

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

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TO: Project Directors and Fiscal Management Staff for ED Discretionary Grants

FROM: Philip A. Maestri
Director, Risk Management Service

SUBJECT: Key Financial Management Requirements for Discretionary Grants Awarded by
the Department of Education (ED)

As part of the Department's on-going efforts to make you aware of your responsibilities associated with managing Federal funds, I am writing to remind you of important financial management requirements that apply to discretionary grant awards.

In general, the Department expects that you will administer ED grants in accordance with generally accepted business practices, exercising prudent judgment so as to maintain proper stewardship of taxpayer dollars. This includes using fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds. In addition, you may use grant funds only for obligations incurred during the funding period.

The Education Department General Administrative Regulations (EDGAR) contain the general requirements for administering discretionary grants made by this Department. The most recent version of the regulations [34 CFR 74-99] may be accessed at the website the Government Printing Office (GPO) has established for the Code of Federal Regulations (CFR), at the following URL:

http://www.access.gpo.gov/nara/cfr/waisidx_08/34cfrv1_08.html

Please note that this URL shows ALL the parts associated with Volume One of 34 CFR. EDGAR is comprised ONLY of Parts 74 – 99. In addition, the following link to the Federal Register issue of December 7, 2007, contains a final regulation that modified certain sections of Part 75 (Direct Grants) regarding indirect cost rates: <http://edocket.access.gpo.gov/2007/pdf/E7-23817.pdf>

The attached document, “Selected Topics in Administering ED Discretionary Grants,” highlights major administrative requirements of EDGAR in parts 74 and 80. Part 74 applies to institutions of higher education, non-profit organizations, and hospitals. Part 80 applies to States, local governments, and federally recognized Indian tribal governments. In addition, a few of the topics discuss requirements that this Department imposes on its discretionary grantees under Part 75. The specific sections of EDGAR that address the topics discussed are shown in parentheses. I urge you to read the full text of these and other topics in EDGAR.

Please keep in mind that a particular grant might be subject to additional requirements of the authorizing statute for the program that awarded the grant and/or any regulations issued by the program office. You should become familiar with those requirements as well, because program-specific requirements might differ from those in EDGAR.

In closing, I recommend that the project director and the fiscal management staff of a grantee organization communicate frequently with each other about the grant budget. Doing so will help to assure that you use Federal funds only for those expenditures associated with activities that conform to the goals and objectives approved for the project.

You should direct any questions you might have about the topics discussed in the attached document or about any other aspect of administering your grant award to the ED program staff person named in Block 3 of the Grant Award Notification.

Attachment

Selected Topics in Administering ED Discretionary Grants

I. Financial Management Systems (§74.21, §80.20)

In general, grantees are required to have financial management systems that:

- * provide for accurate, current, and complete disclosure of results regarding the use of funds under grant projects;
- * provide adequate source documentation for Federal and non-Federal funds used under grant projects;
- * contain procedures to determine the allowability, allocability, and reasonableness of obligations and expenditures made by the grantee; and
- * enable the grantee to maintain effective internal control and fund accountability procedures, e.g., requiring separation of functions so that the person who makes obligations for the grantee is not the same person who signs the checks to disburse the funds for those obligations.

State systems must account for funds in accordance with State laws and procedures that apply to the expenditure of and the accounting for a State's own funds. A State's procedures, as well as those of its subrecipients and cost-type contractors, must be sufficient to permit the preparation of reports that may be required under the award as well as provide the tracing of expenditures to a level adequate to establish that award funds have not been used in violation of any applicable statutory restrictions or prohibitions.

II. Payment (§74.22, 80.21)

Under parts 74 and 80,--

- * the Department pays grantees in advance of their expenditures if the grantee demonstrates a willingness and ability to minimize the time between the transfer of funds to the grantee and the disbursement of the funds by the grantee;
- * grantees repay to the Federal government interest earned on advances; and
- * grantees subject to Part 74 deposit grant funds in interest-bearing accounts (grantees subject to part 80 are encouraged to also deposit grant funds in interest-bearing accounts).

