office to identify strengths and weaknesses in ED's discretionary grant processes.

1. In carrying out this responsibility, GPOS may review:
  - a. Principal office discretionary grant award competition files;
  - b. Funded discretionary grant award files;
  - c. Application Technical Review procedures and processes;
  - d. Application technical reviewer comments and evaluations of the review process;
  - e. Novice applicant procedures;
  - f. Monitoring activities under selected programs;
  - g. Grant administration activities under selected programs;
  - h. Grant closeout processes under selected programs; and
  - i. Grants or grantee's designated high-risk.
2. After each review, GPOS may prepare draft reports to share with all principal offices for review and comment. The reports cover the strengths and weaknesses of the ED

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grant processes as administered by the various principal offices of ED and make recommendations for improvements, as needed. The report may include a plan that consists of measurable steps to improve the process, including any necessary training. GPOS may issue final reports regarding ED's discretionary grant processes for specific programs, offices or for ED as a whole.

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## Glossary

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**Absolute Priorities.** See Funding Priorities.

**Agreement for Grant Application Reviewers Who Receive Compensation.** A document signed by each reviewer receiving compensation. The document includes a conflict of interest certification and other statements about the duties and responsibilities of a reviewer.

**Agreement for Grant Application Reviewers Who Serve Without Compensation.** A document signed by each non-paid reviewer that waives any right to payment or compensation for services rendered. The document includes a conflict of interest certification and other statements about the duties and responsibilities of a reviewer. Travel or per diem costs provided by ED under the Federal Travel Regulations are not considered compensation for the purposes of this agreement.

**Allocable Cost.** Cost that can be traced to specific activities of a grant project.

**Allowable Cost.** A cost incurred by a grantee that is:

- Necessary and reasonable for the performance of the award;
- In conformance with any limitations or exclusions set forth in the Federal cost principles applicable to the organization incurring the cost or in the Grant Award Notice as to types or amount of cost items;
- Consistent with the grantee's policies and procedures that apply uniformly to both Federally-financed and other activities of the grantee;
- Determined in accordance with generally-accepted accounting principles; and
- Not included as a cost in any other Federally-financed grant (unless specifically authorized by statute).

**Annual Grant Investment Portfolio.** A comprehensive document that gathers all of a principal office's grantmaking information in one location.

**Annual Monitoring Plan.** A document prepared by each Principal Officer that describes the specific monitoring activities to be undertaken for each active CFDA grant program administered by the principal offices during the upcoming fiscal year.

**Annual Monitoring Report.** A document prepared by each Principal Officer for the Chief Financial Officer that 1) describes the actual monitoring activities of that principal office during the previous fiscal year; 2) compares the actual monitoring activities with the proposed activities of the Annual Monitoring Plan, and 3) delineates the improvements made in the monitoring process and remaining barriers to future improvements.

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**Application.** A request for financial support of a project or activity submitted to ED on specified forms and in accordance with instructions provided by ED; also, all the information that otherwise would be requested on these forms (see *Application Package*).

**Application Control Center (ACC).** The administrative unit of ED in the Office of the Chief Financial Officer officially authorized to receive hard copy applications for discretionary grants and cooperative agreements.

**Application for Federal Education Assistance or ED 424.** The grant application form, sometimes referred to as the application “cover page,” used by the Department of Education beginning in 1998. This form replaces the SF 424, formerly used by ED.

**Application Notice.** A notice published in the *Federal Register* (see **Federal Register.** ) that invites applications for one or more discretionary grant or cooperative agreement competitions. The notice gives basic program and fiscal information on each competition, informs potential applicants when and where they can obtain applications, and cites the deadline date (see *Deadline Date*), for a particular competition (EDGAR § 75.100).

**Application Package.** A package that contains the application notice for one or more programs and all the information and forms needed to apply for a discretionary grant (EDGAR § 75.125) under one of those programs.

**Application Reviewer (Reviewer).** An individual who serves ED by reviewing new discretionary grant and cooperative agreement applications.

**Application Technical Review Plan.** A plan that describes the competitive procedures used by a principal office to conduct a new grant competition.

**Appropriations Statute.** A statute passed by Congress to make funds available for the purposes specified in the legislation (such as grant programs).

**Approval (or Authorization).** The documentation showing ED’s express written consent for a grantee to incur a specific cost or take an action if the cost or action requires prior approval.

**Approved Budget.** The budget submitted by the grantee and any revisions for which approval is necessary by the principal office and which have been approved. The approved budget includes cost items for Federal funds and may include cost items for non-Federal funds, if cost-sharing or matching is required or volunteered (see *Cost-Sharing or Matching*) (EDGAR §§ 75.232 and 75.235).

**Assurances.** A listing of requirements found in different Federal laws, regulations, and executive orders that apply to grants, and to which applicants must agree in writing to observe as a condition of receiving Federal assistance (EDGAR § 74.17).

**Audit Finding.** A conclusion about a monetary or non-monetary matter related to an auditor’s examination of an organization, program, activity, or function, which frequently identifies problems and provides recommendations for corrective action in order to prevent their future recurrence. (EDGAR 75.910).



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**Audit Resolution.** The process used to resolve negative audit findings and recommendations, including management and systems deficiencies and monetary findings (i.e., questioned costs (OMB Circular A-133)).

**Authorizing Statute.** A statute passed by the Congress that establishes or continues a grant program either indefinitely or for a specified period of time. Authorizing legislation is generally a prerequisite for appropriations.

**Authorizing Representative.** The individual entrusted by the applicant/grantee organization to sign the application either electronically or on the Standard Form 424, including the applicable assurances and certifications on behalf of the organization. The governing body's authorization for this entrusted individual to sign an application as official representative must be on file in the applicant's office.

**Award.** See Grant.

**Budget Period.** Annual increments of time into which a project period is divided for budgetary purposes, usually twelve months (EDGAR § 75.251).

**Carryover Balance.** Unexpended funds of the grantee from a previous budget period under a grant that are authorized for use to cover allowable costs in a current budget period (EDGAR § 75.253).

**Catalog of Federal Domestic Assistance (CFDA).** Publication and database produced by the General Services Administration that lists the domestic assistance programs of all Federal agencies and gives information about a program's authorization, fiscal details, accomplishments, regulations, guidelines, eligibility requirements, information contacts, and application and award process (see <http://www.cfda.gov/>).

**CFDA Number.** Identifying number for a Federal assistance program, composed of a unique two-digit prefix to identify the Federal agency that makes the funds available (ED's prefix is 84). A period and a unique three-digit code for each authorized program follow the prefix.

**Code of Federal Regulations (CFR).** Compilation of all final regulations issued by Federal agencies and published annually by the National Archives and Records Administration (NARA), divided into numbered "titles." Title 34 contains the regulations of the Department of Education.

**Competition File.** See *Grant Program Competition File*.

**Competition Manager.** The ED staff person or program official given the overall responsibility to ensure the fair treatment of all applications in a competition. This individual oversees the entire competition and provides the direction and guidance for all the panels conducted under the competition.

**Competitive Priorities.** See Funding Priorities.

**Competitive Review Process.** The process used by ED to select discretionary grant applications for funding, in which applications are scored by *Application Reviewers* and ED funds the highest qualified applications (EDGAR § 75.217).

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**Continuation Award.** A grant for a budget period subsequent to the first budget period. A grantee does not have to compete with other applicants to receive this award (EDGAR § 75.251).

**Cooperative Agreement.** A type of Federal assistance; essentially, a variation of a grant (see *Grant*), awarded by ED if it anticipates having substantial involvement with the grantee during the performance of a funded project (see *Federal Grant and Cooperative Agreement Act of 1977*).

**Cost Analysis.** The examination and verification of budget data submitted by applicants to determine the allowability of the costs included in the budget pursuant to the applicable cost principles (EDGAR § 75.232).

**Cost Principles.** The principles as set out by the Office of Management and Budget (OMB) for generally accepted accounting rules used to determine whether costs applicable to grants, contracts and other agreements are allowable, reasonable, and allocable. (The OMB Circulars include A-21, Cost Principles for Educational Institutions; A-87, Cost Principles for State, Local and Indian Tribal Governments; and A-122, Cost Principles for Non-Profit Organizations).

**Cost-Sharing or Matching.** The value of allowable third party in-kind contributions and the allowable costs of a Federally assisted project or program not borne by the Federal government (EDGAR §§ 74.23 and 80.24).

**Data Universal Numbering System (DUNS).** A unique nine-digit identification code that is assigned to an institution by Dunn and Bradstreet, a nationally recognized credit rating bureau. All grantees and payees must have a DUNS number to receive payments through the Grant Administration and Payment System (GAPS).

**Deadline Date.** The date by which an applicant must submit an application for a grant or cooperative agreement. Hard copy applications must be mailed by the deadline date and electronic applications must be received by the deadline date and time. (EDGAR § 75.102).

**Directed Grant** (also known as an *Earmark*). A grant that ED is directed by Congress through legislation to make to a particular grantee. These grants are subject to all the rules in EDGAR except those regarding competition and to the respective requirements in this Handbook.

**e-Administration.** ED's electronic system that makes it possible for grantees to submit requests for administrative changes to their active grants directly to program staff via the Internet.

**e-Applications.** ED's electronic application system that provides the capability for applicants to apply to selected grant programs electronically.

**Earmark.** See *Directed Grant* .

**ED.** The acronym for the U.S. Department of Education (meaning Education Department).

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**ED Form 424 or ED 424.** The ED standard grant application form, sometimes referred to as the application cover page.

**EDGAR (Education Department General Administrative Regulations).**

Administrative regulations governing ED's grant programs found in parts 74, 75, 76, 77, 79, 80, 81, 82, 84, 85, 86, 97,98 and 99 of Title 34 of the *Code of Federal Regulations (CFR)* (defined above); a document issued by ED that contains a reprint of these regulations.

**ED PUBS.** The main distributor of hard-copy grant applications and other ED literature.

**ED Staff Offices.** Principal Offices of ED other than program offices that are involved in the planning, review, and award of discretionary grants. This includes the Office of the Chief Financial Officer, Office of the Under Secretary, The Office of the Deputy Secretary, Office of the General Counsel, Office of the Chief Information Officer, and the Office of Legislation and Congressional Affairs.

**Eligibility.** Refers to the question of whether an entity that applies for a grant has all the characteristics required under a program statute, regulation or absolute priority so that the entity may receive a grant (EDGAR § 75.50).

**e-Reader.** ED's electronic review system that supports the program office's peer review process.

**e-Reports.** ED's electronic reporting system which makes it possible for grantees to submit their annual grant performance reports (ED 524B) to ED via the Internet.

**Federal Grant and Cooperative Agreement Act of 1977.** The act (31 U.S.C. chapter 63) which establishes standards Federal agencies must apply to determine whether a particular activity or agreement should be funded as a grant, cooperative agreement, or contract. Under the Act, an agency must use the correct instrument to fund a particular agreement even if Congress specified a different instrument in the authorizing statute (see Grant and *Cooperative Agreement*).

**Federal Register.** A daily compilation of proposed and final Federal regulations, legal notices, presidential proclamations and executive orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest. The *Federal Register* is prepared by the National Archives and Records Administration for public distribution by the Government Printing Office; it is the publication of record for the Federal government.

**Federal Share.** The amount – generally expressed as a percentage of total project costs – of dollars, property or other direct assistance provided by the Federal government to an eligible grantee to accomplish a public purpose of support or stimulation authorized by statute. If cost sharing or matching are required in a grant, both the Federal and non-Federal share are noted on the Grant Award Notice.

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**Financial Reports.** Interim and final financial data provided by grantees as they make payment requests through ED’s Grant Administration and Payment System (GAPS) (see *Grant Administration and Payment System (GAPS)*). Grantees also provide financial data with their submissions of annual and final performance reports.

**Funding Priorities.** A means of focusing a competition on the areas in which the Secretary is particularly interested in receiving applications. Generally, priorities take the form of specific kinds of activities that applicants are asked to include in an application. There are absolute priorities, which the applicant must address in order to be considered for funding; competitive preferences, which the applicant has the option of choosing whether or not to address and for which they may receive additional points; and, invitational priorities, which the applicant is encouraged but not required to address. Applications addressing invitational priorities receive no preference over applications that do not meet the priority (EDGAR § 75.105).

**Funding Slate.** A list prepared by the program official and approved by the Principal Officer which identifies the grant applications that are approved for funding, as well as the order in which they will be funded until funds are exhausted (EDGAR § 75.217).

**Grant.** Financial assistance to support, stimulate or accomplish a public purpose. Awards include grants and other agreements in the form of money, or property in lieu of money, by the Federal government to an eligible grantee. The term does not include: technical assistance, which provides services instead of money; other assistance in the form of loans, loan guarantees, interest subsidies or insurance; direct payments of any kind to individuals; and contracts which are required to be entered into and administered under procurement laws and regulations (EDGAR §§ 74.2 and 80.3).

**Grant Administration and Payment System (GAPS).** A financial subsystem that is part of ED’s Education Department Central Automated Processing System (EDCAPS). GAPS provides on-line capabilities for grantees to request payments, access their account to obtain their most current payment information, make certain requests, and file electronic reports.

**Grant Award Notification (GAN).** The official document signed by a license holder stating the amount and conditions of an award for a discretionary grant or cooperative agreement (EDGAR § 75.235).

**Grant Closeout.** The final step in the lifecycle of a grant or cooperative agreement. During this phase, ED ensures that all applicable administrative actions and required work of a discretionary grant or cooperative agreement have been completed by the grantee. ED also reconciles and/or makes any final fiscal adjustments to a grantee’s account in GAPS (EDGAR §§ 74.71 and 80.50). See section 5.7, “Grant Closeout,” in this Handbook.

**Grant Conditions.** All requirements imposed on a grantee by ED, whether by statute, regulation, absolute priority, or in the grant award document itself. The terms of the Grant Award Notice may include both standard and special provisions that are considered necessary to attain the objectives of the grant, facilitate post-award administration of the grant, conserve grant funds or otherwise protect the Federal government’s interests.

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**Grantee.** An individual or organization (sometimes referred to as a recipient) that has been awarded financial assistance under one of the ED’s discretionary grant programs, whether in the form of a grant or cooperative agreement.

**Grant File.** The official file of a particular grant that contains all significant documents and correspondence related to the award.

**Grant Performance Report.** A report a grantee must submit to receive continued funding under a multi-year award. The report provides the most current performance and financial information about a discretionary grant or cooperative agreement (EDGAR § 75.118).

**Grant Policy Bulletins.** Documents issued by GPOS (see *Grants Policy and Oversight Staff (GPOS)*) that provide information about grant policies and procedures for ED discretionary grant programs, including best practices and lessons learned, and which have not yet been incorporated into this Handbook.

**Grant Program.** An effort authorized under statute or regulations to provide assistance on a particular matter of congressional concern. Grant programs can provide assistance on a discretionary or formula basis.

**Grant Program Competition File.** A file containing a collection of information, decisions or documentation related to a specific grant program competition or a group of related competitions.

**Grants Policy and Oversight Staff (GPOS).** A component within the Office of the Chief Financial Officer responsible for policy development, training and oversight of the grants process at ED. GPOS provides technical assistance to the program offices regarding discretionary grant planning, award, administration and closeout. It is also responsible for amendments to EDGAR regarding discretionary grants and human research subjects.

**Grant Transfer.** A process whereby the legal and administrative responsibility for a grant-supported project or activity is transferred from one legal entity to another if certain limited conditions are met.

**High-Risk.** A term used to describe the need to impose special conditions on a grant or grantee whose risk of failure is determined to be high based on a history of poor performance or poor business practices, financial instability, or lack of a management system meeting the required financial management standards (EDGAR §§ 74.14 and 80.12).

**Human Subjects.** Under Federal regulations, human subjects are defined as living individuals about whom an investigator conducting research obtains data through intervention or interaction with the individuals, or by collecting identifiable private information about the individuals (EDGAR §97).

**Indirect Cost Rate.** A percentage established by a Federal department or agency for a grantee organization or sub-organization, which the grantee uses in computing the dollar amounts it charges to the grant to reimburse itself for indirect costs (see *Indirect Costs*) incurred during the grant project (EDGAR §§ 75.560 and 76.560).

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**Indirect Costs.** Costs an organization incurs for common or joint objectives, which cannot be readily and specifically identified with a particular grant project or other institutional activity without effort in excess of the results achieved (EDGAR §§ 75.560 and 76.560).

**In-Kind Contribution.** A contribution directly benefiting a grant-supported project that is provided by or to the grantee by non-Federal third parties. In-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and goods and services directly benefiting and specifically identifiable to the project or program (EDGAR §§ 74.25 and 80.24). See section 4.3.2, “Grantee Cost-Sharing or Matching (Non-Federal Share),” in this Handbook. In-kind contributions are generally used by grantees to meet cost-sharing or matching requirements.

**Institutional Review Board (IRB).** An administrative body established by a recipient to protect the rights and welfare of human research subjects recruited to participate in research activities conducted under the auspices of the institution with which it is affiliated. The IRB has the authority to approve, require modifications in, or disapprove research activities that fall within its jurisdiction (EDGAR §97).

**Invitational Priorities.** See *Funding Priorities*.

**License.** An authorization provided by GPOS to an individual ED employee that allows that person to record obligations and sign and issue new or revised grant awards for discretionary grants and cooperative agreements.

**License Holder.** An individual who has met the qualifications to receive and has received a license in order to record and make obligations.

**Monitoring.** Monitoring is the regular and systematic assessment of 1) how well a grant is being implemented and achieving outcomes, 2) the degree to which it is meeting established measures, and 3) whether it is complying with statutory requirements, program regulations, policies and fiscal requirements.

**Monitoring Information System.** The MIS provides information on active discretionary and formula programs by the CFDA numbers. The database contains key information on performance models, grantee performance problems and grantee risk factors, monitoring tools, technical assistance opportunities and technology usage in monitoring. Information is updated annually.

**Monitoring Instrument.** Any approved tool used during monitoring to gather information about a recipient’s activities and performance under a discretionary grant or cooperative agreement. See “Monitoring Procedures and Requirements” in this Handbook.

**Monitoring Method.** Any approved technique used for monitoring.

**No-Cost Time Extension.** An extension of time to the last or only budget period of a project to complete the work of the grant during that period, without the obligation of additional funds by the Federal government (EDGAR § 75.261).

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**Non-Federal Share.** The portion of allowable project costs not borne by the Federal government (EDGAR §§ 74.23 and 80.24). See section 4.3.2, “Grantee Cost-Sharing or Matching (Non-Federal Share),” in this Handbook.

**Notice of Proposed Rulemaking (NPRM).** An announcement published in the *Federal Register* of proposed new regulations or modifications to existing regulations; the first formal stage in the process of creating or modifying regulations for most programs.

**Novice Applicant.** Any applicant for a discretionary grant from ED that meets the standards in 34 CFR § 75.225.

**Objective.** The goals and strategic purpose of a grant as described in the application and determined in the context of the grant program funding the award.

**Obligation.** At the Federal level, the legal act of signing the GAN and sending it to the grantee. At the grant level, one of the legal acts specified in § 75.707

**Office of the Chief Financial Officer.** An organizational unit in ED which is primarily responsible for ED’s financial management, financial control and accounting processes. It is the principal advisor to the Secretary of Education on all matters related to discretionary grantmaking and procurement.

**Office of Management and Budget (OMB).** An agency within the Executive Office of the President that helps the President formulate spending plans; prepare the budget for submittal to Congress; evaluate the effectiveness of agency programs, policies, and procedures; assess competing funding demands among agencies; set government-wide funding priorities; manage Federal information collection; and manage the Federal government’s regulatory procedures.

**OMB Circular.** An administrative policy document issued by OMB that give instruction to Federal agencies on a variety of topics, including the administration of Federal grants and cooperative agreements.

**OMB Circular A-21.** The OMB Circular establishing the cost principles for allowability of costs incurred by educational institutions.

**OMB Circular A-87.** The OMB Circular establishing the cost principles for allowability of costs incurred by State, local and Federally-recognized Indian tribal governments.

**OMB Circular A-122.** The OMB Circular establishing the cost principles for allowability of costs incurred by non-profit organizations.

**OMB Circular A-133.** The OMB Circular establishing audit requirements for States, local governments, Indian tribes and non-profit organizations.

**Oracle Financial.** The system software ED uses to support its financial management and business processes.

**Performance Measure.** A characteristic or metric used to assess a grantee’s performance under a program or project (i.e., dollars expended, student enrolled, grade-point average, number of job offers received).

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**Performance Period.** See *Project Period*.

**Post-Award Performance Conference.** A conference between ED and grantees after a new award has been made. See section 5.2.1, “Post-Award Performance Conference,” in this Handbook.

**PR/Award Number.** The identifying number for an application and discretionary grant or cooperative agreement, composed of seven parts –

Example – H029A951234-95C –

1. Principal office designator (H)
2. CFDA numeric suffix of the program (029)
3. Alphabetic sub-program identifier (A)
4. Last two digits of the fiscal year of the competition (95)
5. Unique application identifier (1234)
6. Last two digits of the fiscal year of the funding (95)
7. Sequential order of the most recent funding action in a fiscal year, expressed alphabetically (C)

The first five parts remain the same throughout the life of the project period while the last two parts change by budget period.

**Pre-Application.** A summary statement a principal office requests or requires from potential applicants to determine: 1) the applicant’s intent to request Federal funds under a program; 2) the applicant’s eligibility; 3) the quality of the proposed project compared to similar applications; and 4) which applications have little or no chance for Federal funding so ED can inform the applicant before it incurs significant expenditures to prepare an application. The pre-application process is in addition to the application process.

**Pre-Award Cost.** The cost incurred prior to the effective date of the award and in anticipation of the award (EDGAR § 75.263).

**Program Office.** One of eight principal offices of ED responsible for administering programs that award discretionary grants and cooperative agreements: Institute of Educational Services (IES); Office of English Language Acquisition (OELA); Office of Elementary and Secondary Education (OESE); Office of Innovation and Improvement (OII); Office of Postsecondary Education (OPE); Office of Safe and Drug-Free Schools (OSDFS); Office of Special Education and Rehabilitative Services (OSERS); and Office of Vocational and Adult Education (OVAE).

**Principal Officer.** The ED official who is head of one of the eight *program offices* (listed above) and who holds the rank of Assistant Secretary or its equivalent.

**Prior Approval.** The written permission provided by the authorized program staff member from the ED awarding office before the grantee may undertake certain activities



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(such as performance or modification of an activity), expend funds or exceed a certain dollar level (EDGAR §§ 74.25 and 80.30).

**Program Income.** The gross income received by the grantee or cooperative agreement recipient that is directly generated by the supported activity, or earned as a result of the award (EDGAR §§ 74.24 and 80.25).

**Program Office.** A sub-unit of a principal office that conducts the daily work of administering ED discretionary grant or cooperative agreement programs, including the responsibility for the review and ranking of applications.

**Program Official.** A program manager having various oversight responsibility for the planning, review, pre-award/award, and post-award activities in the discretionary process. This person frequently acts as a level of review and approval for various procedures described throughout the Handbook.

**Program Regulations.** Regulations that implement legislation passed by Congress to authorize a specific grant program; they may include applicant and participant eligibility criteria, nature of activities funded, allowability of certain costs, selection criteria under which applications will be selected for funding, and other information relevant to the program.

**Program Staff.** Individuals who handle the day-to-day program office responsibilities as assigned by the program official.

**Project Costs.** The total allowable costs incurred by a grantee, including costs contributed by the grantee (and the value of the in-kind contributions) in accomplishing the objectives of the award during the project period.

**Project Director.** An individual designated by the grantee to direct the project or program being supported by a grant. The project director is responsible and accountable to officials of the grantee organization for the successful outcome of the project, program or activity.

**Project Period.** The total period for which funds are awarded to a grantee, including any extensions of that period. See EDGAR § 75.250 and 4.3.16, “Project Periods,” of this Handbook.

**Project Scope.** The nature and extent of the work to be performed under a grant as described in the application.

**Reasonable Cost.** A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. See the appropriate cost principles.

**Recipient.** See *Grantee*.

**Record of Obligation.** An entry made by a license holder in ED’s automated accounting system that authorizes the payment of Federal grant funds to a grantee. A record of obligation does not obligate funds to a grantee. See *Obligation*.

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**Regulations.** The Federal rules of general applicability and legal effect that are authorized by Federal laws or other Federal authority and contained in the CFR.

**Reimbursement.** A payment made by electronic transfer, Treasury check or other means to a grantee upon request after the grantee has expended its funds on an allowable cost. A request for reimbursement must be accompanied by documentation of the expense (EDGAR §§ 74.22 and 80.21).

**Reviewer Register.** A list of qualified Federal and non-Federal individuals from which ED selects reviewers of applications for new grants. Each principal office may maintain its own register.

**Reviewer Roster.** A list of individuals approved by the Principal Officer to review applications for new grants in a specific competition or competition cycle.

**Standard Form 269 (SF 269).** A standard form used to obtain financial information from grantees. Generally, this form is used for reporting program income and cost-sharing. However, ED grantees are not required to submit an SF 269 unless required by a special condition to their grant or when grantees use a program-specific report (i.e., where that report form would not capture this type of information the same way that the 524B would).

**Stewardship.** The management of assistance programs exercised by Federal officials. Program staff oversee the process of reviewing and awarding grants and participate in the oversight of awarded grants to ensure that funding is properly used, that all applicable laws and regulations are followed, and that the objectives of the authorizing legislation are furthered.

**Substantial Progress.** A level of achievement that a grantee must meet in its project during a budget period, which can be measured and verified by evidence, so the grantee can receive a continuation award (EDGAR § 75.253).

**Supplemental Award.** Additional Federal funds obligated to an existing grant.

**Suspension.** An administrative action by ED that temporarily suspends Federal financial assistance under an award, pending corrective action by the grantee or pending a decision to terminate the award by the awarding office. Suspension of an award is different than a suspension under agency regulations implementing Executive Order 12549, “Debarment and Suspension,” found in 34 CFR parts 84 and 85. See sections 5.6.12, “Voluntary and Adversarial Termination, Suspension,” and 5.6.13, “Suspension and Termination for Cause under the HEA,” in this Handbook.

**Suspension Status.** One of the phases in the close-out process. See section 5.7.2 of this Handbook.

**Termination.** The permanent cancellation of a grantee’s authority to obligate all or part of the funds that have been awarded to it. It also means the grantee’s voluntary relinquishment of that authority (EDGAR §§ 74.61 and 80.44). Termination is distinct from ED’s refusal to provide additional funds through a continuation award (denial of refunding/withholding of support). See sections 5.6.12, “Voluntary and Adversarial

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Termination, Suspension,” and 5.6.13, “Suspension and Termination for Cause under the HEA,” in this Handbook.

**Termination Cost.** The cost incurred, or the need for special treatment of costs, which would not have arisen had the agreement not been terminated (EDGAR §§ 74.61 and 80.43).