In general, grantees should make payment requests frequently, only for small amounts sufficient to meet the cash needs of the immediate future.

The Department has recently encountered situations where grantees failed to request funds until long after the grantee actually expended its own funds for the costs of its grant. Grantees need to be aware that, by law, Federal funds are available for grantees to draw down for only a limited period of time, after which the funds revert to the U.S. Treasury. In some cases grantees have requested funds too late for the Department to be able to pay the grantees for legitimate costs incurred during their project periods. The Department urges financial managers to regularly monitor requests for payment under their grants to assure that Federal

funds are drawn from the ED G5 Payment System at the time those funds are needed for payments to vendors and employees.

III. Personnel (§§74.27, 75.511-75.519 and 80.22)

The rules in Part 75 cover issues such as paying consultants with grant funds, waiving the requirement for a full-time project director, making changes in key project staff, and prohibiting dual compensation of staff. General rules governing reimbursement of salaries and compensation for staff working on grant projects are addressed in the cost principles located in Title 2 of the Code of Federal Regulations (2 CFR) (See **Cost Principles**, below). In all cases, payments of any type to personnel must be supported by complete and accurate records of employee time and effort. For those employees that work on multiple functions or separately funded programs or projects, the grantee must also maintain time distribution records to support the allocation of employee salaries among each function and separately funded program or project.

IV. Cost Principles (§74.27, §80.22)

All costs incurred under any grant are subject to cost principles found in 2 CFR that are applicable to particular types of organizations that serve as grantees under Federal grant programs. The applicable cost principles provide lists of selected items of allowable and unallowable costs, and can be found on the Web at the following URLs:¹

2 CFR, Part 220 – Cost Principles for Educational Institutions (relocated to 2 CFR, Part 220 from **OMB Circular A-21**):

http://www.whitehouse.gov/omb/fedreg/2005/083105_a21.pdf

2 CFR, Part 225 – Cost Principles for State, Local and Indian Tribal Governments (relocated to 2 CFR, Part 225 from **OMB Circular A-87**):

http://www.whitehouse.gov/omb/fedreg/2005/083105_a87.pdf

2 CFR, Part 230 – Cost Principles for Non-Profit Organizations (relocated to 2 CFR, Part 230 from **OMB Circular A-122**):

http://www.whitehouse.gov/omb/fedreg/2005/083105_a122.pdf

V. Procurement Standards (§§74.40-48, §80.36)

Under §80.36, States are required to follow the procurement rules the States have established for purchases funded by non-Federal sources. Under both parts 74 and 80, when procuring goods and services for a grant purposes, all other grantees may follow their own procurement procedures, but only to the extent that those procedures meet the minimum requirements for procurement specified in the regulations. These requirements include written competition

¹ Those who have difficulty accessing these Web pages directly may go to the main Web page (<http://www.whitehouse.gov/omb/circulars/>) for all OMB circulars, listed in numerical sequence, and use the links shown to access a particular circular.

procedures and codes of conduct for grantee staff, as well as requirements for cost and price analysis, record-keeping and contractor compliance with certain Federal laws and regulations. These regulations also require grantees to include certain conditions in contracts and subcontracts, as mandated by the regulations and statutes.