**TIN Number.** The Federal Tax Identification Number is the unique nine-digit number the grantee organization uses to report activity to the Internal Revenue Service.

**Unsolicited Application.** An application submitted to ED in writing and solely on the applicant’s own initiative, without prior formal or informal solicitation by any Federal government official. The application’s content may or may not fall within the scope of activities that can be supported under a grant program funded by ED and must be analyzed under EDGAR § 75.222 to determine whether it may be funded.

**Withholding of Payment.** An action taken by ED, after appropriate administrative procedures have been provided, that suspends a grantee’s ability to access its grant funds until the grantee takes the corrective action required by ED.

# Appendix A: Grant Administration and Payment System (GAPS) – Grant Schedule Reports

## A.1. Grant Schedule Report: New

Schedule FY:		Schedule No.:	
PO:		Division:	
Title:			

Schedule Status:		Schedule Frozen:	
Award Type:		OMB Number:	
Subaward Type:		Expiration Date:	
Application Package ID:		Regional Award:	
Applications Downloaded:		E O 12372:	
As of:		Regs Effective Date:	

ZAP?	Pre-Application?	Printed by GPOS?	
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	Original Planned	Revised Planned	Actual to Date
No. of Applications			
No. of Awards			

Activity Name	Original Start Date	Original End Date	Revised Start Date	Revised End Date	Actual Start Date	Actual End Date
Develop Funds Allotment Request						
Develop Closing Date Notice						
Publish Closing Date Notice						
Mail and Receive Applications						
Review Applications						
Panel Review						
Approved Slate to EO						
Commit Grants to EO						
Award Grants						
Mail Award Notices to Grantees						

### Award Amount by Account Code:

Account Code	Original	Revised	Actual
<b>Total:</b>			

## A.2. Continuation Award

<b>Schedule FY:</b>		<b>Schedule No.:</b>	
<b>PO:</b>		<b>Division:</b>	
<b>Title:</b>			

<b>Schedule Status:</b>		<b>Schedule Frozen:</b>	
<b>Award Type:</b>		<b>OMB Number:</b>	
<b>Subaward Type:</b>		<b>Expiration Date:</b>	
<b>Application Package ID:</b>		<b>Regional Award:</b>	
<b>Applications Downloaded:</b>		<b>E O 12372:</b>	
<b>As of:</b>		<b>Regs Effective Date:</b>	

Month Due	Reports Due	Report Received	Planned Award	Actual Award
<b>Total:</b>				

Activity Name	Original Start Date	Original End Date	Revised Start Date	Revised End Date	Actual Start Date	Actual End Date
Mail and Receive NCC Performance Reports						
Review NCC Performance Reports						
Award Grants						

### Award Amount by Account Code:

Account Code	Original	Revised	Actual
<b>Total:</b>			

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# Appendix B: Application Package Contents

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## Principal Program Office U.S. Department of Education

- A. Applications must include the following:
- Title page form – Application for Federal Education Assistance (ED 424)
  - Application abstract
  - Application narrative
  - Curriculum vitae (as appropriate)
  - Literature cited (as appropriate)
  - Appendix (as appropriate)
  - Budget Information Form (ED 524)
  - General Education Provisions Act (GEPA) section 427 statement (see attachment 4)
  - Certifications and assurances:
    - Assurances – Non-Construction Programs (SF 424B)
    - Certification Regarding Lobbying;
    - Disclosure of Lobbying Activities (SF LLL), if applicable
- B. Application packages will provide respondents with:
- Burden statement
  - Application notice
  - Program statute (as appropriate)
  - Selection criteria
  - Page Limit Guidance (if applicable)(see attachment 1)
  - Instructions for Reimbursement of Indirect Costs (see attachment 2)
  - Instructions for Executive Order 12372 (if applicable)(see attachment 3)
  - Instructions for transmitting applications (see Appendix C: )
  - Application checklist
  - All required forms and accompanying instructions noted above under section A
  - Program Application Indirect Cost Instructions

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## B.1. Attachment 1: Application Page Limits Guidance

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Your office may decide to establish a page limit on applications under a grant competition. You may suggest a voluntary page limit by recommending one in the application package or make it mandatory by announcing it in the application notice published in the *“Federal Register.”* If you suggest the limit, it may include standards for font size, margins, spacing, etc.; but you may not require them. If the limit is mandatory, you may set your own standards for font size, margins, and spacing. However, a page limit with these standards must include an “equivalency” standard, as in the following example.

### Example of a Mandatory Page Limit

**Page limit:** The application narrative (part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit part III to no more than \_\_\_ pages [or, if applicable, “you must limit part III to the equivalent of no more than the number of pages listed under each priority”], using the following standards:

- A page is 8½” x 11”, on one side only, with 1” margins at the top, bottom and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references and captions, as well as all text in charts, tables, figures, and graphs.
- Use 12 point or larger but no smaller than 10 point

The page limit does not apply to part I, the cover sheet; part II, the budget section, including the narrative budget justification; part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support.

If your page limit is mandatory and includes specific standards for font size, etc., you must conclude this section with either of the following options:

**Option 1.** We will reject your application if:

- You apply these standards and exceed the page limit; or
- You apply other standards and exceed the equivalent of the page limit;

Or

**Option 2.** Our reviewers will not read any pages of your application that:

- Exceed the page limit if you apply these standards; or
- Exceed the equivalent of the page limit if you apply other standards.

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## Example of a Non-Mandatory Page Limit

A request to limit the number of pages, sections and appendices may be included in each application package, without issuing regulations or including the guidance in the Application Notice if applicant eligibility criteria are not being established. The standard language for such **non-binding guidance** is as follows:

The Secretary strongly requests the applicant to limit the application narrative to no more than \_\_\_ double-spaced, typed pages (on one side only) [program may add the following: “including appendices”], although the Secretary will consider applications of greater length. [Add this sentence if applicable and accurate: “ED has found (or anticipates) that successful applications under this program generally meet [will meet] this page limit.”]



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## B.2. Attachment 2: Program Application Indirect Cost Instructions

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**Each Program is required to include in their application package one of the following indirect cost instructions, as appropriate to the program.**

1. ***For programs reimbursing the full share of indirect costs (Full reimbursement), use the following:***

The Department of Education (ED) reimburses grantees for its portion of indirect costs that a grantee incurs in projects funded by the (NAME OF PROGRAM, 84.xxx). Any grantee charging indirect costs to a grant from this program must use the indirect cost rate (**ICR**), negotiated with its *cognizant agency*, i.e., either the Federal agency from which it has received the most direct funding, subject to indirect cost support, the particular agency specifically assigned cognizance by the Office of Management and Budget or the State agency that provides the most subgrant funds to the grantee.

**Note:** Applicants should pay special attention to specific questions on the application budget form (ED 524) about their cognizant agency and the ICR they are using in their budget.

If an applicant selected for funding under this program has not already established a current ICR with its cognizant agency as a result of current or previous funding, ED will require it to do so within 90 days after the date the grant was issued by ED. Applicants should be aware that ED is very often *not* the cognizant agency for its own grantees. Rather, ED accepts, for the purpose of funding its awards, the current ICR established by the appropriate cognizant agency.

An applicant that has not previously established an indirect cost rate with the Federal government or a State agency under a Federal program and that is selected for funding will not be allowed to charge its grant for indirect costs until it has negotiated a current indirect cost rate agreement with its cognizant agency.

Applicants are encouraged to use their accountant (or CPA) to calculate an indirect cost rate using information in the IRS Form 990, audited financial statements, actual cost data or a *cost policy statement* that such applicants are urged to prepare (but NOT submit to ED) during the application process.

Applicants should use this proposed rate in their application materials and indicate which of the above methods was used to calculate the rate. Guidance for creating a cost policy statement can be obtained by sending an e-mail to [katrina.mcdonald@ed.gov](mailto:katrina.mcdonald@ed.gov).

Applicants with questions about using indirect cost rates under this program should contact the program contact person shown elsewhere in this application package or in the *Federal Register* application notice of MM/DD/YYYY, (FILL IN FED REG CITE HERE).

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2. ***For programs with restricted indirect cost rates (Partial Reimbursement).***

The Department of Education (ED) reimburses a grantee for part of its indirect costs incurred in projects funded by the (NAME OF PROGRAM, 84.xxx). These kinds of costs generally are recovered through an indirect cost rate (**ICR**) that the grantee negotiates with its *cognizant agency*, i.e., either the Federal agency from which it has received the most direct funding, subject to indirect cost support, the particular agency specifically assigned cognizance by the Office of Management and Budget or the State agency that provides the most subgrant funds to the grantee.

The (NAME OF PROGRAM) statute contains a supplement, not supplant provision that requires a reduction in the indirect cost rate so that costs which are unallowable under the supplement, not-supplant program are not recovered through the indirect cost rate. Under these kinds of programs, a grantee cannot use Federal funds to pay for certain costs it would have to incur even if it didn't get any Federal grants. To ensure that these types of costs are not recovered, ED has established a *restricted indirect cost rate*. The detailed requirements of restricted rates are in the Education Department General Administrative Regulations (EDGAR) at §§75.563 and 76.563-569.

**Note:** Applicants should pay special attention to specific questions on the application budget form (ED 524) about their cognizant agency and the ICR they are using in their budget.

If an applicant selected for funding under this program has not already established a current indirect cost rate with its cognizant agency as a result of current or previous funding, ED requires the grantee to propose a restricted rate to its cognizant agency within 90 days after the beginning date of the grant award. Applicants should be aware that ED is very often **not** the cognizant agency for its own grantees.

Also, an applicant that has not previously established a restricted indirect cost rate with its cognizant agency and that is selected for funding will not be allowed to charge its grant for indirect costs until it has negotiated a current indirect cost rate agreement with its cognizant agency.

Applicants are encouraged to use their accountant (or CPA) to calculate an indirect cost rate using information in the IRS Form 990, audited financial statements, actual cost data or a *cost policy statement* that such applicants are urged to prepare (but NOT submit to ED) during the application process.

Once an applicant has developed its indirect cost rate, it should develop a proposed restricted rate for use in this program and submit the proposed restricted rate in its application materials, indicating which of the above methods was used to calculate the rate. Guidance for creating a cost policy statement can be obtained by sending an e-mail to [katrina.mcdonald@ed.gov](mailto:katrina.mcdonald@ed.gov).

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An applicant that already has a negotiated ICR and that plans to submit an application under this program should have the cognizant agency contact the ED Indirect Cost Group (202 708-7770) for guidance on how to calculate the restricted rate. The applicant should then use this separate, restricted rate in projecting indirect costs in the budget submitted with its current application. Applicants other than a State or local government agency also have the option of charging indirect costs at 8% of the grantee's Modified Total Direct Costs in accordance with EDGAR at 76.564 (c), unless we determine that the actual restricted ICR is lower than 8%.

Applicants must bear in mind that items of cost excluded from restricted indirect cost rates may **not** be charged to grants as direct cost items. Nor may they be used to satisfy matching or cost-sharing requirements under a grant or charged to other Federal awards.

Applicants with questions about using restricted indirect cost rates under this program should contact the program contact person shown elsewhere in this application package or in the *Federal Register* application notice of MM/DD/YYYY, (FILL IN FED REG CITE HERE).

3. ***For programs that are designated training grants (Limited reimbursement at 8%).***

Some or all of the grants awarded under (NAME OF PROGRAM, 84.xxx) have been designated training grants. The Education Department General Administrative Regulations (EDGAR) limit reimbursement of indirect costs under training grants to non-governmental grantees (subject to 34 CFR part 74). These grantees may recover indirect costs under training grants up to the grantee's actual indirect costs as determined by the grantee's negotiated indirect cost agreement or a maximum of 8% of a modified total direct costs, whichever is less.

**Note:** This limitation does not apply to State agencies, local governments or Federally-recognized Indian tribal governments. [§75.562(c)(2)]

Grantees charging indirect costs to an ED training grant at the 8% rate should have a negotiated rate with their *cognizant agency*, i.e., either the Federal agency from which it has received the most direct funding subject to indirect cost support, the particular agency specifically assigned cognizance by the Office of Management and Budget or the State agency that provides the most subgrant funds to the grantee.

Although applicants are not required to submit with their application a copy of their indirect cost agreement to claim the 8% rate for funding received in this program, they are required to have documentation available for audit that shows that their negotiated indirect cost rate is at least 8% [§75.563(d)].

Applicants should be aware that amounts representing the difference between the 8% rate and a greater indirect cost rate negotiated with a cognizant agency may

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**not** be charged to direct cost categories, used to satisfy matching or cost-sharing requirements, or charged to another Federal award. [§75.563(c)(3)]

4. *For programs that do not provide indirect cost reimbursement under awards (No reimbursement).*

The (NAME OF PROGRAM, CFDA 84.xxx) program does not reimburse grantees for indirect costs they incur in carrying out a project funded under the program. Therefore, applicants should not show any dollar amounts for indirect costs on either line 10 of the application budget form (ED 524) or in their budget narrative.

Applicants should also be aware that un-reimbursed indirect costs under grants of this program may not be charged as direct cost items in the same award, used to satisfy matching or cost-sharing requirements, or charged to another Federal award.

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### B.3. Attachment 3: Executive Order 12372 – Intergovernmental Review

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This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive Order is to foster an intergovernmental partnership and to strengthen Federalism by relying on State and local processes for State and local government coordination and review of Federal financial assistance.

Applicants must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the single point of contact for each of those States and follow the procedures established in each State under the Executive order.

In keeping with the Executive Order, the Office of Management and Budget has established and maintains a list of the States participating in the program. This list provides the names, addresses, telephone and fax numbers of designated State single points of contact and can be accessed at:

<http://www.whitehouse.gov/omb/grants/spoc.html>

In States that have not established a process or chosen a program for review, State, area-wide, regional and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, area-wide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address:

The Secretary  
**EO 12372**  
U.S. Department of Education  
Room 7E200  
400 Maryland Avenue SW  
Washington, DC 20202

Proof of mailing will be determined on the same basis as applications (see 34 CFR § 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (eastern time) on the date indicated in this notice.

**Please note that the above address is not the same address as the one to which the applicant submits its completed applications. Do not send applications to the above address.**

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## B.4. Attachment 4: Guidance on Section 427 of General Education Provisions Act (GEPA)

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OMB Control No. 1890-0007

### NOTICE TO ALL APPLICANTS

The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Public Law (P.L.) 103-382).

#### To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new grant awards under this program. **ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.**

(If this program is a State-formula grant program, a State needs to provide this description only for projects or activities that it carries out with funds reserved for State-level uses. In addition, local school districts or other eligible applicants that apply to the State for funding need to provide this description in their applications to the State for funding. The State would be responsible for ensuring that the school district or other local entity has submitted a sufficient section 427 statement as described below.)

#### What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs. This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high

standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

#### What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with Section 427.

- (1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.
- (2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in Braille for students who are blind.
- (3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

#### Estimated Burden Statement for GEPA Requirements

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1890-0007**. The time required to complete this information collection is estimated to average 1.5 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, SW (Room 3652, GSA Regional Office Building No. 3). Washington, DC 20202-4248.

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# Appendix C: Instructions for Transmitting Applications

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## C.1. Applications Sent by Mail

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You must mail the original and two copies of the application on or before the deadline date to the address that follows. The Paperwork Reduction Act applies whether the submission is voluntary or mandatory. The burden estimates calculated under the Act cover the production of only two copies for submission with the original application. The “option” submission of more copies increases the burden above the approved level and is also prohibited by the regulations implementing the Act.

**Please mail copies to:**

**U.S. Department of Education  
Application Control Center  
Attention: CFDA# (fill in number and suffix letter)  
400 Maryland Avenue, SW  
Washington, DC 20202 - 4260**

You must show one of the following as proof of mailing:

1. A legibly dated U. S. Postal Service Postmark.
2. A legible mail receipt with the date of mailing stamped by the U. S. Postal Service.
3. A dated shipping label, invoice, or receipt from a commercial carrier
4. Any other proof of mailing acceptable to the Secretary

If you mail an application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

1. A private metered postmark.
2. A mail receipt that is not dated by the U.S. Postal Services.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

Special Note: Due to recent disruptions to normal mail delivery, the Department encourages you to consider using an alternative delivery method (for example, a commercial carrier, such as Federal Express or United Parcel Service; or U. S. Postal Service Express Mail) to transmit your application for this competition to the Department. If you use an alternative delivery method, please obtain the appropriate proof of mailing under “Applications Sent by Mail,” then follow the mailing instructions under the appropriate delivery method.

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C.2. Applications\_Delivered by Commercial Carrier:

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Applications that are delivered by commercial carrier, such as Federal Express, United Parcel Service, etc. should be mailed to the:

**U.S. Department of Education  
Application Control Center – Stop 4260  
Attention: CFDA# (fill in number and suffix letter)  
7100 Old Landover Road  
Landover, MD 20785-1506**

C.3. Applications Delivered by Hand

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You or your courier must hand deliver the original and number of copies requested of the application by 4:30 p.m. (Eastern Time) on or before the deadline date.

**Please hand deliver copies to:**

**U.S. Department of Education  
Application Control Center  
Attention: CFDA# (fill in number and suffix letter)  
550 12th Street, SW  
PCP - Room 7041  
Washington, DC 20202 – 4260**

The Application Control Center accepts application deliveries daily between 8:00 a.m. and 4:30 p.m. (Eastern Time), except Saturdays, Sundays and Federal holidays.

**10/04**



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# Appendix D: Conflict of Interest Questions for Application Reviewers

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If a prospective reviewer answers “yes” to any of the following questions, he or she may have a conflict of interest and program staff should contact the Ethics Division in OGC for further assistance. The following examples are provided to illustrate the types of conflicts that may arise. They do not include every possible conflict. The Ethics Division will assist in determining whether the peer reviewer has a conflict, and, if so, whether a waiver should be granted. All waivers must be in writing – there are no “automatic” waivers.

**Note:** “Applicant” should be read to include any institution or individual identified in an application, including the applicant, partner, subgrantee or subcontractor.

- 1) Do you have a financial interest in any application submitted in this competition? For instance, will you or your spouse receive a salary from an applicant if the application is funded?
- 2) Have you been offered an opportunity to serve as an employee or consultant under one of the proposals submitted in this competition? For instance, has an applicant indicated interest in your consulting or other services if the application is funded?
- 3) Did you help prepare, provide comments or otherwise review any application in the competition, even if you were not compensated for doing so?
- 4) Does your employer have an interest in the outcome of the competition, even if you will not benefit personally? For example, you work for a university in the history department and an individual from the education department has submitted a proposal.
- 5) Does your spouse’s employer have an interest in the outcome of the competition?
- 6) Do any of the following persons or organizations have a financial interest in the outcome of the competition?:
  - a. Your child. For instance, your son or daughter will receive compensation under a proposed project.
  - b. A member of your household; for instance, a “significant other” or “spouse equivalent” with whom you live.
  - c. Any relative with whom you have a close relationship; for instance, a first cousin, parent, or sibling.
  - d. A business partner.
  - e. A former employer – if you have left employment within the last 12 months.

- 
- f. An organization or person with whom you are seeking employment. For example, you submitted an application for employment with X University last month and that university has submitted an application.
  - g. Someone with whom you have an arrangement for employment. For example, you are on an unpaid leave of absence from a research center and that center has submitted an application.
  - h. An organization for which you serve as a director, officer, or trustee. For example, you are on the Board of Directors for the ABC Research Study Center and the center has submitted an application.
  - i. An entity for which you serve as an active volunteer. For instance, you chair the membership committee of a professional association and that association has submitted an application.
  - j. A professional associate with whom you are conducting research or other professional activities, or have done so within the last 12 months; for instance, your Ph.D. advisor, if you received your degree within the last 12 months.
  - k. A personal relationship, the nature of which might cause a reasonable person with knowledge of the facts to question your impartiality. For instance, your fiancé, a close personal friend, or someone in your field of expertise with whom you are an open ally or antagonist has submitted an application.
- 7) Are you aware of any other circumstances that might cause someone to question your impartiality in serving as a reviewer for this competition? For example, an individual has been proposed as a Project Director if an application is successful. You are currently involved in litigation with this individual arising from your employment five years ago.

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# Appendix E: Department of Education Agreement for Grant Application Reviewers

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## E.1. Department of Education Agreement for Grant Application Reviewers Who Receive Compensation

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### Freedom of Information Act

I understand that under the Freedom of Information Act, the Department may release my reviews verbatim to the public. The Department may also release individual reviewers' names in conformance with the Department's disclosure policy, but generally will not identify an individual reviewer with the review of a particular application. However, to avoid complicating the release of reviews, I agree not to make comments which could be seen as offensive or constitute an invasion of privacy of any individual.

### Confidentiality of Documents and Restriction on Contact

I understand that assistance applications are made available to grant application reviewers solely for the purpose of reviewing those applications against the selection criteria of the grant program.

I agree not to discuss the information, concepts and procedures contained in the applications outside the Department during or after the review process, and to discuss them within the Department only with the panel members and in the context of and under the procedures for application review. I agree to follow the written instructions provided by the Department for the completion of technical review forms. I also agree to return the applications to the Department or dispose of them if so instructed. I agree to retain no copies of documents or parts of documents related to this review.

I agree not to contact the originator of the application being reviewed concerning any aspects of its contents.

### Conflict of Interest

I certify to the best of my knowledge that I do not have a conflict of interest with respect to any of the applications being considered for this competition.

I understand that I will be considered to have a conflict of interest when I, or certain individuals and entities with whom I have a relationship, have a financial interest in the outcome of this competition.

For example, I will have a direct conflict of interest in this competition if:

- For an application submitted to this competition, I have agreed to serve as an employee or consultant on the project, or have been offered the opportunity to do

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so and have not yet accepted or declined, if a grant is awarded; or if my personal financial interests will otherwise be affected by the outcome of the competition; or

- I helped prepare an application in the competition, even if I have no financial interest in the success or failure of that application.

I will also have a conflict of interest if certain entities or individuals I have a relationship with have a financial interest in the outcome of the competition. For example, I will have a conflict of interest if any of the following would benefit financially in any way from an application in the competition being funded:

- My spouse, my child, a member of my household, or any relative with whom I have a close relationship;
- Any employer I have served within the last 12 months; my business partner; an organization that I have served as an officer, director or trustee within the last 12 months; or an organization that I serve as an active volunteer;
- Any person or organization with whom I am negotiating or have an arrangement concerning future employment;
- Any professional associate – including any colleague, scientific mentor, or student – with whom I am currently conducting research or other professional activities or with whom I have conducted such activities within the last twelve months; or
- Any individual with whom I have or have had a personal relationship where the nature, duration or recency of that relationship would impair my ability to impartially review any application in the competition.

The above is a list of examples; it is not exhaustive. Therefore, I will also promptly notify the appropriate program official if I become aware of any other circumstances that might cause someone to question my impartiality in serving as a reviewer for this competition. I further agree to promptly notify the appropriate program official if, while reviewing the applications assigned to me, I discover that I may have a conflict of interest.

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Agreement on Scope of Work

- A. Before reviewing and scoring any application, I will carefully read all instructions to reviewers, priorities (if applicable), regulations, criteria and the technical review forms, all of which will be made available to me by the appropriate program official;
- B. I will carefully review and score all applications provided to me;
- C. I will score each application solely on its content and the degree to which the application meets the appropriate priorities and criteria; and
- D. I will complete a technical review form for each application, record the scores in the space(s) provided, sign and date the form, and return it to the appropriate program official.

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Printed or Typed Name of Reviewer

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Signature of Reviewer

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Date

ED Form 5249 6/02  
(Previous editions of this form are obsolete.)

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## E.2. Department of Education Agreement for Grant Application Reviewers Who Serve Without Compensation

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I, \_\_\_\_\_, have agreed to serve the United States Department of Education as an unpaid grant application reviewer for the period \_\_\_\_\_ to \_\_\_\_\_.

I hereby declare that I am providing gratuitous services to assist in the review of applications for grants and cooperative agreements of the United States Department of Education, and I hereby waive any right to pay or compensation in any form whatsoever for services rendered.

I understand that I may be reimbursed for travel and expenses, subject to the Federal travel regulations, if such travel is authorized by the Department.

### Freedom of Information Act

I understand that under the Freedom of Information Act, the Department may release my reviews verbatim to the public. The Department may also release individual reviewers' names in conformance with the Department's disclosure policy, but generally will not identify an individual reviewer with the review of a particular application. However, to avoid complicating the release of reviews, I agree not to make comments which could be seen as offensive or constitute an invasion of privacy of any individual.

### Confidentiality of Documents and Restriction on Contact

I understand that assistance applications are made available to grant application reviewers solely for the purpose of reviewing those applications against the selection criteria of the grant program.

I agree not to discuss the information, concepts and procedures contained in the applications outside the Department during or after the review process, and to discuss them within the Department only with the panel members and in the context of and under the procedures for application review. I agree to follow the written instructions provided by the Department for the completion of technical review forms. I also agree to return the applications to the Department or dispose of them if so instructed. I agree to retain no copies of documents or parts of documents related to this review.

I agree not to contact the originator of the application being reviewed concerning any aspects of its contents.

### Conflict of Interest

I certify to the best of my knowledge that I do not have a conflict of interest with respect to any of the applications being considered for this competition.

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I understand that I will be considered to have a conflict of interest when I, or certain individuals and entities with whom I have a relationship, have a financial interest in the outcome of this competition.

For example, I will have a direct conflict of interest in this competition if

- For an application submitted to this competition, I have agreed to serve as an employee or consultant on the project, or have been offered the opportunity to do so and have not yet accepted or declined, if a grant is awarded; or if my personal financial interests will otherwise be affected by the outcome of the competition; or
- I helped prepare an application in the competition, even if I have no financial interest in the success or failure of that application.

I will also have a conflict of interest if certain entities or individuals I have a relationship with have a financial interest in the outcome of the competition. For example, I will have a conflict of interest if any of the following would benefit financially in any way from an application in the competition being funded:

- My spouse, my child, a member of my household, or any relative with whom I have a close relationship;
- Any employer I have served within the last 12 months; my business partner; an organization that I have served as an officer, director, or trustee within the last 12 months; or an organization that I serve as an active volunteer;
- Any person or organization with whom I am negotiating or have an arrangement concerning future employment;
- Any professional associate – including any colleague, scientific mentor, or student – with whom I am currently conducting research or other professional activities or with whom I have conducted such activities within the last twelve months; or
- Any individual with whom I have or have had a personal relationship where the nature, duration or recency of that relationship would impair my ability to impartially review any application in the competition.

The above is a list of examples, only. This list is not exhaustive. Therefore, I will also promptly notify the appropriate program official if I become aware of any other circumstances that might cause someone to question my impartiality in serving as a reviewer for this competition. I further agree to promptly notify the appropriate program official if, while reviewing the applications assigned to me, I discover that I may have a conflict of interest.