VI. Indirect Costs (§§75.560-564)

- A. A grantee must have a current indirect cost rate agreement to charge indirect costs to a grant. However, if a grantee does not have a federally recognized indirect cost rate agreement on the date ED awards its grant, ED generally will authorize the grantee to use a temporary rate, of 10% of budgeted salaries and wages subject to the following limitations:
1. The grantee must submit an indirect cost proposal to its cognizant agency within 90 days after ED issues the GAN.
 - i. The cognizant agency is generally the Federal department or agency providing the grantee with the most direct Federal funding subject to indirect cost support (or an agency otherwise designated by OMB).
 - ii. 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.
 2. If after the 90-day period, the grantee has not submitted an indirect cost proposal to its cognizant agency, the grantee may not charge its grant for indirect costs until it has negotiated an indirect cost rate agreement with its cognizant agency. However, under exceptional circumstances, ED may allow the grantee to continue using the temporary indirect cost after the end of the 90-day period even though the grantee did not submit an indirect cost proposal within the 90-day period. Before ED approves continued use of the temporary rate, the grantee must provide documentation satisfactory to ED that exceptional circumstances exist.
 3. Once a grantee that has used a temporary rate obtains a federally recognized cost rate, the grantee may use the federally recognized rate to claim indirect costs reimbursement. The recovery is subject to the following limitations:
 - i. The grantee may only recover indirect costs incurred on or after the date it submitted its indirect cost rate proposal to its cognizant agency or at the start of the of the project period, whichever of the two occurs later.
 - ii. The total amount of funds recovered by the grantee under the federally recognized indirect cost rate is reduced by the amount of indirect costs previously recovered under the temporary indirect cost rate on or after the date specified in subparagraph 3 (i).
 - iii. The grantee must obtain prior approval from the Secretary to shift direct costs to indirect costs in order to recover indirect costs at a higher negotiated indirect cost rate.
 - iv. The grantee may not request additional funds to recover indirect costs that it cannot recover by shifting direct costs to indirect costs.

4. 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.

The only exceptions to the general rules about which agency is the cognizant agency for a grantee are indirect cost negotiations with institutions of higher education that are subject to 2 CFR, Part 220, G.11.a., “Cognizant agency assignments” (relocated to 2 CFR, Part 220 from OMB circular A-21, “Cognizant agency assignments”).

- B. ED imposes limitations on indirect cost rates for certain types of grants, depending on the nature of the grant or the program under which the grant was funded. For example, grantees in specific programs with legislation containing “supplement-not-supplant” provisions are subject to a “restricted” indirect cost rate. Restricted indirect cost rates are lower than the negotiated indirect cost rates because the restricted rate excludes certain general management and fixed costs that would otherwise be included in the standard indirect cost rate calculation. Sections 75.563 and 76.564-569 in EDGAR describe how to calculate restricted rates in more detail. The ED program officer for any grant program can verify whether that program is covered by restricted rate requirements. See Attachment D of this GAN for more specific information.
- C. Section 75.562 of EDGAR limits the indirect cost rate to 8% for training grants, regardless of the rate negotiated with the cognizant agency. (This 8% limitation does not apply to federally recognized Indian tribes or agencies of States or local governments.) The difference between the 8% limit and the grantee's negotiated rate may not be used for cost sharing or matching purposes, charged to direct cost categories, or charged to another Federal award.
- D. Some programs contain prohibitions against recovery of any indirect costs. Under grants received from one of these programs, a grantee may not charge to a direct cost category in its budget a cost that would be treated as an indirect cost in other situations, nor may those unrecovered indirect costs be charged to other Federal awards.
- E. In connection with reporting indirect costs under a grant, grantees will need to review the cover sheet of the ED Grant Performance Report (ED 524B). The section, “Indirect Costs,” contains four questions related to claiming indirect costs under a grant. Grantee personnel should be sure to answer these questions accurately so that the Department can exercise properly its responsibility for fiscal oversight of its grant awards.

More extensive discussion of indirect cost rates and their relationship to ED grants can be found on the website of the Office of the Chief Financial Officer (OCFO) at:

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

VII. Audit Requirements (§74.26, §80.26)

The Single Audit Act requires that grantees obtain a non-Federal audit of their expenditures under their Federal grants if the grantee expends more than \$500,000 in Federal funds in one

fiscal year. OMB Circular A-133 contains the requirements imposed on grantees for audits done in connection with the law. The full text of the most recent version of the circular can be found at:

<http://www.whitehouse.gov/omb/circulars/a133/a133.html>

The Department recommends hiring auditors who have specific experience in auditing Federal awards under the circular and the Compliance Supplement, which can be found at:

http://www.whitehouse.gov/omb/circulars/a133_compliance/01/01toc.html

OTHER CONSIDERATIONS

Some other topics of financial management covered in EDGAR that might affect particular grants include program income (§§74.24, 80.25), cost sharing or matching (§§74.23, 80.24), property management requirements for equipment and other capital expenditures (§§74.34, 80.32).

11/08