### Agreement on Scope of Work

- A. Before reviewing and scoring any application, I will carefully read all instructions to reviewers, priorities (if applicable), regulations, criteria, and the technical review forms, all of which will be made available to me by the appropriate program official;
- B. I will carefully review and score all applications provided to me;

- 
- C. I will score each application solely on its content and the degree to which the application meets the appropriate priorities and criteria; and
  - D. I will complete a technical review form for each application, record the scores in the space(s) provided, sign and date the form, and return it to the appropriate program official.

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Printed or Typed Name of Reviewer

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Signature of Reviewer

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Date

ED Form 5249-1 6/02  
(Previous editions of this form are obsolete.)



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# Appendix F: Multi-Campus Higher Education Systems

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1. Reviewers employed at one campus of the following multi-campus institutions do not have a conflict of interest if a different campus of the same multi-campus institution has an application in the competition:
  - a. The University of Alabama system consisting of the University of Alabama, the University of Alabama in Birmingham and the University of Alabama in Huntsville.
  - b. The campuses of the University of California.
  - c. The system consisting of Colorado State University, the University of Southern Colorado and Fort Lewis College.
  - d. The Indiana University system consisting of eight universities on nine campuses, with the exception of the system-wide schools: the School of Business; the School of Dentistry; the School of Medicine; the School of Public and Environmental Affairs.
  - e. The University of Nebraska system consisting of the University of Nebraska-Lincoln, the University of Nebraska at Omaha and the University of Nebraska Medical Center.
  - f. The campuses of the State University of New York.
  - g. The Oregon system of higher education consisting of the University of Oregon, Oregon State University, Oregon Health Sciences University, Portland State University, Western Oregon State College, Southern Oregon State College and Eastern Oregon Institute of Technology.
  - h. The campuses of the University of Tennessee.
  - i. The separate universities comprising the University of Wisconsin system.
2. Reviewers employed at the following State institutions and systems of higher education do not have a conflict of interest if a different institution or system within the same State has an application in the competition:
  - a. The University of Alabama system and other Alabama state-owned institutions of higher education.
  - b. The California Community Colleges, the California State Universities and Colleges, and the University of California.
  - c. The University of Colorado, Colorado State University and other Colorado state-owned institutions of higher education.

- 
- d. The University of Connecticut, Connecticut State University, the Connecticut Technical Colleges and the Connecticut Community Colleges.
  - e. The University of Illinois, Illinois State University, Western Illinois University, Southern Illinois University and the Illinois Community Colleges.
  - f. Indiana University and the other Indiana state-owned institutions of higher education.
  - g. The University of Iowa and Iowa State University.
  - h. The University of Kansas, Kansas State University, Wichita State University, Fort Hays State University, Pittsburgh State University and the Kansas Technological Institute.
  - i. Louisiana State University and other Louisiana state-owned institutions of higher education.
  - j. The University of Massachusetts and other Massachusetts state-owned institutions of higher education.
  - k. The University of Michigan, Michigan State University and Wayne State University.
  - l. The University of Minnesota, the Minnesota State University system and the Minnesota Community College system.
  - m. The University of Missouri and other Missouri state-owned institutions of higher education.
  - n. The University of Nebraska and other Nebraska state-owned institutions of higher education.
  - o. The State University of New York system and the City University of New York system.
  - p. The University of North Carolina, North Carolina State and other North Carolina state-owned institutions of higher education.
  - q. Pennsylvania State University, the University of Pittsburgh, Temple University, Lincoln University, and the other state-owned colleges and universities in Pennsylvania.
  - r. The University of Texas system, the Texas A&M system, the Texas State University system, the University system of South Texas, the Lamar University system, the University of Houston system, East Texas State University, Stephen F. Austin State University, West Texas State University, Midwestern University, North Texas State University, Texas Southern University, Texas Woman's University, Texas Tech University and Pan American University.
  - s. The University of Utah and Utah State University.

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# Appendix G: Program Income

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## Attachment F: Request for Approval of Program Income

In projects that generate program income<sup>10</sup>, the recipient calculates the amount of program income according to the guidance given in:

- 34 CFR 74.24(f) [institutions of higher education, nonprofit organizations, and hospitals]; or
  - 34 CFR 80.25(c) [State and local governments and Federally-recognized Indian tribes].
- 

Unless checked below as NOT ALLOWED, the recipient may exercise any of the following options or combination of options, as provided in EDGAR<sup>11</sup>, for using program income generated in the course of the recipient's authorized project activities:

- Not Allowed Adding program income to funds committed to the project by the Secretary and recipient and using it to further eligible project or program objectives;
- Not Allowed Using program income to finance the non-Federal share of the project or program; and
- Not Allowed Deducting program income from the total project or program allowable cost in determining the net allowable costs on which the Federal share of costs is based.

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<sup>10</sup> As defined in §74.2 and §80.25(b) of the Education Department General Administrative Regulations (EDGAR)

<sup>11</sup> 34 CFR 74.24(a)-(h) [institutions of higher education, nonprofit organizations, and hospitals]; or 34 CFR 80.25(a)-(h) [State and local governments and Federally-recognized Indian tribes].

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# Appendix H: Pre-Award Costs

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## Attachment E: Authorization to Incur Pre-Award Costs

PR/Award Number: \_\_\_\_\_

The costs identified below that have been incurred by the grantee in anticipation of receiving this grant are allowable only if the costs are specifically included in the approved activities and budget and were incurred

from \_\_\_\_\_ to \_\_\_\_\_.

\_\_\_\_\_ All approved project costs for the period identified above.

\_\_\_\_\_ Specific approved items listed below (omit cost per item):

(011/05)

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# Appendix I: Conflict of Interest Documents

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## I.1. Request for Approval of a Conflict of Interest Waiver

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To: \_\_\_\_\_  
[Principal Officer]

Through: \_\_\_\_\_  
[Program Officer]  
\_\_\_\_\_  
[Cognizant Contracting Officer]  
\_\_\_\_\_  
[Ethics Division, Office of the General Counsel]

From: \_\_\_\_\_  
[Program Staff]

Subject: Request for Approval of a Conflict of Interest Waiver for  
\_\_\_\_\_ [name of reviewer], Proposed Peer Reviewer(s) for the  
\_\_\_\_\_ [name of competition and FY].

Pursuant to the ACS Handbook, Handbook OCFO-04 “Handbook for the Discretionary Grant Process”, section 3.5 (Conflict of Interest), an individual waiver is requested for \_\_\_\_\_ [reviewer(s) name(s)], proposed peer reviewer(s) for the \_\_\_\_\_ [name of competition and FY].

The authority to issue waivers has been delegated to the Principal Officers of the Department. For reviewers hired under a purchase order, the cognizant contracting officer’s signature is also required. In all cases, concurrence by the Ethics Division, Office of the General Counsel, is required prior to the issuance of a waiver. A waiver may be granted when a determination has been made that a person’s financial interest is not so substantial as to affect the integrity of his or her services.

[Provide a paragraph that briefly describes the competition, including the purpose and scope of the competition.] The program received \_\_\_ [number] applications that will be reviewed by \_\_\_ panels of \_\_\_ reviewers each.

[Provide information about the reviewer for whom you are requesting a waiver. At a minimum this paragraph should describe the interest giving rise to the conflict of interest and the relationship between this interest and the application causing the conflict. For example, the interest might be that the reviewer is employed by a State university that is an applicant in the competition. At a minimum this memorandum should address whether the reviewer works in the same department or school at the university as the department or school submitting an application.]

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If granted a waiver, \_\_\_\_\_ [name of reviewer] will be subject to the following restrictions. He or she may not:

- Serve on the panel assigned to review the application giving rise to the conflict of interest;
- Attend any panel meetings during which that application is discussed; and
- Serve as a panel chairperson.

I recommend that you grant this waiver based on a determination that \_\_\_\_\_'s [reviewer(s) name(s)] interest in the \_\_\_\_\_ [name of competition] is not substantial, and any concern that their impartiality may be questioned is addressed by excluding them from the review and discussion of proposals submitted by \_\_\_\_\_ [name entity or person giving rise to conflict].

Waiver Approved

Waiver Disapproved

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Principal Officer

---

Date

---

Cognizant Contracting Officer

---

Date

OGC Concurrence:

---

Ethics Division  
Office of the General Counsel

---

Date

---

I.2. Department of Education Certification for a Grant Application  
Reviewer with a Conflict of Interest

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I have discussed potential conflicts of interest with the appropriate program official. A record of that discussion follows. (Please note the nature of the conflict, including the name of applicant, State, PR/Award number, the name(s) of the person(s) with whom you discussed the issue, the date, and the resolution of that discussion.)

Record of Discussion:

By signing below, I certify that with respect to any identified conflicts of interest, I have been issued a written waiver by the Principal Officer administering this competition, with the concurrence of the Ethics Division in the Office of the General Counsel, that permits me to participate as a reviewer in this competition.

\_\_\_\_\_  
Printed or Typed Name of Reviewer

\_\_\_\_\_  
Signature of Reviewer

\_\_\_\_\_  
Date

ED Form 5249-2 6/02  
(Previous editions of this form are obsolete.)

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# Appendix J: e-Reader

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## J.1. e-Reader Requirements

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To serve as an e-Reader, users must:

- Have unlimited access to a computer with Internet accessibility and a printer,
- Be able to navigate a Web browser,
- Be able to complete and submit on-line forms, and
- Be able to send and receive e-mail.

## J.2. System Requirements

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Users should note the following:

1. Using a Pentium®-based personal computer (PC) with Windows® 95 or higher, or Macintosh® OS 7.0 or higher is recommended.

The computer should be equipped with the following, at a minimum:

- 28.8 k bps modem (*33.6 k bps or higher recommended*) and Internet access,
  - Processor speed of 133 MHz (*166 MHz or higher recommended*),
  - 32 MB random access memory (RAM) (*64 MB or higher recommended*),  
*and*
  - 5 MB available hard disk space per downloaded application (*8 MB recommended*).
2. The e-Grants site is best viewed in Internet Explorer® 5.0. We currently support Internet Explorer® 5.5 and above, and Netscape® 6.2 and above. Version upgrades are available free on the Internet (Netscape: [www.netscape.com](http://www.netscape.com) and Internet Explorer: [www.msn.com](http://www.msn.com)). Please make sure you have Cookies and JavaScript enabled in your browser.
  3. If you do not meet these requirements, you may experience problems navigating the system.



# Appendix K: Sample Application Reviewer Evaluation Form

Peer Reviewer:		Date Of Review:	
Program Competition (CFDA no.):			

<b>Summary</b>		
Overall, this reviewer's performance was: <i>(circle one)</i>		
Highly Satisfactory	Satisfactory	Unsatisfactory
The reviewer is recommended for use in future reviews: <i>(circle one)</i>		
Yes	No	
<b>Reviewer's Skills</b>	<b>Yes</b>	<b>No</b>
Submitted material promptly	<input type="checkbox"/>	<input type="checkbox"/>
Completed all work	<input type="checkbox"/>	<input type="checkbox"/>
Recorded and added scores accurately	<input type="checkbox"/>	<input type="checkbox"/>
Worked well with other panelist	<input type="checkbox"/>	<input type="checkbox"/>
Written comments:		
Relevant to each criterion	<input type="checkbox"/>	<input type="checkbox"/>
Supported the points assigned under each criterion	<input type="checkbox"/>	<input type="checkbox"/>
Detailed for both major strengths and weaknesses	<input type="checkbox"/>	<input type="checkbox"/>
Grammatically correct	<input type="checkbox"/>	<input type="checkbox"/>
Legible	<input type="checkbox"/>	<input type="checkbox"/>
<b>Comments:</b>		

# Appendix L: Funding Recommendation Checklist

<b>Applicant Name:</b>		<b>PR/Award No.:</b>	
<b>I have reviewed the application for completeness and determined that the applicant:</b>			
	Meets the eligibility criteria for this program found at 34 CFR _____		
	Does not appear on the Excluded Parties List System (EPLS) for Debarment and Suspension Actions		
	Has included SF LLL, Disclosure of Lobbying Activities (if applicable)		
	Has provided any required or voluntary cost-share funds in the budget		
	Has included a one-page abstract		
	Has addressed the GEPA requirement		
<b>In my review of the application, I determined that the following documents are included and properly completed:</b>			
	Application for Federal Education Assistance (ED 424) face page, with original signature		
	Assurances – Non-Construction Programs (SF 424B) with original signature		
	Certification Regarding Lobbying (ED Form 80-0013) with original signature		
	Application technical review forms		
	Required form(s) related to protection of human subjects		
	Any other documents or clearances required for this grant program or particular application		
<b>In addition, I have performed the following activities:</b>			
	Budget cost analysis on all ____ year(s) of the project (both Federal and non-Federal); costs were reviewed to determine if costs were allowable, including being reasonable and allocable to the project.		
	Budget information for all years of the project have been entered into GAPS		
	Contacted the applicant for clarification of the following:		
	Checked EPLS for all identified key personnel		
	Reviewed the applicant's indirect cost rate for compliance with applicable regulations: <ul style="list-style-type: none"> <li>• Added Appendix N, Attachment D, "Indirect Cost Recovery for Grantees that Do not have Negotiated Rates" to the GAN if applicant does not have a current negotiated indirect cost rate.</li> </ul>		

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

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# **Appendix M: Reserved for Future Use**

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This appendix is reserved for future use.

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# Appendix N: Indirect Cost Recovery for Grantees that Do Not Have Negotiated Rates

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## Attachment D: Prohibition against Indirect Cost Recovery

The conditions in this attachment must be used for grantees that do not have current, negotiated indirect cost rate agreement at the time the grant is made.

This grant is –

- Subject to a supplement, not supplant requirement under the program statute.
- Not subject to a supplement, not supplant requirement under the program statute.
- The grantee shall submit an indirect cost rate proposal to its cognizant agency within 90 days after the award of this grant. If this grant is made under a program subject to a supplement, not supplant requirement, the grantee must negotiate with its cognizant agency a restricted indirect cost rate for this grant, as required under 34 CFR 75.563 and 76.564 – 76.569.
- The grantee may not charge its grant for indirect costs until it has negotiated a current indirect cost rate agreement with its cognizant agency, as required under the appropriate OMB cost circular and the regulations in 34 CFR 75.563 and 76.564 – 76.569, if applicable.
- Grantee shall provide proof of its negotiated indirect cost rate agreement to ED as soon as it has a signed such an agreement with its cognizant agency.
- Based on the indirect cost request included in the budget for this grant, ED has obligated sufficient funds for this budget period to recover indirect costs at the rate proposed in the budget, if eventually supported by a negotiated rate. However, grantee may not use these funds for any costs unless it has obtained a current negotiated indirect cost rate agreement.
- If this grant does not have more than one budget period, the funds obligated by ED to this grant for indirect costs that have not been obligated for those costs by the grantee shall be de-obligated by ED at the end of the grant period.
- 1. If –
  - a. This grant has more than one budget period;
  - b. The grantee has not obtained a current negotiated indirect cost rate agreement by the end of this budget period; and
  - c. The grantee has met the requirements for continuation of the award under 34 CFR 75.253; then
- 2. ED will reduce the amount of grantee’s continuation grant by the amount of the funds obligated for indirect cost use during this budget period.

- 
- If grantee negotiates an indirect cost rate agreement resulting in a rate that is greater than the rate requested in the proposed budget for this grant, under 34 CFR 74.25(c)(5), the Secretary denies grantee discretion to use funds obligated for direct costs to recover indirect costs. However, grantee may request additional funds to cover these expenses and, if ED has funds that are available for that purpose, the Secretary may consider providing additional funds to cover the increased costs.
  - If grantee negotiates an indirect cost rate agreement resulting in a rate that is less than the rate requested in the proposed budget for this grant, under 34 CFR 74.25(c)(5), the Secretary denies, without prior approval, grantee discretion to use funds obligated by ED for indirect costs to increase funds available for the grantee's direct costs.

# Appendix O: Organization of the Official Grant File Folder

ED uses a six-part file folder in which program staff must create and maintain an official file for each application selected for funding (see section 4.10, “The Official Grant File”). Documents are filed in chronological order with the oldest document on the bottom and the most recent document on top.

**Figure O-1. Organization of Official Grant File Folder**

<p><b>Section 1 – Inside of front cover</b></p> <p>Financial reports or copies of documents generated in GAPS related to closed discretionary grants</p> <p>Final Performance Report</p> <p>Final Evaluation Report</p> <p>Final Financial Status Report (SF 269 or SF 269A)</p> <p>Closeout Checklist and other closeout-related correspondence</p>	<p><b>Section 2 – Front of first divider</b></p> <p>Grant Award Notification with attached terms, conditions, and cooperative agreements</p>
<p><b>Section 3 – Back of first divider</b></p> <p>Site visit reports</p> <p>Recipient audit reports</p> <p>Annual Financial Status (SF 269 or SF 269A) or other annual financial status reports</p> <p>Annual or interim performance reports, including post-award Institutional Review Board certifications</p> <p>Annual evaluation reports</p> <p>Credit reports</p>	<p><b>Section 4 – Front of second divider</b></p> <p>Correspondence (from recipients, Congress, etc.), ED responses and administrative actions</p> <p>Memoranda (to the file or from the program office, Budget Service, Office of the General Counsel, Office of Inspector General, etc.)</p> <p>Copies of contracts entered into by recipient (research, evaluation)</p> <p>Telephone contacts, electronic communications via e-mail, etc., during the performance of a grant</p>
<p><b>Section 5 – Back of second divider</b></p> <p>Grant application reviewer comments and review forms</p> <p>Program staff evaluations and (if applicable) technical review summary</p> <p>Documentation of all pre-award contact with applicant including clarification calls prior to award of the grant</p> <p>Cooperative agreement drafts</p> <p>Funding documentation or budgets and financial information generated in GAPS to support GANs</p>	<p><b>Section 6 – Inside of back cover</b></p> <p>Applications – original signature copy of all required information (budget, assurances, certifications, GEPA requirements, etc.)</p> <p>Pre-award documents for the protection of human subjects in research, i.e., assurances and institutional review board certifications, and related correspondence/documents</p> <p>Clarifications or revisions to budget and scope of work provided by the grantee</p> <p>Performance agreement developed at performance conferences</p>

**Note:** The order in which documents are listed in this guide will not necessarily be the order in which the documents are filed. Not all documents will necessarily appear in all grant folders; one or more documents might not be included due to varying requirements in different programs or continuous improvements to the discretionary grant process.

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# Appendix P: Prior Approval Requirements in the Cost Principles

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The following are excerpts from the OMB Circulars. Please review the OMB Circulars for the actual requirements.

## P.1. OMB Circular A-21, Cost Principles for Educational Institutions

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### Salary Rates for Faculty Members

[I]n unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the consultant is in addition to his regular departmental load, any charges for such work representing extra compensation above the base salary are allowable provided that such consulting arrangements are specifically provided for in the agreement or approved in writing by the sponsoring agency. [A-21, attachment J.10.d.(1)]

### Equipment and Other Capital Expenditures

- (1) Capital expenditures for general purpose equipment, buildings and land are unallowable as direct charges, except where approved in advance by the ED. [A-21, attachment J.18.b.(1)]
- (2) Expenditures for special purpose equipment are allowable as direct charges with the approval of ED. [A-21, attachment J.18.b.(2)]
- (3) Capital expenditures for improvements to land, buildings or equipment which materially increase their value or useful life are unallowable as direct charges, except where approved in advance by ED. [A-21, attachment J.18.b.(3)]

**Note:** The program statute or regulations must authorize capital expenditures before a grantee can direct-charge its grant for the expenditure in the year the capital expenditure was made. Otherwise, the grantee must negotiate these costs with its cognizant agency for inclusion in the grantee's indirect cost rate. Program staff should direct the applicant/grantee to its cognizant agency to negotiate inclusion of these costs in its indirect cost rate. Program office staff are not authorized to approve these costs for inclusion in the indirect cost rate.

### Insurance and Indemnification

[C]osts of insurance or of any contributions to any reserve covering the risk of loss of or damage to Federally-owned property are unallowable, except to the extent that the Federal government has specifically required or approved such costs. [A-21, attachment J.25.b.(2)]

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## Rearrangement and Alteration Costs

Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable when such work has been approved in advance by ED. [A-21, attachment J.40.]

### P.2. OMB Circular A-87, Cost Principles for State, Local and Indian Tribal Governments

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## Equipment and Other Capital Expenditures

Capital expenditures for equipment, including replacement equipment, other capital assets, and improvements which materially increase the value or useful life of equipment or other capital assets are allowable as a direct cost when approved by ED. [A-87, attachment B, 15.b (1), (2), and (3)]. Attachment B reads as follows:

The following rules of allowability shall apply to equipment and other capital expenditures:

- (1) Capital expenditures for general purpose equipment, buildings, and land are unallowable as direct charges, except where approved in advance by the awarding agency.
- (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 approval of the awarding agency.
- (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 approval of the awarding agency.

**Note:** The program statute or regulations must authorize capital expenditures before a grantee can direct-charge its grant for the expenditure in the year the capital expenditure was made. Otherwise, the grantee must negotiate these costs with its cognizant agency for inclusion in the grantee's indirect cost rate. Program staff should direct the applicant/grantee to its cognizant agency to negotiate inclusion of these costs in its indirect cost rate. Program office staff is not authorized to approve these costs for inclusion in the indirect cost rate.

## Gains and Losses on Disposition of Depreciable Property and Other Capital Assets and Substantial Relocation of Federal Programs

Substantial relocation of Federal awards from a facility where the Federal government participated in the financing to another facility prior to the expiration of the useful life of the financed facility requires Federal agency approval. [A-87, attachment B, 18.b.]



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## Memberships, Subscriptions and Professional Activities

Costs of membership in civic and community, social organizations are allowable as a direct cost with the approval of ED. [A-87, attachment B, 28.c.]

## Proposal Costs

[P]roposal costs may be charged directly to Federal awards with the prior approval of ED. [A-87, attachment B, 33.]

**Note:** In virtually all cases, ED does not approve proposal costs as a direct charge to a grant because these costs are not allocable to an objective of the grant, so consult with GPOS before making any decision to approve proposal costs in the direct costs of a project. These costs benefit the grantee by generating Federal awards. However, if a grantee does have a separate office that assists employees in preparing grant awards and the entity submits sufficient proposals to Federal agencies, these costs can be included in the entity's indirect costs for negotiation with the entity's cognizant agency. The applicant/grantee should be directed to its cognizant agency to negotiate inclusion of these costs in its indirect cost rate. Program office staff is not authorized to approve these costs for inclusion in the indirect cost rate.

## Rearrangements and Alterations

Special arrangements and alterations costs incurred specifically for a Federal award are allowable with the prior approval of ED. [A-87, attachment B, 35.]

## Travel Costs

Notwithstanding the provisions of section 19, General government expenses, travel costs of officials covered by that section, when specifically related to Federal awards, are allowable with the prior approval of ED. [A-87, attachment B, 43.a.]

**Note:** The list of officials identified in Section 19, General government expenses, includes: governor of a State, the chief executive of a political subdivision, the chief executives of Federally-recognized Indian tribal governments, State legislatures, tribal councils, county supervisors, city councils, school boards, and the judiciary branch of a government.

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### P.3. OMB Circular A-122, Cost Principles for Non-Profit Organizations

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#### Compensation for Personal Services

Where an organization follows a consistent policy of expensing actual payments to, or on behalf of, employees or former employees for unemployment compensation or workers' compensation, such payments are allowable in the year of payment with the prior approval of ED, provided they are allocated to all activities of the organization, i.e. they are included in the negotiated indirect cost rate. [A-122, attachment B, 8.g.(3)(b)]

#### Organization-Furnished Automobiles

That portion of the cost of organization-furnished automobiles that relates to personal use by employees (including transportation to and from work) is unallowable as fringe benefit or indirect costs regardless of whether the cost is reported as taxable income to the employees. These costs are allowable as direct costs to sponsored award when necessary for the performance of the sponsored award and approved by ED. [A-122, attachment B, 8.h.]

#### Equipment and Other Capital Expenditures

- (1) Capital expenditures for general purpose equipment, buildings, and land are unallowable as a direct cost except with the prior approval of ED.
- (2) Capital expenditures for special purpose equipment are allowable as direct costs, provided that items with a unit cost of \$5000 or more have the prior approval ED.
- (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 approval of ED.

[A-122, attachment B, 15.b (1), (2), and (3)]

#### Housing and Personal Living Expenses

Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent, etc.), housing allowances and personal living expenses for/of the organization's officers are unallowable as fringe benefit or indirect costs regardless of whether the cost is reported as taxable income to the employees. These costs are allowable as direct costs to sponsored award when necessary for the performance of the sponsored award and approved by ED. [A-122, attachment B, 20.a.]

#### Memberships, Subscriptions and Professional Activity Costs

Costs of membership in any civic or community organization are allowable with prior approval of ED. [A- 122, attachment B, 30.c.]

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**Note:** If these charges are already recovered through the indirect costs of an entity, they may not also be charged direct to any ED grant.

### Organization Costs

Expenditures, such as incorporation fees, brokers' fees, fees to promoters, organizers or management consultants, attorneys, accountants, or investment counselors, whether or not employees of the organization, in connection with establishment or reorganization of an organization, are unallowable except with prior approval of ED. [A-122, attachment B, 31.]

**Note:** As a general matter, the grantee must be able to show that these types of costs directly benefit the grant. For example, the grantee needs to set up a separate trust fund under state law to hold funds that may only be disbursed for specified grant purposes. These costs might be required under the grant so that the grantee can make valid obligations under its grant to preserve funds for the specified purpose. [A-122, attachment B, 31.]

### Overtime, Extra-Pay Shift and Multi-Shift Premiums

Premiums for overtime, extra-pay shifts and multi-shift work are allowable only with the prior approval of ED, except:

- a. When necessary to cope with emergencies, such as those resulting from accidents, natural disasters, breakdowns of equipment or occasional operational bottlenecks of a sporadic nature.
- b. When employees are performing indirect functions, such as administration, maintenance or accounting.
- c. In the performance of tests, laboratory procedures or other similar operations which are continuous in nature and cannot reasonably be interrupted or otherwise completed.
- d. When lower overall cost to the Federal government will result.

[A- 122, attachment B, 8.f.]

### Participant Support Costs

Participant support costs are direct costs for items such as stipends or subsistence allowances, travel allowances and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with meetings, conferences, symposia or training projects. These costs are allowable with the prior approval of ED. [A-122, attachment B, 33.]

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## Rearrangement and Alteration Costs

Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable with the prior approval of ED. [A-122, attachment B, 39.]

## Selling and Marketing

Costs of selling and marketing any products or services of the organization are unallowable. These costs, however, are allowable as direct costs, with prior approval of the cognizant agency, when they are necessary for the performance of Federal programs. [A-122, attachment B, 45.]

## Severance Pay

Costs incurred in certain severance pay packages (commonly known as a “golden parachute” payment) which are in an amount in excess of the normal severance pay paid by the organization 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 organization’s assets are unallowable. [A-122 attachment B, 8.k.(2)(c).]

Severance payments to foreign nationals employed by the organization outside the United States, to the extent that the amount exceeds the customary or prevailing practices for the organization in the United States, are unallowable, unless they are necessary for the performance of Federal programs and approved by ED. [A-122, attachment B, 8.k.(2)d.]

Severance payments to foreign nationals employed by the organization 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 organization in that country are unallowable unless they are necessary for the performance of Federal programs and approved by ED and other funding agencies. [A-122, attachment B, 8.k.(2)(e).]

## Training Costs

- a. Costs of preparation and maintenance of a program of instruction including but not limited to on-the-job, classroom, and apprenticeship training, designed to increase the vocational effectiveness of employees, including training materials, textbooks, salaries, or wages of trainees (excluding overtime compensation which might arise therefrom), and (i) salaries of the Director of training and staff when the training program is conducted by the organization or (ii) tuition and fees when the training is in an institution not operation by the organization, are allowable.
- b. Costs of part-time education, at an undergraduate or post-graduate college level, including that provided at the organization’s own facilities, are allowable only when the course or degree pursued is relative to the field in which the employee is now working or may reasonably be expected to work, and are limited to:

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- (1) Training materials.
  - (2) Textbooks.
  - (3) Fees charged by the educational institution.
  - (4) Tuition charged by the educational institution or, in lieu of tuition, instructors' salaries and the related share of indirect costs of the educational institution to the extent that the sum thereof is not in excess of the tuition which would have been paid to the participating educational institution.
  - (5) Salaries and related costs of instructors who are employees of the organization.
  - (6) Straight-time compensation of each employee for time spent attending classes during working hours not in excess of 156 hours per year and only to the extent that circumstances do not permit the operation of classes or attendance at classes after regular working hours; otherwise, such compensation is unallowable.
- c. Costs of tuition, fees, training materials, and textbooks (but not subsistence, salary, or any other emoluments) in connection with full-time education, including that provided at the organization's own facilities, at a post-graduate (but not undergraduate) college level, are allowable only when the course or degree pursued is related to the field in which the employee is now working or may reasonably be expected to work, and only where the costs receive the prior approval of the awarding agency. Such costs are limited to the costs attributable to a total period not to exceed one school year for each employee so trained. In unusual cases, the period may be extended.
  - d. Costs of attendance of up to 16 weeks per employee per year at specialized programs specifically designed to enhance the effectiveness of executives or managers or to prepare employees for such positions are allowable. Such costs include enrollment fees, training materials, textbooks and related charges, employees' salaries, subsistence, and travel. Costs allowable under this paragraph do not include those for courses that are part of a degree-oriented curriculum, which are allowable only to the extent set for the in subparagraphs b and c.
  - e. Maintenance expense, and normal depreciation or fair rental, on facilities owned or leased by the organization for training purposes are allowable to the extent set forth in paragraphs 11, 27, and 50.
  - f. Contributions or donations to educational or training institutions, including the donation of facilities or other properties, and scholarships or fellowships, are unallowable.

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- g. Training and education costs in excess of those otherwise allowable under subparagraphs b and c may be allowed with prior approval of the awarding agency. To be considered for approval, the organization must demonstrate that such costs are consistently incurred pursuant to an established training and education program, and that the course or degree pursued is relative to the field in which the employee is now working or may reasonably be expected to work.

[A-122, attachment B, 49.]

### Travel Costs

Direct charges for foreign travel costs are allowable only when the travel has received prior approval ED. Each separate foreign trip must be approved. For purposes of this provision, foreign travel is defined as any travel outside of Canada, Mexico and the United States and its territories and possessions. However, for an organization located in foreign countries, the term “foreign travel” means travel outside that country. [A-122, attachment B, 51.e.]

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# Appendix Q: Prior Approval Requirements

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## Attachment Z

In accordance with the procedures specified in EDGAR as a condition of this award, the grantee is required to obtain ED approval for any item checked below before undertaking any of the following administrative actions during the budget period specified for this award:

- Extending the project period of the grant beyond the project period end date specified in the most recent revision of the Grant Award Notification;
- Using grant funds carried forward that the grantee has not obligated in the budget period funded by this award for obligation(s) during the following budget period;
- Expending grant funds provided for the budget period funded by this award before the budget period start date specified in the most recent revision of the Grant Award Notification; or
- Making cumulative transfers among direct-cost budget categories (on awards greater than \$100,000) that exceed 10% of the approved budget for the budget period funded by this award.

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# Appendix R: Monitoring and Technical Assistance Plan

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## Purpose, Goals and Objectives

- According to the legislation authorizing this program, what is its purpose, goals and objectives?
- Does this legislation contain monitoring-specific requirements?

## GRPA Performance Measures and Data

- How does this program relate to the Department's Strategic Plan?
- What are the Government Performance and Results Act (GPRA) measures for this program?
- Are performance measure data available?
- What kind of analyses can you do with the data that will give you meaningful information on results?
- What additional data might you need?

## Grantee Performance

- What do the data say about the performance of grantees?
- Are there areas in which many grantees are failing to meet their goals?
- Are there individual grantees that are failing to perform as expected?
- Are there projects with exemplary performance, which have the capacity to be used as models, or that have a Secretarial priority or Congressional interest?

## Grantee or Project Risk Factor

- Is there information that indicates high risk areas or grantees in this program in terms of risk of noncompliance, waste fraud or abuse (for example, Federal [OIG or GAO] or Non-Federal audits, grantees with known risk factors or those new to Federal support, information that points to possible poor performance in a particular program or among particular grantees, or failure to complete audits on time)?
- How will you strategically focus your compliance monitoring resources on those areas?
- Include a listing on grants that have been placed on reimbursement or have been assigned special conditions under EDGAR §§74.12 and 80.12 . What procedures will the principal office follow in handling adverse finding in its monitoring activities, particularly those involving circumstances covered by 34 CFR Part 81?

## Monitoring and Technical Assistance

- What technical assistance will be provided to mitigate poor performance in these areas and help grantees to achieve their goals and objectives?
- Is the principal office undertaking any changes in the approaches to or methods of monitoring to improve its partnership with and technical assistance to grantees?
- What will be the schedule or frequency of such monitoring and technical assistance to grantees?
- Will some of this activity be conducted by staff in regional offices?



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## Appendix S: Annual Monitoring Report

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- **Monitoring Goals:** Describe how the monitoring goals used to monitor grantee performance were met. Describe implementation progress and outcomes on the improvement measures identified in the previous fiscal year monitoring report.
- **Staff Training:** Describe the internal and external training opportunities offered to staff engaged in monitoring activities to improve their monitoring competencies and skills.
- **Business Operations:** Describe any non-personnel costs including travel, contract support, conferences, equipment and other items required to conduct performance monitoring in the previous fiscal year. Specify the exact dollar (\$) amount spent for each item and identify funding source: S&E, National Activities or Other.
- **Grantee Performance:** Discuss whether your methods for identifying model projects, at-risk or designated high-risk projects attained the anticipated results.
- **Monitoring Forms and Methods:** Assess the effectiveness of the monitoring forms and methods used in partnership with grantees to measure and gather information on grantees' performance and progress in achieving grant objectives and fiscal accountability.
- **Technical Assistance:** Explain the effectiveness and results of technical assistance opportunities including site visits in improving grantee performance and results.
- **Specific Issues, Challenges/Improvements and New Initiatives:** Describe any specific issues or challenges that were encountered regarding grantee performance and monitoring methods. Delineate measures that will address challenges and deficiencies identified during the previous fiscal year monitoring data review and analysis process. Also, describe any other improvements or new initiatives for the following fiscal year.
- **Recommendations:** Include any recommendations or suggestions for improvements in laws, regulations or policies, based on information gained from the monitoring activities.

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# Appendix T: Monitoring Information System (MIS)

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Program Office:

Program Title:

CFDA:

Award:

Program Contact:

Number of Grantees: Continuation \_\_\_\_\_ New \_\_\_\_\_ Total \_\_\_\_\_

- Purpose, Goals, and Objectives
  - b. Authorization
  - c. Objectives
  
- Grantee Performance
  - a. Areas in which many grantees are failing to meet goals.
  - b. Strategies to focus monitoring resources on resolving these at-risk performance areas?
  - c. Projects used as performance models for other projects.
  
- Grantee or Project Risk Factors
  - a. Number of grantees designated as high-risk
  - b. Identify risk factors in the official notification letter to grantee.
  - c. Strategies used to monitor High Risk grantees.
  
- Monitoring and Technical Assistance
  - a. Monitoring Tool, Frequency, and Purpose
  - b. Technical Assistance Opportunities, Frequency, and Description
  
- Use of technology in the monitoring process

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# Appendix U: Grant Transfer Agreement

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United States Department of Education

## GRANT TRANSFER AGREEMENT

This agreement, entered into by

\_\_\_\_\_, and \_\_\_\_\_, and

Original Grantee/TRANSFEROR

Replacement Grantee/TRANSFeree

the United States Department of Education is for the purpose of transferring from the TRANSFEROR to the TRANSFeree the following grant:

PR/AWARD NUMBER: \_\_\_\_\_ DUNS NUMBER of TRANSFEROR: \_\_\_\_\_

Total of Federal funds obligated  
by the TRANSFEROR to date

Estimate of unobligated Federal funds  
to be transferred to TRANSFeree

\$ \_\_\_\_\_

\$ \_\_\_\_\_

TITLE OF PROJECT:

\_\_\_\_\_

to:

PR/AWARD NUMBER: \_\_\_\_\_ DUNS NUMBER of TRANSFeree: \_\_\_\_\_

NEW TITLE OF PROJECT:

\_\_\_\_\_

The parties agree as follows:

1. The grant will be administered by the transfer grantee under the same conditions and fully consistent with the requirements of the grant as described in the application approved by ED for this award. If a specified population is served under the grant, as proposed, that same population will be served under the transferred grant using the design of the original application as approved by ED. The same key personnel will conduct the work of the transferred grant or substitute personnel who have been approved by ED as meeting the qualifications of the original key personnel.
2. The TRANSFEROR waives all claims, demands, and rights against ED that it now has or may hereafter have in connection with this grant.
3. The TRANSFeree and TRANSFEROR agree to comply with the terms and conditions of the grant including cooperating with closeout and audit procedures.
4. The TRANSFeree agrees to accept payment based on the budget approved for the remainder of the project.
5. ED recognizes the TRANSFeree as the TRANSFEROR'S successor to the grant.

6. Except as expressly provided in the agreement, nothing in it shall be construed as a waiver of any rights of ED against the TRANSFEROR.
7. Transfer of any PROPERTY related to the grant from the TRANSFEROR to the TRANSFEREE shall be undertaken in accordance with the Education Department General Administrative Regulations, 34 Code of Federal Regulations (CFR) Part 74, Sections 74.30-37, or 34 CFR Part 80, Sections 80.31-33, whichever is applicable. (Part 74 applies to institutions of higher education, hospitals and non-profit organizations; Part 80 applies to State and local governments, including Federally-recognized Indian tribal governments). The list of property transferred, if any, is attached to this agreement. A description of when and how the property will be transferred is also attached. Property includes equipment, pertinent files, publications, dissemination materials, mailing lists, and other items needed by the TRANSFEREE to complete the project as described in the original application.
8. TRANSFEREE and TRANSFEROR have demonstrated in their transfer documentation that the grant will still meet the original conditions of the authorizing program legislation.

The TRANSFEREE certifies that it is eligible to hold the grant under applicable statutes and regulations.

This agreement becomes effective the date it is signed by the appropriate Department of Education representative.

TRANSFEROR:

TRANSFEREE:

(Name of Original Grantee)	(Name of Replacement Grantee)
(PR/Award Number) & (DUNS Number)	(PR/Award Number) & (DUNS Number)
(Name and Title of Authorized Representative)	(Name and Title of Authorized Representative)
(Signature of Authorized Representative)	(Signature of Authorized Representative)
(Date)	(Date)

U.S. DEPARTMENT OF EDUCATION:

(Print Name of License Holder and Program Office)	
(Signature of License Holder)	(Date)

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## **GRANT TRANSFER PROCEDURES**

A grant transfer is a particularly complex process. To simplify the process, the following procedures are provided. Steps in the process are organized as follows: (I) TRANSFEROR, (II) TRANSFEREE, (III) U. S. Department of Education Program Staff, and (IV) U.S. Department of Education License Holder. Because each transfer has its own unique circumstances, the steps may not necessarily occur in the order presented.

To ensure timely processing of the transfer, program staff should:

- (1) Verify as soon as it is available that the TRANSFEREE'S DUNS number is valid;
- (2) Complete as much information as possible for both parties before sending out the Grant Transfer Agreement, which will also ensure proper PR/Award and DUNS numbers are used. Make sure the parties understand that the new PR/Award number for the TRANSFEREE will be filled in after ED receives all of the necessary information from all parties and approves the transfer;
- (3) Find out in advance how much (an estimate) of the Federal funds will be available for transfer from the TRANSFEROR and share that information with the TRANSFEREE;
- (4) Find out in advance which of the forms each party will need and provide the applicable forms at the same time as the Grant Transfer Agreement. All forms and information listed below are applicable to the TRANSFEREE and may be applicable to the TRANSFEROR but their use may be dependent on factors such as when a transfer is taking place in the project period. For example, if a complete budget period has not yet passed, the TRANSFEROR may not yet have submitted an annual performance report to ED (examples below):
  - a. ED Form 424<sup>12</sup> (Application for Federal Education Assistance)
  - b. Standard Form 424B (Assurances -- Non-Construction Programs)
  - c. ED Form 524 (Budget Information)
  - d. ED Form 524-B (Grant Performance Report) Cover Sheet
  - e. ED Form 80-0013 (Certification Regarding Lobbying)
  - f. Notice to All Applicants (Section 427 of the Department's General Education Provisions Act (GEPA) (See section 2.5.7 in Handbook, same title)
  - g. Information on the Government Performance and Result Act of 1993 and program-specific performance measures and reporting requirements

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<sup>12</sup> Forms can be downloaded and printed in the OCFO website at:  
<http://www.ed.gov/about/offices/list/ocfo/grants/grants.html>

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h. Human Subjects Research. See Item 13 of the ED 424. If the grant includes nonexempt research activities involving human subjects, the TRANSFEREE must comply with the requirements of 34 CFR Part 97. The TRANSFEREE must have a Federal Wide Assurance (FWA) on file with the Office for Human Research Protections (OHRP), U.S. Department of Health and Human Services, and send to ED certification(s) that the Institutional Review Board (IRB) named in the Assurance has reviewed and approved the nonexempt research activities. The TRANSFEREE is also responsible for ensuring that legally separate institutions collaborating in the grant and engaging in nonexempt research also are in compliance.

- FWA: The OHRP web site maintains the list of approved assurances. The site also provides the instructions a TRANSFEREE would need to apply for the FWA if it did not have one. [http://www.hhs.gov/ohrp/assurances/assurances\\_index.html](http://www.hhs.gov/ohrp/assurances/assurances_index.html) OHRP-issued assurances have numbers, e.g., FWA00001212 (“FWA” followed by 8 digit number).
- Grantees and program staff can obtain copies of ED’s Regulations for the Protection of Human Subjects, and other pertinent information, on the Protection of Human Subjects in Research Web Site: <http://www.ed.gov/about/offices/list/ocfo/humansub.html>
- IRB approval(s): The TRANSFEREE can provide the documentation in a number of ways: on a form of the IRB’s choosing, in a letter from the IRB chair, or on the HHS Optional Form 310. <http://www.hhs.gov/ohrp/humansubjects/assurance/OF310.rtf>
- Program staff should refer to Appendix 3 in ACS Directive OCFO:1-105, Protection of Human Subjects in Research: Extramural Research, for guidance on the GAPS HS attachments that must be attached to the Grant Award Notification. The directive can be accessed on the GPOS connectED site at: <http://connected.ed.gov/index.cfm?articleobjectid=3E3F7007-D67E-41EF-9D868FC922547B81>

## **I. TRANSFEROR (ORIGINAL GRANTEE)**

The transferor should:

- (1) Make a written request to ED to transfer the grant, justifying the need for the transfer.
- (2) Provide a Financial Status Report (Standard Form 269) to ED. If the TRANSFEROR indicates that they have drawn funds that have not been expended, those funds should be returned to ED using the standard refund procedures outlined in the GAPS Payee Guide.
- (3) Submit a final performance report to ED within 90 days after the revised performance period end date.
- (4) Complete the Grant Transfer Agreement and sends it to the TRANSFEREE who completes their required actions. Also sends the TRANSFEREE a copy of the TRANSFEROR'S original grant application, any amendments approved by ED, and all performance reports that have been submitted to ED to date.

## **II. TRANSFEREE (REPLACEMENT GRANTEE)**

The transferee provides to ED:

- (1) Acceptance of the proposed transfer by signing the Grant Transfer Agreement received from the TRANSFEROR and sends to ED and original and one copy of the following:

- 
- a. The signed transfer agreement;
  - b. ED Form 424 (Application for Federal Education Assistance). The document should reflect the amount of funds to be transferred to the TRANSFEROR;
  - c. ED Form 424B (Assurances -- Non-Construction Programs);
  - d. ED Form 80-0013 (Certification Regarding Lobbying);
  - e. If the grant includes nonexempt human subjects research activities, TRANSFEREE provides a valid Federal Wide Assurance number and documentation of IRB approval(s).
  - f. A response to The Notice To All Applicants (Section 427 of the Department's General Education Provisions Act (GEPA));
  - g. A revised narrative that outlines work to be completed by the TRANSFEREE during the current budget period and any remaining budget periods. This narrative should address how the project will still be in accordance with the strict design of the application as approved by ED. A complete new application is not required. However, the TRANSFEREE must reference appropriate sections and page numbers of the original application;
  - h. ED Form 524 and a detailed budget for the remainder of the current budget period and any remaining budget periods;
  - i. In the few cases involving new key personnel, resumes for new people; and
  - j. Rationale for any time extensions or changes to budget and/or the project period.

### **III. U. S. DEPARTMENT OF EDUCATION (ED) PROGRAM STAFF**

- (1) Provides written recommendations to the license holder for the TRANSFEROR'S and the TRANSFEREE'S official grant files addressing how the transfer meets the conditions for a replacement grant transfer (see section 5.5.8, "Grant Transfers").
- (2) Reviews all TRANSFEREE documents for completeness; makes sure that a Standard Form 269 is signed by an authorized financial representative, and that the Grant Transfer Agreement and all certifications are signed by authorized representatives of both the TRANSFEROR and TRANSFEREE. Ensures documentation includes all items listed above under TRANSFEROR and TRANSFEREE, including how the transfer is in keeping with the purpose of the authorizing program legislation.
- (3) Processes the grant transfer in GAPS using the Grant Transfer sub-function in the Post Award function. For step-by-step instructions, refer to the GAPS Grant Transfer training materials. Program staff may process the grant transfer in GAPS up to the point where un-obligated funds are transferred in GAPS from the TRANSFEROR to the TRANSFEREE. Only a License holder may transfer the funds in GAPS.
- (4) Files both the TRANSFEREE and TRANSFEROR official grant files according to their respective PR/Award numbers. Program staff must ensure that both the original and replacement grant files contain a copy of the Grant Transfer Agreement, the original application and any annual performance reports. Each file must be complete to facilitate orderly monitoring, auditing, and closeout.
- (5) Submits the TRANSFEREE'S and the TRANSFEROR'S official grant files to the authorized license holder for review, transfer of funds, and signature of all required Grant Award Notifications.

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#### **IV. U.S. DEPARTMENT OF EDUCATION (ED) LICENSE HOLDER**

- (1) Reviews the program staff members' recommendation memorandum, the Grant Transfer Agreement, and all other required documents related to the transfer.
- (2) Signs and dates four copies of the Grant Transfer Agreements if the files are complete. Processes the grant transfer in GAPS using the Grant Transfer sub-function in the Post Award function. For step-by-step instructions, refer to the GAPS Grant Transfer Training Materials. The same date the grant was transferred in GAPS should be used on the Grant Award Notifications and on the Grant Transfer Agreement.
- (3) Ensures that the TRANSFEROR and the TRANSFEREE receive a copy of the following documents and that each file contains copies with the license holder's signature:
  - Approved Grant Transfer Agreement
  - Grant Award Notifications of the TRANSFEROR and the TRANSFEREE



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# Appendix V: Pre-Expiration Reminder Letter

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PR/Award No.: \_\_\_\_\_

DUNS No.: \_\_\_\_\_

Dear Project Director:

A recent review of your grant project with the U.S. Department of Education (ED), identified by the PR/Award number above, shows that your project period end date is quickly approaching.

This letter serves as a reminder that the final report(s) required under your grant, as specified on Attachment B of your Grant Award Notification (GAN), are due within 90 days after your project period ends.

Additionally, in preparation for the end of your grant, you are reminded of the necessity of drawing such remaining funds from your ED grant account as are necessary to pay off outstanding obligations for expenses incurred in the grant project. You may continue to draw down funds for liquidating obligations during the 90-day period *immediately* following the project period end date. However, you may **not** incur any new obligations during that 90-day liquidation period.

If you need guidance on the required format of your final report or for preparing it, please contact the ED program staff member identified on the GAN. Questions about drawing down funds should be directed to the GAPS Hotline on (888) 336-8930.

Sincerely,

\_\_\_\_\_  
[Program Staff Member]

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# Appendix W: Notification of Closeout

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**PR/Award No.:** \_\_\_\_\_

**DUNS No.:** \_\_\_\_\_

Dear Grant Recipient:

This letter is to inform you that the U.S. Department of Education (ED) has completed a final review of the grant or cooperative agreement identified by the PR/Award number above and determined that all of the terms and conditions of the grant were met. This grant is found to be in compliance with the Education Department General Administrative Regulations (EDGAR) §§74.71 and 80.50 as applicable. Therefore, ED is officially closing this grant and sending the file to the Federal Records Center for archiving.

Please be aware that, even after ED closes out a grant award, grantees are required by regulation to maintain records related to a grant project for a period of time after the award ends. The time period differs for different types of records. Further information on retention and access requirements for records can be found in EDGAR at §74.53 and §80.42. In addition, ED grant projects are also subject to post-grant Federal audit and various after-the-grant requirements, found in EDGAR at §§74.70-73 and §§80.50-52.

Sincerely,

\_\_\_\_\_  
[Program Staff Member]

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# Appendix X: Noncompliance Letter

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**PR/Award No.:** \_\_\_\_\_

**DUNS No.:** \_\_\_\_\_

Dear Recipient:

This letter is to inform you that the U.S. Department of Education has closed the grant or cooperative agreement identified by the PR/Award number above in noncompliance for one of the following reasons:

- \_\_\_\_\_ 1. Failure to submit the required final report(s).
- \_\_\_\_\_ 2. The report submitted was determined to be of unacceptable quality.
- \_\_\_\_\_ 3. There was a material failure to comply with the requirements of the grant.

If either reason 2. or 3. are checked, an explanation for this determination is attached.

In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR § 75.217(d)(3), we will consider your noncompliance in determining your eligibility for future funding under any ED program.

Please be aware that, even after ED closes out a grant award in noncompliance, grantees are required by regulation to maintain records related to a grant project for a period of time after the award ends. The time period differs for different types of records. Further information on retention and access requirements for records can be found in EDGAR at §74.53 and §80.42. In addition, ED grant project are also subject to post-grant Federal audit and various after-the-grant requirements, found in EDGAR at §§74.70-.73 and §§80.50-.52.

If you have any questions, please telephone me directly at \_\_\_\_\_.

Sincerely,

\_\_\_\_\_  
[Program Official]

# Appendix Y: Closeout Checklist for Discretionary Grants

<b>Applicant Name:</b>			
<b>Recipient Address:</b>			
<b>PR/Award No.:</b>		<b>DUNS No.:</b>	
Program staff members are only to close out grants that are in the "closed" or "manual closeout" status in GAPS with the following conditions: 1) all required reports have been received; 2) the recipient has met the scope or objectives of the grant and complied with all terms and conditions; and 3) the available fund balance in GAPS on the award is zero.			
	<b>YES</b>	<b>NO</b>	<b>N/A</b>
1. Is the final performance report acceptable?			
2. Has the recipient provided final financial data? Have you compared this data with the data in GAPS? Is it acceptable?			
3. If required, has the recipient provided the final status report (SF 269) and have you compared the data on the SF 269 with the appropriate documentation?			
4. Has the grantee indicated on the final report the indirect cost rate and the type of indirect cost rate used?			
5. Has the grantee accounted for cost sharing, if applicable?			
6. Is the grant "closed" in GAPS? Print a copy of the "award balance" screen which indicates the grant has a zero balance and place it in the file			
7. Have all actions relating to final disposition of property been taken, if applicable? (EDGAR §§ 74.30 – 74.37 and § 80.31)			
8. Have you prepared for mailing a "Notification of Closeout" or a "Noncompliance Letter"?			
9. Did the license holder deobligate remaining funds and sign below? *			

This grant is approved for closeout, subject to audit:	
_____	_____
Program Staff	Date
_____	_____
License Holder *	Date

5/05 \*Second signature required if program staff is not a License Holder

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# Appendix Z: Archiving Procedures

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## Z.1. How to Prepare Records for Transfer to the Federal Records Center (FRC)

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1. Remove all non-record material and extra copies before packing boxes.
2. Put all material in folders, binders or envelopes, as appropriate. The FRC will not accept accessions containing loose papers with rubber bands.
3. All folders, binders and envelopes must be properly labeled. All folder labeling must be on the tab at the top of the folder. Label binders and envelopes appropriately.
4. Letter-sized folders must face the front of the box (the side without the staples), and legal sized folders must face the left side of the box.
5. Each accession containing non-textual records must have the appropriate code in the series description section (6(f)) of the SF 135 (Records Transmittal and Receipt).
6. The cutoff dates listed in the series description section (6(f)) of the SF 135 must match the box contents.

## Z.2. Additional Requirements for Permanent Records, Unscheduled Records or Records that must Be Sampled

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1. The FRC cannot accept mixed accessions of permanent and temporary records in the same accession or two or more series of permanent records in the same accession. Each series must be transferred separately.
2. List different accessions on separate SF 135s.
3. Each accession must have a complete box listing all folders, binders and envelope titles. All folders must be in the same order indicated on the box list. All folders, binders and envelopes are arranged numerically; the box list may list only the first and last files in each box. All missing numbers must be included.
4. One copy of the box list must accompany the original SF 135 for permanent records. A list is not needed for the copy that becomes your receipt. Keep a copy of the list for future record retrieval.

If the above procedures are not followed, the FRC may require the agency to send someone to the Center to correct the situation or the accession may be returned to the agency for correction.